

IRM PROCEDURAL UPDATE

DATE: 08/12/2013

NUMBER: WI-03-0813-1342

SUBJECT: Exception 2(c) from SEVP Institutions Not Claiming Tax Treaty Benefits

AFFECTED IRM(s)/SUBSECTION(s): 3.21.263.5.3.5.2(9)

CHANGE(s):

IRM 3.21.263.5.3.5.2(9) Added instructions for Exception 2(c) SEVP colleges claiming no tax treaty benefits.

- 9. **Exception 2, Wages, Salary, Compensation, Honoraria payments; Scholarships, Fellowships, Grants; Gambling Winnings:** related statements may include Form 1042-S. See the table below.

CAUTION: Information Statement(s) are generally prepared once a TIN has been supplied. Do not consider for exception documentation requirements.

EXCEPTION: No statement that the pension/annuities is subject to withholding is required if the letter/document from the withholding agent states the applicant must obtain an ITIN to avoid disruption of distribution, for example, documents from the Department of Defense, Finance, and Accounting Services.

If...	And...	Then submit...
2(a) Wages, Salary, Compensation and Honoraria Payments	Claiming tax treaty benefits and: <ul style="list-style-type: none">○ are either exempt or subject to reduced rate of withholding of tax on their wages, salary, compensation, and honoraria	<ul style="list-style-type: none">○ A letter of employment from the payer of income or○ A copy of employment contract or○ A letter requesting applicant's presence for a speaking engagement, etc. <p>NOTE: Request can</p>

	<p>payments AND</p> <ul style="list-style-type: none"> o submitting Form 8233 to payer of income 	<p>be future dates within the current year.</p> <p>With each submission, the taxpayer MUST also submit the following:</p> <ul style="list-style-type: none"> o Information on Form W-7 / Form W-7SP that supports claiming a tax treaty benefit (require treaty country and article number), and o Copy of completed withholding agent's portion of Form 8233 and o SSA denial letter (not required if present in U.S. and receiving Honoraria Payments. A letter from the Authorized School Official is acceptable). <p>REMINDER: If SSA denial is included in the letter, enter the letter under both "Other" and "SSA Reject Letter".</p>
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<p>2(b) Scholarships, Fellowships and Grants from Student and Exchange Visitor Program (SEVP) approved colleges/universities/institutions</p> <p>CAUTION: These procedures apply only to Student and Exchange Visitor Program (SEVP) approved institutions for non-resident alien students and exchange visitors and their dependents classified under section 101(a)(15)(F), (M) or (J) of the Immigration and Nationality Act {8 U.S.C. 1101(a)(15)(F), (M) or (J)} A certification letter is required for each Form W-7 application: primary, associated secondary (spouse) and dependent(s).</p> <p>NOTE: SEVP approved institutions are listed on the Department of Homeland Security web site at http://studyinthestates.dhs.gov/schoolsearch</p>	<p>Claiming tax treaty benefits, exempt or subject to reduced rate of tax</p>	<p>Certification letter for supporting identification documents. The certification letter must:</p> <ul style="list-style-type: none"> ○ Be on original, official college, university or institution letterhead with a verifiable address ○ Provide applicant's full name and Student Exchange Visitor's Information System (SEVIS) number ○ Certify the applicant's registration in the SEVIS ○ Certify that the student presented an unexpired passport, visa or other identification documents for review ○ List the identification documents provided to verify identity and foreign

		<p>status</p> <ul style="list-style-type: none">○ Be signed and dated by a SEVIS official, Principal Designated School Official (PDSO), Designated School Official (DSO), Responsible Officer (RO) or Alternate Responsible Officer (ARO) of a certified school exchange program with a verifiable contact telephone number○ Attach copies of documents used to verify the applicant's identity and foreign status from the approved list of documents as presented in the Form W-7 instructions (passport must include copy of valid visa issued by U.S. Department of State)○ Attach a copy
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		<p>of DS-2019, Certificate of Eligibility for Exchange Visitor Status (J-1 status) and/or copy of the I-20, Certificate of Eligibility for Non-Immigrant Student Status</p> <ul style="list-style-type: none"> ○ Form W-7 must include the treaty country and article number that supports claiming a tax treaty benefit ○ Include a letter from DSO or RO stating that the applicant will not be securing employment in the U.S. or receiving any type of income from personal services <p>CAUTION: Students on F-1, J-1 or M-1 visa will not have to apply for a SSN. They are permitted to provide a letter from their DSO or RO stating that they will not be securing employment in the U.S.</p>
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<p>2(b) cont. Scholarships, Fellowships and Grants from Non-SEVP colleges/universities/institutions</p>	<p>Claiming tax treaty benefits, exempt or subject to reduced rate of tax, and submitting Form W-8 BEN to the withholding agent,</p>	<p>Letter/official notification from the educational institution awarding the non-compensatory scholarship, fellowship, grant, or Copy of the contract with the college, university or educational institution along with:</p> <ul style="list-style-type: none"> ○ Copy of passport showing a valid visa issued by U.S. Department of State, and ○ Treaty country and article number on Form W-7 that supports claiming a tax

