



MIAMI UNIVERSITY
TAX GUIDE FOR FOREIGN VISITORS

FOR USE BY: Departmental Staff
Faculty Members
Foreign Scholars
Foreign Students
Personnel Offices
Benefit Services Office
Payroll Office

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Introduction

The purpose of this guide is to inform foreign students, faculty and staff of the rules that Miami University (MU) operates under, based on the tax and immigration laws of the United States. In addition, this tax guide is to serve as a tool for University personnel who interact with foreign students, faculty and staff. **However, no one from any MU department can act as a tax consultant, give personal tax advice, or represent an individual dealing with the IRS while in their official role at Miami University.**

This guide does not cover all tax situations; it covers only the most common to the majority of foreign students, faculty and staff. It presents basic information regarding the tax status of various types of University payments to students, faculty and staff. By explaining some of these tax regulations and qualifications, the intent is to provide information that will assist foreign visitors and University personnel in making the correct decisions concerning the tax implications of payments that MU makes.

MU must fulfill its tax reporting obligations and can, in case of a tax question or problem, assist in supplying payroll and other appropriate documentation to explain the tax treatment of payments made to foreign individuals.

Users of this guide should be aware of the necessary limitations on the information presented herein. While it is hoped that this material will be useful, it should not be viewed as either a complete treatment of all tax questions or an official MU statement as to the subject matter reviewed.

Each year tax return preparation assistance is provided to foreign visitors to the U.S. by local IRS representatives and VITA (Volunteer Income Tax Assistance) at various regional sites. Foreign visitors can call (513) 621-6281 in Cincinnati during February or March for specific dates and times or to make an appointment for personal tax assistance. Miami University also maintains tax software for nonresident aliens. This program produces only Forms 1040NR and 1040NR-EZ. If you think you can use this software, contact the payroll office at 9-6223.

Foreign students, faculty and staff with tax questions are advised to seek assistance from the Internal Revenue Service (IRS). In the United States, the *individual taxpayer* is responsible for filing an appropriate and accurate tax return and negotiating all tax matters with the IRS. Taxpayer assistance is available from your local IRS office or by calling the IRS toll free taxpayer assistance number, 1-800-829-1040. For a list of local IRS offices near each MU campus, see Appendix 1.

This guide can also be found on the web at www.muohio.edu/payroll

Section 1: Definition of Terms

- 1.1 Candidate for a Degree
- 1.2 Employee Wages
- 1.3 Fellowships and Scholarships
- 1.4 FICA (Medicare Tax)
- 1.5 Immigrant (Resident for Immigration Purposes)
- 1.6 United States Citizenship and Immigration Service (USCIS) (Formerly INS)
- 1.7 Independent Contractor Payments
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1.1 Candidate for a Degree

A candidate for a degree is broadly defined to include any full-time or part-time student enrolled at Miami University (MU) in a course(s) which may lead to a degree, whether or not the student's particular educational program leads to a degree.

1.2 Employee Wages

Employee wages are payments for services that an individual performs or carries out for the University as an employee. Services performed by an employee are subject to the direction and control of the University, its faculty or staff. Employee wages are not the same as payments made to a foreign visitor for independent contractor payments. See the discussion of independent contractor payments at Section 1.7 for the definition of non-employment related services. *Employee wages can only be paid to foreign visitors who have been granted an appropriate employment authorization and visa status by the U. S. Citizenship and Immigration Service (USCIS) to allow them to be compensated for services in this country.* See further discussion at Sections 2.1 and 2.2.

1.3 Fellowships and Scholarships

Fellowship or Scholarship payments are made to assist a person in pursuing a course of study or research. For years beginning in 1987, the IRS allows amounts paid to individuals as *qualified* scholarships and fellowships to be excluded from taxable income (not taxable). A scholarship or fellowship is not taxable if:

- (1) The scholarship or fellowship is awarded to a candidate for a degree; **and**
- (2) The scholarship or fellowship is used to pay for tuition and fees required for enrollment or attendance at MU and/or other mandatory fees, books, supplies, or equipment required to be used by all students in a particular course of study.

Fellowship or Scholarship payments made to foreign visitors may include a combination of the following:

- ❖ Tuition, fees, books and course-related materials
- ❖ Stipends for living expenses, including meals, lodging and other personal items
- ❖ Medical insurance premiums paid to insurance companies
- ❖ Airfare purchases from airlines or travel service providers

Portions of fellowship and scholarship payments that are used for any purpose other than tuition and specific course fees (*qualified* payments, above) must be included in taxable income. Any amount of a fellowship or scholarship that is paid for services, including teaching and research, is also taxable. **Tax treaties with some countries can reduce these taxable amounts (see Section 9).**

Post-doctoral fellowship awards are made to individuals to further their pursuit of a course of study or research beyond the doctoral level. The entire amount of a post-doctoral fellowship is taxable.

Fellowships or Scholarships can only be paid to foreign visitors who have been granted the appropriate authorization and visa status by the USCIS (a valid I-94 authorization). See Sections 2.1 and 2.2.

1.4 FICA (Medicare Tax)

FICA (Federal Insurance Contribution Act) is a tax that is assessed against the employee wages of individuals who are *residents* for income tax purposes. FICA is divided into two components: Social Security and Medicare. As a state university, Miami is not required to pay the Social Security portion of FICA on any employee; however, the Medicare portion (1.45% of gross wage) is withheld and paid by the University. *Nonresident* aliens are exempt from this tax under specific conditions.

1.5 Immigrant (Resident for Immigration Purposes)

An immigrant, or resident alien for immigration purposes is a “green card” holder and is often referred to as a permanent resident. An immigrant, or resident alien, is a non-U.S. citizen who has been authorized to live and work in the United States.

1.6 United States Citizenship and Immigration Service (USCIS) (Formerly INS)

The Homeland Security Act eliminated the INS and replaced it with two related organizations. USCIS is the U.S. government agency that is responsible for overseeing foreign visitors. The Bureau of Customs and Border Protection (BCBP) is the organization that issues Forms I-94 to new arrivals in the United States. The USCIS sets the restrictions that apply to the various visa categories (the United States Information Agency sets the restrictions for J cultural exchange visa programs). Most of the requirements discussed herein will be under the purview of the U.S. Citizenship and Immigration Service.

1.7 Independent Contractor Payments

Independent contractor payments are for services performed by foreign visitors who are not considered *employees* for tax purposes. Services treated as independent contractor payments must have all of the following characteristics:

- ❖ The foreign visitor must not be under the direction or control of the University, its faculty, or staff in regard to the means and methods used to perform services for the University.
- ❖ The services or task being performed is of short duration (less than six days) and will not result in the foreign visitor entering a long-term working relationship with the University.
- ❖ A written contract exists that identifies the services that are to be performed.

Independent contractor payments can only be made to foreign visitors who have been granted the appropriate authorization and visa status by the USCIS to allow them to be compensated for services in this country. See Sections 2.1 and 2.2.

1.8 Internal Revenue Service (IRS)

The Internal Revenue Service is the U.S. government agency that collects federal taxes. To make this process easier, the IRS issues various forms, withholding allowance certificates, income tax returns, etc., which are used to help foreign visitors pay the taxes that apply to them. A list of forms commonly used by foreign visitors is included in Appendix 2. The IRS is also the agency that determines how much you owe in taxes and whether an organization is required to withhold specific amounts from your income (see Section 1.15).

