



NONRESIDENT ALIEN CONSULTANT, CONTRACTOR, SCHOLARSHIP AND FELLOWSHIP PAYMENTS

- Scope:** All campuses served by Louisiana State University (LSU) Office of Accounting Services
- Effective:** July 1, 2007. This FASOP supersedes and replaces BOP 2-1.
- Purpose:** To establish procedures for processing payments to nonresident aliens, including consultant/contractor payments, visiting scholar payments and expenses, and scholarship and fellowship payments to nonresident alien students to ensure compliance with federal law, Immigration and Naturalization Service (INS) laws and Internal Revenue Service (IRS) requirements. These procedures do not apply to payroll compensation of nonresident aliens appointed at LSU.

Procedures:

A. Eligibility to Receive Compensation

Schools and departments in the LSU System have historically invited international speakers and scholars to participate in conferences, assist in research or provide lectures to students in exchange for the reimbursement of travel and per diem expenses. United States (U.S.) income tax laws preclude the University making the agreed upon reimbursement to nonresident alien international visitors not in certain prescribed visa categories. LSU supports visits by foreign scholars and the University recognizes the need for an international exchange of knowledge. It is this exchange that continues to challenge and broaden the horizons of both students and faculty. The University administration is in full support of this effort and will provide any assistance necessary to faculty in accomplishing this end. The University must, however, extend its support to include educating the University community to comply with the federal and state laws applicable to payments to nonresident alien visitors.

It is critical to determine if the visa classification and other circumstances related to the foreign visitor allow for payment of any kind. If the visa classification does not allow the international visitor to receive payment or reimbursement of expenses, no payment request will be processed.

If compensation to a nonresident alien for services performed in the U.S. is anticipated, the individual must be traveling on a visa type that allows the nonresident alien to receive compensation (usually B-1, F, J, M or Q). A copy of the visa and a copy of the certification of eligibility to work granted by the INS, in accordance with INS regulations, must be attached to the check request. The certification by INS is on Form DS2019, "Certificate of Eligibility for Exchange Visitor (J-1) Status" if the nonresident is on a J visa or Form I-20, "Certificate of Eligibility for Nonimmigrant (F1) Student", if the nonresident is on an F visa or the University's letter of invitation if the nonresident is on a B visa.

Note: Employees may not pay foreign visitors with personal funds and then request reimbursement from the University. The University will not reimburse an employee who has paid an international visitor with his/her personal funds. All requests for payments and/or reimbursements to international visitors must be submitted in accordance with this procedure and paid directly to the international visitor or to an appropriate third party (i.e., Short's Travel for airfare paid via the departmental Centrally Billed Account).

B. Documentation Requirements

With the exception of certain Canadian visitors, all payments to international visitors require a copy of INS Form I-94, "Departure Record", which must be obtained from the visitor before he/she leaves the University. When the visitor leaves the U.S., he/she relinquishes the I-94 Departure Card to INS and a copy cannot be obtained at that point.

Additional documentation may be required depending on:

1. Visa classification
2. Purpose of the payment
3. Whether or not visitor requests exemption from tax withholding
4. Institution sponsoring visitor (LSU or another institution)
5. Whether a fee is involved in place or in addition to reimbursement expenses

Note: Refer to Section H, "Summary of Payment Procedure for Various Visa Classifications"

