

# Hot Off The Press

## New procedures for withholding FIT on wages of nonresident alien employees

New rules for withholding Federal Income Tax for nonresident alien employees went into effect on January 1, 2006, with a one year grace period. The B/P/P Operations Center plans to have the new rules in place by July 31, 2006. The tax to be withheld will be calculated by applying the appropriate tax table to the sum of the wages paid plus an additional amount (\$102 for biweekly and \$221 for monthly). The additional amount is added to wages solely for calculating income tax withholding. The additional amount will not be included in any box on the employee's Form W-2 and does not increase the income tax liability of the employee. Also, the additional amount does not increase the social security, Medicare, or FUTA tax liability of the employer or employee.

The substantial presence test flag will be used to identify individuals for the new process. The valid values and their meaning follow:

- **Blank** - only allowed for U.S. citizens, permanent residents, exempt nationals, and temporary protected status. The regular tax calculation will be used.
- **N** - Foreign National (not a U.S. citizen or Visa Type not = Permanent Resident **PR** or Exempt National **XN** or Temporary Protected Status **TP**) who has not met the substantial presence test. Calculate taxes using the new procedure.
- **Y** - Foreign National who has met the substantial presence test. The regular tax calculation will be used.
- Students and business apprentices from India will have a **Y** or **N**, but the regular tax calculation will always be used.

A value of **Y** or **N** will be required for Foreign Nationals. The B/P/P Operations Center will develop a program to initialize the substantial presence test flag to **N** for all Foreign Nationals, unless the value is already set to **Y**. Marital status will be set to **S**, allowances to zero, and additional amounts to zero if the substantial presence test flag is **N**. The tentative date for this initialization process is July 26, 2006. Screen 102 will also be modified to require a value of **Y** or **N** for Foreign Nationals. Between now and July 26, 2006, processors need to identify all of their Foreign Nationals and verify the substantial presence test flag is set properly on Screen 102. An outline of the procedures you can use to identify your foreign national employees follows:

- I. Identify all Active foreign national employees.
  - a. Run BPP Access Query using the People table
    - i. Workstation = {PIN} i.e. **A,B,E,M,X**, etc.
    - ii. Status = **A** (Active employee)
    - iii. US-Citizen equal **N**, Visa Type not equal **PR**, **XN** or **TP**.
  - b. If using GLACIER, refer to Technical Operations Update T-2005-11 and T-2005-06.

- II. Enter flag in Subs-PRS field on Screen 102.
  - a. Verify foreign nationals with **Y** in Subs-PRS field are in fact resident aliens for tax purposes. You can review either GLACIER or History of Presence form.
  - b. If an employee is a resident alien change the Subs-PRS field to **Y**.
  - c. If an employee is a nonresident alien leave blank or **N** in this field. On July 26th, BPP will reset affected nonresident aliens with blanks or **N** to **N**, the Marital field to **S**, the Allowances field to **0**, and the Addl-Amt field to **0**.
- III. Notify the affected nonresident aliens in early July.
  - a. Send either a letter or email notification to affected nonresident alien employees requesting them to submit a new W-4 under the new IRS specifications.
- IV. Verify the W-4 forms received have been completed in the proper format as specified by the new IRS regulations.
- V. Enter the new W-4 forms after the July 26th initialization date but before payroll is released on August 1st for the biweekly pay date on August 4th.

Email [bpphelp@tamu.edu](mailto:bpphelp@tamu.edu) if you need assistance with the identification process, letters, email, etc.

All nonresident alien employees will need to complete a new Form W-4 for withholding on wages to be paid on or after January 1, 2006, and are required to:

- 1) Not claim exemptions from withholding;
- 2) Request withholding as if they are single, regardless of the actual marital status;
- 3) Claim only one allowance; and
- 4) Write **Nonresident Alien** or **NRA** above the dotted line on line 6 of Form W-4.

With respect to the third requirement, if the nonresident alien is a resident of Canada, Mexico, South Korea, or is a U.S. National (resident of Samoa, or the Commonwealth of the Northern Mariana Islands), he or she may claim more than one allowance. Nonresident aliens will no longer be required to request an additional withholding amount, but may do so at their option. For example, a Form W-4 submitted by a Nonresident alien with 'single' on line 3, 1 on line 5, **NRA** above the dotted line on line 6, and an additional amount of \$33.10 is perfectly valid. The HRConnect interface to the B/P/P System will be rewritten to follow the new rules.

See IRS Publication 15 (Circular E), page 14, <http://www.irs.gov/pub/irs-pdf/p15.pdf>, for more information.