1.9 Nonimmigrant (Nonresident for Immigration Purposes)

A nonimmigrant for tax purposes, or nonresident for immigration purposes, is someone who is not a citizen of the U.S. and has been admitted to the U.S. for a temporary stay that will end when the purpose of that stay has been met.

1.10 Nonresident (For Tax Purposes)

A nonresident for tax purposes is someone who is not a citizen of the U.S., has been admitted to the U.S., and does not meet either the “green card” test or the “substantial presence” test described in (IRS) Publication 519, “U.S. Tax Guide for Aliens”. Both of these tests are described in Section 4 of this guide.

1.11 Resident (For Tax Purposes)

A resident for tax purposes is someone who is either a U.S. citizen, or has been legally admitted to the U.S. and meets either the “green card” test or the “substantial presence” test described in (IRS) Publication 519, “U.S. Tax Guide for Aliens”. Both of these tests are described in Section 4 of this guide.

1.12 Taxable Income

Any money, goods or services paid to or on behalf of any person is income. All income is taxable unless there is a specific law which excludes it from taxability. The amount of a scholarship which is used to pay tuition, for example, is excluded by law and not subject to tax. The amount of income which is *not* excluded is called taxable income. Different governments have different laws, so taxable income can be different for Federal, Ohio and Oxford purposes. Miami is required to withhold taxes for all three of these taxing governments.

1.13 Taxes

Taxes are the primary source of income of the U.S. government, the states and cities of this country. Every individual earning money in the U.S. must pay taxes based on the amount of money earned. Taxes pay for the various functions and services provided by state, local and federal governments. These include police and fire protection, parks, highways, road signs, the space program, etc. Paying taxes is not optional. Failure to file and pay taxes is a criminal offense.

1.14 Travel (Transportation, Meals, and Lodging in Transit)

Payments can be made to foreign visitors for travel and certain travel-related expenses. If receipts are provided with a written explanation of the business purpose of the trip, Miami University is able to make direct payments or reimbursements on a tax-free basis. Expense payments or reimbursements excluded from taxable income in this fashion include:

- * Meals and lodging costs while traveling
- * Airfare, cab fare, auto rental
- * Other related expenses incurred in transit

All payments are subject to the restrictions of Miami University’s Travel and Hosting Policies and Procedures, Section 7.0. There is no distinction under the law between payments made directly to travel service providers, such as airlines, and payments made directly to a foreign visitor (traveler).

1.15 Withholding

A person obligated to pay taxes must have those taxes retained by an employer and paid to the government collecting the tax, this is called withholding. It means that most of the taxes owed by you are paid for you by the employer before you ever receive your paycheck. This way the taxes can be paid in small increments, each pay period, rather than all at once. Miami must submit your money to the government on the same day you get paid.

Section 2: U.S. Tax Obligations of Miami University and Sponsoring Departments

- 2.1 University Responsibilities
- 2.2 Sponsoring Department Responsibilities
- 2.3 Classification of Payments for Withholding Purposes
- 2.4 Foreign Source Income Exclusion
- 2.5 Federal Income Tax
- 2.6 FICA Tax (Medicare)
- 2.7 Ohio State and Local Tax
- 2.8 Exemptions from Withholding Tax
- 2.9 Required Forms
- 2.10 Penalties and Sanctions

2.1 University Responsibilities

Miami University is responsible for maintaining compliance with both the letter and intent of all federal, state and local laws. The implication is that, in order for University departments, faculty and staff to host foreign visitors, Miami University must comply with federal, state and local laws as they pertain to foreign visitors. MU must be able to maintain compliance in both tax and immigration laws.

MU has a responsibility to the foreign visitors who come to campus to pursue their education or other scholarly activities to ensure that payments made to them by the University are properly reported to the appropriate federal and state agencies. Properly reporting payments to foreign visitors will greatly reduce the risk of future tax and immigration problems. A number of MU offices are available to assist departments, faculty, and foreign visitors in gathering and coordinating the appropriate information needed to maintain compliance with the tax and immigration laws. Refer to Appendix 1 for a list of University offices which provide specific assistance and the types of services they provide.

2.2 Sponsoring Department Responsibilities

University departments that host foreign visitors will generally be aware that the visitor will be coming, in many cases far in advance of the actual arrival. Accordingly, the hosting department or faculty member bears primary responsibility for ensuring that the visitor acquires the correct visa so that payments made to the foreign individual are in compliance with all requisite tax and immigration laws. This responsibility is shared by those University offices available to assist and support departments and faculty in acquiring all the information and forms required by the federal government. (Refer to Appendix 1) Departments must insure that no payments of any kind are made to foreign visitors unless they have been granted the appropriate authorization and visa status by the USCIS *in advance* of their arrival at MU. This means that the foreigner must have received a valid I-94 authorization prior to the visit.

The International Programs Office or the Payroll Office must be contacted *prior* to making any contractual arrangement to pay a foreign visitor. This will ensure that violations of the immigration laws do not occur. (Such violations could lead to fines of up to \$10,000 for MU as well as detention or deportation of the foreign visitor).

2.3 Classification of Payments for Withholding Purposes

Payments discussed in this guide fall into four broad categories:

- * employee wages
- * independent contractor payments
- * fellowship and scholarship payments
- * travel reimbursements

It is likely that certain types of payments to a foreign visitor are taxable, while other payments to the same visitor are not. Also, certain payments that are taxable to one foreign visitor may not be taxable to a visitor from a different

country because of a difference in their tax treaties. Accordingly, it is important that the University determine the taxability (or non-taxability) of *each* type of payment made to *each* foreign visitor in order to correctly determine whether withholding is required and, if so, the rate of tax withholding required.

2.4 Foreign Source Income Exclusion

2.4.1 For Services Performed Outside the United States

Payments made by MU to nonresident aliens for services performed in a country outside of the United States, are not subject to federal income tax or tax withholding, nor is there any U.S. reporting obligation. The exclusion applies only to individuals who are not U.S. residents or citizens. The services are considered to be “sourced” in the foreign country and, therefore, are not subject to U.S. tax laws.

2.4.2 For Grants Funded from Outside the United States

Fellowship and Scholarship grants paid with funds that have come from the visitor’s country of residence (or another country outside the U.S.) are not subject to federal income tax or tax withholding, nor is there any U.S. reporting obligation. The exclusion applies only to individuals who are not U.S. residents or citizens. Such grants are considered to be “sourced” in the foreign country and, therefore, are not subject to U.S. tax laws.

2.5 Federal Income Tax

All employee wages, independent contractor payments, scholarships and fellowships from a U.S. source that a foreign visitor receives are taxable unless specifically exempt from tax by a U.S. law or a treaty. In general, the University is required to withhold federal income tax on foreign visitor income as follows.

2.5.1 For Nonresidents

Employee Wages, generally, have income tax withheld at graduated rates plus an additional \$8.28 per week unless specifically excluded from tax by a tax treaty between the U.S. and the foreign visitor’s country of residence. Exemption must be claimed on IRS Form 8233. In order to be eligible for a treaty benefit, the nonresident *must* go to the Payroll Office with passport, visa and I-94 for the Form 8233 to be prepared and treaty benefit applicability determined (see Appendix 2 for IRS Form or Publication information).

Independent Contractor Payments have income tax withheld at a flat rate of 30%, unless specifically excluded from tax by a tax treaty between the U.S. and the foreign visitor’s country of residence. A treaty exemption must be claimed by the visitor on IRS Form 8233, which is prepared only in the Payroll Office.

