Paying a Foreign Vendor

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FMS Tax Department
CATS Presentation 9/28/2011
A researcher has just invited a foreign person to collaborate in his lab.

A faculty member has just invited a foreign person to lecture for his class.

A director has just invited a foreign person to give a lecture as part of the lecture series.

A student organization has just invited a foreign group to give a performance.
What do you do?
True or false?

- My foreign visitor doesn’t have to pay taxes
  - because he pays taxes in his own country, or
  - because he’s an independent contractor
- Since we’re only pay travel, it’s not taxable.
- Since we’re direct paying the travel agency/hotel, we don’t have to worry about it.
Intended beneficiaries

- If you’re responsible for making payment arrangements on behalf of a visitor, AND
- That visitor is not a US person
- We hope this presentation will help you demystify US tax law expectation and give you confidence to know where help can be found.
US tax law requires immediate withholding on taxable income paid to a foreign person unless...
- A reasonable tax treaty benefit applies, or
- Some sort of exception applies.
FMS Tax Department works to comply with US tax law by ensuring taxes are “withheld” and “reported” correctly to the US, state, and local governments.

FMS NRA Team:
- Margaret Gross (IUB)
- Deb Esworthy (IUPUI Payroll)
- Theo Wu, JoAnn Clune
Paying the international visitor

- Before the visit – know the situation
- During the visit – collect documents and signatures; set payment expectations
- During the payment
Before the visit-know the situation

- Faculty member stops at your desk. He needs your help coordinating travel for a visitor coming as a guest speaker for his class. He will receive an honorarium payment and travel reimbursement.

- What is the first question you would ask?
Before the visit-know the situation

- Is he/she a US person?
- Where is the person from?
- What type of payment are we making?
- Does the person have a US tax ID?
Before the visit - know the situation

- A US person has
  - US passport
  - US place of birth
  - Legal permanent resident (“green card”) or naturalization papers (application doesn’t count)

- W-9, if appropriate
Before the visit-know the situation

- A non-US person has
  - Foreign passport and
  - I-94 or
  - ESTA documents
- W-8Ben, if appropriate
Before the visit—know the situation

- Vendor setup
  - FIS document (contact Accts Payable)
  - EPIC document (contact Purchasing)
  - W-8Ben
    - Or Foreign Individual/Entity Certification
Before the visit—know the situation

- Is he/she a US person?
- Where is the person from?
- What type of payment are we making?
- Does the person have a US tax ID?
Before the visit–know the situation

- What type of payment are we making?
  - Compensation for service (honorarium)
  - Travel reimbursement (IRS Accountable Plan)
    - Fellowship or travel grant (usually taxable)
  - Royalty
Before the visit—know the situation

- Is he/she a US person?
- Where is the person from?
- What type of payment are we making?
- **Does the person have a US tax ID?**
Before the visit—know the situation

- Does the person have a US based tax ID?
  - Does this mean he/she is a US person?
  - Tax treaty benefit option
    - US does not grant this benefit automatically
  - Gross up option
Social Security Number (SSN) briefly

- Social Security is the US retirement system
- Employee has a SSN (or is eligible for one)
- Employees who are foreign persons have a SSN
- SSN doesn’t equal US person
- You cannot claim a tax treaty benefit without a US based tax identifying number (or which SSN is one)
Before the visit—know the situation

- Does the person have a US based tax ID?
  - Does this mean he/she is a US person?
  - Tax treaty benefit option
    - US does not grant this benefit automatically
  - Gross up option
Before the visit—know the situation

- How long is the person here?
  - 2 days

- Is he/she a US person?
  - A LPR card, working in San Francisco

- What type of payment are we making?
  - Honorarium, travel

- Does the person have a US based tax id?
  - Yes
Before the visit-know the situation

