

Policy 3415

Payments to Individuals Who Are Neither Citizens Nor Permanent Residents of the United States

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Scope

This policy sets forth the immigration rules and the Federal and State of Connecticut income tax reporting and withholding requirements applicable to payments made by the University to or on behalf of individuals who are neither citizens nor permanent residents of the United States.

Policy Statement

U.S. immigration regulations restrict the types of payments that can be made to persons who are neither citizens nor permanent residents of the United States. The determination of whether payment is permissible is based on an individual's current immigration status.

Once it is determined that a payment is in accordance with U.S. immigration rules, the payment must be reviewed and appropriately classified in order to ensure that appropriate Federal and state income tax reporting and withholding requirements are satisfied. Federal income tax reporting and withholding is generally based on an individual's classification as either a nonresident or a resident alien for tax purposes. An individual may claim a reduced Federal income tax withholding rate pursuant to a tax treaty if there is a treaty in effect between the U.S. and the individual's country of residence, all of the requirements as set forth in the treaty are satisfied and all required tax treaty exemption forms are completed and sent to the University Tax Department for University review and submission to the IRS, if applicable. In accordance with University policy, an individual who receives a payment must provide the University with his or her Social Security Number (SSN) or an Individual Taxpayer Identification Number (ITIN). The only exception to this requirement is the case of substantiated reimbursements in which situation no SSN or ITIN is required. If the individual does not have either a SSN or an ITIN, the individual must apply for the applicable number. Payment can be made upon proof that such application has been made. An individual who is not a U.S. citizen is subject to the same Connecticut Personal Income Tax reporting and withholding rules as U.S. citizens.

Note: U.S. immigration regulations (now under the jurisdiction of the U.S. Citizenship and Immigration Services (USCIS) of the U.S. Department of Homeland Security (DHS)) govern the types of payments that can be made to individuals who are neither citizens nor permanent residents of the U.S. IRS and Treasury Department rules govern the Federal income and Social Security tax withholding and reporting rules related to payments made in

accordance with USCIS rules. In referring to this Policy, it is imperative that the reader distinguishes between the roles of the USCIS and the IRS with respect to these payments.

Reason for the Policy

This policy is intended to:

- Provide guidance with respect to payments to individuals who are neither citizens nor permanent residents of the United States;
- Promote compliance with U.S. Citizenship and Immigration Services (USCIS) rules regarding the types of payments that can be made to an individual based on his or her immigration status; and
- Promote compliance with the Internal Revenue Service (IRS) and State of Connecticut income tax reporting and withholding rules.

This Policy and the accompanying University procedures are also designed to provide department administrators with reference tools and resources in order to facilitate the process of paying a international visitor, student, scholar, faculty, staff member or other international individual who is permitted to receive payment.

Definitions

Permanent Resident Alien

A permanent resident alien is a non-U.S. citizen granted lawful U.S. permanent residence status. Permanent resident aliens (often referred as "green-card holders") are generally taxed in the same manner as U.S. citizens.

Resident Alien

A resident alien is the U.S. tax residency status of a non-U.S. citizen who is a permanent resident alien or who satisfies the substantial presence test. Resident aliens pay U.S. taxes on their worldwide income and are generally taxed in the same manner as U.S. citizens.

Nonresident Alien

A nonresident alien is the U.S. tax residency status of a non-U.S. citizen who is not a permanent resident alien and who does not satisfy the substantial presence test. Nonresident aliens are required to pay U.S. taxes only on their income from U.S. sources and are subject to Federal tax reporting and withholding rules that differ from those applicable to U.S. citizens and resident aliens.

Honoraria

Fees paid to a guest lecturer, speaker or conference participant by the University.

Substantiated Expense Reimbursement (including Meals & Incidental Expense (M&IE) Per Diems)

An expense reimbursement is any University business expense paid to or on behalf of an individual pursuant to University Policy. An individual may claim the established University M&IE per diem in lieu of actual meals and incidental expenses.

Income Tax Treaty

The U.S. maintains income tax treaties or agreements with approximately 55 countries in an effort to reduce or eliminate double taxation and in order to promote cross-cultural education and exchange (See Exhibit C).

Optional Practical/Academic Training

International students having F-1 status may, in accordance with U.S. Citizenship and Immigration Services (USCIS) regulations, apply for a period of Optional Practical Training (OPT). International students having J-1 status may, in accordance with U.S. Department of State regulations, apply for a period of Academic Training. Optional practical/Academic Training is defined as employment in the *student's field of study*, and may take place either before or after completion of a program. Effective January 1, 2003, an F-1 student is permitted one

12 month period of optional practical training for each degree program, provided that the second (and subsequent) programs are at a higher educational level.

J-1 students can be approved generally for a maximum of eighteen (18) months of Academic Training.

