

Campus Tax Issues

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Dear IRS,

I am writing to you to cancel my subscription.

Please remove my name from your mailing list.

Campus Tax Issues

- Unrelated Business Activities
- Research Participant Payments
- Employee versus Independent Contractor Determinations
- Payments to Foreign Vendors
- Fringe Benefits, Expense Reimbursements, Accountable Plans

Campus-Wide Coordination

Unrelated Business Activities

Unrelated Business Activity

- What Is An Unrelated Business Activity?
 - Trade or Business
 - Regularly Carried On
 - Not Substantially Related (to the institution's exempt purpose)

Unrelated Business Activity

- Why Do We Care?
 - IRS sent 400 compliance check questionnaires to colleges and universities in late 2008.
 - Subsequent audits conducted.
 - Interim Report issued: http://www.irs.gov/pub/irs-tege/cucp_Interimrpt_052010.pdf.
 - Final report issued: http://www.irs.gov/pub/irs-tege/CUCP_FinalRpt_042513.pdf.

Unrelated Business Activity

- **How Do We Identify Unrelated Business Activities?**
 - Fund Set Up.
 - Revenue Deposits.
 - Monitoring.
 - Campus Visits.
 - Work With Other Offices.
 - Annual Survey.

Unrelated Business Activity

- **What Are Some Key Areas To Review?**
 - See list of potential UBI activities from IRS Compliance Questionnaire. http://www.irs.gov/pub/irs-tege/sample_cucp_questionnaire.pdf
 - Advertising
 - Corporate Sponsorships
 - Rental
 - Other
 - Commercial Research
 - Food Services
 - Golf Courses
 - Bookstores
 - Partnerships, S Corporations, Controlled Entities

Unrelated Business Activity

- **Tax Area Review:**
 - Does it meet the definition of unrelated business activity?
 - Are there any exceptions? *IRC §513(a)*
 - Convenience Exception
 - Volunteer Labor Exception
 - Are there any modifications? *IRC §512(b)*
 - Interest
 - Dividends
 - Royalties
 - Rents
 - Capital Gains
 - Research
 - Tax area documents whether UBI or not UBI, including relevant tax research.

Coordination with Research Areas

Research Participant Payments

Research Participant Payments

- What Are Research Participant Payments?
 - Payments made to individuals to compensate them for participation in research projects, surveys, studies, etc.
- What Are Types Of Research Participant Payments?
 - Cash
 - Gift Cards (cash equivalent)
 - Noncash items

Research Participant Payments

- Why Do We Care?
 - Tax reporting required.
 - Form 1099 required to be issued if cumulative payments during the calendar year exceed \$600.
 - Form 1042-S required to be issued for any payment, regardless of amount, to a nonresident alien for US tax purposes and, typically, 30% tax withholding required.

Research Participant Payments

- **So Is A SSN/ITIN Really Required?**
 - Research participants may be given the opportunity to participate without receiving payment if they do not wish to provide identifying information.
 - Not required if department provides an approved Institutional Review Board Determination Letter.
 - Research studies that require that the privacy of the research participants be protected.
 - Private Studies – Participant Agreement. Individual indicates that payments received are taxable income to be reported by them on their individual income tax return and that the individual agrees to limit his/her compensated involvement in TTU research projects to a total amount of less than \$600 during a calendar year.
 - Not required for single participant payments of \$25 or less.

Research Participant Payments

- **How Are Payments Made?**
 - Cash advance.
 - Check request.
 - Gift cards.
 - Noncash items.

Research Participant Payments

- **What About Payments Made To Employees?**
 - Payments made to employees participating in research studies will be treated the same as payments made to non-employees if all the following conditions are met. If not, payment must be processed through Payroll Office with applicable employment taxes withheld.
 - Employee's participation is totally voluntary and not part of his/her university duties;
 - Employee's participation is on his/her own time;
 - Employee does not perform any service while participating in the research study that would be performed in the course of his/her regular duties for the university; and
 - Employee is being paid the same as all other participants of the study, with no added benefits for participating.

Coordination with Purchasing and Payroll Office

Employee/Independent Contractor Determinations

Employee/Independent Contractor Determinations

- **What Is The Difference Between An Employee And An Independent Contractor?**
 - Employee is one who performs a service and is working under the direction and control of the institution or other employees of the institution.
 - Direction and control can be implied to exist when the institution has the right to control both
 - 1. The results; and
 - 2. The means and methods of the work.
 - Independent contractor is one who performs a service, a specific function or task, and is free to perform such function or task completely at their own discretion with regard to means and methods.