Fellowship and Scholarship Payments have income tax withheld at a flat rate of 14% on the taxable portions (amounts *not* used for tuition, fees and course-required supplies or materials), unless specifically excluded from tax by a tax treaty between the U.S. and the foreign visitor’s country of residence. Exemption must be claimed by the visitor on IRS Form W-8BEN, which is prepared only in the Payroll Office.

Travel reimbursements are excluded from income tax as long as they are paid in accordance with an employer’s written reimbursement policy and travel receipts are submitted to the employer for reimbursement.

2.5.2 For Residents

Employee Wages, generally, have income tax withheld at the same graduated rates that are used for U.S. citizens.

Independent Contractor Payments do not have income tax withheld as the visitor is not considered an employee. The visitor is responsible for reporting and paying any taxes owed.

Fellowship and Scholarship Payments do not have income tax withheld, but are reportable by the recipient on the annual income tax return.

Travel reimbursements are excluded from income tax as long as they are paid in accordance with an employer’s written reimbursement policy and travel receipts are submitted to and retained by the employer.

2.6 FICA Tax (Medicare)

2.6.1 Employee Wages

Employee wages paid by MU are excluded from the Social Security portion (6.2%) of FICA; however, the Medicare portion of the FICA tax (1.45%) is withheld. A matching percentage (1.45%) is paid by the University on behalf of the individual. Special exemptions are available for Medicare withholding as follows:

- ❖ A tax treaty between the U.S. and the foreign visitor's country of residence excludes the wages from FICA.
- ❖ The nonresident is a student employee, regularly enrolled and attending classes on at least a half-time basis; all such students are exempt from FICA.
- ❖ Services performed by visitors temporarily in the U.S. on an F-1, J-1 or M-1 visa are exempt as long as the services are consistent with the purpose of the visa status and the visitor is classified as a nonresident.
- ❖ Wages for services performed for a state or local government are exempt from Social Security unless an agreement is made with the federal government to be included.
- ❖ Wages are exempt from FICA, if services are performed for a foreign government.
- ❖ If services are performed for an international organization, wages are exempt from FICA.

2.6.2 Independent Contractor Payments

Payments for independent personal services do not have FICA taxes withheld. If applicable, FICA taxes are paid by the contractor.

2.6.3 Fellowships and Scholarships

Payments for fellowships and scholarships do not have FICA taxes withheld.

2.6.4 Travel Reimbursements

Travel reimbursements do not have FICA taxes withheld.

2.7 Ohio State and Local Tax

All employee wages that a foreign visitor receives from the University are considered income for state and local income tax purposes. In general, the University is required to withhold state and local income taxes in the same manner as is outlined in the discussion of federal income taxes in Section 2.4, above. If some or all of the payments are exempt from federal tax under a tax treaty, the exemption applies to state taxes as well. Treaties do not apply to local (City) income tax.

Independent contractor payments a foreign visitor receives from Miami are considered taxable income for state and local purposes, unless specifically exempt from the state by a tax treaty. All independent contractors who provide services in Oxford are required to file an Oxford city income tax return and report payments earned in Oxford.

2.8 Exemptions from Withholding Tax

A number of possible exemptions from tax withholding may apply to a foreign visitor. Several have been mentioned above, but a more complete listing follows.

(a) Foreign Source income. Income that comes from a payor outside the U.S. to a nonresident alien is not taxable and therefore not subject to withholding.

(b) Tax Treaty Exclusions. Income excluded from tax by a treaty is not subject to federal or Ohio withholding. Since treaties differ on a year-to-year, country-by-country basis, please refer to Section 9 and Appendix 2.

(c) Per Diem Payments for USAID Grants. If the foreign visitor is involved in a USAID training program in the U.S., grant funds are exempt from withholding.

(d) Payments exempt under the U.S. tax code have no withholdings. Examples are tuition scholarships, waivers, travel and other reimbursements.

2.9 Required Forms

Foreign visitors from countries that have entered into a tax treaty with the U.S. may be able to exclude all or a portion of their income from U.S. sources under the provisions of the treaty. If a tax treaty exists, the foreign visitor must provide certain forms to the University in order to take advantage of the treaty exemption. Appendix 3 contains a forms processing flowchart.

2.10 Penalties and Sanctions

The IRS has recently initiated a series of audits of colleges and universities that focus, among other things, on compliance with tax laws as they relate to foreign visitors. In cases where tax should have been withheld from a foreign visitor's payments, a charge can be assessed against the University for the full amount of the tax, plus penalties and interest. This is true even if the foreign visitor paid the tax on a properly filed U.S. tax return.

Section 3: U.S. Tax Obligations for Foreign Visitors

- 3.1 Tax Basics for Nonresidents
- 3.2 Social Security or Tax Identification Number
- 3.3 Nonresidents – U.S. Nonresident Alien Income Tax Return (1040-NR)
- 3.4 Residents – U.S. Individual Income Tax Return (1040)
- 3.5 Certificate of Compliance – “Sailing Permit” (IRS Form 1040C or Form 2063)
- 3.6 Penalties and Sanctions

3.1 Tax Basics for Nonresidents

A nonresident alien’s tax responsibility is complex. The definition of what is included in taxable income can be confusing. This section is designed to assist nonresident aliens in the basic tax rules, therefore the following information is provided in some detail.

Income received by a nonresident alien may be subject to income tax. However, a nonresident may be exempt from paying U.S. income tax because of a tax treaty between their country of residence and the U.S. We currently have tax treaties with 54 countries. Each treaty is different. A payment must meet the strict requirements of the treaty in order to be exempt from tax. If the income is not exempt, the nonresident alien pays U.S. tax only on income paid from sources *inside* the U.S. Most nonresidents receive no exemption for dependents (exceptions are Mexico, Canada, India, South Korea and Japan). All nonresidents must file Form 1040NR or 1040NR-EZ, even if all their income is exempt because of a treaty (see Section 3.2.2 below).

Striking differences exist between the taxation of residents and nonresidents of the United States. The basic characteristics of nonresident taxation follow:

- (a) Tax is generally levied on U.S. source income only.
- (b) Tax treaty provisions may exempt some income from tax.
- (c) Interest income from U.S. Banks may be tax free.
- (d) Nonresident aliens cannot file jointly with their spouse.
- (e) Generally only one personal exemption is allowed regardless of family status.
- (f) No standard deduction is permitted.
- (g) Itemized deductions are limited to:
 - State and local taxes withheld
 - Contributions to charity
 - Casualty and theft losses
 - Miscellaneous business deductions
- (h) Investment income is generally taxed at a flat 30%.
- (i) No child or dependent care credit is permitted.
- (j) No educational credits are available.

A number of special rules regarding the standard deduction and spousal exemption are currently in effect for residents of India. India residents should contact the Payroll Office for additional information on these rules.

3.2 Social Security or Tax Identification Number

SPECIAL NOTE: Beginning January 2001, IRS regulations mandate that a nonresident alien visitor *must* have either a social security number or an individual taxpayer identification number in order to receive *any* amount of income (including, but not limited to, travel/business reimbursements, honoraria, scholarships/fellowships, wages, etc.).

A foreign visitor who will be receiving payments for dependent personal services (i.e., employee) in the U.S. must obtain a Social Security Number. A Social Security Number (SSN) is obtained by filing Form SS-5 at the Social Security Administration Office, located at 1710 S. Erie Hwy, Hamilton, Ohio (phone: 1-800-772-1213). In addition to having a completed Form SS-5, applicants must have their passport and at least one other piece of identification with them when they visit the Social Security Office. (Appendix 1 contains a list of Social Security Administration

Offices nearest the MU campuses.) In some countries, foreign visitors may apply for a Social Security Number at the U.S. Embassy prior to their arrival in the United States.

