

The Business Officer's Guide to UC Tax Issues

IRS

Independent Contractor
Honoraria

USE TAX

Nonresident Alien

Accounting Services & Controls

Sales and Use Tax

- ? State Board of Equalization administers the Sales and Use Tax Law.
- ? Why is it important? Incorrect taxable status of sales and purchases may result in an audit liability or an overpayment of sales and use taxes.
- ? Sales tax applies to intrastate transactions (within California).
- ? Tax applies to the total sale of tangible personal property.
- ? Services are generally not subject to sales tax.
- ? California imposes use tax on every person who stores, uses, or consumes in the state, tangible personal property purchased from an out-of-state retailer.
- ? Use tax applies to the cost of the tangible personal property.
- ? Sales and Use Tax rate in California ranges from 7.00% to 8.25%.

Unrelated Business Income

- ? An activity is an Unrelated Business Activity if it meets the following conditions:
 - 1) The activity is a trade or business
 - 2) Regularly carried on
 - 3) Not substantially related to exempt purpose (i.e. education, research, public services or patient care)

- ? General Rule: Income from an unrelated business activity is taxable unless it meets one of several specific exemptions.

- ? If you think an activity *could be* unrelated business, contact Dale O'Donnell, Manager of General Accounting at 893-2998.

Employee vs. Non-employee Relations

- ? Federal (IRS Code) and state laws (Unemployment Insurance Code) govern the use of independent contractors.
- ? There are significant consequences as a result of incorrectly classifying workers.
- ? An employer – employee relationship exists when the business has the right to direct and control the worker.
 1. Three categories of evidence that illustrate the right to direct and control or its absence.
 - a. Behavioral control
 - b. Financial control
 - c. Relationship between the parties
- ? What is an Independent Contractor?
 - 1) Person in business for themselves
 - 2) Hired to perform specific, one-time tasks
 - 3) Not University employees
 - 4) University designates result, but not the manner of accomplishment.
 - 5) Ineligible for employee benefits
 - 6) University does not pay employment taxes
- ? UC Business and Finance Bulletins [BUS 34](#) and [BUS 77](#) outline the University's policies and procedures with respect to retention of independent contractors for personal or professional services and classification of current University employees as independent contractors.
- ? Incorrectly classifying employees can result in University specific consequences such as possible loss of reimbursement from Contract and Grant funds, failure to comply with patent agreement requirements, or violation of state financial conflict of interest rules.

Factor Tests for Determining Independent Contractor Status

IRS 20 Factor Test

A compilation of court cases and IRS rulings to assist in determining if a worker is an independent contractor or an employee.

1. No instructions
2. No training
3. Services don't have to be rendered personally
4. Work not integral to the University's business
5. Set own work hours
6. Not a continuing relationship
7. Control their own assistants
8. Time to pursue other work
9. Decide on job location
10. Set work order
11. No interim reports
12. Paid by job
13. Work for multiple firms
14. Pay business expenses
15. Have own tools and materials
16. Significant investment in business
17. Offer services to general public
18. Can make entrepreneurial profit or loss
19. Cannot be fired at will
20. Cannot quit at will

California 11 Common Law Factors

1. No control
2. Cannot be fired at will
3. Distinct business
4. No supervision
5. Skilled worker
6. Own tools, location and assistants
7. Short period
8. Paid by the job
9. Not part of regular business
10. Parties intent
11. Possibility of Profit or Loss

Employee Fringe Benefits

- ? The fair market of a fringe benefit must be included in an employee's income, unless excluded under a specific exception.

Examples of Fringe Benefits

- 1) Parking. Up to \$175.00 per month is tax free.
- 2) Housing, unless the employee is required to live on or nearby campus.
- 3) Loans. Forgone interest is taxable unless it is an exempt loan.
- 4) Discounts. Taxable if the discount is more than 20% of the price offered to the public.

Moving Expenses

Nontaxable Moving Expenses

- ? Moving expenses are excludable if they meet all three requirements.
 - 1) Related to the start of work.
 - 2) Time test. Must have been employed full time for at least 39 weeks in prior 12 month period.
 - 3) Distance test. New job location must be at least 50 miles farther than former principal job location.

- ? Cost of moving household goods and personal effects.

- ? Expenses incurred in traveling from former residence to new residence (including lodging but excluding meals).

Taxable Moving Expenses

- ? Any reimbursement of, or payment to a third party for taxable (i.e. nondeductible) moving expenses must be included in an individual's gross income as taxable wages.

Examples

1. Meals, lodging, expenses for pre-move house hunting trips
2. Real estate taxes
3. Loss on sale of a home
4. Mileage reimbursement in excess of 12 cents per mile.

Travel

Travel Advances

- ? Failure by an employee to substantiate expenses and to return unused amounts of travel advances within 120 days after completion of a trip, obligates the University under IRS regulations to consider the unreturned amounts as income to the employee.

Reporting Travel Expenses

- ? When receipts are required but cannot be obtained or have been lost, the reimbursement of these expenses may be taxable.

Non-University Personnel

- ? If a candidate wishes to have someone accompany him/her on their first visit to the campus, they will be taxed on any reimbursement relating to travel expenses for individuals other than themselves.

