

Oklahoma State University Policy and Procedures

**REPORTING AND TAXABILITY OF
ASSISTANTSHIPS, FELLOWSHIPS, SCHOLARSHIPS,
FEE WAIVERS AND OTHER PAYMENTS TO
STUDENTS**

**3-0362
ADMINISTRATION &
FINANCE & CONTROLLER
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INTRODUCTION

1.01 In 1986 Congress created a totally new statutory scheme regarding scholarships and fellowships. The Tax Reform Act of 1986 (P.L. 99-514, sec 123a) made a scholarship or fellowship taxable if it is granted to a student who is not a degree candidate. Furthermore, for a student who meets a definition of degree candidate, the Act limited tax-exemption of a scholarship or fellowship to those expenses defined as "qualified tuition and related expenses." In addition to the Tax Reform Act of 1986, requirements also exist under IRS Code Section 1441 for grant-making organizations to withhold and transfer income tax to the Internal Revenue Service for students who are nonresident aliens (NRA students) for tax purposes.

1.02 Fee and tuition waivers are considered scholarships and all rules pertaining to scholarships apply.

1.03 These policies and procedures define institutional responsibilities and departmental guidelines relating to reporting and withholding requirements of assistantships, fellowships, scholarships, fee waivers, and other payments to U.S. citizens, permanent residents (green card holders), international resident aliens, and NRA students.

1.04 Scholarship and fellowship taxability, reporting, and tax withholdings are governed by the Internal Revenue Service Code and Treasury Regulations. In the event this policy or sections of this policy conflict with those codes and regulations, the requirements of the Internal Revenue Service will supersede this policy.

1.05 A *Payments to OSU Students* form is included at the end of this policy to help departments determine how the payment should be made to the student. For example, payments representing compensation are paid through Payroll Services, and payments representing educational assistance are paid through Financial Aid/Bursar's Office.

PURPOSE AND SCOPE

2.01 This policy and procedure is intended to assist departments in determining how their payments to OSU students should be processed. This policy is adopted in order to comply with Treasury Regulations regarding the taxability of payments to OSU students.

2.02 This policy applies to all OSU departments, branches, the OSU Foundation, and any other OSU entities where payments are made to OSU students.

2.03 This policy does not apply to non-OSU students.

2.04 Section 4.02 of this policy applies to 100% FTE employees of OSU as it relates to the taxability of tuition waivers.

DEFINITIONS

3.01 These definitions are provided to guide OSU departments regarding the tax classification for various types of payments to OSU students, including, but not limited to, scholarships, fellowships, assistantships, and stipends. These definitions are discussed from a tax perspective. The source or citation for each term is given and typed in italics.

3.02 **Employment:** Any service, of whatever nature, performed within the United States by an employee for the person employing him, irrespective of the citizenship or residence of either, or performed outside the United States by a citizen of the United States as an employee for an American employer, or if it is service, regardless of where or by whom performed, which is designated as employment or recognized as equivalent to employment under an agreement entered into under Section 233 of the Social Security Act. *I.R.C. Sec. 3121(b)*.

3.03 **Compensation:** Cash or non-cash payments for services rendered. A payment need not be explicitly labeled as compensation. Compensation includes wages, salaries, tips, bonuses, forgiveness/payments of debt, etc. *X-L Serv, Inc. v. Commissioner*, 32 TCM 701, *Russos v. Commissioner*, 36 TCM 1222, *CharMcCandless Tile Serv V. United States*, 422 F2d 1336 (Ct. Cl. 1970).

3.04 **Employee:** Any individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee. *I.R.C. Sec. 3121(d)(2)*.

3.05 **Employer:** Those for whom employment services are performed by an employee. *Treasury. Reg. Sec. 31.3121(d)-2*.

3.06 Undergraduate Student: A student enrolled at an institution of higher education who is in an undergraduate course of study which usually does not exceed four academic years, or is enrolled in a four-to-five-academic-year program designed to lead to a first degree. A student enrolled in a program of any other length is considered an undergraduate student for only the first four academic years of that program. *34 C.F.R. 674.2, Department of Education.*

3.07 Graduate or Professional Student: A student who

- a. is enrolled at an institution of higher education for the purpose of obtaining a degree, certificate, or other recognized educational credential above the baccalaureate level or is enrolled in a program leading to a professional degree;
- b. has completed the equivalent of at least three years of full-time study at an institution of higher education, either prior to entrance into the program or as part of the program itself; and
- c. is not a postdoctoral student, postdoctoral fellow, medical resident, or medical intern.

