

Paying Honorarium to Foreign Nationals

The process for foreign citizens to be paid an honorarium or travel reimbursement is complicated and requires the departments to do advance planning. The foreign national must travel on the correct visa and needs to complete different types of forms needed for the payment.

Before committing to an honorarium for a foreign national, departments must ensure the person has the appropriate visa that allows such payment.

There are different types of visa:

- **B-1 or B-2** (may receive an honorarium if meets the Honorarium Rule, 9/5/6 rule).
- **VWB (Visa Waiver Business) or VWT (Visa Waiver Tourist)** Foreign citizens holding these visas may receive an honorarium and do not have to meet the Honorarium Rule
- **J-1 scholars** (sponsored by LMC or from another institution for a lecture at the LMC)
- **H-1 B, E-3, TN and O-1** may receive honorarium only if they are sponsored by LMC (if the holders of such visas are sponsored by a different university may only receive a reimbursement for travel or incidental expenses, not an honorarium for lecture at the LMC).

Foreign nationals from a participating country in the Visa Waiver Program (VWB, VWT) do not have to have a visa to enter the U.S. for business or tourist travel. However, they must have a machine-readable passport valid for six months past their expected stay in the U.S. (unless a country-specific agreement provides an exemption). The foreign national may stay in the U.S. for business or tourist purposes for a maximum of 90 days. In addition to their passport, VWP travelers must also present a completed and signed I-94W, "Nonimmigrant Visa Waiver Arrival-Departure Record," to U.S. officials at their port of entry. For information on Visa Waiver please visit the following web site http://travel.state.gov/visa/temp/without/without_1990.html .

Foreign citizens in B-1, B-2 status may accept an honorarium and/or reimbursement of travel expenses under the Honorarium rule ('9/5/6' rule):

- 9 days or less at the Le Moyne College
- The individual has accepted such payment from no more than 5 educational or research institutions (including the LMC)
- In the previous 6-month period.

The IRS rule says that generally tax must be withheld at **30%** from the gross amount paid to the foreign national (non-resident alien) unless there is a valid documentation that the person is entitled to be exempt or taxed at the reduced rate (tax treaty benefits with U.S.). Travel reimbursement is not subject to withholding because it is not considered income.

The following documentation must be obtained before we make the payment:

- **Copy of identity page from passport,**
- **visa or visa waiver,**
- **I-94, Arrival and Departure Record** (is issued to foreign visitors upon entry to the US in non-immigrant visa category, it is used to track the dates of arrival and departure. It is extremely important as it is evidence of the individual's lawful admission to the U.S in a specific visa status.).
- As of September 2010, travelers from a VWP country no longer complete an I-94W. Instead, they must submit their request for a travel authorization to the U.S. through the **ESTA Program (Electronic System for Travel Authorization)**. Travelers complete the ESTA on-line form before entering the U.S. Prior to boarding, the carrier will electronically verify with U.S. authorities that the traveler has an approved travel authorization file through ESTA.
- **Completed IRS form 8233, Exemption Form Withholding on Compensation for Independent Personal Services of a Nonresident Alien Individual, (this form documents that the foreign national is exempt or is taxed at the reduced rate for personal services. A taxpayer identification number, ITIN must be provided to complete the form. **IRS Form W-7** (Form can be obtained directly from IRS website : [Http://www.irs.gov](http://www.irs.gov) and is used to apply for an individual identification number, ITIN. It is issued by the US Internal Revenue Service to individuals who are required to have a U.S taxpayer identification number, and are not eligible to obtain a SSN, it takes a minimum 12 weeks).**
- **for J-1 scholar , must have a copy of work authorization** (from the sponsoring university, other than LMC)*
- **W-8BEN** –Certificate of Foreign Status of Beneficial Owner for US Tax Withholding (in case if the foreign citizen does not have US ITIN) with part I & IV completed only.
-

*Note: Alternatively, the J-1 original sponsor can submit an invoice to Le Moyne College for payment of the J-1 scholar's services/ reimbursements. Payment will be made to the sponsoring institution, which would then pay the individual.

The completed form#8233 will be sent out to IRS to be granted a tax treaty exemption prior the honorarium payment. This process will take approximately 10 days from the time the form is submitted to IRS.

All copies of above documents must be attached to the check request.

Note: If the nonresident alien is not from a tax treaty country, or does not wish to take advantage of tax treaty, the tax will be withheld at **the rate 30%**. However, if the department agreed to the net payment to the foreign national to be a specific amount after withholding is applied, the net amount must be increased to cover tax to be withheld, and the gross amount will be charged to the department's budget. The formula to calculate the gross budget charge is:

Honorarium Amount

1 - .30%

The foreign citizen will receive an IRS form 1042-S, Foreign Person's U.S. Source Income Subject to withholding (used to report independent personal service payment to foreign citizens, it is similar to W-2 form) by March 15, and it will be reported to IRS as well. The tax year is from January 1 to December 31.

Visa Waiver Program

Foreign nationals from a participating country in the Visa Waiver Program (VWP) do not have to have a visa to enter the U.S. for business or tourist travel. However, they must have a machine-readable passport valid for six months past their expected stay in the U.S. (unless a country-specific agreement provides an exemption). The foreign national may stay in the U.S. for business or tourist purposes for a maximum of 90 days. No extension of the stay is allowed.

As of September 2010, travelers from a VWP country no longer complete an I-94W. Instead, they must submit their request for a travel authorization to the U.S. through the [ESTA Program](#) (Electronic System for Travel Authorization). Travelers complete the ESTA on-line form before entering the U.S. Prior to boarding, the carrier will electronically verify with U.S. authorities that the traveler has an approved travel authorization file through ESTA..