Prize or Award

A prize or award is generally a payment that is based on a past accomplishment or activity.

Royalty

Amounts paid for the right to use intangible property such as copyrights, patents, models, design, secret processes or formulas, trademarks etc.

Scholarship/Fellowship Grant

The term "Scholarship/Fellowship Grant" generally means an amount paid or allowed to, or for the benefit of, an individual to aid him in the pursuit of study or research that does not require the performance of a service.

Policy Sections

3415.1 U.S. Citizenship and Immigration Services (USCIS) Rules Regarding Payments to Individuals

USCIS regulations restrict the types of payments that can be made to persons who are neither citizens nor permanent residents of the United States. Whether such payments are permissible is based on the current immigration status of each individual payee as stated on the individual's Form I-94, (i.e. generally a white or green card attached to the passport that lists the visa status of a non-immigrant visitor at the U.S. port of entry). Depending on the current immigration status of an individual, an individual may be permitted to receive one of the following types of payments or a combination thereof:

- wages;
- non-employee compensation (for example, consulting payments);
- honoraria;
- substantiated expense reimbursements (and/or M&IE per diem)(1);
- scholarships / fellowships; or
- prizes or awards

(1) An expense reimbursement must be substantiated and paid in accordance with University Policies and must be the type of expense ordinarily paid by the University pursuant to University Policies. Reimbursements to an individual include payments made on behalf of an individual (e.g., direct payment to an airline or hotel on behalf of the individual). Travelers may be reimbursed at the per diem rate for personal meals and incidental expenses based on the location of travel. (Refer to the [Controller's office Fact Sheet](#)) An individual may claim the per diem in lieu of the actual meals and incidental expenses incurred, however, an individual may not be paid a per diem for any meals that the University furnishes in kind or reimburses. See Policies [3301](#) and [3302](#) for a detailed discussion of business expense reimbursements.

Payment to or on behalf of individuals in certain immigration statuses may be PROHIBITED (see charts that set forth permissible payments, later in this Section).

Department administrators are responsible for determining if an individual has complied with all of the requirements with respect to the individual's immigration status and to determine if a payment to the individual is permissible under USCIS rules. The Office of International Students and Scholars (OISS) is available to answer any immigration-related questions. The OISS will determine the appropriate immigration status and will issue the requisite immigration documents prior to an individual's arrival in the U.S.

Note: Each employee, including an individual who is not a citizen of the U.S., is required to complete Form I-9, Employment Eligibility Verification, in order to verify that he or she is eligible to work in the United States (Refer to Policy [3501](#), General Payroll Process).

Common Categories of Immigration Status and Allowable Payments

The two charts in this section provide an overview of the common categories of immigration status and the USCIS payment restrictions regarding payments to individuals in each of these categories. Chart 1 sets forth the categories of immigration status that allow an individual to receive wages and related expense reimbursements in his or her capacity as a University employee and/or receive a fellowship or scholarship from the University; these individuals are under Yale University's immigration sponsorship. Chart 2 sets forth the categories of immigration status that allow an individual to receive honoraria or other payments for independent personal services, related expense reimbursements and/or a fellowship or scholarship; these individuals may or may not be under Yale University's sponsorship. These charts do not address royalties paid by the University to individuals, as royalties are not governed by these USCIS rules.

These charts should be used as a reference guide in order to assist in the determination of the type of payment, if any, that may be made to an individual holding a specific immigration status. Guide [3415 GD.02](#) is a summary of the common categories of immigration status and is intended to serve as a reference tool for department administrators. Please contact the OISS with any questions regarding any status described below or regarding any status that is not described in this Policy.

Chart 1
INTERNATIONAL PAYMENT REFERENCE GUIDE
EMPLOYEES AND STUDENTS of YALE UNIVERSITY
UNDER YALE UNIVERSITY IMMIGRATION SPONSORSHIP

Purpose: The purpose of this chart is to set forth the types of payments which can be made to Yale University employees and students who are neither citizens nor permanent residents (i.e., green card holders) of the United States. This chart addresses only those individuals who are under Yale University's Immigration Sponsorship and are working in accordance with the terms set forth in the immigration documents (e.g., Form IAP-66 or Form DS-2019 (6)), Form I-20, Form I –797.

Please refer to [Tax website](#) for detailed information and documentation requirements regarding payments to short-term visitors.

Immigration Status	Primary Purpose (per Immigration Document)	Wages (Restrictions apply – see applicable footnotes)	Substantiated Expense Reimbursements	Scholarship or Fellowship
F-1	Student	Yes (1)	Yes	Yes
F-1	Optional Practical Training	Yes (2)	Yes	Yes
F-2	Spouse of F-1	No	No	No
H-1B	Temporary Worker	Yes (3)	Yes	No
H-4	Spouse of H-1B	No	No	No
J-1	Professor/Researcher	Yes (3)	Yes	No
J-1	Short Term Scholar	Yes (3)	Yes	No
J-1	Student	Yes (1)(3)	Yes	Yes
J-1	Academic Training	Yes (2)	Yes	Yes
J-2	Spouse of J-1	Yes (4)	Yes (4)	No
O-1	Extraordinary Ability	Yes (3)	Yes	No
O-3	Spouse of O-1	No	No	No
P-1,P-2, P-3	Entertainer/Artists	Yes (3)	Yes	No
TN	Trade NAFTA	Yes (5)	Yes	No
TD	Spouse of TN	No	No	No

Footnotes:

- (1) On-campus employment is limited to 20 hours/week when school is in session and full time during break periods.
- (2) An individual may **ONLY** receive service payments for services performed in the position, in his/her major field of study, specifically stated on the immigration document and pursuant to the conditions of the Optional Practical or Academic Training. An individual in this status may **NOT** receive payments for any work performed that is not specifically related to the field of study noted on the immigration document.
- (3) These classifications are employer-specific. An individual may **ONLY** receive service payments for services performed in the position and for the employer specifically stated on the immigration document or petition (H-1B, O-1, J-1, P, TN, etc.). NOTE: J-1 students/scholars should consult with the Office of International Students & Scholars concerning the limitations of their J-1 status as it pertains to their ability to provide services other than that which is indicated on their visa documents.
- (4) An individual with a J-2 immigration status is eligible to be employed only if the individual has a valid USCIS Employment Authorization Document (EAD). Contact the Office of International Students and Scholars for more information.
- (5) Any individual who does not have an immigration status is not allowed to receive any payments from the University, including service payments or reimbursement of expenses.
- (6) Individuals on J-1 status who are issued documents after 9/1/02 will be issued Form DS-2019 in lieu of Form IAP-66. After 8/1/03, all J exchange visitors must have SEVIS-issued DS-2019 forms. Except for the form numbers, these forms are identical.

Chart 2
INTERNATIONAL PAYMENT REFERENCE GUIDE
NON-EMPLOYEES of YALE UNIVERSITY WHO MAY OR MAY NOT
BE UNDER YALE UNIVERSITY IMMIGRATION SPONSORSHIP

Purpose: The purpose of this chart is to set forth the types of payments that can be made to non-Yale University employees who are neither citizens nor permanent residents (i.e., green card holders) of the United States. Payment for services includes honoraria or other payment for independent personal services.

Immigration Status	Primary Purpose (per Immigration Document)	Payment for Services (Restrictions apply - See applicable footnotes)	Substantiated Expense Reimbursements	Scholarship or Fellowship
A-1	Diplomat or International Government Official	No	Yes	No
B-1	Visitor/Business	Yes (1)	Yes (1)	No
B-2	Visitor/Pleasure	Yes (1)	Yes (1)	No
F-1	Student	No, except in cases where work permission has been authorized	Yes	Yes
F-1	Optional Practical Training/	Yes (2)	Yes (2)	No
F-2	Spouse of F-1	No	No	No
G-1/G-4	Representative of International Organization	No	Yes	No
H-1B	Temporary Worker	No (3)	Yes	No
H-1B	Postdoctoral Fellow	No (3)	Yes	No
H-4	Spouse of H-1B	No	No	No
J-1	Professor/Researcher	Yes (3) (5)	Yes (5)	Yes
J-1	Short-Term Scholar	Yes (3) (5)	Yes (5)	Yes
J-1	Student	Yes (3) (5)	Yes (5)	Yes
J-1	Academic Training/Student	Yes (2)	Yes (2)	No
J-2	Spouse of J-1	Yes (6)	Yes (6)	No
O-1	Extraordinary Ability	No (3)	Yes	No
O-3	Spouse of O-1	No	No	No
P-1	Athlete/ Entertainment Group	Yes (3)	Yes	No
P-2	Artist/Entertainment Under Reciprocal Exchange Program	Yes (3)	Yes	No
P-3	Culturally Unique Entertainers	Yes (3)	Yes	No
R-1	Religious Worker	No (3)	Yes	No
TN	Trade NAFTA	No (3)	Yes	No
TD	Spouse of TN	No	No	No
WB	Visitor/Business	Yes (1)	Yes (1)	No
WT	Visitor for Pleasure	Yes (1)	Yes (1)	No

Footnotes:

(1) B-1 Visitor for Business, B-2 Visitor for Pleasure, WB and WT*

- Visitors admitted to the U.S. in B-1 or WB status who are receiving an honorarium, or an honorarium plus expenses, may perform academic activity at Yale for a maximum of nine days, as long as they have not accepted payment of expenses and/or honorarium from more than five U.S. institutions or organizations in the previous six months. If either of these conditions is exceeded the individual may NOT receive any honorarium or honorarium plus reimbursement for expenses.
- Visitors in B-1 or WB status, who are NOT receiving an honorarium or payment for independent personal services, have no limit on the number of days they can be reimbursed for expenses. Substantiated reasonable expenses, paid in accordance with University policy, can be reimbursed up to the expiration of their B-1 or WB status as stated on the I-94 card. This applies only to holders of B-1 or WB status; it does **NOT** apply to holders of B-2 or WT status.
- Visitors admitted to the U.S. in B-2 or WT status who are receiving an honorarium, or an honorarium plus expenses, or are being reimbursed for expenses only, may perform academic activity at Yale for a maximum of nine days, as long as they have not accepted payment of expenses and/or honorarium from more than five U.S. institutions or organizations in the previous six months. If either of these conditions is exceeded the individual may NOT receive any honorarium, payment for services or reimbursement for expenses.

*WB, Visitor for Business, and WT, Visitor for Pleasure, are designations under the visa waiver program that is currently available only to citizens of Andorra, Australia, Austria, Belgium, Brunei, Denmark, Finland, France, Germany, Iceland, Ireland, Italy, Japan, Liechtenstein, Luxembourg, Monaco, Netherlands, New Zealand, Norway, Portugal, San Marino, Singapore, Slovenia, Spain, Sweden, Switzerland, and the United Kingdom. The international visitor need not apply for a visa at an American consulate or embassy. The WB status carries the same terms and conditions of the B-1 category and the WT status carries the same terms and conditions as the B-2 category, except that the WB or WT visitor may not extend his or her stay beyond the initial period of admissions (maximum of 90 days) or change his or her immigration status while the visitor is in the U.S. Persons in WB or WT status will have a green I-94 card. (All other non-immigrants have a white I-94 card.)

(2) An individual may **ONLY** receive service payments for services performed in the position, in his or her major field of study, specifically stated on the immigration document and pursuant to the conditions of the Practical or Academic Training. An individual in this status may **NOT** receive payments for any work performed that is not specifically related to the field of study noted on the immigration document.

(3) An individual may **ONLY** receive service payments for services performed in the position and for the employer specifically stated on the immigration document or petition (H-1B, O-1, J-1, P, TN, etc.) for the specified employer. An individual in this status may NOT receive payments for any work performed that is not specifically stated on the immigration document. (See as stated in #5 below.) Persons in P status may be compensated by Yale when Yale is the petitioner (chart 1) or when the performance at Yale is specifically noted in a petition submitted by a third party.

(4) An individual who is on H-1B status under Yale University's sponsorship and who is receiving a fellowship as a postdoctoral fellow may also be paid for certain work consistent with University policy.

(5) An individual in J-1 status not under Yale sponsorship must have the required written authorization from his or her sponsoring institution in order to be paid for services.

(6) An individual with a J-2 immigration status is eligible to be employed only if the individual has a valid USCIS Employment Authorization Document (EAD). Contact the Office of International Students and Scholars for more information.

Special Notes for Citizens of Canada and Mexico

Citizens of Canada

Canadian citizens are exempt from the U.S. passport and visa requirements and may be in the U.S. without those documents and without an I-94 card. In this case, the USCIS considers them to have been admitted as visitors for pleasure or visitors for business. **Canadian citizen visitors to Yale should be advised to request an I-94 card from the U.S. BCBP inspectors in order to facilitate the reimbursement of expenses and/or the payment of honoraria.** However, if a Canadian citizen does not have an I-94, but has evidence of his Canadian nationality (e.g., passport or birth certificate) and the purpose of his visit to Yale, reimbursement or payment of honorarium can be made under the same provisions outlined above (see footnote (1) of Chart 2). Canadian nationals holding any other non-immigrant status (e.g. F-1, H-1B, J-1, O-1, TN, etc) **MUST** have an I-94 card with the proper endorsement to be eligible for the benefits of the particular status.

Citizens of Mexico

A visa and a passport are not required of a Mexican national who is in possession of a U.S. border-crossing card on Form I-186 or I-586 and is applying for admission as a temporary visitor for business or

pleasure from a contiguous territory. **Mexican citizen visitors to Yale should be advised to request an I-94 card from the U.S. BCBP inspectors in order to facilitate the reimbursement of expenses and/or the payment of honoraria.** However, if a Mexican citizen does not have an I-94, but has a U.S. border crossing card and evidence of the purpose of his visit to Yale, reimbursement or payment of honorarium can be made under the same provisions outlined above (see footnote (1) of Chart 2). Mexican nationals holding any other non-immigrant status (e.g. F-1, H-1B, J-1, O-1, TN, etc) **MUST** have a valid visa and an I-94 card with the proper USCIS endorsement to be eligible for the benefits of the particular status.