3.08 Candidate for a Degree: A candidate for a degree is

- a. A primary or secondary school student;
- b. An undergraduate or graduate student at a college or university who is pursuing studies or conducting research to meet the requirement for an academic or professional degree;
- c. A full-time or part-time student at an educational organization described in Internal Revenue Code Section 170(b)(1)(A)(ii) that provides an educational program that is acceptable for full credit towards a bachelor's or higher degree, or offers a program of training to prepare students for gainful employment in a recognized occupation, and is authorized under Federal or State law to provide such a program and is accredited by a nationally recognized accreditation agency. *Treasury Reg. Sec. 1.117-6(c)(4).*

3.09 Scholarship/Fellowship: To be considered a scholarship or fellowship grant, an amount does not need to be formally designated as such. Generally a scholarship is an amount paid for the benefit of a student at an educational institution to aid such student in the pursuit of study. Generally, a fellowship is an amount paid for the benefit of an individual to aid in the pursuit of study or research. A scholarship or fellowship grant may, for example, be in the form of a reduction in the amount owed

by the recipient to an educational organization for tuition, room and board, or any other fee. *PLR 9526020*.

3.10 Qualified Scholarship: An amount received by an individual as a scholarship or fellowship grant, to the extent the individual expends such amount for "qualified tuition and related expenses." *Reg. Sec. 1.117-6(c)(1)*. Generally, a scholarship or fellowship grant may also be in the form of a reduction in the amount owed by the recipient to an educational organization for tuition and other fees. To be considered a qualified scholarship or fellowship grant, any amount received need not be designated as a "scholarship." An allowance is treated as a qualified scholarship if the recipient expends such allowance for qualified tuition and related expenses. *Treasury Reg. Sec 1.117-6(c)(3)*.

3.11 Qualified Tuition and Related Expenses: Tuition and fees required for the enrollment or attendance of a student at an educational organization. Fees, books, supplies, and equipment required for courses of instruction at such an educational organization. The fees, books, supplies, and equipment must be required of all students in the particular course of instruction. *Treasury Reg. Sec. 1.117-6(c)(2)(I) & (ii)*.

3.12 Qualified Tuition Reduction: The term "qualified tuition reduction" is defined as the amount of any reduction in tuition provided to an employee of a school to attend either the school at which the employee works or another school. The exclusion can be claimed by the employee, the employee's spouse, and dependent children. The education for which the qualified tuition reduction is granted must be "below the graduate level." In the case of the education of an individual-employee who is a "graduate student" at an educational organization, and who is engaged in teaching or research activities for such organization, the "qualified tuition reduction" is not limited to coursework "below the graduate level." *I.R.C. Sec. 117(d)(2)*.

3.13 Incidental Expenses: Certain types of expenses that do NOT fall within the meaning of "qualified tuition and related expense," include the following expenses: room and board, travel, research, clerical help, equipment (recommended, not required), and other expenses not required for either enrollment or attendance at an educational organization, or in a course of instruction at such educational organization. *Treasury Reg. Sec. 1.117-c(2)(ii)*.

3.14 Stipend/Allowance/Assistantship: The Internal Revenue Code does not define these terms. They are used among, and within, institutions of higher education to denote various types of arrangements and awards. All payments/stipends/awards should be reviewed to determine whether it meets the definition of "scholarship." If "services" are required by the recipient in order to receive the

stipend/allowance/scholarship, that portion of the payment is not considered to be a "scholarship," but rather will be treated as "compensation."

POLICY AND PROCEDURES

4.01 In order for the University to be in compliance with the Treasury Regulations, all scholarship, fellowships, and fee waivers **must** be processed through the Financial Aid office. All assistantships, stipends, or other payments as compensation for services must be processed through Payroll Services. All scholarships, fellowships, or other payments granted by the University to NRA students must be processed through the International Tax Coordinator in the Office of International Students and Scholars.

4.02 Employer-provided tuition waivers for employees who are pursuing an undergraduate degree as allowed in OSU Policy and Procedures #2-0108 and #3-0744 are in a tax-free status. As of January 1, 2002, employer-provided tuition waivers for employees who are enrolled in graduate-level courses as allowed in OSU Policy and Procedures #2-0108 and #3-0744 are in a tax-free status up to \$5,250 through the year 2010.

4.03 Scholarships and fellowships granted to U.S. citizens, permanent residents (green card holders), and resident aliens for tax purposes may be taxable in whole or in part as determined by the resident/academic status of the recipient as well as the purpose and use of the scholarship or fellowship. It is the responsibility of the recipient to maintain adequate records to support "qualified scholarships" (See 3.09) and to report as taxable income the receipt of any scholarship or fellowship award that does not qualify for tax exemption. A "qualified scholarship" is tax-exempt if it is granted to a degree candidate at the University and is not compensation for services. It must be verifiable as paying for "qualified tuition and related expense" (See 3.10). The tax-exemption does not apply to that portion of the scholarship that represents payment for teaching, research, or other services that are required as a condition for receiving the qualified scholarship.

