How Do You Pay a Foreign National?

January 6, 2010

Tax Accounting Office
Business and Financial Services
Phone: (970) 491-3538
Fax: (970) 491-2253
E-mail: Matthew.Wills@ColoState.edu

http://busfin.colostate.edu/tax.aspx
How Do You Pay a Foreign National?

I. Hiring Foreign National Employees

II. Honoraria Payments to Foreign Nationals via A/P

III. Travel Reimbursements to Foreign Nationals

IV. Completing the Form I-9
Appointing Foreign Nationals

The University is required to comply with numerous federal and state tax withholding and reporting requirements when making payments to nonresident alien individuals. Because these requirements are extremely complex, every foreign national employee is required to meet with the Foreign National Tax Administrator before any payments can be made through the Colorado State University payroll system.

After the SSN has been received, please have the individual email the Foreign National Tax Administrator at BFS_ForeignTax@mail.colostate.edu, requesting an appointment.

Matthew Wills  
University Tax Accountant  
Foreign National Tax Administrator  
Business and Financial Services  
555 S. Howes Street, Room 311  
6003 Campus Delivery  
Fort Collins, CO 80523-6003  
Phone: (970) 491-3538  
Fax: (970) 491-2253  
Email: matthew.wills@colostate.edu  
http://busfin.colostate.edu/tax.aspx

Bob Loosley  
Tax & A/P Manager  
Business and Financial Services  
555 S. Howes Street, Room 314  
6003 Campus Delivery  
Fort Collins, CO 80523-6003  
Phone: (970) 491-6513  
Fax: (970) 491-2253  
Email: bob.loosley@colostate.edu
Hiring a Foreign National Without a SSN

1. **For F-1 & J-1 students only:** Provide the student with a letter verifying that a position has been offered or has secured a position with your department. Have the student report to International Programs with the letter from hiring department. International Programs will provide a letter to the Social Security Administration and instructions on applying for a Social Security Card.

   The Social Security Number request form and a sample employment affirmation letter can be found at the Office of International Programs website at the following link:  
   http://wsprod.colostate.edu/cwis30/2007/ISSS/forms/f1_j1_SS_request_packet_fi
lable.pdf

2. Apply for SSN at the Social Security Administration Office, 301 S Howes St, 4th Floor (Post Office on Howes Street). The office address for the Foreign National Tax Administrator (c/o Foreign Tax, 6003 Campus Delivery, CSU, Fort Collins, CO 80523-6003) may be used as the mailing address for the SSN card. This guarantees the employee and the University will receive the SSN. The choice of address to use as the SSN mailing address is at the discretion of the applicant.

3. After receiving the Social Security Number from the Social Security Administration, contact the office of the Foreign National Tax Administrator, by email, for an appointment at bfs_foreigntax@mail.colostate.edu

   If Social Security card has been mailed to the office of the Foreign National Tax Administrator, the individual will be contacted for an appointment, upon receipt of the card.

4. If it is critical that an individual be set up in Oracle prior to receipt of the SSN, the employing department may request a Payroll Control Number (PCN) by contacting the Foreign National Tax Administrator directly via email and confirming that the individual has applied for a SSN.

   This number is for payroll purposes only and CANNOT be used as a SSN and is not a temporary SSN. The CSU ID number assigned by the University is NOT to be used for payroll purposes and is NOT a temporary SSN.

   When the SSN is received by the Foreign National Tax Administrator, either by mail or from the individual, the Payroll Department will be notified and the PCN will be changed to the SSN in Oracle.

   A PCN will only be provided to the employing department once the department has verified that the individual has applied for a SSN.
5. Meeting with Foreign National Tax Administrator.
   a. The W-4 will be completed. Please do not provide a foreign employee with a W-4, as the instructions for completion are very specific for a foreign employee. If a W-4 is provided to any employee, be sure the W-4 and instruction are for the current year.
   b. The individual will be instructed to return to the employing department with a copy of the W-4, if necessary.

   **Hiring a Foreign National with a SSN**

   1. Contact the Foreign National Tax Administrator, by email, for an appointment at Bfs_foreigntax@mail.colostate.edu

   2. Meeting with Foreign Tax Administrator.
      a. A W-4 will be completed. There is no need to provide a foreign employee with a W-4, as the instructions for completion are very specific for a foreign employee. If a W-4 is provided to any employee, be sure the W-4 and instruction are for the current year.
      b. The CSU ID number assigned by the University is NOT to be used for payroll purposes and is NOT a temporary SSN.
      c. The individual will be instructed to return to the employing department with a copy of the W-4, if necessary.

