

Tax Information for Departments of The University of Southern Mississippi

The University of Southern Mississippi is a 501(c)(3) organization. This designation means that the university is not subject to income taxes and is not required to pay sales tax on purchases for its own use.

However, there are several situations that may expose the university and/or its employees to taxes. Several of those situations are included in this pamphlet as a guide for departments in their day-to-day operation.

Any questions about the material herein should be directed to the Tax Compliance Officer in the Office of the Controller at (601) 266-4102. Questions can also be submitted to the Tax Compliance listserv at taxcompliance@usm.edu.

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MOVING EXPENSE

Nontaxable Moving Expenses

Nontaxable moving expenses are expenses not considered taxable income when reimbursed to the employee, under IRC 217.

Nontaxable moving expenses will be selected from the list below. The list is not meant to be all-inclusive, but serves as examples.

- **Transportation of household goods** and personal effects from the former residence to the new residence.
- **Packing and crating** of the employee's household goods at the former residence and unpacking and installation of the household goods at the new location.
- **Transportation for the employee** from the former residence to the new residence, including the following:
 - travel: transportation of the employee for a *single one-way* trip not to exceed the cost of air coach transportation, and
 - lodging: expenses incurred while in the general location of the old residence within one day after removal of household goods and personal effects, and while en route from the old residence to the new, including the day of arrival at the new residence.

Taxable Moving Expense

Taxable moving expenses are expenses considered taxable income when reimbursed to an employee, under IRC 217.

Taxable moving expenses will generally be selected from the following list. Again, the following list is not meant to be all-inclusive, but serves as examples.

- Cost of **meals**.
- Cost of **return trip to former residence and any round trip subsequent to initial trip**.
 - The IRS considers nontaxable the mileage for a single trip at \$0.18 per mile (for 2007). Any reimbursement above that amount is taxable.
- Cost of **selling old residence**.
- Costs of **pre-move visits or house-hunting trips**.
- Cost of **moving yachts, boats, or other outdoor recreational vehicles**.
- Costs of **moving household items/personal effects from residence other than primary**.

Please note that employees must work full time for at least 39 weeks in the first 12 months after moving to be able to deduct moving expenses. The entire reimbursement of moving expenses is taxable if you do not meet this 39 week requirement.

Not all items listed above are reimbursable by the university to every new employee. Specific reimbursable expenses will be referenced in the new employee's offer letter and must comply with the university moving policy. The maximum amount reimbursable under university policy is \$6,000.

INTERNATIONAL STUDENTS AND EMPLOYEES

All international students and employees must have a tax analysis performed *before* they are eligible to work. The tax analysis will determine whether or not the individual is a Resident Alien (RA) or a Non-Resident Alien (NRA). The classification will depend upon the individual's visa type and length of stay in the United States. RAs are taxed like US Citizens and NRAs are subject to additional withholding.

The tax analysis will also determine if the individual is from a country that holds a tax treaty with the United States. There are several countries that have treaties that dictate that their citizens are not subject to taxes on income earned in the U.S.

International students who are not employed, but who are awarded scholarships in excess of their tuition, fees and books, must also have a tax analysis performed. NRAs who are not from a country with a tax treaty are required to have a 14% income tax charged to their student accounts for this excess income. *If a scholarship is awarded for prior semesters, please contact the Tax Compliance Officer in the Controller's Office so that the student's account can be reanalyzed for tax liability.*

The tax analysis can be performed by *either* the International Student and Scholar Services Office (601) 266-4841 *or* by the Tax Compliance Officer in the Controller's Office (601) 266-4102. It is preferred that an appointment be made prior to coming to either office. The individual must bring the following documentation to the appointment:

- Passport
 - Visa
 - I-94 card
- } Should be together
- I-20
 - A voided blank check for set-up of direct deposit (required for student employees)

INTERNATIONAL INDEPENDENT CONTRACTORS

International Student & Scholar Services (ISSS) ((601) 266-4841) must be notified of ALL incoming nonresident alien Independent Contractors (ICs) *before* those individuals arrive on campus. This is a requirement for nonresident alien individuals, partnerships, and corporations. ISSS will send a letter to the individual informing him/her of the necessary steps to take before and after arriving in the United States. This letter will also explain that it may not be possible for the individual to receive a check while he/she is on campus, especially if the visit is for a short time period and the individual does not have a Social Security number or an individual tax identification number (ITIN). The Administrator of ISSS is authorized to submit applications for ITINs, if an individual does not already have one. **The University is not legally authorized to pay an IC until a U.S. social security number (SSN) or individual taxpayer identification number (ITIN) is provided.**