3415.2 University Resource: Office of International Students and Scholars (OISS)

OISS is the University office responsible for all immigration concerns related to the University, including all international nationals who are or will be working or studying at Yale. OISS issues the visa documents needed to request entry into the United States to be under Yale's immigration sponsorship and to request extensions of authorized periods of stay in the United States, school transfers, etc. Any immigration documents issued by or on behalf of the University must be signed by the Director of the OISS or by a designated OISS Advisor.

Faculty, Students, Scholars and Staff

OISS must be consulted before making a commitment to hire a foreign national for any employment position. It is the hiring department's responsibility to determine, with the assistance of the OISS, whether prospective employees have or qualify for an appropriate immigration status for proposed appointments.

All non-immigrant foreign nationals at Yale, except those in B status, must register with the OISS upon arrival at Yale in order to, among other reasons, ensure that the individual holds an appropriate immigration status with respect to payments to be made to him or her by the University. This applies to faculty members, students, scholars, and staff, including citizens of Canada and Mexico. It is responsibility of the individual student or scholar to maintain their lawful status in the U.S.

International Visitors/Scholars

A department may consult with the OISS before it contracts with an individual who is not an employee of the University (e.g., for a speaking or consulting engagement) if any payment will be made to the individual. The OISS is available to discuss USCIS rules and to assist the individual in applying for the appropriate immigration status. It is important to contact the individual in advance of his or her entry into the U.S. in order to discuss immigration status and to alert the individual to any payment restrictions based on immigration status.

3415.3 Internal Revenue Service (IRS) Classification: Nonresident Alien vs. Resident Alien

Note: A payment cannot be made to an individual unless it is permitted under USCIS rules (see section 3415.1). Once it is determined that a payment is in accordance with USCIS rules, the University must determine the appropriate income tax reporting and withholding requirements.

While the USCIS is responsible for determining the types of payments that can be made to individuals who are neither citizens nor permanent residents of the U.S., the IRS and the Treasury Department are responsible for Federal income tax and social security tax withholding and reporting rules related to payments made to or on behalf of these individuals. The Federal tax treatment of a non-U.S. citizen for tax reporting and withholding purposes is based on his or her classification as a nonresident alien or as a resident alien for tax purposes.

It is important to note that the residency status rules for tax purposes are separate and distinct from the residency status rules for immigration purposes. For instance, an individual may be a resident alien for tax purposes, but may not qualify as a resident pursuant to immigration law.

Nonresident Alien vs. Resident Alien for Tax Purposes

In determining the tax residency status of an individual who is not a citizen of the U.S., the IRS employs two tests, the green card test and the substantial presence test. If an individual qualifies as a resident under the green card test or satisfies the substantial presence test, he or she is classified as a resident alien for tax purposes. If an individual does not satisfy the green card test or the substantial presence test, he or she is classified as a nonresident alien for tax purposes.

Green Card Test

In order to qualify as a resident under the green card test, an individual must at any point during the calendar year have been granted lawful permanent resident status. A lawful permanent resident is an individual who has been lawfully granted the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws.

Substantial Presence Test

As a general rule, the substantial presence test is a calculation of the number of days that an individual has been physically present in the U.S. during the three most recent calendar years, including the current calendar year. Certain exceptions apply to the general rules of the substantial presence test for specific immigration statuses, as discussed below. The test is required to be completed for an individual each year on a prospective basis, always taking into account the current calendar year and the two preceding calendar years. The International Information Form (IIF), an internal University form, should be completed in order to facilitate the calculation of the substantial presence test.

- **General Rule:** An individual satisfies the substantial presence test if he or she is physically present in the U.S. for at least 31 days in the current calendar year and at least 183 days, taking into account:
 - All of the days present in the U.S. during the current calendar year; plus
 - One-third of the days present in the U.S. during the first preceding calendar year; plus
 - One-sixth of the days present in the U.S. during the second preceding calendar year.
- **Exceptions: The Exempt Individual Rules:** The IRS provides an exception to the general rule above for individuals who enter the U.S. in specific immigration statuses. For purposes of the substantial presence test, the following immigration categories are considered exempt from applying the general rule during the specific exemption period:
 - An individual on a J or Q immigration status whose primary purpose is that of a teacher, researcher, or trainee and who is temporarily present in the U.S. for two calendar years or less; or
 - An individual on an F, J, M or Q immigration status whose primary purpose is that of a student and who is temporarily present in the U.S. for five calendar years or less.
 - An individual in an F, J, M or Q immigration status who satisfies any of the applicable exceptions described above is deemed to be a nonresident alien for tax purposes during the specific exemption period. If such an individual exceeds the applicable time limitation, the individual is subject to the general rule of the substantial presence test beginning with the first calendar year after the exemption period ends.