		<p>treaty benefit, and</p> <ul style="list-style-type: none"> ○ Copy of W-8 BEN submitted to the withholding agent, and ○ SSA denial letter <p>NOTE: Students on a F-1, J-1, or M-1 visa will not have to apply for a SSN. They are permitted to provide a letter from their DSO or RO stating that they will not be securing employment in the U.S. or receiving any type of income from personal services.</p> <p>REMINDER: If SSA denial is included in the letter, enter the letter under both "Other" and "SSA Reject Letter".</p>
<p>2(c) Scholarships, Fellowships and Grants from non-SEVP colleges/universities/institutions</p>	<p>Individuals (that is, foreign students, scholars, professors, researchers, or any other individual) that are subject to IRS information reporting and/or withholding requirements during the current</p>	<p>Letter/official notification from the educational institution awarding the non-compensatory scholarship, fellowship, grant, or copy of the contract with the college, university or educational institution along with:</p> <ul style="list-style-type: none"> ○ Copy of

	<p>year and not claiming benefits of a tax treaty</p>	<p>passport showing a valid visa issued by U.S. Department of State, and</p> <ul style="list-style-type: none"> ○ Letter from the DSO or RO stating that this income is non-compensatory and subject to IRS information reporting/withholding requirements, and ○ SSA Denial Letter. <p>NOTE: Students on a F-1, J-1, or M-1 visa will not have to apply for an SSN. They will be permitted to provide a letter from their DSO or RO stating that they will not be securing employment in the U.S. or receiving any type of income from personal services.</p> <p>REMINDER: If SSA denial is included in the letter, enter the letter under both "Other" and "SSA Reject Letter".</p>
<p>2(c) Scholarships, Fellowships and Grants from SEVP approved colleges/universities/institutions</p>	<p>Individuals (that is, foreign students,</p>	<p>Certification letter for supporting identification</p>

<p>CAUTION: These procedures apply only to Student and Exchange Visitor Program (SEVP) approved institutions for non-resident alien students and exchange visitors and their dependents classified under section 101(a)(15)(F), (M) or (J) of the Immigration and Nationality Act {8 U.S.C.1101(a)(15)(F),(M), or (J)}. A certification letter is required for each Form W-7 application: primary, associated secondary (spouse) and dependent(s).</p> <p>NOTE: SEVP approved institutions are listed on the Department of Homeland Security web site.</p>	<p>scholars, professors, researchers, or any other individual) that are subject to IRS information reporting and/or withholding requirements during the current year and not claiming benefits of a tax treaty,</p>	<p>documents. The certification letter must:</p> <ul style="list-style-type: none"> ○ Be on original, official college, university or institution letterhead with verifiable address ○ Provide applicant’s full name and SEVIS number • ○ Certify the applicant’s registration in the Student Visitor’s Information System (SEVIS) ○ Certify the authenticity of the passport, visa, or other identification document reviewed ○ List the identification documents provided to verify identity and foreign status ○ Be signed and dated by a SEVIS official: Principal Designated School
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		SEVP institution.
2(d) Gambling Income/Winnings	<p>Non-resident alien visiting the United States who:</p> <ul style="list-style-type: none"> ○ Has gambling winnings, ○ Is claiming the benefits of a tax treaty for an exempt or reduced rate of federal tax withholding on that income, and ○ Will be utilizing the services of a gaming official as an IRS ITIN Acceptance Agent, 	<p>Form W-7 through the services of an appropriate gaming official serving as an IRS ITIN Acceptance Agent.</p> <p>NOTE: If applicant does not secure the services of a gaming official, they may still file Form 1040NR at the end of the tax year with a Form W-7 and copy of Form 1042-S displaying the amount of tax withheld. The Form 1040NR return should also display the tax treaty article number and country under which they are claiming the treaty benefits.</p> <p>CAUTION: If applicant is reporting gambling activity but not through a gaming official, research RTS to see if a return was submitted with an earlier rejected application.</p>