

**NON-RESIDENT ALIEN TRAINING
"QUESTION AND ANSWER SESSION
FOR THE
UNIVERSITIES AND
COMMUNITY COLLEGES"**

July 22, 2009

2009 Training Curriculum

- This training is an Office of State Controller Initiative, in collaboration with Windstar Technologies, NC State University and the Community College Systems office. This is the second training within the curriculum that the Office of State Controller has planned for the 2009 calendar year. The Office of State Controller is committed to the success of the Foreign National Program and will provide technical assistance to all state agencies, universities, and community colleges.

Disclosure

- The information and answers within this presentation does not constitute tax/legal advice and each participant should seek his/her own counsel in addressing specific situations. The NC Office of the State Controller is providing this training as a way of enhancing the knowledge of the participants who are implementing and maintaining the Foreign National Program within their University or Community College. The answers that are provided during this training are believed to be true with the given information in the specific questions. Please understand the Foreign National Tax regulations are very specific to the individual situation and any details that are missing could and will impact the answers of the panelist. Information presented is not intended to be used for the purpose of avoiding any penalties that may be imposed on the taxpayer by any taxing authority or agency.
- Any questions that are not handled within the presentation will be responded to via email. Further follow-up questions can be submitted to Jennifer Trivette, with the NC Office of the State Controller, at jennifer.trivette@osc.nc.gov.

How to ask questions

Asking Questions:

Attendees have the opportunity to ask their questions to the presenter/panelist during the presentation. Questions will be tabled until the end of the presentation and can be asked throughout the event by using the Q&A box that is demonstrated in the below printscreen.

To ask questions select "Q&A". Then type in the box.

The screenshot displays the WebEx Event Manager interface. The main window shows a presentation slide with the following content:

- Logo: A blue compass rose.
- Title: "Nonresident Alien Tax Training"
- Subtitle: "Rules of the Road for NRA Taxation"
- Presenter: "Presented by: Paula Singer, Esq."

On the right side of the interface, there is a "Participants" panel with a list of attendees:

Name	Tools
Panelists: 1	
Paul Carpinella (Host)	
Attendees:	
Paul Carpinella	

At the bottom of the interface, there is a "Chat" and "Q&A" section. The "Q&A" section is highlighted with a blue arrow pointing to it from the text box above. The "Q&A" section includes a "Raise hand" button, a "Request" button, and a "Mute" button. Below these buttons is a text input field for asking questions.

Panelist

- **NC State University Human Resources and Payroll Division**
 - Michelle Anderson, Foreign National Tax Specialist
- **NC Community College System Business and Finance Division**
 - Kim Van Metre, Systems Accounting & Special Projects Manager
 - Tracy Williams-Pender, Systems Accountant
- **Windstar Technologies, Incorporated**
 - Terri Crawl, Senior Product Support Analyst
- **NC Office of the State Controller**
 - Jennifer Trivette, Risk Mitigation Analyst

Summary of Visa Types

Teachers, Researchers and Temporary Employees

- H-1B, TN, O-1, as well as all other visa categories
- Foreign Nationals with a valid Employment Authorization Card (EAD) may receive wages
 - Employment is permitted only if the card has not expired
- **Sponsored by the Institution**

Students and Researchers

- F-1 and J-1
- F-1 Optional Practical Training (OPT): must have EAD
- **Sponsored by the Institution**

Trainees and Camp Counselors

- F-1 or J-1
- **Sponsored by the Institution**

Interns

- J-1
- **Sponsored by the Institution**

Honoraria

- B-1/B-2, VWB, VWT

Involved Government Agencies

- Department of Homeland Security (DHS)
 - ▣ United States Citizenship and Immigration Services (USCIS or CIS), formerly the INS
 - ▣ Immigration and Customs Enforcement (ICE)
 - ▣ Customs and Border Protection (CBP)

- Department of Labor (DOL)
 - ▣ Part of H-1B process, part of some permanent residence processes

- Department of State (DOS)
 - ▣ Travel visas for entry into U.S. from abroad, sometimes part of the permanent residence process

- Internal Revenue Service (IRS)
 - ▣ All taxation issues

Types of Taxable Compensation

Wages

Assistantships

Scholarships

Fellowships

Stipends

Travel Reimbursements

Housing Allowances

Honoraria

Visa Questions

F-1's and J-1's

- What is the difference between a J-1 and F-1 visa holder?
 - ❖ F-1 is reserved for non-immigrants wishing to pursue academic studies. F-1 visas are given only through academic institutions.
 - ❖ J-1 is a non-immigrant visa issued to exchange visitors participating in programs that promote cultural exchange.
 - ❖ J-1's can be students, scholars, trainees, teachers, professor, physicians, camp counselors, researchers, visitors, and student interns.

