

# HONORARIUMS TO FOREIGN INDIVIDUALS OR FOREIGN COMPANIES/CORPORATIONS

## Special criteria regarding awarding of Honoraria-Individual

As in any business transaction, there are several steps to follow in order to properly complete any payment to a foreign individual. The following is a list of questions you need to answer to before proceeding to contract a foreign individual or company:

1. Describe the activity the company/individual will perform for MSU or if no service is required—the purpose for the payment/and or reimbursement
2. What type of payment is the department requesting for the individual? (e.g. honorarium, travel expenses, etc.)
3. For individuals-immigration status in which the individual will enter the U.S. or status they entered the U.S. in currently.
4. Will the activity be performed in the U.S.?
5. How long will the individual be at Minot State?

Prior to agreeing to pay an honoraria payment to a non-resident alien or foreign company/corporation, you must confirm that the individual is present in the United States under an immigration status that allows him or her to perform an activity for which a payment may be made. Foreign individual visitors (including visa exempt Canadians [who enter with only a passport and who have declared their reason for visiting the U.S. is business] or Mexicans with Border Crossing Cards) that meet certain criteria may receive honorarium payments, even though they are not otherwise authorized to work in the United States and are not eligible for a social security number (SSN).

The following 9/5/6 Rule **requires** four criteria be met in order to allow payment of an honoraria. These individuals are performing only:

- “usual academic activities” (This includes lecturing, teaching and sharing of knowledge or performance. No admission may be charged at the event.);
- for periods up to nine days at a time;
- for no more than five institutions per six month period; and
- for higher education or nonprofit/government research institutions.

## GENERAL CHART FOR HONORARIA & TRAVEL REIMBURSEMENT

VISA	DESCR.	9/5/6 RULE FOLLOWED	9/5/6 RULE EXCEEDED	9/5/6 RULE FOLLOWED	9/5/6 RULE EXCEEDED		
		HONORARIA	HONORARIA	DOCUMENTS	TRAVEL REIMB	TRAVEL REIMB	DOCUMENTS
<b>B-1 / WB</b>	Visitor for Business	Allowed – 30% Fed w/h	Disallowed	-FNI* -Copy front & back I-94, EAD or proof CA citizenship -Copy US SSN or ITIN -Passport -Visa -W-8BEN	Allowed	Allowed – Must be taxed unless Business Connection w/MSU	-Original itemized receipts
<b>B-2 / WT</b>	Visitor for Tourism	Allowed – 30% Fed w/h	Disallowed	-FNI* -Copy front & back I-94, EAD or proof CA citizenship -Copy US SSN or ITIN -Passport -Visa -W-8BEN	Allowed	Disallowed	-Original itemized receipts

\*FNI – Foreign National Information Form

Per U.S. Department of State regulations, a J-1 professor, research scholar or short term scholar not sponsored by Minot State University must provide a statement from their J-1 Sponsor (either the Responsible Officer or an Alternate Responsible Officer may sign) granting permission for them to receive payments from Minot State University.

If the service was provided overseas on foreign soil (foreign source income) the payment can be processed through Accounts Payable but will not be taxable or reportable to the IRS. It is taxable or reportable to the country in which the service is provided.

Departments must obtain the following from the individual, as this will be required before the vendor is setup in the system and payment is issued:

- Copy of I-94 Departure Card (official documentation of immigration status)
- Copy of Identification page of the passport
- Foreign National Information Form
- Form W-8BEN or Form 8233 (for treaty benefits only)

**Please note:** Under IRS regulations, honoraria payments are considered taxable income. Therefore, as a matter of policy, the recipient of an honorarium payment may not transfer the payment to another organization or individual. If the honorarium recipient wishes to transfer the payment to another organization or individual, he or she must receive the money and then donate it.

Generally, travel expenses such as airfare, ground transportation, and lodging, may be paid for individuals conducting MSU Business as an employee or independent contractor. If there is such a relationship, the payment is made under the University's "accountable plan". Any travel payments or reimbursement made within the guidelines of the University's accountable plan is not considered taxable income and is not subject to tax withholding.

In some cases, a nonresident alien may not be eligible to receive a travel reimbursement based on immigration regulations. Therefore, prior to extending an offer to reimburse expenses, the department should review the above chart to ensure the individual is eligible to receive reimbursement of travel expenses. No per-diem may be paid to our guests, only actual reimbursements.

If eligible, upon payment, the department should attach a copy of the individual's I-94 departure card, foreign national information form, and Form W-8BEN to the payment voucher. Certain non-immigrant statuses may require additional documentation.

### **Special criteria regarding awarding of Honoraria-Companies/Corporations**

Generally, we must withhold 30% federal tax from foreign companies/corporations if the service is provided in the United States. The questions are basically the same as for an individual but are listed as follows:

1. Where are the services to be provided?
2. Are the services considered to be income effectively connected with a US trade or business?
3. Is the foreign corporation/company a personal holding company under US law?
4. Is there any tax treaty provision which applies to this payment?

Income effectively connected is defined as if the company/corporation has a fixed base or permanent establishment in the US which generates income.

Documents provided are generally form W-8BEN or W-8ECI.