



Texas Tech University
Operating Policy and Procedure

OP 72.10: Payments for Employee Moving Expenses, to Nonresident Aliens, and to Individuals for Services

DATE: August 1, 2005

PURPOSE: The purpose of this Operating Policy/Procedure (OP) is to establish procedures for paying employee moving expenses, making payments to nonresident aliens, and making payments to individuals for services.

REVIEW: This OP will be reviewed by November 1 of each even-numbered year by the assistant comptroller and the managing director of Accounts Payable with recommendations for revision forwarded through administrative channels to the senior vice chancellor/chief financial officer by December 1.

AUTHORITY AND APPLICABILITY

This operating policy/procedure follows the tax guidelines set forth by the Internal Revenue Service (IRS). In the event that the IRS guidelines change or there is a discrepancy between this OP and the IRS, the guidelines set forth by the IRS will prevail.

POLICY/PROCEDURE

1. Employee Moving Expenses

- a. For all expenses submitted **less than 60 days** from the date they were paid or incurred, determine the date the new employee **accepted** the job and her/his **hire date** to group expenses into the following categories:
 - (1) Before the job was offered (includes prospective employee expenses, but **not** moving expenses);
 - (2) After the job was offered but **before** the hire date (could include house hunting or moving expenses); and
 - (3) After the hire date (should include moving expenses, but could also include house hunting)
- b. For any moving expenses that are submitted **more than 60 days** after the employee paid or incurred the expense, the reimbursement must be paid through payroll. When an employee does not submit expenses within 60 days from the date they were paid or incurred, the reimbursement falls under the non-accountable plan rules and the reimbursement is automatically taxable.

- c. A detailed schedule should be submitted showing:
- (1) The date the employee accepted the job;
 - (2) The date the employee started work;
 - (3) The date(s) the moving expenses were incurred;
 - (4) The date(s) the employee was traveling and moving;
 - (5) The employee's former city of residence; and
 - (6) The family members who traveled with the employee.
- d. Only **nontaxable** employee moving expense reimbursements can be paid on a PO or RI; however, institutional funds must be used because state-appropriated funds cannot be used. Taxable moving expense reimbursements must be processed through payroll on a *Taxable Employee Compensation* form (Attachment A). Any taxable moving expenses that are paid on a PO or RI to a third party on behalf of an employee will be added to the employee's W-2 wages with taxes withheld. It is the responsibility of the department to inform the employee that taxes will be withheld on this type of payment.
- e. Generally, **nontaxable** moving expenses include the reasonable expenses of moving household goods and personal effects for employees and their family members and the cost of traveling to a new home.
- f. Examples of **nontaxable** moving expenses include the cost of packing, crating, and transporting the household goods and personal effects of the employee and the members of the employee's household from the employee's former home to the new home. This includes any gas receipts for a truck rental. Nontaxable also includes in-transit storage and insurance, if incurred within any consecutive 30-day period after moving from the old home and before delivery to the new home. The lodging, but **NOT** meals, for the employee and household members while traveling from the old home to the new home are nontaxable moving expenses. This includes expenses for the day of arrival in the new city. Additionally, any lodging expenses the employee had in the area of the former home within one day after the employee could not live in the former home because the furniture had been moved are considered nontaxable expenses. Only expenses for **one** trip to the new home for the employee and household members are considered nontaxable. If employees use their personal car to take themselves, members of their household, or their personal effects to a new home, then either (1) the actual expenses, such as gas and oil, **OR** (2) \$ 0.15 per mile, if the employee is reimbursed for mileage, will be considered nontaxable moving expenses. Note that only \$ 0.15 per mile can be reimbursed on the PO or RI; the amount over \$ 0.15 per mile is considered a taxable moving expense and must be paid through payroll. The \$0.15 mentioned here is the 2005 standard mileage rate as published by the IRS. It is important to check the current IRS publication for the applicable current standard mileage rate.
- g. If Texas Tech reimburses an employee for **taxable** moving expenses, this amount must be paid through payroll using a *Taxable Employee Compensation* form. After completing the form and obtaining the appropriate signatures, the form must be sent to the chief accountant in the Office of Tax Compliance for approval. Examples of **taxable** moving expenses include pre-move house hunting expenses, temporary living expenses, meal expenses, mileage reimbursement over \$ 0.15 per mile, return trips to the old home, expenses of buying or selling a home, expenses of acquiring or breaking a lease, security deposits (including any

- lost as a result of the move), home improvements to help sell the home, loss on the sale of the home, mortgage penalties, losses from disposing of memberships in clubs, any part of the purchase price of the new home, real estate taxes, car tags, driver's license, refitting carpets, and storage charges, except those incurred in-transit.
- h. Reimbursement for moving expenses requires the signature approval of the vice presidents or the provost/senior vice president for academic affairs.
 - i. Reimbursements made to employees for health insurance premiums outside of Texas Tech University's Group Benefits Program are taxable compensation to the employee and must adhere to the following:
 - (1) Payment cannot be made using state funds or any other funds that would prohibit such actions; and
 - (2) Sufficient backup must be provided to substantiate reimbursement.

Reimbursement to an employee will be subject to federal income tax and Federal Insurance Contribution Act (FICA) deductions. A *Payment Authorization/Taxable Employee Compensation* form (Attachment A) should be completed by the department paying the reimbursement, selecting "Other Taxable Benefits" as the type of payment.
 - j. See the *Checklist for Moving Expenses* (Attachment B) for additional information on reimbursement of expenses.

