



NONRESIDENT ALIEN TAX COMPLIANCE

UPDATE OF THE ISSUES

Higher Education Tax Institute 2023
Donna E. Kepley

1

LEGAL

The information contained in this document is copyrighted by Arctic International LLC 2022 and may not be copied or used for any purpose without the written permission of Arctic International LLC.

The information contained in these slides is general in nature and cannot be relied upon to address a specific situation.

Please consult your tax advisor.

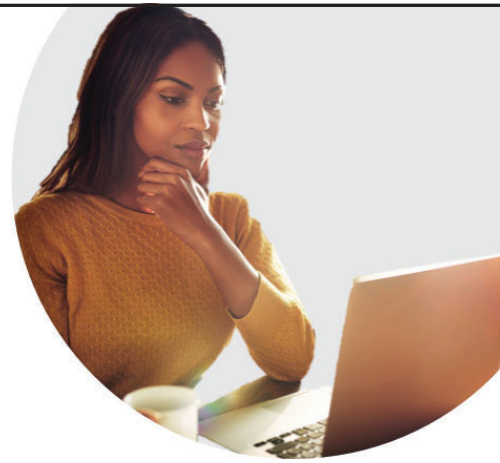
In preparing these materials, we are relying upon the relevant provisions of the Internal Revenue Code of 1986, as amended, the regulations thereunder, and judicial and administrative interpretations thereof. These authorities are subject to change or modification retroactively and/or prospectively and any such changes could affect the validity or correctness of our information. We will not update our materials for subsequent changes or modifications to the law and regulations or to the judicial and administrative interpretations thereof, unless you separately engage us to do so in writing after such subsequent modification or change.



2

GENERAL RULE

- ALL withholding agents *(for example, an employer)* **MUST** withhold federal income tax from ALL income payments made to or on behalf of a nonresident alien (Section 1441 of the Internal Revenue Code)
- IF the withholding agent **DOES NOT** withhold the appropriate amount of tax at the time of payment, the withholding agent will be liable for the tax, plus any penalties and interest – regardless of whether the individual pays the tax on his or her tax return (Section 1461)



ISSUES TO CONSIDER

- Let's Review Sourcing . . .
- Forms W-8 . . . BEN, BEN-E, ECI, EXP
- SSN or ITIN or EIN or FTIN?
- New Reporting Issues
- What If the IRS Contacts Your Institution . . . ?



WHERE IN THE WORLD . . . ?

Do we always know where in the world our employees, students, and payees are!

Not usually . . .

. . but, it's important that we do!

Taking time to withhold and report correctly to start with is a whole lot easier than trying to unravel and fix it later!



5

ALL INCOME PAID TO OR ON BEHALF OF A NONRESIDENT IS:

EXEMPT

- Foreign Source
- Internal Revenue Code
- Income Tax Treaty

or

- 14% (Scholarships/ Fellowships to F, J, M, & Q Immigration Status)
- 30% (Non-Employee Compensation and all Other Payments)
- Restricted Graduated Withholding (Employee Compensation)

TAXABLE



6

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

Title search: Nonresident Alien Tax Update

Also available as part of the eCourse

[Nonresident Alien Tax Updates \(2023\)](#)

First appeared as part of the conference materials for the
11th Annual Higher Education Taxation Institute session
"Nonresident Alien Tax Update"