All nonresident alien ICs must meet with ISSS upon arrival on campus. It is a good idea for the hiring department to schedule an appointment with ISSS before the individual arrives on campus. The nonresident alien IC should complete the Foreign National Information Form, which will be mailed to him/her with the letter from ISSS. This form can also be obtained from ISSS or from the Tax Compliance Officer in the Controller's Office. The individual should bring the completed Foreign National Information Form along with Form I-20, SSN or ITIN, visa, I-94 card and passport documents to the meeting with ISSS. ISSS will ensure that the nonresident alien IC has the proper immigration status to permit him/her to be paid.

Departments should also discuss the engagement of nonresident alien ICs with the Tax Compliance Officer before employing them in order to know the tax consequences of the work engagement. Unless exempted by a current tax treaty with an individual IC's country of citizenship, payments for services rendered by the IC are subject to federal income tax withholding of 30%.

A tax treaty analysis must be performed before the nonresident alien IC will be compensated. ISSS may prepare the tax treaty analysis or may forward the nonresident alien IC's information to the Tax Compliance Officer to prepare the analysis. Depending on the results of the tax analysis, the department will be contacted and informed of the tax liability.

The Administrator of ISSS and Tax Compliance Officer must sign the Professional Personal Services Agreement for payments to nonresident alien ICs over \$1,000. A Professional Personal Services Agreement is not required for payments under \$1,000.

While citizens of other countries may be eligible for limited exemption under a tax treaty, the actual treaty may or may not exempt any or all of the payment the department anticipates making to the nonresident alien IC. This is dependent on factors such as the purpose of the services to be performed and the type of visa the nonresident alien IC has been issued. A tax analysis must be performed before an exemption determination can be made. Form W-8BEN will be completed during the tax analysis. This form is used by a foreign person to:

- Establish foreign status,
- Claim that such person is the beneficial owner of the income for which the form is being furnished, and
- If applicable, claim a reduced rate of or an exemption from withholding under an income tax treaty.

INTERNATIONAL INDEPENDENT CONTRACTORS (cont)

Nonresident alien partnerships or corporations may be exempt if payments to them are attributable to engaging in a trade or business in the United States. W-8ECI, Certificate of Foreign Person's Claim for Exemption From Withholding on Income Effectively Connected With the Conduct of a Trade or Business in the United States, is used by a foreign person to:

- Establish foreign status,
- Claim that such person is the beneficial owner of the income for which the form is being furnished, and
- Claim that the income is effectively connected with the conduct of a trade or business in the U.S.

Effectively connected income for which a valid Form W-8ECI has been provided is generally not subject to NRA withholding. However, you may not use Form W-8ECI to exempt pay for personal services performed by an individual.

If the payment is determined to be exempt from withholding, a check will be issued for the gross invoice amount. A purchase order is required if over \$1,000 whereas a remittance voucher is permissible if under \$1,000.

If the payment is determined not to be exempt from withholding, a check will be issued for the net amount of the Purchase Order (if over \$1,000) or Remittance Voucher (if under \$1,000) after deducting taxes. Departmental accounts will be charged for the gross amount. The Tax Compliance Officer will prepare the appropriate paperwork to charge the departments for the difference between the gross amount due to the IC and the net check. The taxes withheld will be deposited with the IRS.

IRS Form 1042-S, Foreign Person's U.S. Source Income Subject to Withholding, is issued annually to each nonresident alien IC, whether or not the individual has taxes withheld. Form 1042-S, which is issued by the Tax Compliance Officer no later than March 15, reports all payments made during the previous calendar year. Questions about Form 1042-S should be addressed to the Tax Compliance Officer in the Controller's Office at (601) 266-4102.

Payment for travel expenses is the same for a nonresident alien IC as it is for a U.S. citizen. Taxes are not applied to payments for travel expenses.

