



TO:
FROM: Nancy Colón
International Taxation Specialist
DATE:
RE: Explanation of Payment of an
Honorarium to a Foreign Visitor who
is Traveling a Nonimmigrant Visa
Waiver (WB or WT)

Foreign visitors who have been determined to be eligible for a visa waiver through the Visa Waiver Program (VWP) will be designated as “WB” or “WT” on their I-94 US Customs entry form. The foreign visitor will be paid an honorarium and/or travel expenses as if they were traveling on a B-1 visa.

To Explain:

1. The Visa Waiver Program allows citizens of 34 different countries to enter into the United States on a visa waiver, if they meet certain qualifications. The countries are: Andorra, Austria, Australia, Belgium, Brunei, Czech Republic, Denmark, Estonia, Finland, France, Germany, Hungary, Iceland, Ireland, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, Netherlands, New Zealand, Norway, Portugal, San Marino, Singapore, Slovakia, Slovenia, South Korea, Spain, Sweden, Switzerland and the United Kingdom (England, Scotland, Wales, Northern Ireland, Channel Islands, Isle of Man).
2. The I-94W form is distributed to foreign visitors entering the United States by air, land or sea. This form will be placed inside the traveler’s passport by customs. The I-94W is green, not white like the usual I-94 card.
3. Designations:
 - a. WB means “visa waiver/business” (Equivalent is the B-1)
 - b. WT means “visa waiver/tourist.” (Equivalent is the B-2)
4. The IRS stipulates that payment rules for VW follow same process as B-1/B-2 visas.
 - a. The foreign visitor may be paid an honorarium.
 - b. The foreign visitor may be reimbursed for travel expenses.
5. The standard withholding rates apply
 - a. Honoraria are taxed at 30% (if a tax treaty does not exist)
 - b. There is not a payment maximum for honoraria
 - c. FICA is not withheld

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6. UR host may decide to “gross up” the honorarium payment by 30% to cover the required tax deduction, if a tax treaty does not exist.
7. Tax Treaty:
 - a. An ITIN is sufficient to claim treaty benefits as VW are not eligible for an SSN.
 - b. To offer a tax treaty to the recipient of an honorarium, the payee must have a previously obtained SSN, an ITIN, or must apply for an ITIN before the honorarium payment is made.
8. VWB Visa:
 - a. Does not exceed the 9 / 5 / 6 Rule limitations:
 - i. May be paid an honorarium
 - ii. May be reimbursed for travel expenses (No withholding or reporting)
 - b. Exceeds the 9 / 5 / 6 rule limitations
 - i. May not be paid an honorarium
 - ii. Without a business purpose (i.e. no service) – study/training/research:
 1. Immigration rules allow for reimbursement of travel expenses as long as stay is less than 1 year and for academic activities.
 2. Tax rules state that expenses are in the nature of a travel grant and are taxable at 30% (F, J, M or Q recipients are taxed at 14%)
 3. May be excluded from taxation with a tax treaty (report on 1042-S)
 4. Accountable plan rules do not apply – 30% withholding
 - iii. Payments and reimbursements that fail to meet the away-from-home, temporary, or accountable plan rules are taxable.
 1. Employee recipients:
 - a. Subject to payroll taxes
 - b. Report in Form W-2 gross wages
 - c. May be exempt under a treaty, if wages of a teacher or researcher are exempt (Form 1042-S)
 2. Self-Employed recipients:
 - a. Resident alien:
 - i. Backup withholding if no SSN or ITIN
 - ii. Form 1099
 - b. Nonresident alien:
 - i. 30% withholding
 - ii. Form 1042-S
 - iv. With a business purpose – employment or self-employment:
 1. Primary benefit for the business purpose must be to the payer
 2. Immigration rules allow for reimbursement of travel expenses
 3. Tax rules allowing exclusion on travel reimbursements under an accountable plan require a business purpose (i.e. services)

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4. Travel reimbursement rules:
 - a. expenses must be substantiated
 - b. less than 1 year of time in US
 - c. for academic activities
 - d. travel is away from home
 - e. temporary visit to US
 - f. if travel is extended to beyond a year, expenses are income from date of extension
 5. Individuals tax home is their principle place of business
 6. Must have a substantial period of time between visits to restart the clock (seven months at least)
 7. M & I only allowed for independent contractors
 8. Excludable expenses do not apply to spouses and dependents
9. VWT Visa:
- a. Does not exceed the 9 / 5 / 6 Rule limitations:
 - i. May be paid an honorarium
 - ii. May be reimbursed for travel expenses only if individual was conducting business on behalf of the University of Richmond and the individual complied with the accountable plan rule. (No withholding or reporting.)
 - b. Exceeds the 9 / 5 / 6 rule limitations
 - i. May not be paid an honorarium
 - ii. May not be reimbursed for travel expenses (Withhold 30% and report on a 1042 and 1042-S)
10. If traveling for a job interview only, VWB and VWT may be reimbursed travel expenses. If only paying for travel expenses, the I-94 card is sufficient documentation.
11. The VW visa holder is considered an NRA for tax purposes:
- a. Substantial Presence Test
 - b. The standard withholding rates apply:
 - i. Honoraria are taxed at 30%
 - ii. May be offered a tax treaty, if eligible
 - iii. There is not a payment maximum for honoraria
 - iv. Travel and expenses are reimbursable
 - v. FICA is not withheld
 - vi. Tax treaty, if eligible

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