Note: The calculation of exempt years for an individual is relatively straightforward for individuals who are present in the U.S. for the first time. This calculation can be quite complex, however, with respect to an individual who has been in the U.S. prior to his or her current visit or with respect to an individual who has held different immigration statuses or had different primary purposes in the past. The University Tax Department is responsible for assisting in the determination of an individual's residency status for tax purposes.

3415.4 Internal Revenue Service Reporting and Withholding

Federal tax reporting and withholding is based on an individual's classification as a resident alien or as a nonresident alien for tax purposes.

General Rule

Resident Alien: An individual who is a resident alien for tax purposes is generally subject to the same Federal reporting and Federal income and social security tax withholding rules as U.S. citizens.

Nonresident Alien: An individual who is a nonresident alien for tax purposes is subject to Federal reporting and Federal income and social security tax withholding only on income received from sources within the United States. Payments made to nonresident aliens are subject to separate reporting and Federal income and social security tax withholding rules. The following chart sets forth the general reporting and withholding rules applicable to nonresident aliens.

**Nonresident Alien Reporting and Withholding Table
General Rules
No Treaty Exemption**

	Federal Income Tax Withholding	Social Security Tax Withholding	Federal Tax Reporting
Wages (F, J, M or Q immigration status)	Graduated Withholding Rates (1)	(2)	Form W-2
Wages (other than F, J, M or Q immigration status)	Graduated Withholding Rates (1)	(3)	Form W-2
Service Payments other than Wages (i.e., consulting services)	30%	N/A	Form 1042-S
Honoraria	30%	N/A	Form 1042-S
Royalties	30%	N/A	Form 1042-S
Fellowships or Scholarships applied directly to the student bursar account for tuition only	N/A	N/A	Form 1042-S
Other Fellowships and Scholarships (F, J, M or Q immigration status)	14% (4)	N/A	Form 1042-S
Other Fellowships and Scholarships (other than F, J, M or Q immigration status)	30%	N/A	Form 1042-S
Prizes and Awards	30% (5)	N/A	Form 1042S

Footnotes:

1. Wages paid to a nonresident alien are subject to the same graduated Federal income tax withholding rates as U.S. citizens and resident aliens. A nonresident alien is generally limited, however, with respect to the filing status and the number of personal exemptions he or she may claim on his or her Form W-4. A nonresident alien is required to claim "single" filing status and, with a few exceptions noted below, may only claim one personal exemption regardless of the individual's marital status or number of dependents. In addition, an additional \$7.60 per week must be withheld from the wages of a nonresident alien. Permanent residents of Canada, Korea, Japan, Mexico, American Samoa, the Northern Mariana Islands, and students from India are exceptions to the general rule and are eligible to claim more than one personal exemption. Further, students from India are not required to have the additional \$7.60 per week withheld from wages. Contact the University Tax Department for more information regarding these exceptions.
2. Wages paid to a nonresident alien who is on an F-1 or J-1 immigration status are not subject to social security tax withholding provided that such earnings are in payment for services performed to carry out the purpose for which the individual was admitted to the United States.
3. Wages paid to a nonresident alien who holds other than an F-1 or J-1 immigration status are generally subject to Social Security withholding unless a specific exemption (e.g., student FICA exception) applies.
4. Nonresident students or grantees who receive U.S. source grants or scholarships may be entitled to claim the daily allowance, a prorated portion of allowable personal exemptions based on the projected numbers of days an individual will

be in the United States. If the individual is eligible to claim the daily allowance, Federal income tax of 14% (F, J, Q and M visa statuses) will be withheld on the amount of fellowship less the applicable daily allowance.

5. Income tax treaty exemptions are not generally applicable for prizes and awards. Please contact the University Tax Department for information on specific treaties.

Exception to the General Rule: Income Tax Treaties

Income tax treaties between the U.S. and other countries may reduce or eliminate Federal income tax withholding on fellowship payments, royalty payments and on compensation payments received by students, trainees, teachers, researchers and independent contractors who are residents of the country with which the U.S. has a treaty in effect. Each treaty is distinct and may contain time and/or dollar limits. The existence of an income tax treaty between the U.S. and another country does not automatically exempt an individual from Federal income tax withholding; the individual must satisfy all of the qualifications as set forth in the treaty and must complete and submit all required tax treaty exemption forms to the University Tax Department for review and submission to the IRS, if applicable. [Guide 3415 GD.03](#) provides a list of the countries which currently have an income tax treaty with the U.S. in effect.

Resident Alien: Although resident aliens are generally treated the same as U.S. citizens for Federal income tax reporting and withholding purposes, resident aliens may, under certain circumstances, be eligible to claim a reduced Federal income tax withholding rate pursuant to a tax treaty. Any payments that are subject to a reduced Federal income tax withholding rate pursuant to a tax treaty are reported on a Form 1042-S.

