

"B" Visitor Honorarium and Reimbursement Payments Legal Background:

On October 21, 1998, President Clinton signed into law the American Competitiveness and Workforce Improvement Act (ACWIA), which permits universities to pay academic honoraria to international lecturers. Prior to that legislation, universities struggled for years with the problem of paying the honoraria and reimbursements promised to international guest lecturers who came into the U.S. in visitor or tourist visa classification. Now, section 431 of the 1998 law permits educational and nonprofit research institutions to both reimburse expenses and pay honoraria to international visitors engaged in academic activities.

The ACWIA requires eligible universities to collect and maintain specific documentation. The University of Connecticut has been using the provisions of the law almost since the day it was signed, and during that time we have worked to inform UConn faculty and staff and our international guests of these specific documents retention requirements. Failure to collect and maintain the appropriate documentation will prevent the University from being able to process requests for honoraria and reimbursement under the ACWIA.

It is essential that University personnel fully understand which international guests qualify under the ACWIA, what documents are required and how to prepare documentation for Accounts Payable. If we do not collect the required documents, UConn will not have the legal documentation required to pay the individual and withhold and report taxation. In addition, failure to meet Internal Revenue Service (IRS) and Department of Homeland Security (DHS) documentation requirements can result in penalties to UConn.

The Department of International Services and Programs has prepared this FAQ, with tables and links, to provide a basic explanation on how to apply this law.

Q1. What does the law state specifically?

A1. The text of the law in the Immigration and Nationality Act is very short, and we reproduce it here.

"Any alien admitted under section 101(a)(15)(B) may accept an honorarium payment and associated incidental expenses for a usual academic activity or activities (lasting not longer than 9 days at any single institution), as defined by the Attorney General in consultation with the Secretary of Education, if such payment is offered by an institution or organization described in subsection (p)(1) and is made for services conducted for the benefit of that institution or entity and if the alien has not accepted such payment or expenses from more than 5 institutions or organizations in the previous 6-month period." INA Section 212(q)

Subsection (p)(1) reference describes the organizations as

"(A) an institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965), or a related or affiliated nonprofit entity; or

(B) A nonprofit research organization or a Governmental research organization,"

The University of Connecticut is subject to subsection (p)(1).

Q2. Who is allowed to receive reimbursements and honorarium payments?

A2. The visa classification must be that of a "B" visitor, and the individual must be engaged in academic activities at an academic institution or nonprofit research institution. **The academic activity can last *no longer***

than nine days. Visitors are limited to six (6) such reimbursements or honoraria payments in a six-month period.

Q3. What is "B" visitor visa classification? How do I recognize it?

A3. "B" visitor covers all of the following classifications. Any one of these classifications or a combination, as indicated, can qualify for honorarium payments and reimbursements.

- B-1 visitor for business
- B-2 visitor for pleasure
- B-1/B-2 visitor for a combined purpose
- WB visitor visa waiver for business
- WT visitor visa waiver for tourism
- WB/WT visitor visa waiver for a combined purpose

One of these notations *must* appear on the Form I-94, Arrival/Departure Record. The WB or WT allows persons from certain countries to enter the U.S. without getting a visa stamp in the passport. Note that the I-94 is an important document. **Departments must see and copy the I-94 while the guest is in the U.S.** The Department of Homeland Security (DHS) collects the I-94 at departure and it cannot be retrieved or recreated once the guest has left the U.S.

It is the failure to copy the I-94 that causes most of the difficulty in making payments and reimbursements to these guests.

NOTE: New Visa Waiver Program Passport Requirements as of October, 2005.

The Department of Homeland Security (DHS) reminds visitors that Visa Waiver Program (VWP) countries will be required to produce passports with digital photographs by October 26, 2005. Visitors with valid machine-readable passports issued prior to October 26, 2005, may continue to travel without a visa under the Visa Waiver Program. Passports issued on or after October 26, 2005 require the digital photo. Visitors who are issued a passport after the October 26, 2005 deadline that does not meet these requirements will be required to obtain a visa stamp in order to travel to the United States.

Q4. What about the Canadians?

A4. You are allowed to accept a document other than a passport that confirms Canadian citizenship. Regarding the I-94, under DHS regulations, any Canadian citizen who is admitted without getting a Form I-94 is presumed to be in the U.S. in "B" status.

Q5. What's the catch? This seems too good to be true? What do I need to look out for?

A5. You are right. It is never as easy as it looks. Here is where problems can occur.

