

# Tax Consequences of the University Paying Immigration/Legal Fees

Nonresident aliens often incur expenses, such as legal fees, related to changing their immigration status. Occasionally, there are circumstances where a Department Head decides to reimburse the individual for the expenses. As a result of being consulted about the taxability of these reimbursements, the Office of Tax Management has developed this chart to assist in determining whether the reimbursement is subject to income tax for the individual.

Situation:	Current or prospective <b>Employee or Independent Contractor</b>	Current or prospective <b>Student</b>
Legal expenses and visa fees paid in connection with visa applications and renewals as well as travel and other expenses related to obtaining same (J, H, O, TN visas)	Nontaxable as long as such expenses relate to the primary business purpose of the University rather than to a primary personal benefit.	Taxable – not excluded under section 117
Legal expenses, INS fees and related expenses in connection with obtaining status as a permanent resident, temporary resident status, or obtaining a waiver of the two-year home rule requirement under a J visa.	Taxable. Limited exceptions to this rule may apply when such expenses relate to the primary business purpose of the University rather than to a primary personal benefit. Examples of these instances are as follows: <ol style="list-style-type: none"> <li>1) An employee’s work visa is going to expire and the visa cannot be renewed, and the only alternative to keep the employee in the US and working for the University is to obtain a green card for the individual. Or</li> <li>2) The prospective employee is going to be working on a government contract that requires that foreign nationals have a green card. Or</li> <li>3) The foreign national will be working on a University project involving technology to which the United States export control laws require that only permanent residents can have access. Or</li> <li>4) The position involves extensive travel to other countries and the foreign national’s home country (e.g. China, Iran, Iraq) makes it difficult for the person to enter other countries; therefore the foreign national needs a green card so he or she can obtain US travel documents.</li> </ol>	Taxable. No Exceptions.
A person asks the University to obtain a green card simply because they want one.	Taxable	Taxable
A foreign national negotiates with the University that as a result of agreeing to work for the U – the U agrees to obtain a green card for the NRA.	Taxable – quid-pro-quo for services rendered.	Not Applicable (if a person is in this category then that person is an employee and not a student)

*This informational chart developed by the Office of Tax Management, University of Minnesota. For more information call 612-624-1053 or email [TaxHelp@umn.edu](mailto:TaxHelp@umn.edu).*