- How long is the person here?
  - 9 days

- Is he/she a US person?
  - She is Korean

- What type of payment are we making?
  - Honorarium and travel

- Does the person have a US based tax id?
  - No
During the Visit – Collect documents and Set payment expectations (assume non-US from here on)
During the Visit
documents and signatures

W-8BEN

Everyone
During the Visit documents and signatures

Tax Cover Sheet

Everyone
During the visit - documents and signatures

- Directions follow the form
- Collaborator defined
- Location of services
- Primary beneficiary and Accountable Plan
- Visa Waiver/ESTA (later)
- Tax Cover Sheet Question 12
  - The idea of grossing up
  - The default to leaving it blank is NO
During the Visit documents and signatures I-94/ESTA Everyone
During the visit—documents and signatures

- Electronic System for Travel Authorization (ESTA).
  - ESTA is a free, automated system that determines the eligibility of visitors to travel to the U.S. under the Visa Waiver Program and does not require the I-94.
  - Stamp in passport indicating arrival date and immigration status

- Canadian visitors
During the visit-set payment expectation

- Tax Treaty Benefits
  - Tax treaty country
  - Not granted automatically
  - IU extend; IU provides
  - Requires a SSN/ITIN or application for one
  - Additional forms:
    - International Tax Questionnaire,
    - I-20, DS-2019, or I-797, if applicable,
To test:

- Your short-term visitor carries a passport from a NON-tax treaty country.
  - Does he need an ITQ to complete?
During the visit-set payment expectation

- In review, we’ve collected:
  - Information about his tax status and purpose
  - Information about his type of payment
  - Information on his immigration status
  - His signed tax forms

- In turn, he should know what to expect once he receives his check
  - Consistent with payment description
During the payment

- When it routes to Tax Dept, our role involves answering two questions:
  - Is it taxable?
  - If so, how much?
Helpful Links

- Tax Cover Sheet

- International Tax Questionnaire
  http://www.fms.indiana.edu/tax/forms/questionnaire.pdf

- W-4 information
  http://www.fms.indiana.edu/tax/nra_w4.asp
Contact

- http://www.fms.indiana.edu/tax/NRA/FVTguide.asp
- Taxpayer@indiana.edu
- Theo Wu (ttwu@indiana.edu) 856-5424
- JoAnn Clune (jclune@indiana.edu) 856-4534
NEW INDEPENDENT CONTRACTOR QUESTIONNAIRE

- Why
- What
- How
What make a payee an independent contractor?

- Called an independent contractor?
- Location of work performed?
- NO, based on facts and circumstance
### INDIANA UNIVERSITY FORMS

<table>
<thead>
<tr>
<th>Form Name</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prize Tax Data Collection Form - PDF</td>
<td>Form used to communicate information about prize recipients for tax reporting purposes</td>
</tr>
<tr>
<td>Tax Treaty Countries</td>
<td>See a list of countries that have a tax treaty with the United States</td>
</tr>
<tr>
<td>Tax Cover Sheet - International Short-Term Visitor - PDF Fill-in</td>
<td>Cover sheet to be attached to payment request documentation</td>
</tr>
<tr>
<td>International Tax Questionnaire - PDF Fill-in</td>
<td>Questionnaire to determine tax residency status and eligibility for tax treaty benefits</td>
</tr>
<tr>
<td>Abbreviated International Tax Questionnaire</td>
<td>Questionnaire used for preliminary assessment of whether a fellowship recipient is a US person</td>
</tr>
<tr>
<td>Substitute W-9</td>
<td>Indiana University Substitute Form W-9, Request for Taxpayer Identification Number and Certification</td>
</tr>
<tr>
<td>Substitute W-9 Instructions</td>
<td>Indiana University Substitute Form W-9 Detailed Instructions</td>
</tr>
<tr>
<td>Independent Contractor Questionnaire</td>
<td>Questionnaire used to determine if person has an employee or independent contractor status</td>
</tr>
<tr>
<td>Certification of Employment Outside US - PDF Fill-in</td>
<td>Certification required for employee working outside the United States</td>
</tr>
</tbody>
</table>