Foreign visitors who wish to claim a tax treaty exemption for employee wages must have an SSN or proof of application prior to receiving any wages. SSNs are assigned only once. One number is given to each individual, and that number belongs to that individual for life.

The Individual Taxpayer Identification Number (ITIN) is available only to nonresident aliens who are ineligible for a Social Security Number. If a nonresident alien receives payments in the U.S. and is **not eligible** for a Social Security Number (e.g., a consultant who is to receive an honorarium), that person should apply for an ITIN. Miami University's Payroll Office is a Certified Acceptance Agent and can collect the paperwork and file the forms for ITIN issuance. Applicants must have their passport and at least one other piece of identification to apply for an ITIN in the Payroll Office. Once the ITIN is assigned by the IRS, the number will be sent to the individual via the Payroll Office.

3.3 Nonresidents – U.S. Nonresident Alien Income Tax Return (1040-NR)

3.3.1 What to File

A nonresident files Form 1040NR or Form 1040NR-EZ — “U.S. Nonresident Alien Income Tax Return” each year with the IRS. Miami University will report earnings to nonresident aliens on a Form W-2 and /or Form 1042-S. Nonresidents must file an annual tax return if they earned **any** U.S. source income during the year.

The tax system uses the calendar year for determining income for individuals. The W-2 and Form 1042-S supplied by MU and other employers are based on earnings during the calendar year. Taxes withheld should cover most of the tax due. If too much tax is withheld, a refund can be claimed from the IRS.

3.3.2 When to File

If the nonresident earned wages subject to withholding in the U.S. during the year, then the tax return must be filed by April 15th of the following year. If the nonresident's earnings were not subject to withholding, the tax return is due two months later, by June 15th.

3.3.3 Where to File

All nonresident returns are mailed to the same IRS office.

Internal Revenue Service Center
Philadelphia, PA 19255

3.3.4 Additional Tax Information Statement

For **all nonresidents**, the IRS requires a detailed statement showing the basis of the individual's claim to nonresident alien status. The statement must be filed each year with the Form 1040NR, 1040NR-EZ or Form 8843 on or before April 15th or the extended due date of the return.

3.3.5 Tax Return Record Keeping

Every taxpayer should retain a photocopy of the completed return and any documentation submitted with it. Proper response to an IRS inquiry regarding a prior year's tax return is virtually impossible without an exact copy of that return. Occasionally, circumstances require the taxpayer to submit a copy of a prior year's tax return to the IRS, state or other taxing authority, also impossible without a copy. In addition, nonimmigrants applying to the U.S. Citizenship and Immigration Service for permanent residency may be required to produce copies of three prior year's tax returns to show compliance with U.S. tax laws.

3.4 Residents – U.S. Individual Income Tax Return (Form 1040)

A resident alien pays U.S. tax on the same basis as U.S. citizens. Tax is based on income from all sources worldwide and **no tax treaties can be used** to reduce taxable income. As a general rule, individuals who are resident

aliens can claim exemptions for dependents, receive a standard deduction and file a joint return with a spouse. Determination of residency status is discussed at length in Section 4.

Foreign visitors who are *residents* for tax purposes must report all wages or other compensation, interest, dividends, gains, rental income, royalties or any other type of income whether it comes from U.S. sources or abroad. This is called the individual's "worldwide income". Worldwide income is reported on Form 1040, 1040-A or 1040-EZ. Which form used is based on the complexity of the resident's tax information. The University reports earnings to resident aliens on Form W-2 (employee wages) or Form 1099-MISC (independent contractor personal services). Multiple copies of these forms allow certain ones to be attached to the various tax returns before filing.

An individual could qualify as both a *resident* and a *nonresident* at the same time. This occurs when a foreigner is a *U.S. resident* under the substantial presence test, or holds a "green card", but also qualifies as a *nonresident with tax treaty benefits* under his country's treaty. This could give the individual "dual status" residency. Virtually all tax treaties provide for status determination by the application of various "tie-breaker" rules. The individual's permanent home, personal and economic relations can provide a "closer connection" with his home country than with the United States. This would allow a foreigner to remain a nonresident and take advantage of continued tax treaty benefits. The U.S. Regulations state that any *resident alien, who also qualifies for tax treaty benefits*, will be treated as a *nonresident alien* for purposes of computing the U.S. tax liability and withholding requirements. The dual status individual will be required to file a Form 1040 with a Form 1040NR attached. Chinese dual status aliens who are married can claim both resident tax rates and a treaty benefit by filing Form 1040 with a Form 8833 attached.

3.5 Certificate of Compliance – "Sailing Permit" (IRS Form 1040C or Form 2063)

A Certificate of Compliance, or "Sailing Permit", is a form that a nonresident must request from the IRS to demonstrate compliance with the tax law and verify that all required taxes have been paid before leaving the U.S. Holders of F-1, J-1, H-3 and H-4 visas are *not* required to obtain a Certificate of Compliance if they had no U.S. source income other than (a) allowances or payments to cover study expenses (including travel, maintenance and tuition), or (b) wages from *authorized* work, including practical training. Permanent residents (green card holders) and all nonresidents with a visa status other than those noted above, must obtain a Certificate of Compliance from the IRS before leaving the U.S. The following information will be useful to foreign visitors who must obtain a Certificate of Compliance:

- ❖ IRS Form 2063 is required if the foreign visitor owes *no* U.S. tax at the time of departure.
- ❖ IRS Form 1040-C is required if the foreign visitor owes taxes at the time of departure.
- ❖ The appropriate form should be filed at least 14 days, but no more than 30 days, before departure from the U.S.
- ❖ The appropriate form can be obtained from the local IRS office or downloaded from the IRS website at http://www.irs.ustreas.gov/prod/forms_pubs/index.html. An IRS agent in the local office will be able to assist the visitor in completing the form.

3.6 Penalties and Sanctions

Failure of a nonresident to comply with the U.S. tax law can lead to the imposition of fines and penalties to be assessed by the IRS against the foreign visitor.

Failure to file the appropriate tax returns or making intentionally false statements on tax returns can lead to criminal penalties. The regulations provide that a nonresident alien's tax return deductions will be allowed "only if a true and accurate return for the taxable year is filed by the nonresident alien on a timely basis." This means that unless a timely and accurate tax return is filed, tax is assessed against the nonresident alien's *gross income* without regard for any deductions or credits that might otherwise be allowable. Tax compliance will be evaluated at the time the foreigner seeks to leave the country.

Section 4: Residency Determination for Tax Purposes

- 4.1 Resident for Tax Purposes
- 4.2 Nonresident for Tax Purposes
- 4.3 Green Card Test
- 4.4 Substantial Presence Test

4.1 Resident for Tax Purposes

A resident for tax purposes is a person who is not a U.S. citizen and who meets either the “substantial presence” test or the “green card” test described in IRS Publication 519, “*U.S. Tax Guide for Aliens*”. (See Appendix 2) With regard to residency determination for tax purposes:

- ❖ **F** and **J** student visa holders are generally considered residents after their first **five** (5) calendar years (or partial years) in the U.S..
- ❖ **J** non-student visa holders (researchers, scholars, teachers, etc.) are generally considered residents after their first **two** (2) calendar years (or partial years) in the U.S..
- ❖ **H** visa holders are considered **residents** only if they meet the “substantial presence” test described in Section 4.4 of this guide.