   **Work Restrictions Relating to Student Visa Types**

   ALL foreign student employees are permitted to work 20 hours per week when school is in session. During all breaks, including summer session, there are no hour restrictions.
Paying Honorariums to Foreign Nationals

Contact the Foreign National Tax Administrator when planning to invite a foreign visitor to the University. Many questions can be answered before making an offer.

1. In order to pay honorariums to a Foreign National, they must have the proper visa status. Additional visa information is available from International Programs.

   - **B1/WB, B2/WT**: Follows the 9-5-6 Rule - the activity can be for no longer than 9 days, and no more than 5 institutions in the previous 6 months.

   - **H1B**: Immigration laws prohibit the payment for services by CSU to an H1B sponsored by another institution. If it is discovered that an H1B sponsored by another institution has performed services for CSU, all services must be terminated. Federal employment law requires that the individual be paid for all services previously performed. However, please be advised that accepting payment for services from an institution which is not his/her sponsor can put the H1B in violation of their visa. Paying an H1B sponsored by another institution can also subject CSU to fines and/or penalties.

     The H1B’s sponsor can submit an invoice to CSU for payment of the H1B’s services and/or expenses. Payment is made by CSU to the sponsor, which would then pay the individual.

   - **F-1**: May not receive an honorarium.

   - **J-1**: A J-1 visa holder with a sponsor other than CSU must have written authorization from their Responsible Officer (RO) prior to the activity.

     Alternatively, the J-1’s sponsor can submit an invoice to CSU for payment of the J-1’s services and/or expenses. Payment is made by CSU to the sponsor, which would then pay the individual.

2. As a general rule, the Internal Revenue Service (IRS) requires the University to withhold at a 30% rate for all honorarium payments made to Nonresident Alien Individuals.

3. Tax Treaty Exemptions may apply if:
   - there is a tax treaty with the U.S. and the individual’s country and
   - the individual qualifies for an exemption.

4. A Tax Treaty Exemption has to be applied for and approved by the IRS. This process takes 10 days from the time the form is submitted to the IRS. To apply for a tax treaty exemption:
   - A Form 8233 (Request for Tax Treaty Withholding Exemption) is required to be filled out and signed by the individual and
   - A Social Security Number (SSN) or an Individual Taxpayer Identification Number (ITIN) must be submitted on the form or the IRS will not approve the exemption.
5. The Foreign National Tax Administrator must review all payment requests to Foreign Nationals before payment is made.

- Please have the individual complete the Foreign National Information Form, print, sign, date and attach copies of the requested documents to the DV or PO

- The Foreign National Information Form can be located at: https://wsprod.colostate.edu/cwis12/international/personalinfo.cfm

- **Indicate on the DV or PO that this payment request is for a Foreign National and the location where the services are being performed.**

- Submit the DV or PO directly to Accounts Payable.
TRAVEL REIMBURSEMENTS
TO FOREIGN NATIONALS

Travel reimbursements for Foreign Nationals may have potential income tax withholding consequences and must be reviewed by the Foreign National Tax Administrator before approval. If the Foreign National receives a compensatory payment, no matter how small the amount, the travel reimbursement falls under the “accountable plan” rules and is not taxable. Paying the travel expenses directly to the vendor will avoid any tax consequence to the individual. A 30% withholding tax may be required on travel reimbursements. This tax can be reduced to 14% for F, M, J or Q visa holders. An SSN or ITIN is required to be able to claim a tax treaty exemption.

PROCEDURES:

1. Contact the Foreign National Tax Administrator when planning to invite a foreign visitor to the University. Many questions can be answered before making an offer to the individual.

2. Route travel vouchers to the Foreign National Tax Administrator if the individual is not an employee and not a U.S Citizen.

3. Have the individual complete the Foreign National Information Form, print, sign, date and attach the requested copies to the travel voucher. After analysis, the department will be contacted if an appointment is required. The information form can be located at: https://wsprod.colostate.edu/cwis12/international/personalinfo.cfm

4. Include the following information in the comments area of the voucher:
   - Primary purpose of the visit.
   - Who benefits from the travel, CSU or the individual.

5. Honoraria payments to foreign nationals cannot be made on travel vouchers. Please request honorarium payments to foreign nationals via Accounts Payable.

REIMBURSEMENTS ALLOWED FOR VISA TYPES INDICATED ON THE I-94:

1. B1 or WB – visitors for business purposes
   - Reimbursements can be made for up to 3 months

2. B2 or WT – visitors for tourist purposes
   - Reimbursements can be made ONLY if an Honorarium is received
   - Must follow the 9-5-6 Rule:
     Activity can be for no longer than 9 days and
     No more than 5 activities in the prior 6 months
3. **J-1**

   - Sponsored by another institution:
     - Travel reimbursement is potentially taxable
     - Must have written permission from their Responsible Office (RO) before travel takes place
     - Preferably have the sponsor institution invoice the department for expenses

   - Sponsored by CSU and a non-employee:
     - Any travel reimbursement is potentially taxable income.

