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SECTION: Administration and Finance
SUBJECT: Payroll Authorizations for International Employees
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Policy for: All Campuses
Procedure for: All Campuses
Authorized by: Leslie Brunelli
Issued by: University Finance - Controller's Office

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I. Policy

This document sets forth the University of South Carolina policy on payments to International employees. All payments to individuals who are not US citizens must be cleared for compliance with US immigration and tax regulations pursuant to the Tax Reform Act of 1986 and the Immigration and Nationality Act as amended. Non-US citizens cannot begin work or receive any type of University funding until it has been determined that they are in a US immigration status that allows the University to provide the payment. This requires the individual to enter the US in an immigration status that allows the type of payment planned, including those for reimbursement of travel and expenses. Until compliance requirements are met, no payment will be issued. This policy applies to all compensatory payments made on behalf of the University.

II. Procedures

A. Payments made to International Students

Payments to international students entered in the Student Hire System or on a DEV form for scholarships must be cleared for immigration purposes through the International

Student Services Office. Departments should enter graduate assistant, work study student assistants, and other student hires through the Student Hire System. The system will route international student hires to the International Student Services Office for approval. Departments must submit the Form I-9 with these hires. Questions on the validity of permanent residency document for students should be directed to the International Student Services Office.

B. Payments made to other non-US citizens

Payments made to non-US citizens who are not students may be submitted on a PBP-1 form, a PBP-2 form, a DEV, or a DEPS. These payments must be reviewed and approved for immigration purposes through the International Support for Faculty and Staff office. Form I-9 is typically completed by the International Support for Faculty & Staff office, but may be completed by the initiating department.

To bring an individual to USC in a US immigration status that allows the University to provide any sort of remuneration can require 60-180 days in advance of the planned activity. In many instances, a US immigration document must be issued by USC for the international to present to a US Consular Office abroad in order to obtain the appropriate visa to come to the US. The amount of time needed in advance depends upon the nature of the payment, the particulars of the individual, and whether or not they are already in the US or at a location overseas. Specific questions in connection with bringing international employees into the US for employment with USC should first be directed to the offices noted above in II A. and II B.

C. Procedures for Compliance with US Tax Laws

All non-US citizens receiving payments of any type from the University must complete and submit a USC International Tax Information Form (IS-3). The non-US citizen must then meet with the International Tax Coordinator to complete required IRS forms. US and state income tax will be withheld from payments unless exempt by law or by income tax treaty. US Social Security tax will also be withheld from payment unless exempt by law or by a totalization agreement.

International employees are personally responsible for complying with all federal and state tax laws, including laws regarding annual filing of income tax returns.

D. Travel Expenses

In accordance with IRS REV Ruling 63-77, allowances or reimbursements made to individuals by a prospective employer for expenses incurred in connection with interviews for possible employment which are conducted at the invitation of the institution are generally not wages and are satisfactory to be paid under the accountable plan rule.

In order to be covered under an accountable plan, there must be a business purpose for the visit. The regulation under IRS Section 274 interprets “business purpose” to mean that the recipient is providing either employment or self employment services. The amount reimbursed to the individual must fall within the IRS published per diem rates to be covered under an accountable plan.

Individuals who do not fall within one of the above reimbursement categories will be deemed to have received taxable travel expenses and are subject to a withholding tax at the time of payment.

E. Scholarship/Fellowship

Qualified scholarships are tax exempt under IRC 117 and not reported on Form 1042S (i.e., tuition and other required fees for enrollment).

Non-qualified scholarships are taxable at 14% unless the nonresident has an IRS issued TIN or a social security number and is from a tax treaty country.

After meeting with the International Tax Coordinator and completing all required IRS forms, the Coordinator will do a computational analysis and forward IRS forms to the appropriate offices for check processing.

Individuals electing to utilize tax treaty benefits must allow adequate time for the payroll office to update the payment records. The necessary adjustments will be made as required. Form 8233 shall be sent to the IRS by the International Tax Coordinator as required by tax law. The International Tax Office routinely coordinates with the Payroll Office to ensure fulfillment of treaty benefits.

Individuals electing to utilize treaty benefits will either receive a Form 1042-S or potentially both a Form 1042-2 and a Form W2 at the end of the year if they exceed the treaty benefit allowance.

III. Reason for Revision

Policy revised due to departmental reorganization and departmental name changes.