C. Social Security Number (SSN) or Individual Tax Identification Number (ITIN)

1. Required in order to grant treaty benefits to international visitors providing independent services who submit IRS Form 8233, "Exemption from Withholding on Compensation for Independent Personal Services of a Nonresident Alien Individual", and claiming tax treaty benefits. An ITIN is not required if the international visitor will be reimbursed for expenses only (no honorarium will be paid).
2. Required in order to grant treaty benefits to international recipients of royalty income. To claim treaty benefits, the visitor must file IRS Form W-8BEN, "Ownership, Exemption or Reduced Rate Certificate", but, if an SSN or ITIN is not provided on IRS Form W-8BEN, treaty benefits will not be granted.
3. Required for international students receiving free exemptions, scholarships (including expense reimbursement only) awards. Students will not be granted tax treaty benefits requested when filing IRS Form W-8BEN unless the student has (or has applied for) a SSN or an ITIN.
4. If international visitors and students are ineligible to receive a SSN, he/she may apply for an ITIN through the Accounting Services Office at LSU. IRS Form W-7, "Application for IRS Individual Tax Identification Number", is available on the Accounts Payable (AP) & Travel website. Upon completion of IRS Form W-7, the international visitor or student must file the application, in person, with AP & Travel. The following documents must be brought with the international when filing IRS Form W-7 in AP & Travel:

Passport/Visa/I-94 - International visitors and students
DS2019 - International visitors
I-20 - International students

D. Taxes

1. International Students

Required to obtain a SSN or an ITIN.

- a. Scholarships, stipends, and/or maintenance allowances provided from sources outside the U.S. are exempt from withholding but are reported to the IRS as foreign income.
- b. The "qualified portion" of a scholarship which includes all required tuition fees is exempt from withholding but is reported to the IRS as income on IRS Form 1042-S, "Foreign Person's U.S. Source Income Subject to Withholding".
- c. Income subject to the withholding requirement includes the taxable portion of scholarships, fellowships, stipends, and travel expenses. The taxable portion of scholarships includes housing and meal plan exemptions/payments and cash awards. These items are taxed at the rate of 14% for students present in the U.S. on an F, J, M or Q visa; they are taxed at the rate of 30% if present in the U.S. on any other visa type.

- d. Travel expense reimbursements as part of a scholarship are subject to tax; accountability rules do not apply. The “accountable plan” rule has not been extended by the IRS to pertain to travel reimbursements made in connection with a scholarship or fellowship. Therefore, in the absence of a tax treaty exemption, travel grants made to or on behalf of an F, J, M or Q visa holder continue to be subject to 14% tax withholding. Other visa holders continue to be subject to a 30% tax withholding. In both of the latter cases, travel reimbursement is considered part of the scholarship or fellowship and is subject to tax withholding and reporting.

2. International Visitors

- a. Payments from U.S. income sources to international visitors providing services in another country are not subject to the withholding requirements.
- b. Reasonable subsistence provided by a USAID training program grant is exempt from tax withholding but reported on IRS Form 1042-S, along with the applicable tax liability. Reasonable subsistence must be compliant with University Travel Regulations as outlined in PM-13.
- c. Travel expenses reimbursed to nonresident alien visitors for the purpose of providing a service are not subject to tax withholding and reporting, based on the extension by the IRS of the “accountable plan” to nonresident international visitors. Payments made to third parties on behalf of the visitor are also subject to tax withholding and reporting. Under the “accountable plan”, travel expenses reimbursed to individuals based on submitted receipts are not considered income to the individual. The IRS also provides that, because the payments would be excluded from gross income, there is no reporting requirement. This provision only applies to allowable travel payments made and/or reimbursements made to nonresident international independent contractors.
- d. Honoraria and other payments from U.S. income sources to international visitors providing services in the U.S. are subject to federal income tax withholding at the rate of 30% unless a reduced withholding or an exemption from withholding is provided by a tax treaty and the tax treaty benefits are claimed by the international visitor prior to payment.

3. International Recipients of Royalty Income

- a. IRS Form W-8BEN must be filed by all recipients of royalty income, whether or not they are claiming treaty benefits.
- b. A valid SSN or ITIN is required.
- c. Royalty income is subject to 30% tax withholding, unless an exemption or reduced withholding rate is available under a tax treaty and the tax treaty benefits are claimed on IRS Form W-8BEN.

