

Taxation of Faculty Inventor Payments

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Agenda

- Introduction to RSAs and Taxation
- Nonresident Alien Inventors
- Installment Sale Treatment
- Reporting by Universities
- Transfers by Inventors



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The Transaction

- Inventor assigns to University all rights in future inventions.
- University promises to pay Inventor a portion of any revenue University generates from licensing the inventions. (“Royalty Sharing Agreement”, or “RSA”)



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What is the Payment?

- Compensation
- Royalty
- Long-term capital gain



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Potential for Capital Gain Treatment

- Long-term capital gain for “transfer. . . of property consisting of all substantial rights to a patent.”
- Even though:
 - Payments are made periodically over the life of the license
 - Payments are contingent on productivity of the IP

Code § 1235



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