4.2 Nonresident for Tax Purposes

A nonresident for tax purposes is a person who is not a U.S. citizen and who does not meet either the “green card” test or the “substantial presence” test described in Publication 519, “*U.S. Tax Guide for Aliens*” (See Appendix 2). With regard to residency determination for tax purposes:

- ❖ **F** and **J** student visa holders are generally considered **nonresidents** during their first **five** (5) calendar years (or partial years) in the U.S..
- ❖ **J** non-student visa holders (researchers, scholars, teachers, etc.) are generally considered **nonresidents** during their first **two** (2) calendar years (or partial years) in the U.S..
- ❖ **H** visa holders are considered **nonresidents** unless they meet the “substantial presence” test described in Section 4.4 of this guide.

4.3 Green Card Test

A person is a resident for tax purposes if s/he is a lawful permanent resident of the U.S. A person has this status if s/he has been issued an alien registration card, also known as a “green card”, by the U.S. Citizenship and Immigration Service (USCIS). A person need not be in possession of the “green card” itself. The right to lawful permanent residence is granted at the time of the final interview with USCIS officials and is evidenced by the USCIS stamp in the applicant’s passport. The applicant’s official “green card” may not arrive for several months after the interview.

4.4 Substantial Presence Test

4.4.1 Counting Days

A person is a resident for the tax year if s/he meets the “substantial presence” test for the calendar year. To meet this test, the person must be physically present in the U.S. on at least:

- (a) 31 days during the current year, *and*
- (b) 183 days during the three year period that includes the current year and the two preceding calendar years, counting:
 - * all of the days the person was present in the current year, *and*
 - * 1/3 of the days the person was present in the first preceding year, and
 - * 1/6 of the days the person was present in the second preceding year.

For example, if an individual were present in the U.S. for 84 days in 2004, 168 days in 2003, and 261 days in 2002, then the test would show residency, with 183.5 days of presence. This is calculated as follows: (2002) $261 * 1/6 = 43.5$; (2003) $168 * 1/3 = 56$; plus (2004) 84, which equals $43.5 + 56 + 84 = 183.5$ days. (Note: we can also tell that the person in this example was a resident during 2003 because $168 + (261 * 1/3) = 255$ days; and during 2002 because 261 days > 183 days)

4.4.2 Days Not Counted

A **J non-student** visa holder (professor, researcher, etc.), who is substantially complying with the requirements of the visa, does not count days present in the first **two calendar years**.

An **F or J student** visa holder, who substantially complies with the requirements of the visa, does not include days present in the first **five calendar years** of U.S. presence, and so can remain in school in the U.S. for 5 years without becoming a resident.

It is important to note that the counting rules are based on **calendar** years, not twelve-month periods. For example, a J-1, non-student, foreign visitor enters the U.S. on December 15, 2002. For purposes of the substantial presence test, 2002 is the “first calendar year”, even though the foreigner was only present for 16 days during 2002. 2003 is the “second calendar year”. This individual would begin counting days present in the U.S. on 1/1/04.

4.4.3 Circumstances that Disqualify Foreigner from the Substantial Presence Test

A person will not meet the “substantial presence” test if (1) they are present in the U.S. on fewer than 183 days during the current year, and (2) if they establish that they have a tax home in a foreign country in the current year, and (3) that they have a “closer connection” to that foreign country than to the U.S. The “closer connection” exception is discussed in detail in IRS Publication 519, “*U.S. Tax Guide for Aliens*”. (See Appendix 2).

To retain non-resident status after five years, F-1 student visa holders must be present in the U.S. fewer than 183 days, and must establish that they have a closer connection with the foreign country than to the U.S.

Section 5: Short Term Visitors

- 5.1 Immigration Law Restrictions
- 5.2 B-1 and B-2 Visas
- 5.3 Visa Waiver for Business (VWB) and Tourism(VWT)
- 5.4 J-1 Visas for Short Term Visitors
- 5.5 Income Tax Withholding
- 5.6 Payment Processing

5.1 Immigration Law Restrictions

In past years, immigration and tax law restrictions were rather loosely interpreted by many colleges and universities; however, the IRS and the USCIS have recently undertaken stricter enforcement measures. This may impact those who are hosting foreign faculty, scholars, researchers, performers, artists or athletes. These restrictions should not discourage anyone from inviting foreign visitors to Miami University for short term stays. In most cases, it is possible to reimburse these visitors for expenses (e.g. accommodations, travel) and/or pay them for services performed for MU, provided that the visitor enters the United States with the proper type of visa, typically a J-1 visa. MU faculty members who travel abroad, and who extend an invitation to a foreign colleague, should be aware that in some countries it may take several months to obtain the proper visa.

In order to ensure that (a) foreign visitors can receive the appropriate payments, (b) they are not denied entry into the U.S., (c) they do not have more U.S. tax withheld than necessary, and (d) hosting departments are not assessed fines by the IRS or USCIS, faculty members who plan to host foreign visitors should contact the Payroll Office or the International Programs Office **prior to** making any contractual agreement to pay or reimburse a foreign visitor.

5.2 B-1 and B-2 Visas

5.2.1 B-1 Visitor for Business

B-1 visas are generally granted for six months, time allowed will be noted on the I-94 by the Bureau of Customs and Border Protection. The department extending the invitation must provide a letter of invitation to the visitor that includes the beginning and ending dates of the visitor's stay, a brief description of what the visitor will be doing, and the amount and type of payment. The visitor then obtains the B-1 visa stamp in their passport before traveling to the U.S.

Foreign Visitors present in the U.S. on a B-1 visa may be paid an honorarium; however, such individuals cannot be at Miami University for more than 9 days and must not accept payment or expenses from more than 6 institutions in the 6-month period of the visa's duration. Other types of payments that a B-1 visa holder may receive while in the U.S. are as follows:

- ❖ Reimbursement for expenses including accommodations, meals and travel expenses. Payments may be made directly to the provider of the service or to the nonresident visitor (subject to MU Travel and Hosting Policy restrictions). **NOTE: The 9-day/six month institution rule does not apply to those who are only reimbursed for expenses and not receiving honoraria.**
- ❖ Scholarship or fellowship grants where the visitor is enrolled in a course of study and renders no services for the University (subject to restrictions imposed by the Student Financial Aid Office).

5.2.2 B-2 Visitor for Tourism

Foreign visitors in the U.S. on a B-2 visa are **prohibited from receiving payments of any kind for any reason**. Payments made on behalf of B-2 visa holders for such things as lodging or transportation are also prohibited.

5.3 Visa Waiver for Business (VWB) and Tourism (VWT)

The Visa Waiver Program allows citizens from 27 participating countries to travel to the United States for the purpose of business or tourism for a specified period without the need of obtaining a United States visa. A complete listing of the participating countries is located in **Appendix 5**.

The immigration law status of visa waivers for business (VWB) and tourism (VWT) are identical to their B visa counterparts. In other words, VWB holders, or B-1 waiver, can receive honoraria, expense reimbursements, scholarships or fellowships; they must meet the same requirements as outlined in Section 5.2.1. VWT holders, or B-2 waiver, cannot receive payments of any kind.

NOTE: This program requires the visitor to have a Machine Readable Passport (MRP) by October of 2004; Andorra, Belgium, Brunei, Liechtenstein and Slovenia visitors were required to have Machine Readable Passports during 2003.