- This only works for the "B" visitor visa classification. Someone coming from another university in another classification is not eligible. Diplomats, employees of foreign governments, military personnel or others on foreign government representative visas do not qualify. For example, employees of the World Bank or political officers attached to foreign embassies in the U.S. hold visa classes specific to the duties of their posts. They are not permitted to earn additional income through activities such as speaking engagements. Those who hold J-1 status must have permission from their home institution prior to working at a different institution. Those who hold H-1B status at another school are not eligible for this specific kind of honorarium payment. It is sometimes possible for the H-1B visa holders to

receive payments or reimbursements, but the process can be much more complicated. Departments need to contact the International Office well in advance to set up H-1B or J-1 visits.

- If we don't get copies of the Form I-94, we have no evidence that our guests were in an eligible status. This evidence is required under University procedures to get a check cut and to comply with federal laws and rules.
- If the visitor does not have a Social Security Number or an ITIN and the department does not help them obtain an ITIN, then UConn cannot extend tax treaty benefits.
- Nine days is the absolute visit limit, *no exceptions. Any activity lasting longer than nine days does not qualify.*
- Traveling academics may exceed their limit of six schools in six months. *If UConn is school number seven, then the visit does not qualify and we cannot pay.*

Here are several tools to help you:

TOOL 1. Quick formula. Payments and Reimbursements.

Plug in visa class and payment type, and then read across:

B-1/WB	Reimbursed expenses ONLY	original expense receipts.	NO SSN or ITIN*
B-2/WT 9-day Rule applies	Reimbursed expenses ONLY	original expense receipts.	NO SSN or ITIN*
B-1/B-2/WB/WT 9-day Rule applies	Payments/Honoraria	Invitation letter and W8-BEN.	NO SSN or ITIN*
B-1/B-2/WB/WT 9-day Rule applies	Payments/Honoraria Treaty Benefits	Invitation letter, W-8BEN and 8233.	Must have SSN or ITIN

***IMPORTANT:** Even though the invitation letter or the SSN or ITIN may not be required for reimbursement of travel expenses, be sure your department has made its final decision regarding the scope of the payment *before* the guest leaves the U.S. Imagine that your department changes its mind later and decides to *pay* the guest *in addition to reimbursing*. Payment can be delayed for months while the host department collects the documentation.

TOOL 2. Accounts Payable links and a Checklist

Departmental Procedures for Accounts Payable Purposes.

Then follow this checklist of things the department *must* gather and prepare when international guests arrive at UConn.

- ☐ The Passport ID page,
- ☐ US visa pages (not applicable where visitor is granted a green I-94 indicating WB/WT visa waiver),
- ☐ Form I-94,
- ☐ Copy of Invitation Letter,
- ☐ Original travel receipts if being reimbursed

TOOL 3. Obtaining an individual taxpayer identification number (ITIN)

Business expense reimbursements do not require a SSN or ITIN. However, UConn requests a completed Form W-8BEN from any foreign individual it makes a payment to.

A business expense reimbursement means that the expense was incurred while an individual was conducting business on behalf of UConn. A reimbursement of a personal expense is taxable income and must be handled and reported accordingly.

TOOL 4. Invitation Letter Template

[Visitor's permanent residence address]

On behalf of the University of Connecticut, it is my pleasure to invite you to our campus. So that you and I understand our mutual responsibilities, I prefer to outline our plans.

The United States government requires that most nonresident aliens obtain a visa prior to entering the United States. If you do not currently have a visa, you may need to contact a United States embassy.

It is my understanding that you will be visiting the United States on a B-1, B-2, WB or WT visa or as a tax resident of Canada. I further understand that your work at the University of Connecticut will be for a period not exceeding nine working days, and that you have not worked for more than five other institutions in the United States within the six months prior to your visit to our campus.

You are invited to the University of Connecticut solely for the purpose of engaging in an academic activity.

With limited exceptions, the United States as well as the State of Connecticut require that income tax be withheld from payments made to persons residing outside of their jurisdiction. Certain

payments may be exempt from income tax withholding. A valid United States taxpayer identification number is required for exemption from income tax withholding.

I hope that you enjoy your visit to our campus.

Please contact me with any questions you have.

Sincerely

Q7. I have more questions. Who can help me?

A7. There are several sources of information.

- For visa questions contact UConn's Department of International Student and Scholar Services (ISSS) at: 860-486-3855, email international@uconn.edu, or visit <https://issu.uconn.edu/>
- For questions related to the interpretation of United States immigration law and how it applies to UConn, please contact UConn's International Law Specialists in the Office of the General Counsel at: 860-486-5796, email generalcounsel@uconn.edu, or visit <https://generalcounsel.uconn.edu/immigration/>
- For questions related to income tax withholding on payments made to nonresident aliens, please email UConn's tax and compliance department at taxcompliance@uconn.edu