E. Refund of Withheld Taxes

Federal taxes withheld from a payment to an international visiting scholar cannot be refunded by LSU. If IRS Form 8233, claiming tax treaty benefits, is not presented to LSU by the visitor and approved by LSU prior to the payment request, the appropriate taxes will be withheld from the payment and remitted to the IRS depository account. If, after the fact, the nonresident wishes to claim tax treaty benefits, he/she must apply for a refund through the IRS. No other method is available to reimburse taxes previously withheld from an international visitor.

F. Withholding Rates

<u>Rate</u>	<u>Recipient</u>
14%	Applicable to full-time students who are degree candidates at an educational institution and are considered "temporarily present in the U.S. as a non-immigrant" under an F, J, M or Q visa.
30%	All other nonresident individuals, including teachers and researchers and students not on an F, J, M or Q visa, who are in U.S. on a visa type allowing them to earn money; also applies to international recipients of royalty income.

G. Exceptions to Withholding Requirements

Nonresident aliens may be entitled to a reduced withholding rates or complete exemption from withholding under an applicable tax treaty between the U.S. and the nonresident alien's country of residence if one has already been assigned by the IRS.

IRS Form W-8BEN to claim reduced withholding or exemption from withholding on income received in the U.S., except for compensation received for independent personal services. To be filed by internationals claiming tax treaty benefits for royalty income received, rents, scholarships and any other income not connected with professional personal services.

IRS Form 8233 to claim reduced withholding or exemption from withholding on income received in the U.S. for providing independent personal services (fees paid for presenting papers and professional services) in the U.S. (services provided by an international are not subject to tax withholding and reporting, therefore no tax treaty must be obtained).

H. Summary of Payment Procedure by Various Visa Classifications

1. B-1 (Visitor for Business), B-2 (Visitor for Tourism), W-B (Visa Waiver for Business) and W-T (Visa Waiver for Tourism) Visas

Payments Allowed

Fee for services is allowed if all of the following conditions are met:

- International visitor is engaged in academic activities
- Visitor not present at LSU for more than nine days
- Visitor has not accepted a fee or expense reimbursement from more than five institutions in the previous six months

Expense Reimbursement

- Must meet conditions required above if a fee is also paid
- If expense reimbursement only is paid, conditions above do not apply but all expenses must be in compliance with University Travel Regulations as set forth in PM-13

Documentation Requirements

Must attach all of the following:

- Copy of INS Form I-94
- Visa for B-1
- Signed compliance statement (available on website and as attachment to this procedure)
- Copy or SSN or ITIN card if paying fee
- All receipts required by PM-13, University Travel Regulations; a copy of the passenger coupon of the airline ticket will be accepted in lieu of the original airline coupon

Taxes Withheld

- Taxes are not withheld for reimbursement of expenses
- Taxes at the rate of 30% will be withheld unless visitor claims tax treaty benefits

Tax reduction due to tax treaty: to request an exemption from or a reduction in tax withholding due to an income tax treaty, the international visitor must complete and submit IRS Form 8233 to the AP & Travel Office.

2. F-1 Visa (Student)

Payments Allowed

- Scholarships, awards, tuition and fee exemptions, expense reimbursements

Expense Reimbursement

- All expenses reimbursed must be in compliance with PM-13, University Travel Regulations
- Expenses incurred on official business for the University are not subject to withholding or reporting as they are eligible for exemption under the "accountable plan"
- Expenses reimbursed in conjunction with a scholarship are not exempt from withholding as the IRS has not extended the "accountable plan" to scholarships

Taxes Withheld

- Taxes are not withheld for reimbursement of expenses incurred on official University business
- Taxes at the rate of 30% will be withheld on travel expenses incurred in conjunction with a scholarship unless the student claims tax treaty benefits

Tax reduction due to tax treaty: to request an exemption from or a reduction in tax withholding due to an income tax treaty, the international student must complete and submit IRS Form W-8BEN to the AP & Travel Office.