- What documents are required of J-1's and F-1's?
 - ❖ F-1's should have a visa, passport, I-94 card, and I-20
 - ❖ F-1 OPT same as above plus EAD card
 - ❖ J-1's should have a visa, passport, I-94 card, and DS-2019

Visa Questions

F-1's and J-1's

- Can a J-1 or F-1 be employed?
 - ❖ A student is a foreign national who comes to the U.S. on a temporary visa for the primary purpose of studying
 - ❖ Any employment students engage in is “incident to their status” and is restricted
 - ❖ In some instances they are not allowed to be employed at all (e.g. their DS-2019 or I-20 indicates they are foreign-funded and does not show any support from home institution)

- Can a J-1 or F-1 be employed after their visa has expired?
 - ❖ No, if the approval notice has expired the foreign national no longer has work authorization.

- Can we allow J-1s or F-1s to volunteer?
 - ❖ If the activity could be classified as employment then no. If everyone else is being paid for the activity then you are required to pay that foreign national.

- We provide scholarships to NRAs. re we required to tax any portion of these scholarships?
 - ❖ All nonqualified scholarships are considered taxable income.

Visa Questions

H-1B's

- What documents are required of H-1B's?
 - ❖ H-1B's should have a valid visa, passport, I-94 card, and /or I-797.

- Can we employ an H-1B from another university?
 - ❖ In very limited circumstances.

- Discuss the H-1B petition that is required to be filed prior to employment.

American Recovery & Reinvestment Act

- What is the American Recovery and Reinvestment Act and how does it impact foreign nationals?
 - ❖ In February, the American Recovery and Reinvestment Act of 2009 increased the taxable liability for Foreign Nationals.

- Is there a certain category of visas that are impacted, H-1Bs, J-1s, F-1s?
 - ❖ All Nonresident Aliens are impacted.

New withholding tables were developed due to changes to the tax law made by the American Recovery and Reinvestment Act of 2009, the amount to add to a nonresident alien employee's wages for calculating income tax withholding only has been increased.

<u>Payroll Period</u>	<u>Add Additional</u>
Biweekly	\$276
Monthly	\$598
Annually	\$7,180

American Recovery & Reinvestment Act

- Example: (Per IRS Pub 15T)

(http://www.irs.gov/publications/p15t/ar02.html#en_US_publink1000145960)

- ❖ “An employer using the percentage method of withholding pays wages of \$500 for a biweekly payroll period to a married nonresident alien employee. The nonresident alien has properly completed Form W-4, entering marital status as “single” with one withholding allowance and indicating status as a nonresident alien on line 6 of Form W-4. The employer determines the wages to be used in the withholding tables by adding to the \$500 amount of wages paid the amount of \$276 from the chart above (\$776 total). The employer then applies the applicable table (Table 2(a), the table for biweekly payroll period, single persons) by subtracting the applicable percentage method amount for one withholding allowance for a biweekly payroll period from \$776 and making the calculations according to the table.
- ❖ The \$276 added to wages for purposes of calculating income tax withholding is not reported on Form W-2, and does not increase the income tax liability of the employee. The \$276 added amount also does not affect the social security tax, Medicare tax, or FUTA tax liability of the employer or the employee.”

- Does NC require additional withholding for NRA's?

- ❖ Not at this time.

Vendor Questions

- What determines a vendor to be a foreign national vendor? What documents are required? Is a W-9 required?
- What do we do if they are unwilling to complete a W-8BEN?
- What if we determine the payment to be foreign source/US source income?

Vendor Questions

- Within the Community College system, what are the requirements for processing a foreign vendor?
- Are any documents required to be submitted if the vendor is determined to receive foreign source income and services are provided outside the U.S.?
- If the vendors income is determined to be U.S. Source, what documents should be completed and submitted to the Community College system?

Vendor Questions

- We have visiting Foreign National presenters from other universities who participate in a conference we host. Are we allowed to pay visiting presenters travel reimbursements? If so, are these payments allowed to flow under our accountable plan?
 - ❖ You are not able to pay F-1 and J-1's from other Universities without special handling and permissions from the host University. This includes travel reimbursements.
 - ❖ You are required to collect various documents and have written permission from the host University for them to be at your institution.
 - ❖ According to the IRS Rev. Proc. 88-24, which is also explained in IRS Publication 515, taxable scholarships (i.e. "travel grants") of NRA recipients in F, J, M, or Q status are subject to tax at a rate of 14%.
 - ❖ Some travel reimbursements fall under the definition of "travel grant" and may be subject to taxes.

Process Questions

- We have an artist from China visiting our Community College and is to be paid for their performance. Are we permitted to pay for such expense? What documents are required? Are these artists subject to taxation?
- Questions of this nature depend on the specific facts of the case, i.e. visa type and length of stay. We encourage your University/Community College to seek guidance prior to the expense being incurred.

Process Questions

Community College

- For the Community College system, in step 2 of the workflow for colleges managed through the System Office, the FNIS Information form is completed. When is the Foreign National Information System Data Gathering form completed and should it also be sent to the System Office?
- Once the Community Colleges has uploaded the information into FNIS and requested the information be processed in Windstar at the System Office, how will the System office notify the Community College the information has been processed?

Questions?

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- For additional training opportunities please visit:
 - http://www.osc.nc.gov/Foreign_Nationals/training.html



THANK YOU!