

## **SEO DETAILS:**

Page Title: Foreign Employee Wage Reporting and Withholding | [INSERT RELATED SERVICE] | [INSERT FIRM NAME]

Meta Description: [NAME OF FIRM] shares insights on requirements for wage reporting and withholding requirements as they pertain to foreign employees.

Headline: Understanding Wage Reporting and Withholding Requirements for Foreign Employees

## **BODY COPY:**

If your business utilizes foreign employees (aka, aliens), it is critical that you correctly comply with IRS regulations concerning payments to foreign workers. Understanding and complying with these regulations is crucial. Still, businesses of nearly every size and scope seem to struggle with correctly reporting these kinds of wages.

In particular, there are two common questions that employers with foreign employees must address. These concern whether the employer is required to withhold tax and, if so, which forms should be filed. We will address these issues below.

### **Withholding Requirements**

Am I required to withhold tax? As with most tax-related questions, the answer is, it depends. To answer this question, you must first determine the status of each alien working for you. They will either be considered “resident aliens” or “nonresident aliens.”

All aliens are considered nonresident aliens unless they meet one of these tests:

- **Green Card Test** – Individuals will be treated as residents for tax purposes if they were a lawful permanent resident of the U.S. at any time during 2016.
- **Substantial Presence Test** – Individuals will be treated as residents for tax purposes if they were physically present in the U.S. at least 31 days during 2016 and 183 days during the three-year period 2014-2016, which is calculated as follows:
  1. All days present in 2016
  2. 1/3 of the days present in 2015
  3. 1/6 of the days present in 2014

The withholding requirements for resident aliens are the same as U.S. citizens; however, nonresident aliens must follow special withholding rules. The withholding rate for nonresident aliens will be determined by Form W-4 and the graduated withholding rates published in IRS Publication 15 (Circular E). Nonresident aliens are only able to claim single filing status and no more than one personal exemption on Form W-4.

One exception to note: Certain nonresident aliens will be exempt from tax withholding because of tax treaties.

### **Forms Required to Be Filed**

What forms should be used to report the wages and taxes withheld for foreign employees? Again, it depends. For resident aliens, wages paid and taxes withheld should be reported on Form W-2 following the same requirements for U.S. citizens.

For nonresident aliens, the process is slightly more involved. The wages that are exempt from tax under a tax treaty should be reported on Form 1042 and Form 1042-S. Wages that exceed the amount exempt under a tax treaty should be reported on Form W-2. For a nonresident alien to claim exemption under a tax treaty, Form 8233 must be provided to you. Beware, however, that even if all wages are exempt under a tax treaty, a Form W-2 may still be required to correctly report the state and local wages and tax withheld.

**CLOSE:**

Do you have questions about wage reporting and withholding for foreign employees or other tax issues? If so, please contact [NAME] in our [DEPARTMENT] at [NUMBER/EMAIL].

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