Nonresident Alien: Nonresident aliens may be eligible to claim a reduced Federal income tax withholding rate pursuant to a tax treaty. [Guide 3415 GD.04](#) provides an overview of the Federal tax reporting and withholding rules applicable to nonresident aliens who claim a valid tax treaty benefit that has been reviewed by the University Tax Department.

Claiming a Tax Treaty Benefit: Required Forms and Approval

In order to claim a tax treaty benefit, a treaty must be in effect between the U.S. and the individual's country of residence, all of the requirements as set forth in the treaty must be satisfied AND all required tax treaty exemption forms must be completed with a valid SSN/ITIN and sent to the University Tax Department in a timely manner for University review and submission to the IRS, if applicable. The following is a brief description of the tax treaty exemption forms, copies of which are available in the University Tax Department, or on the [website](#) that may be used to claim a tax treaty benefit:

Form 8233, Exemption From Withholding on Compensation for Independent (and Certain Dependent) Personal Services of a Nonresident Alien Individual:

Form 8233 is required to be filed to reduce or eliminate Federal income tax withholding on compensation paid to a nonresident alien employee, independent contractor, guest lecturer, student or other international individual pursuant to a tax treaty between the U.S. and the individual's country of residence.

Form 8233 is valid only for the calendar year in which it is filed. The exemption from withholding is effective for payments made 10 days from the date the University Tax Department mails the original Form 8233 to the IRS.

In addition to the Form 8233, a statement is required to be attached to the Form 8233 by an individual who claims a tax treaty benefit as a teacher, researcher or student.

Form W-8BEN, Certificate of International Status of Beneficial Owner for United States Withholding:

Form W-8BEN is required to be filed to reduce or eliminate Federal income tax withholding on payments made to a nonresident alien not deemed to be compensation (e.g., fellowship, royalty, etc.) pursuant to a tax treaty between the U.S. and the individual's country of residence. Form W-9 is required to be filed with an annotation on the form, by resident aliens to claim a tax treaty benefit.

Form 1001 or Form W-8BEN, generally valid for three calendar years, is not required to be filed with the IRS but must be retained by the University Tax Department.

Note: In order to claim a tax treaty using the Form W-8BEN, an individual must have a SSN or ITIN at the time of payment.

Form W9, Request for Taxpayers Identification Number:

Resident aliens, who qualify for tax treaty benefits, are required to claim tax treaty benefits using Form W-9, along with an additional annotation on the form.

If an individual is eligible to claim a tax treaty benefit, but does not file the necessary paperwork with the University Tax Department in a timely manner, the individual maybe eligible to claim the tax treaty benefit on his or her individual tax return at the end of the year.

Note: *A tax treaty benefit is determined based on the individual's immigration status, including his or her primary purpose, as well as his or her position at the University. If an individual's immigration status or position at the University changes, the individual must notify the Tax Department immediately.*

3415.5 U.S. Taxpayer Identification Numbers

In accordance with University policy, an individual who receives a payment from the University must provide either a Social Security Number (SSN) or an Individual Taxpayer Identification Number (ITIN). The only exception to this requirement is the case of substantiated reimbursement, in which case no SSN or ITIN is required. If an individual does not have a SSN or an ITIN, the individual may apply for a number using either a Form SS-5 (for a SSN) or a W-7 (for an ITIN), as appropriate. Payment can be made upon proof that such application has been made.

Social Security Number

An individual who is employed by the University and thus receives wages or salary payments is required to obtain a SSN. A SSN is a nine-digit number issued by the U.S. Social Security Administration to an eligible individual. Generally, a non-U.S. citizen is eligible to obtain a SSN if he or she has been lawfully admitted to the U.S. as a permanent resident or holds an immigration status that permits U.S. employment. This number is required to be reported on individual tax returns filed by the employee and on the Form 1042-S or W-2 filed by the University.

An ITIN assigned by the IRS (see below) should not be used in lieu of a SSN issued by the Social Security Administration with respect to employees of the University.

Individual Taxpayer Identification Number

An individual who is not eligible to obtain a SSN and receives a payment from the University must obtain an ITIN. The ITIN is a nine digit number issued by the IRS that begins with a "9" (e.g., 900-00-0000). The requirement to obtain an ITIN applies primarily to non-U.S. citizens who receive honoraria or other payments for independent personal services or who are recipients of scholarship or fellowship payments. An ITIN is required to be reported on individual tax returns filed by the employee and on the Form 1042-S or W-2 filed by the University.

ITINs are intended for tax use only. An ITIN will create no inference regarding the immigration status of an international person or the right of that person to be employed in the United States.

Note: The issuance of a SSN to a non-U.S. citizen does not influence the Federal tax reporting and withholding rules with respect to payments made to such individual. Regardless of the existence of a SSN, the University must report and withhold Federal taxes based on an individual's classification as a resident or a nonresident alien for tax purposes. See Section 3415.3 for the definition of resident and nonresident alien for tax purposes.