5.4 J-1 Visas for Short Term Visitors

5.4.1 Allowable Payments

J-1 non-student visas (professors and researchers) allow for employment of a foreign visitor on-campus exclusively. Permission to work off-campus is extremely difficult to obtain from the USCIS. Visitors on J-1 visas can receive wages, salaries, honoraria, or travel reimbursements from the host employer.

5.4.2 Tax Implications

Federal income tax, Medicare tax, state and local taxes may apply to the type of payments being made to the foreign visitor. Please see Sections 2.4 – 2.6 of this guide to determine whether some or all of these taxes apply.

5.5 Income Tax Withholding

In general, all income paid by the University to a foreign visitor is taxable, unless the income is exempt from tax under the Internal Revenue Code or the provisions of a Tax Treaty between the U.S. and the foreigner's country of residence. The University is required by law to withhold taxes from these payments at the following rates, unless exempt by treaty or the Code.

* employee wages:	income tax at graduated rates
* fellowships and scholarships:	14% income tax
* independent contractor payments:	30% income tax

5.6 Payment Processing

Departments who are planning to invite a foreign visitor to Miami University, who will enter the country on a B-1 visa or VWB waiver must ensure that certain forms are completed, or copies are obtained, in order to comply with the IRS rules. Exemptions from withholding under a tax treaty for employee wages or independent contractor payments cannot be honored unless the visitor has, or has applied for, a Social Security Number. Under some circumstances, a foreign visitor may be able to apply for an Individual Tax Identification Number (ITIN) through the University Payroll Office if no Social Security Number is permitted.

Forms required are as follows:

- ❖ IRS Form W-8BEN, Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding. This form must be filed with the University Payroll Office by the foreign visitor in order for fellowship and scholarship payments or royalties to be exempt from withholding under a tax treaty.

- ❖ MU 1099 Requisition. In addition to the standard information required on this form, copies of additional documents must be attached (Form I-94, Social Security Card, Passport picture page).
- ❖ BCBP Form I-94. The I-94 is issued to the visitor on arrival in the U.S. by the Bureau of Customs and Border Protection (BCBP) and is attached to the passport or visa document.
- ❖ Social Security Card or ITIN. In order to process a payment to a nonresident, a Social Security Number (SSN) or ITIN must be obtained. If the visitor has only a copy of the application for a Social Security Number, but has not received the SSN, this must be copied and the visitor must inform the University of the SSN as soon as it is received. ITINs can be obtained through the MU Payroll Office, available to nonresidents who are ineligible for SSNs.
- ❖ Passport Pages. Copies must be attached to the MU requisition form as follows: A copy of the passport page with the visitor's picture. A copy of the page with the visa, to ensure that the payment is allowed. A copy of the page showing the passport expiration date. A copy of the page showing country of origin (if not on one of the earlier copied pages).

Section 6: Students on F-1 and J-1 Visas

- 6.1 General Provisions
- 6.2 Possible Sources of U.S. Income
- 6.3 Tax Implications

6.1 General Provisions

F-1 and J-1 student visa holders are generally considered nonresident aliens for their first five years in the U.S.

F-1 and J-1 category students who have been in the U.S. for more than five (5) consecutive years are generally considered to be resident aliens. Students with F-1 or J-1 visas become eligible to use the substantial presence test after five years as nonresident aliens. For example, a student with a J-1 visa who arrived in the U.S. in September, 1997 files as a nonresident alien (using IRS Form 1040NR) for tax years 1997 through 2001. It does not matter that the student was not present in the U.S. for all of each of these years, as long as he/she was present in the U.S. for some part of each consecutive year. In 2002, the student passes the substantial presence test (described in Section 4.4 of this guide). The student is considered a resident alien for purposes of filing 2002 tax returns (see Section 3.3).

All students who have been in the U.S. for more than five (5) years will be treated as residents for tax purposes. Individuals who wish to be treated as a nonresident for tax purposes must establish, to the satisfaction of the Internal Revenue Service, that they are complying with the terms of their student visa and do not intend to live permanently in the United States. The IRS must substantiate the connection between the foreigner and his home country and provide the student with a letter substantiating continued nonresident alien status. A copy of this IRS letter must be presented to the University Payroll Office in order to have the student's withholding payments continue on a nonresident student basis.

All J-1 students who are paid as University employees or independent contractors must be prepared to provide verification that they have work authorization on an annual basis, i.e. every year that they are present and paid at Miami University.

6.2 Employment

F-1 Student and J-1 Exchange Visitor visas allow for employment of a foreign visitor on-campus. **IMPORTANT NOTE:** Under USCIS regulations, F-1 and J-1 students may work **only** 20 hours per week during the academic year when school is in session; they are allowed to work up to **40** hours per week during University break periods.

Off-campus employment is allowed only under certain circumstances. Off-campus work that is curriculum related practical training is allowed. Post-graduate practical training is possible up to 12 months for F-1 students and up to 18 months for J-1 students.

6.3 Tax Implications

Student employees with F-1 or J-1 student visas are subject to Federal, Ohio and Oxford taxes on their earnings. Specific treaty benefits between the U.S. and their country of origin may reduce the taxable amount for Federal and Ohio purposes (not Oxford). Refer to Sections 2.4 – 2.6 of this guide for further information.

Section 7: J-1 Exchange Visitors

- 7.1 J-1 Exchange Visitor Categories
- 7.2 General Provisions
- 7.3 Possible Sources of U.S. Income
- 7.4 Tax Implications

7.1 Exchange Visitor Categories

J-1 visa holders are referred to as Exchange Visitors. J-1 visa holders can enter the U.S. as exchange visitors in any one of five categories. They are:

Student (non degree) – International visitors coming to the U.S. to engage full-time in a prescribed course of study (includes research).

Professor – International visitors coming to the U.S. primarily to teach or lecture.

Research Scholar – International visitors coming to the U.S. primarily to conduct research, observe research, or consult in conjunction with a research project.

Short-Term Scholar – International visitors coming to the U.S. primarily to observe research or consult in conjunction with a research project for the purpose of lecturing, observing, consulting, training or demonstrating special skills for a period not to exceed six (6) months.

Specialist – An international visitor who is an expert in a field of specialized knowledge or skill coming to the U.S. to observe, consult or demonstrate special skills.

7.2 General Provisions

J-1 *non-student* visa holders (professors, researchers, scholars and specialists) are generally considered to be nonresident aliens for the first *two calendar years* they are in the U.S. If the individual comes to the U.S. in December, that is still the first calendar year, even if he was only present for a few days.

J-1 *non-student* visa holders take the substantial presence test and do not count days present in their first two calendar years (See Section 4.4). For example, a teacher who arrives in the U.S. December 4, 2002, begins teaching January 5, 2003, is a nonresident alien for 2002 and 2003, two calendar years, but is subject to the substantial presence test starting in 2004. Days not counted are 2002 and 2003 days, so by July of 2004, the substantial presence test is met and the teacher becomes a resident alien. Please note that this does not have anything to do with the teaching schedule or the earning schedule. So even though 2003 and 2004 are the foreigner's first two years of teaching and the foreigner's first two years of wage earning, they are *not* the first two years of U.S. *presence*.

7.3 Employment

J-1 *non-student* visas allow for employment of a foreign visitor *on-campus* exclusively. Permission to work off-campus, even for another University, is extremely difficult to obtain from the USCIS. If the visitor is planning a lecture series on a circuit of different colleges and universities, he/she should not enter the country on a J-1 visa.