4.04 Responsibility of Grantor - A scholarship or fellowship granted to a NRA student may be taxable in the United States depending on the "source of the grant," the status of the recipient as well as the purpose or use of the scholarship or fellowship. In contrast to scholarships and fellowships granted to U.S. citizens, permanent resident (green card holders), and resident aliens for tax purposes, the grantor is responsible for identifying and reporting any scholarship or fellowship, or part thereof, that is taxable. The grantor is also responsible for withholding applicable income taxes.

4.05 Source of Grant - The "source of the grant" is determined by the location of the grantor/payor and the location of the activity. Scholarship and fellowship grants made

from a grantor/payor located in the U.S. may be taxable. Grants made by a foreign grantor/payor, including any entity designated as a public international organization, are not taxable in the United States. Grants made by a foreign grantor/payor may be disbursed through a U.S. agent without changing the grant from nontaxable to taxable. Since grants made by a foreign source to a degree candidate are not taxable, they are excluded from the remaining information in this policy.

4.06 Scholarships and Fellowships Granted to Degree Candidates - A scholarship or fellowship grant that is a "qualified scholarship" (See 3.09) is tax-exempt if it is granted to an NRA student who is a "candidate for a degree" (See 3.07) and is temporarily present in the United States in a nonimmigrant status. The tax exemption does not apply to any portion of the scholarship or fellowship that represents payment for teaching, research, or other services that are required as a condition for receiving the qualified scholarship.

State and federal income taxes must be withheld by the grantor on scholarships and fellowships that are not expended for qualified tuition and related expenses. The federal tax rate is generally 30%; however, reduced withholding of 14% may apply. State income taxes will be withheld based on applicable state rates.

4.07 Tax Treaties - Tax treaties between the United States and other countries may offer specific exemptions relating to scholarships, fellowships, and wages. If a NRA student relies on a tax treaty to exempt the taxable portion of the scholarship, the student must file Form W-8BEN, Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding, with the Office of International Students and Scholars as part of the scholarship packet. Because the State of Oklahoma generally uses federal rules to determine taxability of income, scholarships and fellowships exempt from federal income tax based on a treaty will also be exempt from state income taxes.

4.08 University Responsibility in Reporting

a. U.S. Citizens, permanent residents (green card holders), and resident aliens for tax purposes - U.S. citizens and permanent resident students who are recipients of scholarships and/or fellowships are responsible to report the taxable amounts on their annual tax return. The grantor should inform the recipient of the total value of the scholarship and/or fellowship, including non-cash benefits (such as room and board). Scholarships and fellowships are not reported by the University to the IRS.

b. U.S. Source Scholarships and Fellowships Received by NRA Students

- The University will annually report (IRS Form 1042S) all non-qualified scholarships and fellowships awarded to NRA students to each recipient and the Internal Revenue Service. The University will also establish sufficient procedures to ensure that distributions of U.S. source scholarships and fellowships to NRA students are properly identified, and appropriate federal income taxes withheld as described in Section 4.05a of this policy.

4.09 University Obligations and Liabilities - Departments are requested to advise recipients that the portion of their fellowship award or scholarship that exceeds "qualified tuition and related expenses" is taxable income. Departments should not give explicit tax advice to students or provide personal interpretations of tax laws. Providing tax information implies that you are a "tax preparer" and may subject you to tax penalties and/or legal ramifications involving the University. Recipients should seek professional advice from a "qualified tax preparer."

5.01 Oklahoma State University reserves the right to change this Policy and Procedure Letter or any portion thereof at any time.

5.02 This policy replaces 3-0362, *Taxability of Assistantships, Fellowships, Scholarships, and Fee Waivers*, adopted January 1993.

Revised: February 2004

**Oklahoma State University
Payments to OSU Students Form**

Department/College Name _____
 Number _____
 Student Name _____ Student ID # _____
 Semester _____ 20____

Questions	
1.	<p>Does the payment require the student to perform services in exchange for payment, such as teaching, research, etc.? (The performance of services on which a payment may be conditioned could be (a) past, present or future performance and/or (b) subject to the direction or supervision of the grantor.)</p> <p>NO – Department enters information directly into FAM (Financial Aid Management).</p> <p>YES (or you are unsure whether "services" are required) – Continue to Item 2.</p>

