

Worker Classification and Payment

Policy/Procedure

The procurement of services, unlike the procurement of goods, requires an evaluation of whether a service provider should be classified as an employee or as an independent contractor of Dickinson College (the “College”). This evaluation and classification must be based upon Internal Revenue Service (IRS) guidelines, not on administrative ease or relative costs.

The characterization of an individual as either an independent contractor or as an employee has important tax and fiscal consequences to both the College and the individual. When faced with a worker classification issue during the course of an employment tax audit, the IRS will consider individuals performing personal services to the College to be employees, absent a reasonable basis for classification as an independent contractor.

Definitions

Employee-employer relationship: An employee-employer relationship exists when the College has the right (whether or not it exercises it) to supervise, control or direct the manner of performance as well as the result of the service.

Independent contractor relationship: An independent contractor relationship exists when the College has the right to specify the result to be accomplished by the work, but not the means and methods by which the result is to be accomplished.

Accountability

The Assistant Controller is responsible for ensuring the proper analysis has been performed to classify an individual as an employee or an independent contractor. This analysis is completed by working with authorized budget officers of the College to obtain an understanding of the specific facts and circumstances surrounding each situation. Departments are responsible for contacting the Assistant Controller before an individual is hired to ensure the necessary paperwork has been completed and payments are processed through the appropriate channels.

Employee vs. Independent Contractor Status Determination Form

If consideration of the relevant facts presents a strong case for classifying the individual as an independent contractor, an [*Employee vs. Independent Contractor Status Determination Form*](#) (Form) must be completed.

Note: If the Form as completed, at any point, indicates that the individual should be compensated as an employee, such payment for services rendered should be initiated through Human Resource Services or Student Employment. If the Form as completed indicates that the individual should be classified as an independent contractor, such payment for services rendered should be initiated through Accounts Payable.

Section I: General

The Form must fully identify the name of the service provider (payee), social security number (or taxpayer identification number), the department, and the name, phone number, and e-mail address of the preparer of the Form.

The Form must include a response as to whether the individual is a US citizen, lawful permanent resident (a.k.a. green card holder), or foreign national (non-resident alien). If the individual is a non-resident alien, the Director for Global and Sponsored Program Accounting must be contacted to determine additional documentation requirements for payment.

Further, a response should be provided in the space labeled “Gross Up? Yes ___ No ___” on the Form as to whether the payment should be “grossed up” at the expense of the budget to cover any federal and state income tax withholding that may be required for a payment to a non-resident alien. If the question is not answered, the default is for any applicable income taxes to be withheld from the individual’s payment, resulting in a lower-than-requested net payment amount.

Section II: Relationship with the College

It is incumbent upon the division or department acquiring the services of an individual to verify whether the individual has been paid as an employee in the current calendar year. The Payroll Office may be contacted for confirmation of any employment relationships with the College.

- *Employees acting as independent contractors*

All services performed by an employee acting as an independent contractor will be considered “additional pay” and will be processed through the payroll system. The only exception that the College will make to this practice is for an employee who has an established business through which he/she conducts his/her business as an independent contractor. The employee will be required to complete a Form W-9, *Request for Taxpayer Identification Number & Certification* and the College will maintain the form on file for audit purposes.

- *Former employees and retirees acting as independent contractors*

Frequently, retirees and former employees are engaged to perform services for the College. If a retiree or former employee is rehired in the same calendar year that his/her employment by the College ended, the individual should be hired through a temporary agency, if possible. Under certain circumstances, hiring through a temporary agency may not be possible and it may be appropriate to hire a retiree or former employee as a temporary employee (independent contractor). Since reemployment may affect the benefits that a former employee or retiree is entitled to, please contact Human Resource Services for more information before engaging this person. If the retiree or former employee is engaged to perform services the year after (or beyond) the year that his/her employment by the College ended, follow the procedures outlined in this section (Section II) to determine whether the individual should be classified as an employee or independent contractor.

Section III: Classification Guidelines

The Form must accurately reflect the completion of the respective Part (Part A: Guest Lecturer, Speaker; Part B: Researcher, or Part C: An Individual Not Covered Within Parts A or B) that best describes the services to be performed.

In order to compensate an individual as an independent contractor, the facts and circumstances must be supported by the IRS' 20 common law factors, as summarized in the [*Employee vs. Independent Contractor Classification Criteria*](#). The criteria are to be applied in their entirety to obtain an overall indication of how the individual should be classified. If review of the classification criteria in their entirety does not present a strong case for compensating the individual as an independent contractor, payment of the individual should be pursued through Human Resource Services or Student Employment, as appropriate.

Submission of the Form

A completed Form supporting the independent contractor determination is maintained on file by the Assistant Controller. The Assistant Controller will follow up with respective departments to obtain the necessary information to complete the form and conclude on the proper classification of the service provider.

IRS Form SS-8

If unusual circumstances cause the department or individual to resist classification as an employee, despite the Form pointing to an "employee" determination, the hiring division or department may consider requesting that an official determination from the IRS be initiated, at the discretion of the Controller. The IRS' determination process, which may take 3-4 months, involves the College (via the Controller) submitting Form SS-8, "Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding."

Contacts

Questions related to the daily operational interpretation of this policy should be directed to:

- Human Resource Services (guidance for initiating payment as employee)
- Payroll (verification of existing employment)
- Financial Operations (guidance on payment to non-resident aliens)
- Assistant Controller (guidance for initiating payment as independent contractor, submission of Form)
- Controller (regarding IRS Form SS-8)

Related Information

Student Employment: Overview (Student Resources)
Hiring Procedures (HR)
Payments to Non-Resident Aliens
Payments to Students
Procurement of Goods and Services
1099 Tax Reporting and Withholding

History/Revision Information

Responsible Office/Division: Financial Operations

Effective Date: October 2012

Last Amended Date: May 2014

Next Review Date: Annually in June

Also Found In: