**Scholarships and Fellowship Grants FSS/PPS No. 02.01 (03.09.06)**

**Paid to Nonresident Aliens Students**  **Issue No. 5**

**and Scholars** **Effective Date: 04/26/2021**

**Next Review Date: 04/01/2026 (E5Y)**

**Sr. Reviewer: Director of Payroll and Tax Compliance**

**01. POLICY STATEMENT**

01.01 This policy establishes responsibility and policy regarding the payment of scholarships and fellowship grants to nonresident alien students and scholars. It also ensures that policy and procedures conform to federal and state laws, [Texas State University System (TSUS) Rules and Regulations](https://www.tsus.edu/about-tsus/policies.html), and university policy.

**02. DEFINITIONS**

02.01 Non-Resident Alien (NRA) – a person who is not a United States citizen or permanent resident and does not meet either the green card test or the substantial presence test.

02.02 Green Card Test – satisfied if an NRA has been granted lawful permanent resident status and an alien registration card (e.g., "green card") either has been issued or will be received by the individual.

02.03 Substantial Presence Test – satisfied when an NRA has been physically present in the United States for 31 days during the current calendar year and 183 days during the three-year period that includes the current year and the two years preceding the current year. A student with an "F", "J", "M", or "Q" visa is considered an exempt individual and must wait five calendar years before counting days for the purposes of the substantial presence test. A scholar with a “J” visa is considered an exempt individual and must wait two calendar years before counting days for the purposes of the substantial presence test, if they were not exempt as a teacher, trainee, non-student, or student for any two of the current and past six calendar years.

02.04 Income Tax Treaty – a bilateral agreement entered into between the United States and another government under which each country agrees to limit or modify the application of its domestic tax laws in an attempt to avoid “double taxation” of income.

02.05 Foreign Source Income – foreign sourced scholarships and fellowship grants received by an NRA from sources outside the United States and may not be subject to tax.

02.06 United States Sourced Income – United States sourced scholarships and fellowship grants received by an NRA from a source within the United States and are taxed accordingly.

**03. POLICY**

03.01 Income Source – a scholarship or fellowship grant paid to an NRA student or scholar is subject to income tax withholding if the funds are United States sourced (consult the Payroll and Tax Compliance Office for a determination of source of income).

03.02 Tax Withholding Rate – a scholarship or fellowship grant paid to an NRA student or scholar is subject to income tax withholding at different rates depending on the NRA’s nonimmigrant status and other circumstances. The following requirements are for NRAs present in the United States in "F", "J", "M", or "Q" nonimmigrant status.

1. Degree Seeking – If an NRA is a candidate for a degree, all qualified scholarship and fellowship grant payments are exempt from IRS withholding. However, taxes will be withheld at a rate of 14 percent from non-qualified scholarship and fellowship grant payments.
2. Non-Degree Seeking – If the NRA who receives the non-qualified scholarship or fellowship grant is not a candidate for a degree, tax will be withheld at 14 percent if both (1) and (2) below are true, otherwise tax will be withheld tax at 30 percent on the amount:

1) the scholarship or fellowship grant must be for study, training, or research at an educational organization in the United States, and

2) the scholarship or fellowship grant must be made by:

(a) a tax-exempt organization operated for charitable, religious, educational, etc. purposes;

(b) a foreign government;

(c) a federal, state, or local government agency;

(d) an international organization, or a binational or multinational educational or cultural organization created or continued by the Fulbright Hays Act;

(e) a qualified scholarship or fellowship grant payment is any amount paid to an NRA that, in accordance with the conditions of the scholarship or fellowship grant, is to be used for the following expenses:

(1) tuition and fees required for enrollment or attendance at an educational organization, and

(2) fees, books, supplies, and equipment required for courses of instruction at the educational organization; or

(f) a non-qualified scholarship or fellowship grant is any portion of the amount paid to an NRA that is used for room and board expenses, travel, research, optional fees, or anything that is not considered a qualified scholarship or fellowship grant, as defined above.

03.03 Tax Treaty Exemption for Scholarships and Fellowship Grants to an NRA

1. If there is a tax treaty between the United States and the NRA’s country of tax residency, the NRA may claim a tax treaty exemption from withholding. The NRA must meet with a representative of the Payroll and Tax Compliance Office to complete the required paperwork. If taxes were withheld before tax treaty exemption paperwork has been filed with the IRS, Texas State cannot refund the taxes withheld. A United States Taxpayer Identification Number is required to claim the tax treaty exemption, unless the NRA is employed with Texas State and has obtained a social security number.

**04. RESPONSIBLE PARTIES**

04.01 The International Affairs Office at Texas State assists NRA students and scholars in obtaining and maintaining their visa status, as well as holding related orientation and training sessions.

04.02 The Payroll and Tax Compliance Office is responsible for following federal and state laws and university policy related to taxation of NRA scholarships and fellowship grants; and for assisting NRAs who receive non-qualified scholarships and fellowship grants by completing necessary forms and depositing any federal withholding tax due.

04.03 The Student Business Services Office is responsible for charging a student’s account when withholding tax must be paid by the student, and with depositing or crediting withholding tax reimbursements paid by a Texas State department or outside entity.

**05. PROCEDURES**

05.01 The NRA should bring the following documents to the Payroll and Tax Compliance Office

1. an unexpired passport;
2. a valid visa;
3. a I-20 or DS-2019 form;
4. and a I-94 form.

The following forms may be completed during that meeting, as applicable:

e. Foreign National Information Form (Internal Form #FS-05);

1. [IRS Form W-4](https://www.irs.gov/pub/irs-pdf/fw4.pdf?portlet=3) – Employee’s Withholding Certificate (claiming personal exemption for nonresident aliens without tax treaty exemptions);

1. [IRS Form W-8-BEN](https://www.irs.gov/pub/irs-prior/fw8ben--2017.pdf) – Certificate of Foreign Status of Beneficial Owner of Tax Withholding and Reporting (claiming United States tax treaty exemption for non-qualifying scholarship payments); and
2. [IRS Form 8233](https://www.irs.gov/pub/irs-prior/f8233--2018.pdf) – Exemption from Withholding on Compensation for Personal Services – (claiming United States tax treaty exemption for honorarium or compensation).

05.02 The Payroll and Tax Compliance Office will run an NRA scholarship report from the student information system. The report will identify non-qualified scholarship payments made to NRA students. The tax will then be calculated, and a deposit will be made for the withholding tax due to the IRS.

05.03 When withholding tax must be reimbursed by the NRA student, the Payroll and Tax Compliance Office will send a report to the Student Business Services Office to charge the student’s account. If any department or outside entity wishes to pay the withholding tax for the student, the amount must be grossed up to include the tax paid as a taxable benefit. In this case, the student’s account does not need to be charged, but the student’s name and tax withholding amount are kept with the university’s business deposit records.

**06. REVIEWERS OF THIS PPS**

06.01 Reviewer of this PPS includes the following:

Position Date

Director of Payroll and Tax Compliance April 1 E5Y

**07. CERTIFICATION STATEMENT**

This PPS has been approved by the following individuals in their official capacities and represents Texas State Finance and Support Services policy and procedure from the date of this document until superseded.

Director of Payroll and Tax Compliance; senior reviewer of this PPS

Associate Vice President for Financial Services

Vice President for Finance and Support Services