3415.6 State of Connecticut Reporting and Withholding

All resident and nonresident aliens are subject to the same Connecticut Personal Income Tax reporting and withholding rules as U.S. citizens. The State of Connecticut does not recognize income tax treaties between the U.S. and other countries.

3415.7 University Resource: Tax Department

The University Tax Department is a resource for University Departments and the University community with respect to Federal and State of Connecticut reporting of and withholding on payments made to individuals who are neither citizens nor permanent residents of the U.S. The Tax Department is available to review tax treaties in order to determine if a particular tax treaty is applicable and to facilitate processing of IRS tax treaty-related forms as well as to answer any questions regarding an individual's residency status for tax purposes.

The University Tax Department cannot advise individuals with respect to their personal tax situations.

Related Information

[Guide 3415 GD.01](#): Description of the Forms

[Guide 3415 GD.02](#) : Commonly Used Immigration Status Categories

[Guide 3415 GD.03](#): Table of Tax Treaties Currently in Force

[Guide 3415 GD.04](#): Nonresident Alien Reporting and Withholding Table: Income Tax Treaty Claimed

[Controller's Office Fact Sheet](#)

[Check Request](#) (Payments to Individuals who are Neither Citizens nor Permanent Residents of the United States)

Policy [3301](#) Traveling on University Business

Policy [3302](#) Business Meals, Entertainment and Other Social Events

Policy [3501](#) General Payroll Policy

Contacts

Subject	Contact	Phone
US Immigration Regulations	Office of International Students and Scholars	432-2305
Tax Withholding and Reporting Determinations (Income Tax Treaties)	Tax Department	432-5530
Form 1042-S Questions and Payroll History	Payroll Department	432-5408
Status of payments made to non-employees	Accounts Payable Department	432-5821

Roles and Responsibilities

Department Administrator

It shall be the responsibility of the department administrator to:

- Consult with OISS before making a commitment to hire a foreign national for any employment position;
- Consult with OISS prior to making a commitment with an individual who is not an employee of the University (e.g., speaking or consulting engagement) if any payment will be made to the individual;
- Contact the individual in advance of his or her entry into the U.S. in order to discuss immigration status and to alert the individual to applicable payment restrictions based on immigration status, as well as the documents required.
- Verify that payments made are in accordance with U.S. immigration regulations payment restriction rules; and,
- Contact the University Tax Department to determine the Federal income tax withholding rates on payments made to non-U.S. citizens and the University reporting requirements.
- Follow up with Accounts Payable, Payroll, or the Tax Department once it receives verification of an ITIN or SSN.

Individuals

It shall be the responsibility of an individual to:

- Register with the OISS upon arrival at Yale and at the start of each academic year in order to ensure that the individual holds an appropriate immigration status with respect to payments to be made to him or her by the University (students, staff, faculty only);
- Contact the University Tax Department in order to complete the University's [International Information Form](#) (IIF) on an annual basis;
- Complete and submit any applicable tax treaty exemption forms to the University Tax Department for approval and submission to the IRS;
- Notify the Tax Department and OISS immediately if his or her immigration status or position at the University changes;
- Obtain a SSN if an individual is employed by the University and, thus, receives wages or salary payments;
- Obtain an ITIN if an individual is not eligible to obtain a SSN and yet receives a payment from the University.
- Maintain continuous lawful status while employed or affiliated with Yale University.

Office of International Students and Scholars (OISS)

It shall be the responsibility of the OISS to:

- Act as the University office responsible for all immigration concerns related to the University;
- Provide assistance with respect to University immigration issues, including responding to departmental questions and assisting the individual in applying for the appropriate immigration status prior to his or her arrival in the U.S.;
- Issue the visa documents needed to request entry into the United States under the University's immigration sponsorship;
- Request extensions of authorized periods of stay in the United States, school transfers, etc.; and,
- Sign immigration documents issued by or on behalf of the University.

Payroll Department

It shall be the responsibility of the University Payroll Department to:

- Provide assistance with questions regarding 1042-S forms; and
- Provide assistance with questions regarding payroll history.

University Tax Department

It shall be the responsibility of the University Tax Department to:

- Provide guidance and respond to questions concerning tax withholding and reporting of payments made to non-U.S. citizens;
- Assist in the determination of an individual's residency status for tax purposes; and,
- Review and process tax treaty exemption forms, as appropriate.

Note: The Tax Department cannot advise individuals with respect to their personal tax situations.

Revision History

Current Revision 9/7/2005

Earlier Revision 5/1/2000

The official version of this information will only be maintained in an on-line web format. Any and all printed copies of this material are dated as of the print date. Please make certain to review the material on-line prior to placing reliance on a dated printed version.