EMPLOYEE VS INDEPENDENT CONTRACTOR

When determining whether a payee should be classified as an employee or independent contractor (IC), it is the opinion of the IRS that everyone should be an employee unless proven otherwise. The criteria for classification as an IC include the following. This list is not all-inclusive and serves as examples.

- The individual has his or her own business that is available to the general public and has a profit motive. If the university is the only source of income, the IRS will be more likely to classify the person as an employee.
- How much control does the university have over the person? If the university dictates how, where and what hours the work is to be done, the IRS will be more likely to classify the person as an employee.
- ICs are more likely to be paid a lump-sum amount for their service. Employees are more likely to be paid hourly or a monthly salary.

We cannot hire as an IC a USM student within 6 months of his or her graduation date. We are deemed to have “trained” the individual and he or she should therefore be an employee.

For guidance on how to classify a payee as an employee or an IC, email the Tax Compliance listserv at taxcompliance@usm.edu or call the Tax Compliance Officer at (601) 266-4102.

When submitting a Personal Service Agreement (PSA), for an Independent Contract, a Determination Form must be submitted with the PSA. The Form can be downloaded from the Controller’s Office website at http://www.usm.edu/controllersoffice/Independent_Contractors.html.

SALES TAX

Any time a university department sells tangible goods to a student, employee, or outside party, sales tax of 7% must be collected and submitted to the MS State Tax Commission. This tax can either be added to the price of the good sold, or included in the price and subtracted from the income for the department. All sales figures must be submitted to the Controller's Office by the 15th of the following month so that payment can be made to the Commission. The following income-generating activities are subject to sales tax. The list is not all-inclusive, but meant to serve as examples.

- **Income from Athletic contests and performing arts events:**
 - Sales of tickets to games and events on campus
 - Championship games are exempt.
 - Orchestra events are exempt if artists are compensated out of ticket proceeds.

- **Income from telephone (local or long distance) or cablevision service:**
 - Sales for private use of students, faculty, staff and any other persons where sales tax has not previously been borne

- **Department producing and/or selling property:**
 - Sales of property made by vocational workshops
 - Sales of music CDs
 - Refrigerator rentals to students
 - Sales of art and art supplies
 - Sales of map reproductions
 - Sales of parts included in rapid prototyping
 - Sales of film, photo paper, and other photo supplies
 - Sales of printing and copy services provided to outside entities, employees and students
 - Sales of photo copies
 - Sales of hearing aids
 - Sales of over-the-counter medications
 - Rental of bicycles and lockers

For spreadsheets to aid in the calculation of sales tax, or for guidance on a particular activity, please call the Tax Compliance Officer in the Controller's Office at (601) 266-4102.

If a department wishes to verify the tax status of a particular income-generating activity, contact the Tax Compliance Officer at (601) 266-4102

UNRELATED BUSINESS INCOME TAX

As a tax-exempt organization, the university does not have to pay income taxes. However, there are some activities that may expose the university to Unrelated Business Income Taxes (UBIT.) According to IRS Publication 598, Unrelated Business Income is defined as “the income from a trade or business that is regularly carried on by an exempt organization and that is not substantially related to the performance by the organization of its exempt purpose or function.”

The following list of UBIT generating activities is not all-inclusive, but meant to serve as examples:

- Management of hotels and restaurants
- Organization of travel tours
- Participation in partnerships
- Managing professional entertainment events
- Sale, rental or exchange of mailing lists
- Management of conferences, meetings, and training programs for outside parties

If your department is conducting or planning an activity that you believe may expose the university to UBIT, please contact the Tax Compliance Officer in the Controller’s Office at (601) 266-4102 for guidance on your particular activity.

NEW VENDORS

When making a payment to a new vendor, there are several questions that must be answered in order to ensure that USM is properly reporting payments made to these vendors. In addition to acquiring a social security number (SSN) or employer identification number (EIN), determination must be made as to the nature of the payment. Reporting also differs if the payee is a USM student or an international person.

A Department Request to Add New Vendor form must be submitted to Vendor Maintenance in Procurement Services in order to establish a new vendor. This form should be submitted *before* payment in order to prevent the payment from being delayed.

The form can be downloaded from the Procurement Services website at
<http://www.usm.edu/procurement/forms.html>.