

Tax Policy
Non-Payroll Payments
November 15, 2003

Policy Statement:

The California Institute of Technology (Caltech) will comply with all Federal and State tax laws with respect to withholding and year-end tax reporting.

Definitions (For Tax Purposes Only):

Resident Alien – An individual who is not a citizen of the United States, but is a lawful permanent resident or meets the substantial presence test for the calendar year. Payment Services will make determinations of who is a resident alien based on appropriate criteria and documentation.

Nonresident Alien – An individual who is not a U.S. citizen or a resident alien. A resident of a foreign country under the residence article of an income tax treaty is a nonresident alien individual for purposes of withholdings.

California Resident – A California Resident is an individual who is in California for other than temporary reasons. If an individual is working, living, retiring or staying in California for longer than nine months, the Franchise Tax Board (FTB) will presume that the individual is a resident of California. Sole proprietorships, corporations, limited liability companies and partnerships also may be classified as California Residents. To qualify as a California resident such entities must be incorporated in California or be registered with the California Secretary of State's office to do business in California.

Payments – Examples of non-payroll payments include, but are not limited to:

- Stipends
- Non-employee Awards and Prizes
- Travel Reimbursements
- Artist fees, Athletic officials
- Rent in lieu of travel lodging
- Honoraria
- Royalties
- Fees for Services
- Payments to participants in Human Subject Research

Withholding on Non-Payroll Payments:

All non-payroll payments will be analyzed to determine appropriate tax withholding treatment. Federal tax withholding generally is not required on non-payroll payments made to or on behalf of U.S. Citizens and Resident Aliens who are not Institute employees.

All payments made to or on behalf of Nonresident Aliens generally are subject to income tax withholding unless they are specifically exempted under an income tax treaty. The rate of withholding varies depending on the type of payment and the applicability of any tax treaty provisions. Tax withholding may not be required on payments made for activities that did not occur in the U.S.

If a Nonresident Alien is eligible to claim an exemption from U.S. income tax withholding because of an income tax treaty, the individual must file one of two forms to claim the exemption:

- W-8BEN (stipends, royalty payments, prizes and awards (non-employee), and experimental human subjects)
- 8233 (consultant payments, honoraria, fee for services)

If the Nonresident Alien is eligible for a tax treaty exemption and has returned all the necessary IRS forms (i.e. Form 8233, or W8BEN, W-7, Statement of Tax Treaty Exemption, and a copy of their visa and passport), then withholding will be eliminated or reduced pursuant to the applicable tax treaty provisions.

U.S. Citizens or Resident Aliens who are not California residents may be subject to State withholding. California nonresidents receiving payments in excess of \$1,500 within the calendar year are subject to withholdings at the current rate.

Reporting of Non-Payroll Payments:

1099 – MISC

Certain non-payroll payments to or on behalf of U.S. Citizens or Resident Aliens are reportable. When applicable, Federal Form 1099-MISC will be sent to the recipients. The following chart is a guide to payment types and minimum reporting thresholds:

<u>What to Report</u>	<u>Amounts to Report</u>
Rent or royalty payments, prizes and awards that are not for services, benefit payments, experimental human subjects.	\$600 or more, except \$10 or more for royalties
Payments to a physician, physicians' corporation, or other supplier of health and medical services.	\$600 or more
Payments for services performed for a trade or business by people not treated as its employees. (honorariums, fees for services, consultant payments)	\$600 or more

Gross proceeds paid to attorneys

All amounts

1042-S

All non-payroll payments made to or on behalf of Nonresident Aliens are generally required to be reported to the Internal Revenue Service (IRS). Federal form 1042-S is the annual tax statement used to report most payments and tax withholdings for Nonresident Aliens. If an individual also receives taxable wages, he or she may receive both Form 1042-S and Form W-2. All non-wage payments made to Nonresident Aliens will be reported on Form 1042-S

Form 592B

Non-payroll payments made to California nonresidents that are subject to withholding as described above are subject to year-end reporting on California Form 592-B.

Payments made to Nonresident Aliens who are California Residents will be reported on 1099-MISC for State purposes only.

Please contact Tax Department if you have any questions.