Employee/Independent Contractor Determinations

- **Why Do We Care?**
 - Employment taxes are required to be withheld on payments made to employees.
 - No taxes are required to be withheld on payments made to an independent contractor.
 - Worker classification continues to be a major focus in IRS audits.
 - IRS reclassification from an independent contractor to employee can result in assessment of federal income tax, federal social security and Medicare tax, penalties and interest charges.

Employee/Independent Contractor Determinations

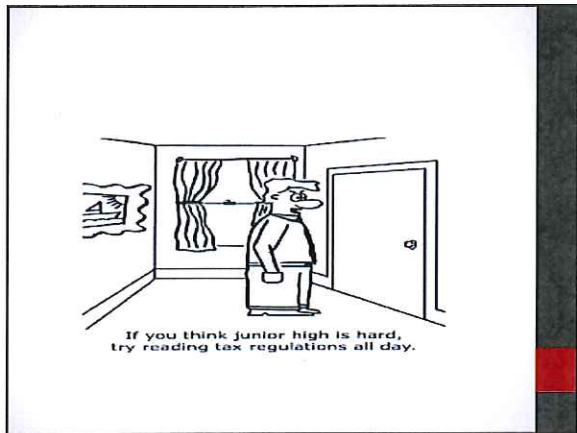
- **How Is Employee Or Independent Contractor Determination Made?**
 - Independent Contractor Questionnaire.
- **Who Must Complete the Independent Contractor Questionnaire?**
 - Individuals
 - Sole Proprietorships
 - Limited Liability Companies (taxed as disregarded entity)

Employee/Independent Contractor Determinations

- **Tax Area Review:**
 - W2/1099 Compare Audit File.
 - Report generated based on taxpayer identification number listing those individuals that have received payments through Payroll Office (will receive W2 for the calendar year) and payments through Accounts Payable (may receive 1099 for the calendar year).

Coordination with Purchasing and Accounts Payable

Payments to Foreign Vendors



Payments to Foreign Vendors

- What Are Types Of Payments To Foreign Vendors?
 - Honorariums paid to visiting speaker or guest artist
 - Travel reimbursements
 - Royalty payments
 - Payments for services performed by an independent contractor
 - Research participant payments

Payments to Foreign Vendors

- Why Do We Care?
 - The payor is required to withhold federal income tax from ALL payments made to or on behalf of a nonresident alien individual or entity. *IRC §1441.*
 - If the payor does not withhold the appropriate amount of tax at the time of the payment, the payor will be liable for the tax, plus any penalties and interest. *IRC §1461.*

Payments to Foreign Vendors

- **How Do We Identify Foreign Vendor Payments?**

- New Employee Orientation
- Payroll Office – Form W4
- International Student Orientation
- Employee Service Coordinator Training
- Vendor Team Training

Payments to Foreign Vendors

- **Tax Office Review:**

- Every vendor is required to provide a W9 or, for foreign vendors, appropriate W8 form to our Vendor Service Team before they are set up in the system to receive a payment from our institution.
- Vendor Service Team routes all W8 forms to Financial Services & Tax Office for review.
- Financial Services & Tax Office provides the proper coding for Vendor Service Team to use when setting up the vendor in our system to designate the type of payment and applicable withholding tax.

Payments to Foreign Vendors

- **Tax Office Review:**

- Requisitions for payments to foreign vendors are routed to Financial Services & Tax Office to review/approve before payment is made. Accounts Payable is alerted if an override to the withholding tax rate should be done when payment is processed.
- Report of all payments made to foreign vendors.

Coordination with Accounts Payable and Payroll Office

Fringe Benefits, Expense Reimbursements, Accountable Plans

Fringe Benefits & Expense Reimbursements

- **What Are Fringe Benefits?**
 - Cash or non-cash compensation that an employee receives in lieu of, or in addition to, regular taxable wages.

Fringe Benefits & Expense Reimbursements

- **What Are Types Of (Excludable) Fringe Benefits?**
 - Length of Service or Safety Awards – IRC §74
 - Qualified Tuition Reduction – IRC §117(d)
 - Meals or Lodging – IRC §119
 - Educational Assistance – IRC §127
 - Travel – IRC §132(d)
 - De Minimis Fringe Benefits, No-Additional-Cost Services, Qualified Employee Discounts, Working Condition Fringe Benefits – IRC §132

Fringe Benefits & Expense Reimbursements

- **Why Do We Care?**
 - IRS is still focused on employment tax examinations.
 - Potential for taxes and penalties to be imposed.
 - For business expense reimbursements to be excludable from income they must follow an accountable plan policy.
 - Accountable Plan Requirements:
 - Business Connection
 - Substantiation
 - Return of Excess

Fringe Benefits & Expense Reimbursements

- **How Do We Monitor Fringe Benefit Payments?**
 - Tuition Payments
 - Business Travel Reimbursements
 - Moving Expense Payments or Reimbursements

Questions?
