

The purpose of the following international tax policy is to make the Sweet Briar community aware of the importance of adhering to established federal regulations that currently exist with regard to the payment of internationals. This topic has become even more important recently due to the strict enforcement of IRS regulations since September 11, 2001 and the current scrutiny of immigration issues. Failure to comply with such issues could subject the College to federal fines as well as subject the international individual to the possibility of the loss of a visa or possible deportation.

General Information

Citizens of foreign countries, in most cases, are required to obtain a visa before entering the United States. A visa allows someone to travel to the United States as far as the port of entry (airport, seaport or land border crossing) and to ask the immigration officer to be allowed to enter the U.S. There are two categories of U.S. visas: immigrant and nonimmigrant. Immigrant visas are for people who intend to live permanently in the U.S. Nonimmigrant visas are for people with permanent residence outside the U.S., but who wish to be in the U.S. on a temporary basis - for tourism, medical treatment, business, temporary work or study.

The type of visa that an individual has (together with such factors as length of stay, previous visits, and reason for visit) dictates how they are to be treated with regard to tax withholdings. Most of the international individuals who Sweet Briar invites to campus, whether they are students, professors, or visiting artists are in the country on nonimmigrant visas. They are considered to be nonresident aliens (NRAs) for tax purposes. The IRS has established separate tax rules related to nonresident aliens. There are many factors to consider before payment **will** or in even some cases **can** be made. Therefore, it is necessary to determine the tax status of each individual separately.

Sweet Briar College's Business Office must determine legal and tax consequences for all payments made to nonresident aliens (NRAs). All arrangements for payment must be made in compliance with the laws and regulations of the Internal Revenue Service (IRS) and the US Citizenship and Immigration Services (USCIS - formerly know as INS). The following procedures will provide guidance in requesting payment for NRAs.

General Tax Information:

The first step in determining how an individual is to be treated in the eyes of the IRS is to determine their tax classification. There are four main categories of tax classifications to consider before payment can be made.

These categories are as follows:

1. U. S. Citizen
2. Permanent Resident (generally a green card holder)
3. Resident Alien (one who has met the SPT requirements and is no longer considered a Nonresident Alien)
4. Nonresident Alien

Nonresident Alien Tax Information:

1. An NRA is an individual who is not a citizen of the United States and is not a resident alien or "green card" holder. An NRA is admitted into the United States for a temporary stay and for a specific purpose. For examples, this can be identified on the forms DS-2019, I-20 or I797.
2. Questions regarding a nonresident alien's eligibility to receive payment for service should be directed to the Business Office **before** services are engaged. It is imperative that the Business Office is aware of anticipated payments of any kind to international individuals well in advance to have ample time to determine the tax implications as well as the eligibility for payment.
3. Since an NRA's status can change, these procedures must be followed with each visit to the college.

4. All payments made to nonresident aliens related to honoraria and to services performed in the U.S. must be reported to the IRS.

Note: Honoraria payments have many IRS imposed restrictions. In addition to visa requirements they are subject to a **9-5-6 rule** explained as follows:

9 - They may be at SBC no longer than **9** days

5 - They may not have performed paid services at more than **5** other institutions

6 - Within the last **6** months

If **all of the above conditions** are not met the individual **cannot** be paid by SBC.

5. Payments for services or unsubstantiated reimbursable expenses are subject to 30% federal tax withholding. The tax is deducted from the SBC payment and remitted to the IRS.
6. A tax treaty may exist between the NRA's country and the United States. The Business Office will determine if a tax treaty is applicable, once all required documentation has been received. If a tax treaty exists, the NRA may not have 30% withheld. However, the NRA must have a SSN or an ITIN to be offered a tax treaty. (Form 8233, offering a treaty, must also be completed.)
7. If services are performed outside of the U.S., federal tax withholding is not required. (This is considered foreign sourced income.)
8. For honorarium payments, the NRA will be paid as a vendor and not an employee. Check requests, once approved by the Business Office, will be forwarded to Accounts Payable. Checks will be issued **at time of visit or up to 30 days afterwards**, depending on the timeliness of all required documentation received.
9. The SBC host department is responsible for collecting the necessary documentation from the NRA before arrival at the college
10. The IRS has ruled that travel reimbursements to nonresident aliens may follow the same accountability guidelines as reimbursements for U.S. citizens or resident aliens.
 - a. All travel reimbursement receipts must be submitted with a payment request form
 - b. Travel grants, reimbursements, and/or payments made in regards to a scholarship or fellowship are NOT covered under the IRS accountability rule and therefore are taxable to the recipient.
11. The Business Office will generate any forms to be signed by the NRA that are required by the IRS.
12. At the end of the calendar year, the Business Office will issue Form 1042-S to all nonresident alien payees, regardless of whether the payment was made through the Payroll Office or Accounts Payable. They will also supply this information to the IRS.
13. The NRA is responsible to file an U.S. tax return at the end of the year to reclaim the amount withheld. (30% withholding rate.)
14. Once again, if an NRA is erroneously engaged for work and/or paid for services, the College is seen in the eyes of the IRS and US CIS as hiring an illegal alien. The college could be fined and the NRA could lose visa status and be deported.