2.	<p>The following questions should be answered to aid in determining the type of service performed and the portion of the payment representing payment for services. For additional explanation and examples, refer to Research Activities on page 2.</p> <p>a. Does the payment require the student to <u>teach</u>? YES/NO</p> <p>b. Does the payment require the student to perform <u>research</u> activities that <u>benefit</u> the department or University? YES/NO</p> <p>c. Does the payment require the student to perform other services that benefit the University, such as assisting a professor, working in a department, keeping office hours, etc.? YES/NO</p> <p>NO to all – Department enters information directly into FAM.</p> <p>YES to any – Continue to Item 3.</p>
3.	<p>Is a portion, or all, of the payment considered to be payment for services? For additional explanation and examples see Instructions for Items 3 and 4 on page 2.</p> <p>NO – Department enters information directly into FAM.</p> <p>YES – Continue to Item 4.</p>
4.	<p>Allocate between payment for services and the educational assistance portion:</p> <p>Educational Assistance Portion- Department enters information directly into FAM.</p> <p>Payment for Services Portion- (a) If this is a one-time payment, the Department should follow normal special payment procedures; or (b) If the payment is to be disbursed over a period of time (e.g. semester or year), the Department should follow the normal payroll procedures by completing a sign up packet (if the student is not already on payroll) along with the Employment Action (EA) Form.</p> <p>Educational Assistance Portion \$ _____</p> <p>Services Portion + \$ _____</p> <p>Total Payment = \$ _____</p>
5.	<p>Is the payment being made to a nonresident alien student (international student)?</p> <p>NO – Process according to above instructions and answers.</p> <p>YES – Department contacts International Student Services for additional processing instructions.</p>

**Oklahoma State University
Payments to OSU Students Form Instructions**

If your department is making a payment to a student such as a scholarship, fellowship, assistantship, stipend, or other award (not including tuition waivers or athletic aid), this form may be used as a guideline to help ensure that various types of payments to OSU students are classified and routed correctly.

Should you have any questions, refer to the corresponding Policy 3-0362 (entitled *Reporting and Taxability of Assistantships, Fellowships, Scholarships, Fee Waivers, and Other Payments to Students*) for applicable definitions and a discussion of the tax classification of various types of payments.

Item 1: If deemed educational assistance, the payment must be entered directly into FAM or a CVI processed

through the Bursar's Office to disburse to the student's Bursar account. If deemed services, the payment must be processed through payroll via special payments or EA Form. All payroll sign-up papers must be completed and on file.

Item 2(b): Research Activities- Factors to be considered in answering this question include:

- Is the individual's work schedule subject to faculty supervision?
- Does the department or University direct the course of the research work?
- Does the department or University have the right to retain any patents or copyrights resulting from the research?

(If the answer to any of these questions is yes, the answer to Item 2(b) should be yes.)

Example 1: Student X received a fellowship at the University to conduct independent scientific research, and under the terms and conditions of this fellowship award, he could choose his own subject and determine how best to conduct his own research. He had no teaching or other responsibilities at the University; the University had no legal right to, or interest in, the results of his research. He was not required to observe office hours or report to a supervisor. The answer to Item 2(b) is NO.

Example 2: Student Y is awarded a fellowship to pursue a research project, the nature of which is determined by the University. She must submit a paper to the University that describes her research results, and the University may publish or otherwise use the results of Y's research. The answer to Item 2(b) is YES.

Items 3 and 4: It is very important that Items 3 and 4 are answered as thoroughly and accurately as possible. This will help determine whether an allocation between the payment for services and educational assistance portion of the payment is necessary. In determining whether an allocation is necessary, consider whether the total amount of the award exceeds:

- a. The amount of compensation paid for similar services performed by nonscholarship students with qualifications similar to those of this recipient; or
- b. The amount of compensation paid for similar services performed by part-time or full-time employees of the University who are not students; or
- c. The amount of compensation paid by other educational organizations for similar services performed by either students or nonstudent employees.

If the payment (award) amount exceeds any of these amounts, an allocation of the award is likely necessary. See the following examples.

Example 3: Student A received a \$6,000 award from Department X of the University. As a condition to receiving the award, A performs services as a researcher, which benefits the University. Other researchers who are not scholarship recipients receive \$2,000 for similar services for the year. Therefore, \$2,000 of the scholarship will represent payment for services, taxable as wages.

Example 4: Student B is employed as a research assistant to a faculty member at the University. B receives a salary from the University that represents reasonable compensation for the position of a

research assistant. In addition to salary, B receives from the University a qualified tuition reduction to be used to enroll in an undergraduate course at the University. The qualified tuition reduction does not represent payment for services.

Item 5: Payments to International Students require a Non-Immigrant Student Scholarship/Fellowship Payment Form which must be routed through the respective college approval office, International Student Services Office, and Payroll Services. International student scholarships must be recorded in FAM.