

## I. Definitions

- A. A foreign national is a person who was born outside the jurisdiction of the United States, is a citizen of a foreign country, and has not become a naturalized United States citizen under United States law. This includes legal permanent residents.
- B. Foreign nationals are classified as either "Nonresident Aliens" or "Resident Aliens". Section 1441 of the Internal Revenue Code provides a separate tax system with a different set of tax rules and regulations for individuals deemed to be Nonresident Aliens. Colleges making payments to Nonresident Aliens are subject to different tax withholding, reporting and liability requirements.
  - 1. A Resident Alien's income is subject to tax in the same manner as a U.S. citizen. This means that their worldwide income is subject to U.S. tax and must be reported on their U.S. tax return. Income of Resident Aliens is subject to the graduated tax rates that apply to U.S. citizens.
  - 2. A Nonresident Alien's income is subject to federal income tax only on income which is derived from sources within the United States and/or income that is effectively connected with a U.S. trade or business. Nonresident Aliens are taxed according to special rules contained in certain parts of the Internal Revenue Code.

## II. Policy

All North Carolina agencies, universities, community colleges and institutions have been tasked with the responsibility of withholding and reporting on payments to foreign national individuals and vendors in accordance with the IRS Code Regulations Section 1441 and policies established by the N.C. Office of the State Controller.

When the College identifies a foreign national or foreign vendor that will be compensated via payroll, accounts payable or student services, the appropriate department shall maintain a copy of evidentiary and supporting documentation such as I-9, W-8BEN, I-20, I-94, I-797, passport, and/or employment authorization card. The evidentiary and supporting documentation shall be provided to the Business Office. The Business Office will submit the supporting documentation to the Systems Office before payment is made.

If the Systems Office determines that payments made by the College to a foreign national or foreign vendor are taxable, the College shall withhold federal and/or state taxes as instructed by the System Office.

Adopted: August 26, 2022

Legal Reference: Office of State Controller's Policy and Procedures Regarding Foreign Nationals; [NC Community College Foreign National Compliance Program](#); N.C. Community College Written Memoranda [CC12-10](#) (issued 4/17/12); N.C.

Community College Accounting Procedures Manual and Reference Guide:  
Fiscal Procedures