

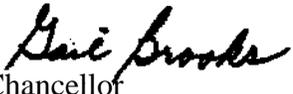
**The California State University
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Date: November 15, 2006

Code: TECHNICAL LETTER
HR/Salary 2006-21

To: Human Resource Directors
Payroll Managers

Reference: TECHNICAL LETTER
HR/Salary 2005-28

From: Gail Brooks 
Associate Vice Chancellor
Human Resources

Subject: IRS Notice 2005-76 Nonresident Alien Tax Withholding Changes - Update

This letter serves to provide status on the implementation of IRS Notice 2005-76 requirements for affected California State University (CSU) nonresident alien (NRA) employees paid through the California state uniform payroll system. Technical Letter HR/Salary 2005-28 provided an overview of Internal Revenue Notice 2005-76 rules for determining the amount of income tax employers must withhold from wages paid for services performed by NRA employees within the United States. While the new wage withholding rules became effective January 1, 2006, a transitional relief period was provided to employers to implement changes needed to satisfy federal tax withholding under the new requirements for wages paid prior to January 1, 2007.

The CSU and the State Controller's Office (SCO) have a shared responsibility for implementing Notice 2005-76 requirements. For the CSU, responsibilities included noticing affected NRA employees of the change in withholding requirements and processing Employee Action Request (EAR) and Student Payroll Action Request (SPAR) forms updates at the campus as appropriate. The responsibility to implement payroll system changes to withhold taxes in accordance with the new requirements reside with the SCO due to their role as pay agent for the CSU.

The SCO has advised that they have selected a "look back" method to satisfy Notice 2005-76 withholding requirements. It is our understanding that this "look back" tax withholding procedure requires the use of ad hoc programs that will be run once each month. The outcome of the programs will be the establishment of a one-time federal tax deduction that will be applied to the employees' next warrant. The SCO has advised that the timeline to implement the new procedure is projected for early 2007. Information concerning implementation of the new procedure, including processing

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requirements for affected wages issued on or after January 1, 2007, will be provided in a forthcoming SCO Payroll Letter.

As a reminder, IRS Notice 2005-76 has no effect on nonresident alien individuals who have wages that are not subject to income tax withholding under section 3402. This would include nonresident alien employees eligible for a tax treaty withholding exemption who have a valid Form 8233 “Exemption from Withholding on Compensation for Independent (and Certain Dependent) Personal Services of a Nonresident Alien Individual” on file with their employer. Further, it is important to note that campuses should **not** take action to implement methods that would apply an “artificial” amount to an affected employee’s wages that are paid through the uniform state payroll system independent of SCO coordination.

Questions regarding this technical letter may be directed to Human Resources Administration at (562) 951-4411. This document is available on Human Resources Administration’s Web site at: <http://www.calstate.edu/HRAdm/memos.shtml>.

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