

Supplement to Job Aid for Making Fellowship vs Employee Determinations

Additional Information by Section

Section A

Sometimes an individual receives payments from multiple sources during the same semester. You may find it beneficial to complete this Job Aid multiple times for the same recipient to consider the facts relating to each specific payment. The individual may be a fellow and an employee at the same time. In that case, the payment related to performing services must be paid as wages to an employee and the other portion is paid as a fellowship.

Section B

If the payments relate to any one of the programs listed in Section B, the Internal Revenue Service (IRS) has dictated that the payments should be treated as fellowships. If you are paying an individual under one of the listed programs, the payment should be treated as a fellowship and there is no need to continue with the Job Aid. If you are paying someone under a similar program not specifically listed, you should continue with the Job Aid to determine whether the facts will support a similar treatment.

Section C

Only the specific National Institute of Health programs listed on the Job Aid in Section C are automatically treated as wages. Other programs with similar names, such as a Summer Undergraduate Research Program, or an Undergraduate Research Opportunities Program (UROP) should not automatically be treated as wages unless they are one of the specific programs listed. If your program is not one of the NIH programs listed, go on to Section D.

Section D

An affirmative answer to any of the questions in Section D warrants treating the individual as an employee receiving wages. Under Question 2 of Section D, consider whether the payment is paid pursuant to an agreement the U has entered into to provide specific research services or some other services agreement for a third-party. Do not answer "Yes" if the payment is charged to a fellowship grant. If none of the answers in Section D are "Yes", continue to Section E of the Job Aid to make a final determination.

Section E

The questions in Section E try to give some structure to fairly subjective concepts. They are based on decisions by courts and opinions and other guidance issued by the IRS. If three or more answers fall in the Employee column, the payments should be treated as wages. If three or more answers fall in the Fellow column, the payments are a fellowship.

TAX MANAGEMENT OFFICE

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Questions

Q: If the IRS finds that an individual working as an employee was misclassified as a fellow, who pays the tax, interest and potential penalties assessed by the IRS?

A: The Department, PI, project or contract under which the individual was performing services will be expected to provide the funds to pay the assessment. Since funding sources may have long since been expended, the incentive to correctly categorize individuals at the outset is great.

Q: Why was this Job Aid developed?

A: Historically, the IRS has assessed other higher education institutions millions of dollars in tax, interest and penalties following audits where the IRS found that payments treated as fellowships should really have been paid as wages to employees. This Job Aid is intended to help the U make the most accurate determinations possible related to employee vs fellowship payments. This should help minimize the U's risk of IRS assessments in the event the U is audited in the future.

Q: Can training related to using this Job Aid be provided to Departments or groups of interested users?

A: The Tax Management Office is willing to meet with groups or talk with individuals on the phone as requested to help with understanding and getting the most benefit out of the Job Aid.

Q: What does "required to perform services" mean?

A: When services must be provided by an individual as a condition of receiving a payment, the individual is "required to perform services." For example, when a student must undertake specific tasks in a lab for a designated number of hours during specified hours to receive a payment, the student is required to perform services. The fact that the student is developing research skills at the same time does not change the characterization from a payment for services.