3. F-2 Dependent of F-1 Visa

Payments Allowed

- No payment or expense reimbursement allowed

4. H1-B Visa - Sponsored by LSU

Payments Allowed

- Expense reimbursement only for non-employees
- Expense reimbursement for employee travel expenses incurred on official University business. Fees for service may be paid only as an employee through Payroll.

Expense Reimbursement

- All expenses reimbursed must be in compliance with PM-13, University Travel Regulations

Documentation Requirements

Non-employees must provide:

- Copy of I-94 stamped with H1-B status
- Copy of passport
- All receipts required by PM-13, University Travel Regulations; a copy of the passenger coupon of the airline ticket will be accepted in lieu of the original airline coupon
- A SSN or ITIN is not required for H1-B visitors receiving expense reimbursement only

Taxes Withheld

- Taxes are not withheld for reimbursement of expenses

5. H1-B Visa, Temporary Worker in a Specialty Occupation (Sponsored by a school other than LSU)

Payments Allowed

No payment of any kind. INS allows employment and compensation only by the sponsoring employer through whom the status was obtained in an activity in accordance with the provisions of the treaty. Departments must make arrangements to pay the sponsoring university as H1-B visitors are only allowed to receive payments from their sponsor.

6. J-1 Visa (Exchange Visitor, Short Term Scholar) - Sponsored by LSU

Payments Allowed

- Expense reimbursement and fees for service

Documentation Requirements

Must attach all of the following:

- Copy of INS Form I-94
- Copy of passport
- Visa with J-1 stamped
- Copy of Form DS2019 indicating short term scholar, professor or researcher
- Copy of SSN or ITIN card if paying a fee
- All receipts required by PM-13, University Travel Regulations; a copy of the passenger coupon of the airline ticket will be accepted in lieu of the original airline coupon

Taxes Withheld

- Taxes are not withheld for reimbursement of expenses
- Taxes at the rate or 30% will be withheld from fees unless visitor claims tax treaty benefits

Tax reduction due to tax treaty: to request an exemption from or a reduction in tax withholding due to an income tax treaty, the international visitor must complete and submit IRS Form 8233 to the AP & Travel Office.

7. J-1 Visa (Exchange Visitor, Short Term Scholar) - Sponsored by a school other than LSU

Payments Allowed

- Expense reimbursement and fees for service

Expense Reimbursement

- All expenses reimbursed must be in compliance with PM-13, University Travel Regulations

Documentation Requirements

Must attach all of the following:

- Copy of INS Form I-94
- Copy of passport
- Visa stamped with J-1 stamped
- Copy of Form DS2019 indicating short term scholar, professor or researcher
- A letter from the responsible office as indicated on the internal visitor's Form DS2019 that the activity at LSU is warranted and meets the criteria established by INS; this letter must come from the school sponsoring the international visitor (the school indicated on the visitor's Form DS2019)
- Copy of SSN or ITIN card if paying a fee
- All receipts required by PM-13, University Travel Regulations; a copy of the passenger coupon of the airline ticket will be accepted in lieu of the original airline coupon

Taxes Withheld

- Taxes are not withheld for reimbursement of expenses
- Taxes at the rate of 30% will be withheld from fees unless visitor claims tax treaty benefits

Tax reduction due to tax treaty: to request an exemption from or a reduction in tax withholding due to an income tax treaty, the international visitor must complete and submit IRS Form 8233 to the AP & Travel Office.

8. O-1 (Person of Extraordinary Ability) and O-2 (Accompanying Personnel) Visas

Payments Allowed

- Fees for services and/or expense reimbursement only by the petitioning agency through whom the visa status was obtained

Expense Reimbursement

- All expenses reimbursed must be in compliance with PM-13, University Travel Regulations; expenses may only be reimbursed if LSU is the sponsoring agency

Documentation Requirements

All non-employees must provide:

- Copy of I-94 stamped with O-1 or O-2 status
- Copy of passport
- Copy of INS Form I-797
- All receipts required by PM-13; a copy of the passenger coupon of the airline ticket will be accepted in lieu of the original airline coupon
- A SSN or ITIN is not required for O visitors receiving expense reimbursement only

Taxes Withheld

- Taxes are not withheld on reimbursement of expenses
- Taxes are withheld at the rate of 30%

Tax reduction due to tax treaty - to request an exemption from or a reduction in tax withholding due to an income tax treaty, the international visitor must complete and submit IRS Form 8233 to the AP & Travel Office.

