

SOUTHWESTERN COMMUNITY COLLEGE	BUSINESS SERVICES FOREIGN NATIONAL COMPLIANCE	Policy 7.03.11
-----------------------------------	---	-------------------

I. Introduction

The reporting and withholding of taxes associated with payments made to non-U.S. citizens by community colleges, and other agencies of the State of North Carolina are in accordance with the laws and regulations of the U.S. Citizenship and Immigration Services (USCIS) and the Internal Revenue Service (IRS).

1. The USCIS define what payments may be made to aliens who perform services in the United States.
2. The IRS defines which payments made to aliens are reported and subject to taxes, as well as establishes the tax rates for those payments.

In accordance with this policy, Southwestern Community College must withhold and report payments to foreign national (employees, contractors, vendor and students) in accordance with Internal Revenue Service (IRS) Code of Regulations 1441 and with policies established by the Office of the State Controller.

It is the responsibility of Southwestern Community College to gather all data for each individual or vendor who must be tracked through the Windstar (Tax Navigator) software, and forward it to the North Carolina Community College System (NCCCS). The Foreign National Information Systems (FNIS) Data Gathering Form for individuals or the Foreign National Information Systems Data Gathering Form for Vendors, is used to gather the data.

Per Internal Revenue Code 1461, the withholding agent, in this case Southwestern Community College, will be liable for a tax amount resulting from failing to withhold or deposit amounts subject to withholding. Both Southwestern Community College and the foreign recipient may be held liable for taxes, applicable interest, and any penalties resulting from a withholding failure.

Compliance with this policy requires a collaborative effort involving:

1. Business Office
2. Southwestern Community College employees that submit requisitions to procure goods and services
3. Student Services
4. Human Resource
5. Accounts Payable

To comply with this policy, the Vice President for Financial and Administrative Services shall maintain, review and disseminate updates to defined processes and workflow procedures outlined in a document, commonly known as the "Foreign Nationals/Aliens Procedures Manual" which will be maintained in Business Office.

II. Definition

A foreign national is "a person who was born outside the jurisdiction of the United States, is a citizen of a foreign country, and not become a naturalized United States citizen under United States law. This includes legal permanent residents; also known as permanent resident aliens." A foreign national owes allegiance to or is under the protection of a country other than the United States.

It is important to understand that the definition of Nonresident Alien (NRA) for tax purposes is different from that for immigration purposes.

SOUTHWESTERN COMMUNITY COLLEGE	BUSINESS SERVICES FOREIGN NATIONAL COMPLIANCE	Policy 7.03.11
-----------------------------------	---	-------------------

Aliens are classified as either "Nonresident Aliens" or "Resident Aliens". Section 1441 of the Internal Revenue Code provides a separate tax system with a different set of tax rules and regulations for individuals deemed to be Nonresident Aliens. Colleges making payments to NRAs are subject to different tax withholding, reporting and liability requirements.

A Resident Alien's income is subject to tax in the same manner as a U.S. citizen. RAs are generally taxed in the same way as U.S. citizens. This means that their worldwide income is subject to U.S. tax and must be reported on their U.S. tax return. Income of RAs is subject to the graduated tax rates that apply to U.S. citizens.

A Nonresident Alien's income is subject to federal income tax only on income which is derived from sources within the United States and/or income that is effectively connected with a U.S. trade or business. NRAs are taxed according to special rules contained in certain parts of the Internal Revenue Code.

Note: Although the preferred term for identifying a person who is not a U.S. citizen is "Foreign National", the IRS and the U.S. Citizenship and Immigration Services use the work "alien". Therefore, all non-U.S. citizens will be referred to as "aliens" in this text to minimize confusion with the federal government publications.

Adopted: April 26, 2016