7.4 Tax Implications

Payments made to a J-1 Foreign Exchange Visitor are subject to Federal, Ohio and Oxford income tax. The U.S. has tax treaties with various countries that may reduce the Federal and State taxable income, but treaty benefits must be applied for in the Payroll Office, they are not automatic. Refer to Sections 2.4 – 2.6 of this guide for more information.

Section 8: H-1B, O, P and TN Visa Status (Specialty Visa)

- 8.1 General Provisions
- 8.2 Possible Sources of U.S. Income
- 8.3 Tax Implications

8.1 General Provisions

The H-1B visa classification is available to a foreign national who will occupy a “specialty occupation” (e.g., architecture, mathematics, physical sciences, etc.) in the United States for which they are qualified.

H-1B visa holders are generally considered nonresident unless they meet the “substantial presence” test discussed earlier in Section 4.4. For these visa holders, days of presence in the U.S. are counted from the first day they arrive, unlike J and F visa holders.

O and P visas are issued to artists, performers and aliens of extraordinary ability. Holders are subject to the substantial presence test upon entering the U.S. and are treated similarly to H-1B visa holders.

TN Visa Status (North American Free Trade Agreement)

The North American Free Trade Agreement (NAFTA) created a new nonimmigrant visa category for citizens of Canada and Mexico who will be engaged in “business activities at a professional level”. It is granted for up to one year at a time, with unlimited renewals. It can be for full-time or part-time employment.

IMPORTANT NOTES: The TN visa status is available only in certain specialty occupations. Contact the Office of International Programs for a list of recognized occupations or visit http://travel.state.gov/tn_visas.html. In addition, since this is a temporary visa status, it should not be used for an individual who is being hired by the University in a tenure-track position, nor is it an appropriate visa for coaching staff.

8.2 Employment

H-1B, O, P and TN visas allow for employment of a foreigner exclusively on the campus of the sponsoring institution. Off-campus or any other non-sponsor employment is possible only with the approval of an additional H petition from the INS. Dependents on H-4 visas are not permitted to be employed.

8.3 Tax Implications

H-1B visa holders are subject to the Medicare tax and consequent withholding. It is important to note that any change to or from the H-1B visa status must be communicated to the Payroll Office immediately. For other tax information or other visas, refer to Sections 2.4 – 2.6 of this guide to determine whether federal income tax, Medicare tax, and/or state and local taxes apply to the type of payments being made to the foreign visitor.

Section 9: Tax Treaties

9.1 Treaty Limitations

Residents of certain foreign countries are entitled to reduced tax rates, or exemption from tax for all or part of their earnings, depending on the applicable tax treaty between their country and the United States. ***All foreign visitors must come to the Payroll Office with Passport, I-94 and U.S. ID number (either Social Security Number(SSN) or Individual Taxpayer Identification Number (ITIN)) to determine whether treaty benefits apply and claim them if they do.*** The hosting department should notify the Payroll Office that the visitor is coming before the final arrangements are made. The determination of whether Miami University can pay an individual is dependent on visa status and country of residence. The Payroll Office can inform the Department what tax effects a payment will have and whether the foreigner's country has an income tax treaty with the United States.

9.2 Forms 8233 and W-8BEN

Notification that the visitor qualifies for a reduced rate of income tax withholding, or an exemption from income tax withholding must be received and verified before the exemption can be granted. The visitor will also need to submit certain IRS forms that authorize the University to grant treaty benefits. Form W-8BEN or Form 8233 (depending on the type of payment the visitor receives) allows the University to grant treaty benefits to an individual. It is important to note that simply because a treaty between the U.S. and the visitor's country exists does not mean that the types of payments made by Miami University to the visitor are tax exempt. Benefits of tax treaties vary widely, depending on the particular country involved.

The Payroll Office must be contacted to determine the specific treaty provisions available for each foreign visitor.

9.3 Current Tax Treaties

There are presently 54 tax treaties in force that impact individuals:

Australia	Iceland	Pakistan
Austria	India	Philippines
Barbados	Indonesia	Poland
Belgium	Ireland	Portugal
Canada	Israel	Romania
China	Italy	Russia
Commonwealth of Independent States (USSR)	Jamaica	Slovak Republic
Cyprus	Japan	Slovenia
Czech Republic	Kazakhstan	South Africa
Denmark	Korea, Republic of (South)	Spain
Egypt (Arab Republic)	Latvia	Sweden
Estonia	Lithuania	Switzerland
Finland	Luxembourg	Thailand
France	Mexico	Trinidad and Tobago
Germany	Morocco	Tunisia
Greece	Netherlands (includes Netherlands Antilles)	Turkey
Hungary	New Zealand	Ukraine
	Norway	United Kingdom
		Venezuela

IRS Publication 515 summarizes the benefits available to these nonresident aliens by virtue of their tax treaties.

Copies of Publication 515 are available in King Library and the Payroll Office or at the IRS website:

<http://www.irs.ustreas.gov/formspubs/index.html>

Appendix 1: Offices Providing Additional Assistance

1.0 University Offices

- 1.1 Immigration and Visa Status:
International Programs, MacMillan Hall, MU, Oxford. (513) 529-5628
- 1.2 Payment Processing and Withholding – Employee Wages
Payroll Office, 2 Roudebush Hall, MU, Oxford. (513) 529-7230
- 1.3 Payment Processing – Fellowships, Scholarships and Independent Contractors
Payroll Office, 2 Roudebush Hall, MU, Oxford. (513) 529-7230
- 1.4 Tax Laws and Treaties
Payroll Office, 2 Roudebush Hall, MU, Oxford. (513) 529-7230
Tax & Compliance Coordinator, 107 Roudebush Hall, MU, Oxford
(513)529-6228
- 1.5 Tax Information and Filing
Tax & Compliance Coordinator, 107 Roudebush Hall, MU, Oxford
(513)529-6228

2.0 Government Offices

- 2.1 Cincinnati Offices:
Immigration and Naturalization, 550 Main St, Room 8525, Federal Building,
Cincinnati, Ohio 45202; phone: 513-287-6080
Internal Revenue Service, 550 Main St, Room 8525, Federal Building,
Cincinnati, Ohio 45202; phone: 513-621-6281
Social Security Administration, 550 Main St, Room 8525, Federal Building,
Cincinnati, Ohio 45202; phone: 800-772-1213
Ohio Department of Taxation, 900 Dalton at West 8th St.,
Cincinnati, Ohio 45203-1171; phone: 513-852-3311
- 2.2 Hamilton Offices:
Social Security Administration, 1710 S. Erie Highway,
Hamilton, Ohio 45011-4196; phone: 800-772-1213
- 2.3 Dayton Offices:
Internal Revenue Service, 200 W. Second Street, Room 403,
Dayton, Ohio 45402-1434; phone: 800-829-1040
Ohio Department of Taxation, 15 East Fourth St., 5th Floor,
Dayton, Ohio 45402-2162; phone: 937-285-6200
Social Security Administration, 200 W. Second Street, Suite 1,
Dayton, Ohio 45402-1400; phone: 800-772-1213

Appendix 2: IRS Forms and Publications

Copies of the following Internal Revenue Service Forms and Publications can be found in the University Offices listed in Appendix 1, or on the Internet at:

http://www.irs.ustreas.gov/prod/forms_pubs/index.html.

From this site, forms and publications can be downloaded, viewed or printed. In some cases, forms can be filled in on-line and printed when complete.