9. P-1 (Internationally Recognized Athlete or Entertainment Group or Essential Support Personnel), P-2 (Artist or Entertainer under a Reciprocal Exchange Program), P-3 (Artist or Entertainer in a Culturally Unique Program) Visas

Payments Allowed

- Expense reimbursement and fees for service are only allowed if LSU was the petitioning agency through which the visa status was obtained for the international

Expense Reimbursement

- All expenses reimbursed must be in compliance with PM-13, University Travel Regulations

Documentation Requirements

All non-employees must provide:

- Copy of I-94 stamped with P-1, P-2, or P-3 status
- Copy of passport
- Copy of INS Form I-797
- All receipts required by PM-13, University Travel Regulations; a copy of the passenger coupon of the airline ticket will be accepted in lieu of the original airline coupon
- A SSN or ITIN is not required for O visitors receiving expense reimbursements only

Taxes Withheld

- Taxes are not withheld on reimbursement of expenses
- Taxes are withheld at the rate of 30%

Tax reduction due to tax treaty - to request an exemption from or a reduction in tax withholding due to an income tax treaty, the international visitor must complete and submit IRS Form 8233 to the AP & Travel Office.

10. Q Status Visa (Participant in an International Cultural Exchange Program)

Individuals in the U.S. as participants in an international cultural exchange visitor program approved by the Attorney General to provide practical training, employment, and the sharing of the history, culture, and traditions of the foreign national's country ("Disney Visa").

Payments Allowed

- Expense reimbursement and fees for service are only allowed if LSU was the petitioning agency through which the visa status was obtained for the international visitor.

Expense Reimbursement

- All expenses reimbursed must be in compliance with PM-13, University Travel Regulations, and FASOP: AS-02

Documentation Requirements

All non-employees must provide:

- Copy of I-94 stamped with Q status
- Copy of passport
- Copy of INS Form I-797 indicating that LSU is the sponsoring agency
- All receipts required by PM-13, University Travel Regulations; a copy of the passenger coupon of the airline ticket will be accepted in lieu of the original airline coupon
- A SSN or ITIN is not required for visitors receiving expense reimbursement only

Taxes Withheld

- Taxes are not withheld on reimbursement of expenses
- Taxes are withheld at the rate of 30%

Tax reduction due to tax treaty - to request an exemption from or a reduction in tax withholding due to an income tax treaty, the international visitor must complete and submit IRS Form 8233 to the AP & Travel Office.

11. TN Status Visa (Trade NAFTA for Citizens of Canada and Mexico) - Sponsored by LSU

Payments Allowed

- Expense reimbursement only for non-employees
- Expense reimbursement for employee travel expenses incurred on official university business
- Fees for service may be paid only as an employee through Payroll

Expense Reimbursement

- All expenses reimbursed must be in compliance with PM-13, University Travel Regulations

Documentation Requirements

Non-employees must provide:

- Copy of I-94 stamped with TN status
- Copy of passport
- All receipts required by PM-13, University Travel Regulations; a copy of the passenger coupon of the airline ticket will be accepted in lieu of the original airline coupon
- A SSN or ITIN is not required for TN visitors receiving expense reimbursement only

12. TN Status Visa (Trade NAFTA for Citizens of Canada and Mexico) - Sponsored by a school other than LSU

Payments Allowed

No payment of any kind. INS allows employment and compensation only by the sponsoring employer through whom the status was obtained in an activity in accordance with the provisions of the treaty. Departments must make arrangements to pay the sponsoring university as TN and H1-B visitors are only allowed to receive payments from their sponsor.