Travel Subsistence

- ? Under the IRS rule, travel away from home that lasts more than one year in a single location is considered indefinite. Any travel expenses reimbursed during that period must be treated as taxable income, subject to withholding for income and social security taxes.

Travel Residence

- ? If employees who reside outside the Santa Barbara area (i.e. Bay Area) travel to Santa Barbara, the reimbursement for their lodging and meals is taxable.
- ? If the University asked that you work on a project outside Santa Barbara, than those reimbursable expenses are not taxable.

Nonresident Alien Taxation

- ? General Rule: All payments for services to nonresident aliens are subject to income tax withholding unless a specific exception or tax treaty provision applies.

- ? Exemptions
 - 1) Payments excluded from income by a Tax Treaty
 - 2) Payments excluded by IRS code
 - 3) Qualified scholarship payments

- ? Nonresident alien who is an employee: Department inputs individual into PPS and denotes them as an "N."

- ? Individual should go to the Payroll Office where they will be asked to complete 3 forms:
 - 1) Tax Treaty Statement
 - 2) Form 8233
 - 3) UC Statement of Citizenship Form

Honoraria

- ? An honorarium is a payment granted in recognition of a special service or distinguished achievement for which custom or propriety forbids any fixed business price to be set.
- ? Payment is made through Accounts Payable on a Form 5. Tax issues depend on residency.

Payments to Nonresident Aliens

- ? Requires appropriate visa
- ? UCSB is a Certifying Acceptance Agent
- ? When the individual is still on campus, he/she needs to fill out a W-7. UCSB then sends a W-7 to the IRS.
- ? IRS issues the University an Individual Taxpayer Identification Number.

Resources

Policies

Sales and Use Tax

UC Sales and Use Tax Manual

<http://www.ucop.edu/ucophome/policies/sutm/>

Employee vs. Non-employee Relations (Independent Contractors/Consultants)

UC Business and Finance Bulletin BUS-34: *Securing the Services of Independent Consultants*

<http://www.ucop.edu/ucophome/policies/bfb/bus34.html>

UC Business and Finance Bulletin BUS-77: *Independent Contractor Guidelines*

<http://www.ucop.edu/ucophome/policies/bfb/bus77pdf.html>

Policy on the Use of Independent Contractors by University Extension

Letter from President Atkinson

<http://www.ucop.edu/ucophome/coordrev/policy/4-04-00unex.html>

UCSB Policy 5260: *Use of Independent Consultants*

http://www.policy.ucsb.edu/vcas/business-serv/5260_ind_consult.html

UCSB Policy 5265: *Securing the use of Independent Consultants*

http://www.policy.ucsb.edu/vcas/business-serv/5265_ind_consultants.html

Tax Treatment of Moving Expenses

UC Academic Personnel Manual

Section III: Recruitment

<http://www.ucop.edu/acadadv/acadpers/apm/sec3.html>

UC Business and Finance Bulletin G-13: *Policy & Regulations Governing Moving & Relocation*

<http://www.ucop.edu/ucophome/policies/bfb/g13toc.html>

UCSB Policy 5125: *Reimbursement of Moving Expenses for Appointees to Staff Personnel Positions*

http://www.policy.ucsb.edu/vcas/accounting/5125_moving_exp_reimburse.html

UCSB Policy 5130: *Payment and Repayment of Moving Expenses for New Staff Employees*

http://www.policy.ucsb.edu/vcas/accounting/5130_mvq_exp_pay_appntees.html

UCSB Policy 5135: *Payment/Reimbursement of Moving Expenses for Transferring Staff Personnel*

http://www.policy.ucsb.edu/vcas/accounting/5135_mvg_exp_pay_transfers.html

Travel

UC Business and Finance Bulletin G-28: *Policy and Regulations Governing Travel*

<http://www.ucop.edu/ucophome/policies/bfb/g28toc.html>

Nonresident Alien Taxation

UC Accounting Manual

<http://www.ucop.edu/ucophome/policies/acctman/t-182-27.pdf>

Honoraria

UC Accounting Manual

<http://www.ucop.edu/ucophome/policies/acctman/d-371-35.pdf>

Departments

Accounting Services & Controls

<http://www.accounting.ucsb.edu/>

Payroll

<http://www.accounting.ucsb.edu/payroll/>

893-2219

Sales and Use Tax

<http://www.accounting.ucsb.edu/disbursement/sales-use.shtml>

893-3919

Unrelated Business Income

Accounting Services & Controls

Dale O'Donnell

893-2998

Employee vs. Non-employee Relations (Independent Contractors/Consultants)

Accounting Services & Controls

Jim Corkill

893-5882

Tax Treatment of Moving Expenses and Travel

<http://www.accounting.ucsb.edu/Travel.html>

893-2271

Nonresident Alien Taxation and Honoraria

<http://www.accounting.ucsb.edu/forms/nra.shtml>

893-3919

Business Services

<http://www.busserv.ucsb.edu>

893-3001

Human Resources

<http://hr.ucsb.edu>

893-4119