4. **F-1**

   - Sponsored by another institution:
     - Travel reimbursement is potentially taxable
     - Preferably have the sponsor institution invoice the department for expenses

   - Sponsored by CSU and a non-employee:
     - Travel reimbursement is potentially taxable

5. **H1B**

   - Actual reimbursement of expenses only.
I-9 Overview

PURPOSE: To verify employment eligibility and identify all workers hired in the US after November 6, 1986.

CURRENT REVISION REQUIRED:
Expiration date: 8/31/12

The current form can be found on the following website:

EMPLOYEE’S RESPONSIBILITY:

1. Complete Section 1 no later than the close of business the first working day.
2. Sign the form attesting to the accuracy of the information. If the employee refuses to sign the form, there is no need to complete Section 2 and the employer should not continue to employ the individual.

EMPLOYER’S RESPONSIBILITY:

1. Ensure the employee completes section 1 in full. Employers are held responsible for deficiencies of information in Section 1.
   a. The name, complete address, maiden name (if applicable) and date of birth are required, the SSN is optional.
   b. If the employee checks “A Lawful Permanent Resident” the expiration date is not required.
   c. If the employee checks “An alien authorized to work until _________”, an end date and Alien # or Admissions # is required.
      i. Admissions # is found on the I-94
      ii. Alien # is found on the Work Authorization Card
      iii. End Dates can be found on one of the following documents:
          1. F-1 visa – I-20
          2. J-1 visa – DS 2019
          3. F-1 on OPT – Work Authorization Card
          4. J-1 on CPT – Letter from Sponsor
          5. H1B visa – I-797
          6. TN visa – I-94
2. Supply the employee a list of acceptable documents.
   
a. The employee can choose from a list provided by the employer which documents to use to establish identity and work eligibility.
   
b. The employer cannot require certain documents but can reject documents that don’t meet the requirements.

3. Examine the documents, originals not copies, presented by the employee and accept them if they appear to be genuine and relate to the individual. The Employer is not required to be document experts.
   
a. If an employee is unable to present the required documents within 3 business days of employment, employment must be terminated, unless the employee can produce a receipt showing the document has been applied for and present the document to you within 90 days of the hire.

4. Complete the entire form no later than the close of business on the 3rd working day. Submit the completed form for student employees to Student Employment. For all other employees, submit the form to HRS-Records.

**DOCUMENTS:**

1. ACCEPTABLE DOCUMENTS to establish identity and work eligibility are listed on the form I-9. List A documents establish both identity and work eligibility. List B establishes identity and List C establishes work eligibility.

2. ACCEPTABLE RECEIPTS for I-9 purposes
   
a. A receipt for a replacement document when the document has been lost, stolen or damaged. The receipt is valid for 90 days, after which the individual must present the replacement document to complete the I-9. This rule does not apply for new documents following the expiration of their previous held document.
   
b. A Notice of Action, I-797C, for an H1B visa holder that is extending their visa or changing employers. This notice will be accompanied by a memo from International Programs and provides work authorization for 240 days from the date of notice.

3. LEGAL PERMANENT RESIDENT CARD (GREEN CARD):
   An expired Green Card does not affect current employment.
4. SOCIAL SECURITY CARD (SSN):
   
a. A card that contains the phrase “Valid for work only with DHS (INS) Authorization” on the card cannot be used to satisfy I-9 requirements.
   
b. You may not accept a laminated SSN as evidence of employment if the card states on the back, “not valid if laminated”.

5. WORK AUTHORIZATION DOCUMENT (EAD): Usually authorizes work for 1 year. The card can be extended but an extension request cannot be used to satisfy I-9 requirements. If the current card expires before the new card arrives the individual is not authorized to work until the new card is received.

UPDATING, REVERIFICATION AND REHIRE:

1. Employers are required to reverify employment when an employee’s employment authorization (indicated in Section 1) or evidence of employment recorded in Section 2 has expired.

2. Reverification must take place no later than the date the authorization or documents expire by completing a new I-9, Section 1 and 2 and Employment Verification Affirmation, indicating on the top of the form that it is an update. Submit the reverifications and document copies for Foreign Nationals to the Foreign National Tax Administrator, 6003 Campus Delivery. After processing, the forms and document copies will be forwarded to HRS-Records or Student employment, as applicable.

   Please do not submit I-9s for new employees to the Foreign National Tax Office. Send directly to HRS or Student Employment.

DISCOVERING UNAUTHORIZED EMPLOYEE:

Do Nothing. Contact the Director of Human Resources immediately.