**Location:** [http://www.fms.indiana.edu/tax/taxform.asp](http://www.fms.indiana.edu/tax/taxform.asp)
Instructions and Rules

- If it is crimson and says “Pay through IU PAYROLL”, classify as employee and process through payroll.
- If it is cream and says “Pay as a VENDOR”, process as a vendor through FIS or EPIC.
- If the answer is neither, move to next question or field.
### Independent Contractor Questionnaire

**Section 1**

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<table>
<thead>
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</thead>
<tbody>
<tr>
<td>A</td>
<td></td>
<td>B</td>
</tr>
<tr>
<td>Payee’s Name</td>
<td></td>
<td>IU ID #, FEIN, IU Vendor #, or Last four digits of SSN</td>
</tr>
<tr>
<td>D</td>
<td></td>
<td>E</td>
</tr>
<tr>
<td>Department</td>
<td></td>
<td>Fiscal Officer Initials</td>
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<td></td>
<td>F</td>
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<tr>
<td></td>
<td>Preparer Phone Number</td>
<td></td>
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</tbody>
</table>

**Section I. General Information (Please print! Information is necessary for proper IRS substantiation of worker classification)**
# Independent Contractor Questionnaire

## Section 2

**Section II. Current Relationships with the University**

1. Does this individual have/had an active job, during the past year, with the University as an employee?  
   - Yes  
   - No  

2. Does the individual have an established business? [Work is *significantly different from the duties performed as an employee* performs]  
   - Yes  
   - No  
   **DESCRIPTION WORK TO BE PERFORMED:**  
   -  

3. Does the payee have an FEIN Tax Payer Identification Number with which they will be paid by IU for the work detailed in question 2a?  
   - Yes  
   - No  

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1a. HRMS Verified  
   **Must be checked**

- Yes  
- No  
- Pay through **IU PAYROLL**

- Yes  
- No  
- Pay as a **VENDOR**

- Yes  
- No  
- Go to **Section III Part C**
Section 3 – Part A. Teacher

**Part A. - Teacher/Lecturer/Instructor**

1. Is the individual a “guest lecturer” (e.g., an individual who teaches/lectures/instructs at only one or two class sessions during the semester)?
   - Yes: Pay as a **VENDOR**
   - No: Go to Section III Part A #2

2. Is the individual the primary instructor of a course, be it for college credit, continuing education credit, or noncredit?
   - Yes: Pay through **IU PAYROLL**
   - No: Pay as a **VENDOR**
### Section 3 – Part B. Researcher

<table>
<thead>
<tr>
<th>Relationship #1: The individual will perform research for a University professor/doctor under an arrangement whereby the University professor/doctor serves in a supervisory capacity (i.e., the individual will be working under the direction of the University professor/doctor).</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pay through <strong>IU PAYROLL</strong></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Relationship #2: The individual will serve in an advisory or consulting capacity with a University professor/doctor (i.e., the individual will be working with the University professor/doctor in a “collaboration between equals” type arrangement).</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pay as a <strong>VENDOR</strong></td>
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</tbody>
</table>
## Section 3 – Part C