<u>Form Number</u>	<u>Form Name</u>
W-8BEN 8233	Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding Exemption from Withholding on Compensation for Independent Personal Services of Nonresident Alien Individuals
W-4	Employee's Withholding Allowance Certificate
1040-NR	U.S. Nonresident Alien Income Tax Return
1042-S	Foreign Person's U.S. Source Income Subject to Withholding
1040-C ¹	U.S. Departing Alien Income Tax Return
2063 ¹	U.S. Departing Alien Income Tax Statement (Certificate of Compliance)

Publications¹

513	Tax Information for Visitors to the U.S.
515	Withholding of Tax on Nonresident Aliens
519	U.S. Tax Guide for Aliens
520	Scholarships and Fellowships
901	U.S. Tax Treaties

All IRS Forms and Publications may be ordered from the IRS Forms Distribution Center at the following address and telephone number:

Internal Revenue Service
Forms Distribution Center
PO Box 85074
Richmond, VA 23261-5074
Phone: 1-800-TAX-FORM (1-800-829-3676)
http://www.irs.ustreas.gov/prod/forms_pubs/forms.html

¹ These items are not normally available from University Offices.

Appendix 3: Nonresident Forms Processing Flowchart

TYPE OF PAYMENT	TAX FORM REQUIRED BEFORE PYMT	PAYMENT FORM USED BY MIAMI	MIAMI APPROVAL PROCESS	TAX FORM ISSUED TO INDIVIDUAL	TAX STATUS
Fellowship & Scholarship (Students)	W-8BEN and foreign home address	Financial Aid Award form	Bursar: Tuition Amt. Payroll: Tax Status Int'l Program: Visa Status	1042-S	Withholding 14% if award is <u>not</u> exempt under tax treaty or is not entirely used for tuition and fees. No FICA
Employee	W-4 (S-1) if wages not exempt under tax treaty, Form 8233 if wages exempt under treaty	PAF (Personnel Action Form) (I-94 required)	Int'l Programs: visa status Faculty Records <u>and</u> Personnel: appointment status Payroll: tax status	1042-S if all or some exempt under tax treaty; W-2 if taxable or partially taxable (often both forms required)	Graduated Fed withholding rates if wages are taxable . State and Local tax withholding. Visa status dictates FICA taxation.
Independent Contractor (Honoraria)	8233 if exempt under tax treaty; copy of I-94 <u>and</u> SSN or proof of SSN application, OR copy of ITIN or proof of application	Requisition Form	Int'l Programs: visa status Payroll: Form 8233 approval Note: IRS mandated 10 day waiting period	1042-S	30% if taxable under tax treaty or no treaty. No State and Local tax withholding required. No FICA.
Royalty Payments	Form W-8BEN <u>and</u> foreign home address <u>and</u> SSN (or proof of SSN application)	Requisition Form	Payroll: tax status	1042-S	Various rates per IRS royalty tax table; 30% if not listed; State and Local tax required. No FICA
Travel Expenses	None	Requisition Form; attach copy of I-94	Int'l Program: visa status Payroll: tax status Dept: travel status	None if original receipts provided and payment <= receipted amount. 1042-S	Not taxable if Miami University reimbursement policy guidelines are followed.

Appendix 4: Visa Type – Tax Status Matrix

Visa Type	Immigration Status	Permissible Income from Miami Univ.	Federal Tax Status	State and Local Tax Status	FICA Tax Status
B-1	Visitor for Business	Honoraria, Travel Expense Reimbursement	Honorarium is taxable	Same as Federal	N/A
B-1/B-2	Visitor for Business	Honoraria, Travel Exp. (if B-1 option is available)	Honorarium is taxable	Same as Federal	N/A
B-2	Visitor for Pleasure	NONE	N/A	N/A	N/A
F-1	Student	Hourly student; Grad asst.; Teaching asst.; Salaried student; Travel, Scholar/Fellowship	Taxable	Taxable	Exempt first five years
F-2	F-1 Spouse	NONE	N/A	N/A	N/A
H-1-B	Aliens in Specialty Occupations	Temp Classified; Temp Unclassified; Honoraria; Travel	Taxable	Taxable	Taxable
H-4	H-1 Spouse	NONE	N/A	N/A	N/A
J-1	Student	Temp Classified; Hourly or Salaried Student; Grad Asst.; Research Asst.; Teaching Asst.; Travel Reimbursement; Scholar/Fellowship	Taxable	Taxable	Exempt first five years
J-1	Teacher Researcher	Teaching; Research; Honoraria; Travel	Taxable	Taxable	Exempt first two years
J-2	J-1 Spouse	NONE	N/A	N/A	N/A
TN	Certain Mexican and Canadian Professionals	Temp employment; Travel	Taxable	Taxable	Taxable
WB	Business Visa Waiver	See B-1, above	Honorarium is taxable	Same as Federal	N/A
WT	Tourist Visa Waiver	NONE See B-2, above	N/A	N/A	N/A

Appendix 5: Countries Participating in the Visa Waiver Program

Andorra (MRP)	Iceland	Norway
Australia	Ireland	Portugal
Austria	Italy	San Marino
Belgium (MRP)	Japan	Singapore
Brunei (MRP)	Liechtenstein (MRP)	Slovenia (MRP)
Denmark	Luxembourg	Spain
Finland	Monaco	Sweden
France	the Netherlands	Switzerland
Germany	New Zealand	United Kingdom

Visa Waiver visitors from countries in bold are already required to provide Machine Readable Passports (MRP); all remaining visitors from all remaining countries must have them by October 26, 2004.

Appendix 6: Frequently Asked Questions about NRA Payments

1. Visitors from Canada or Mexico can visit the United States without a visa. Can they be paid without a visa?

NO. While it is true that Canadian or Mexican visitors can travel in the U.S. without a passport or visa, they cannot be compensated unless they have a valid, eligible visa. The same rules apply to compensation payments to Canadians and Mexicans as apply to foreigners from other countries.

2. An individual from Leningrad University will be visiting the United States this summer on a B-2 Visa and has agreed to visit Miami University if we pay the airline ticket. Is this allowed?

NO. A visitor on a B-2 Visa is prohibited from receiving compensation of any kind, including travel reimbursement.

3. The department has a foreign visitor who says she has a J-1 Visa. Can the Dept. take her word for it?

NO. Information on a foreign visitor's non-immigration status must be validated by inspecting and photocopying the USCIS Form I-94 which shows the current visa type and expiration date of the permission to stay. A number of visitors enter the U.S. on one type of visa and later change their status. When a change of status is granted by the USCIS, the new status will be noted on Form I-94.

4. What if the current visa which appears in the visitor's passport has expired? Can they still be paid?

The visa expiration date located on the Visa Stamp in the passport is the date by which the visitor must enter, not exit, the country. The true date by which a visitor must exit appears on the Form I-94 card (USCIS Arrival/Departure Record) or equivalent USCIS document.

5. A student with an F-1 visa wants to work 30 hours a week during the academic year. Is this permissible?

NO. The F-1 visa specifically limits the numbers of hours a student may work. During the academic year F-1 students may work only 20 hours per week while school is in session; they can work up to 40 hours per week during break periods. Any exceptions made due to home country economic distress are issued **only** by the USCIS and/or the IRS.

6. May a F-2 visa holder (dependent of F-1 visa holder) work?

NO. The primary reason for the individual's stay in the U.S. is as a dependent; they cannot work. If they need to seek employment, they must first change their visa status to one that authorizes them to work. Eligibility of dependents varies from visa to visa; please check with the Payroll Office for specific cases in this area.