2. **Payment to Nonresident Aliens**

- a. If a foreign visitor who is considered a nonresident alien for U.S. tax purposes is paid for independent personal services and/or travel expenses, the department **must** obtain copies of certain visa documents from the visitor **while on campus**. These documents include:
 - (1) The individual's I-94 card from their passport;
 - (2) The passport pages that contain general information about the individual;
 - (3) Passport pages with the visa stamp; and
 - (4) The DS-2019 Form (for J-1 visa holders only)

The visa documents should be faxed to the Office of International Affairs so that a determination can be made about whether or not the university can legally make a payment to the individual per USCIS regulations. The determination of whether the university can legally make a payment to the individual must be made prior to submitting the RI or PO for payment. The department will receive a letter indicating whether the university can legally make a payment to the individual. This letter should be attached to the RI or PO as part of the visa documents.
- b. If the visa type is approved, the chief accountant in the Office of Tax Compliance will need to know the type of payment that is being made to the individual in order to determine if the payment is subject to 30 percent income tax withholding per IRS regulations. It is possible that the payment could be exempt from income tax withholding under the Internal Revenue Code, or the individual could be a resident of a country that has a tax treaty between their home country and the United States that exempts the individual from income tax withholding.

- If the payment is not exempt under the Internal Revenue Code and there is a tax treaty, the tax accountant will ask the department to have the individual complete IRS Form 8233, *Exemption from Withholding on Compensation for Independent (and Certain Dependent) Personal Services of a Nonresident Alien Individual* (Attachment C). The individual must have a social security number (SSN) or a United States individual tax identification number (ITIN) in order to claim a tax treaty benefit. If the individual does not have a SSN or ITIN, the payment is subject to 30 percent income tax withholding per IRS regulations. Form 8233 (if applicable) and copies of the visa documents must be attached to the PO or RI for documentation purposes.
- c. If Accounts Payable is only reimbursing the foreign visitor for travel expenses (and not paying a guest speaker fee/honorarium), original travel receipts are necessary so that the payment can be exempt from the 30 percent income tax withholding. Copies of the visa documents must be attached to the PO or RI for documentation purposes.
 - d. If it is known in advance that a foreign visitor will be coming to the campus to perform independent personal services (e.g., guest speaker or guest artist), then it would be helpful to consult with the Office of International Affairs prior to the visitor's arrival for advice on the applicable visa type that the individual should apply for before the visit so that he/she can legally be paid by the university. It would also be helpful to consult with the chief accountant in the Office of Tax Compliance to determine in advance if there is a tax treaty with the individual's foreign country so that IRS Form 8233 can be prepared for them to complete once they arrive on campus. If there is not a tax treaty with the individual's home country, the foreign visitor must be informed that payment will be subject to 30 percent income tax withholding. See the *Checklist for Payments to Nonresident Aliens* (Attachment D) for additional information on the payment process.
3. **Payment to Individuals for Services**
- a. An *Independent Contractor Questionnaire* (Attachment E) must be completed by the department when payment for service(s) is being made to an individual who is not an employee of Texas Tech University. IRS regulations establish employee/employer relationship guidelines. TTU OP 62.37 should be reviewed for payment compliance when these types of payments are processed. IRS issued Revenue Ruling 87-41, 1987-1 CB 296, IRC Sec(s) 3121 as an aid to determining whether an individual is an employee under the common law rules. Twenty factors or elements have been identified to help determine whether sufficient control is present to establish an employee/employer relationship. This applies to all payments the university makes to an individual for services, including payment for parts or materials used to perform the services. Therefore, if the university is paying an individual for services, even if the individual is doing business as a company name, an *Independent Contractor Questionnaire* needs to be completed. The completed questionnaire should be attached to the PO or RI, and it will become a part of the documentation of the expenditure.
 - b. IRS regulations require a valid mailing address for all payments for services made to individuals who are not employees of Texas Tech University. Payments made to individuals should be addressed to the valid address of the payee and not to an organization such as place of employment, etc.
 - c. An *Independent Contractor Questionnaire* must be completed by the department for each payment that is being made to an individual or sole proprietor for any type of service provided. It is required with each instance since the service provided needs to be evaluated; do not complete it for products that do not require manual preparation. The vendors are

- identified in the TechFIM vendor table with a code of "I," "S," or "P" in the 1099 field.
- d. An RI, with a completed *Independent Contractor Questionnaire*, should be forwarded to the Office of Tax Compliance before going to Direct Pay. The Office of Tax Compliance should be contacted for any questions on completing the *Independent Contractor Questionnaire*.
 - e. Reminder: The *Independent Contractor Questionnaire* is an internal document and **SHOULD NOT BE SENT OUTSIDE THE UNIVERSITY** or to the vendor.

Attachment A: Payment Authorization/Taxable Employee Compensation

Attachment B: Checklist for Moving Expenses

Attachment C: IRS Form 8233 Exemption from Withholding on Compensation for Independent (and Certain Dependent) Personal Services of a Nonresident Alien Individual

Attachment D: Checklist for Payments to Nonresident Aliens

Attachment E: Independent Contractor Questionnaire