<table>
<thead>
<tr>
<th>Question</th>
<th>Yes</th>
<th>No</th>
<th>Guidance</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Does the individual routinely provide the same or similar services to</td>
<td>Yes</td>
<td>Go to</td>
<td>Section III Part C #2</td>
</tr>
<tr>
<td>the general public as part of a continuing trade or business with the</td>
<td>No</td>
<td>Section</td>
<td>III Part C #1a</td>
</tr>
<tr>
<td>opportunity for profit or loss?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1a. Does the individual offer their services to the general public</td>
<td>Yes</td>
<td>Go to</td>
<td>Section III Part C #2</td>
</tr>
<tr>
<td>through advertising, solicitations, brokers, or other similar activities?</td>
<td>No</td>
<td>Section</td>
<td>III Part C #1b</td>
</tr>
<tr>
<td>1b. Does the individual provide services under a registered or licensed</td>
<td>Yes</td>
<td>Go to</td>
<td>Section III Part C #2</td>
</tr>
<tr>
<td>business name?</td>
<td>No</td>
<td>Section</td>
<td>III Part C #1b</td>
</tr>
<tr>
<td>2. Does the individual have a written contract for a specific period of</td>
<td>Yes</td>
<td>Pay as</td>
<td>VENDOR</td>
</tr>
<tr>
<td>time (&lt;30 consecutive days) or to complete a specific result which also</td>
<td>No</td>
<td>Go to</td>
<td>Section III Part C #3</td>
</tr>
<tr>
<td>identifies the individual as an independent contractor for federal tax</td>
<td></td>
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<tr>
<td>purposes?</td>
<td></td>
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<tr>
<td>3. Will the University set the number of hours and/or days of the week</td>
<td>Yes</td>
<td>Pay through IU PAYROLL</td>
<td>Pay through IU PAYROLL</td>
</tr>
<tr>
<td>that the individual is required to work, as opposed to allowing the</td>
<td>No</td>
<td>Section</td>
<td>III Part C #4</td>
</tr>
<tr>
<td>individual to set own work schedule?</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>4. Will the department provide this individual with specific instructions</td>
<td>Yes</td>
<td>Pay through IU PAYROLL</td>
<td>Pay through IU PAYROLL</td>
</tr>
<tr>
<td>regarding performance of the required work rather than rely on the</td>
<td>No</td>
<td>Section</td>
<td>III Part C #4</td>
</tr>
<tr>
<td>individual’s expertise?</td>
<td></td>
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</table>
Independent Contractor Questionnaire

- Click to Submit
- Wait for Vendor Approval, or
- Recommendation to hire as an employee
Contact

- taxpayer@indiana.edu
- John Fox (jffox@indiana.edu)
- 855-7100
New W-9

- Request for Indiana University’s Taxpayer Identification Number
- When we receive income.
- New form is signed by IU officer
- You fill in the bottom section before printing
W-9 Request for Taxpayer Identification Number and Certification

Name (as shown on your income tax return):
Indiana University

Business name (disregard entity name, if different from above):

Check appropriate box for federal tax classification required:
☐ Individual/sole proprietor
☐ Corporation
☐ S Corporation
☐ Partnership
☐ Trust/estate
☐ Limited liability company. Enter the tax classification (C-C corporation, S-U.S. corporation, P-partnership, O-Other)

Exempt payee

Indiana University is a Governmental Instrumentality of the State of Indiana, and a 501(c)(3) Tax-Exempt Organization.

Address (number, street, and apt. or suite no.):
400 E. 7th Street, Poppies Building Room 501
City, state, and ZIP code:
Bloomington, IN 47405

Requestor’s name and address (optional):

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on the “Name” line to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see How to get a TIN on page 3.

Social security number:

Employer identification number:
3 5 6 0 0 1 6 7 3

Part II Certification

Under penalties of perjury, I certify that:
1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. citizen or other U.S. person (defined below).

Certification instructions. You must cross out Item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, Item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement ( IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 4.

Signature of U.S. person:

Date: 9/6/2011

PLEASE NOTE: The above address is to be used for tax reporting purposes only. For all other correspondence, especially payments being made to Indiana University, please direct any return post to the specific Indiana University Department address listed below.

Indiana University Department. Please complete the following remittance information before supplying W-9 to requester. Completion is required.

Remit Address for Payment:

IU Department Name:

Department Contact:

Phone #:
Online W-2

- Online W-2 available in Onestart
- Watch for more information next week about how to consent
Contact

- taxpayer@indiana.edu
- Susan Norrell (sanorrel@indiana.edu)
- 856-0247