



**Wesleyan University**

# Payments to/for Non US Citizens

**NON COMPENSATION - VIA ACCOUNTS PAYABLE**

# Steps to Paying a Non US Citizen

Can they do it? How is it taxed?

**Step 1** - Facts of the Situation – Contract, Eligibility, Tax Status

**Step 2** – **Who?** Individual, Company, Wesleyan Student

**Step 3** – **What?** What type of payment is it? Speaker or Performer fee, Royalty, Reimbursement, Prize/Award

**Step 4** – **Where?** What is the Source of Income? Where is it taking place?

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**Step 5** – Is it subject to Withholding? Tax Residency/Substantial Presence Test

**Step 6** – What is the withholding Rate?

**Step 7** – Is there a tax treaty exemption?

## Appendix:

- [Quick Reference Chart](#)
- [Requisition Procedures](#)
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- Flowcharts
  - [Speakers](#)
  - [Agents](#)
  - [Royalties](#)
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# Step 1 – Facts of the Situation – Contract, Eligibility, Tax Status

During negotiations you will want to send them three requests well in advance of their providing services:

- 1) [Contract](#)
- 2) [Verification](#) form (to determine eligibility) for speakers/Student Payment [attachment](#) for Wesleyan student.
- 3) New Supplier setup [link](#) if they are not already a supplier in Workday (See [Step 2](#)).

In addition, this is a very good website to provide the individual if they are not familiar with U.S. immigration procedures and tax requirements.

<https://www.artistsfromabroad.org/tax-requirements/introduction/>

# Step 2 – Who Are they? Supplier Setup Process

Will there be potential withholding on the payment?

Are they already setup in Workday?

**Yes** - The “Supplier Category” on the supplier panels will let you know their tax status/citizenship. The “Supplier Group” will tell if they are an agent or Wesleyan student.

**No** – Send them the new supplier setup [link](#)

All suppliers, except Wesleyan students, regardless of their citizenship, require a tax form that certifies to their status. The default form is W9 but if they cannot certify #3 below then an [applicable W8](#) must be provided.

## **Part II** Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign | Signature of

# Step 2 – **Who** Are they? Supplier Setup Process (Cont'd)

## Individual or a Company

- Company –
  - Are they an **agent** representing an individual? See [Appendix](#).
- Individual –
  - Wesleyan student – Yes, they can receive payment (supplier invoice). We onboard in the fall. See [Step 3](#).
  - Employee – Yes, they can receive reimbursements (expense report) but not third party payments or payments for services (Payroll).
  - **Non-Wesleyan Individual** – Are they allowed to provide services? Need to know their [visa](#) status. Verification form required. See [appendix](#) for flowchart.
    - Most Common for Visitors is B
    - H1B or F1 – STOP!! Cannot Pay
    - <https://www.wesleyan.edu/finance/foreignpayments/policies.html>

## Step 3 – **What** are we paying them for?

**Speaker/Self Employment** – A speaker is someone who is engaged as part of a course, conference, seminar or symposium and is generally self employed. Payment is subject to Connecticut Athletes and Entertainers tax withholding of 6.99% if the amount paid is greater than \$5,000 as well as potential 30% federal withholding. Additional information can be found [here](#). Proceed to [Step 4](#)

**Artist/Performer** - An artist or performer includes athletes, singers, musicians, dancer, comedian, writer, or circus performer. It is subject to Connecticut Athletes and Entertainers tax withholding of 6.99% if the amount paid is greater than \$1,000 as well as potential 30% federal withholding. Additional information can be found [here](#). Proceed to [Step 4](#)

**Royalty/Right of Use** – Subject to 30% federal withholding. There may be a Treaty exemption for companies. There are no exemptions for individuals. See separate [flowchart](#). Proceed to [Step 7](#)

**Prize/Award** – **Always 30% withholding**. No tax treaty exemption. You will know by the presence “30% 1042” in the Default Withholding Tax Code box on the supplier invoice. See [Step 6](#) for gross up formula.

**Tangible Goods** – Not subject to tax withholding. No requisition required. Complete supplier invoice as normal.

# Step 3 – **What** are we paying them for? (Cont'd)

## Expense Reimbursement – Changes

- Non Wesleyan Individual - No withholding required as long as reimbursements are consistent with Wesleyan Travel Expense Reimbursement Policy.
- If just reimbursement, no requisition necessary. Complete supplier invoice with supporting documentation, including [verification form](#). Supplier should have provided W-8BEN on setup.
- Wesleyan Student – Generally ok. More scrutiny if “aid” in nature and potentially 14%. Winter coat vs. pizza.



## Step 4 – **Where** is it taking place?

**Wesleyan** – Proceed to [Step 5](#)

**Another US State** – Not subject to Connecticut Athletes & Entertainers tax but still subject to federal withholding. Proceed to [Step 5](#).

**Another Country** – No withholding required. Complete Supplier Setup (Need W8), and Supplier Invoice (attach [Verification Form](#) to Supplier Invoice)

Note new spend categories.

# Step 5 – Is it subject to withholding? What is their Residency Status?

*Caution\*\*\*This part gets complicated\*\*\* This is where we step in with guidance. The rest of the slides are informational.*

Sprintax!! – Obtain their email address and enter on requisition questionnaire. They will receive a link to complete Sprintax forms and determine their tax status.

## Tax Residency

Depending on their previous visits they may be a Resident Alien for tax purposes, which means they are taxed just like a US Citizen.

Substantial Presence Test - <https://www.wesleyan.edu/finance/foreignpayments/visitorguidelines.html>

The only way to determine this is to have them enter information into Sprintax.

If they are an NRA for tax purposes, continue to [Step 6](#)

# Step 6 – What is the Withholding Rate?

**30%**

Unless an exception applies:

- Travel Expense Reimbursement – See [Step 3](#).
- Student – 14% except if Prize or Award.
- Treaty Exemption – Only applicable if they have a Social Security Number or Tax ID
  - If Yes – Proceed to [Step 7](#)
  - If No – No treaty exemption is allowed. 30% will be withheld.

Gross up Formula:

$XXXX / (1 - .30)$  or  $XXXX / .70$

# Step 7 – Is there a Treaty Exemption?

There are lots of treaties.

<https://www.irs.gov/individuals/international-taxpayers/tax-treaty-tables>

<https://www.irs.gov/forms-pubs/about-publication-901>

Each includes separate rules for each type of income.

Sprintax does the work. If they do not want to take advantage of a tax treaty exemption, then we will withhold 30% tax. If they do, it will produce a Form 8233, to be signed, uploaded and notify Christine who will fax to the IRS and reduce or eliminate the tax accordingly.

Steps 8 and 9 can be done while we are waiting for form 8233 to be completed.

# APPENDIX

# Quick Reference Chart

Payment	Withholding	<u>Verification Form</u>	Requisition	Sprintax
Agent	Potentially	Yes – completed by artist	Only if artist is non US.	Yes – by non US artist
Wesleyan Student – Expense Reimbursement with receipts	None unless “aid” in nature then 14%	No	No	Yes – facilitated centrally
Wesleyan Student – Prize or Award	30%	No	No – <u>Student Payment Attachment</u> to Supplier Invoice	Yes – facilitated centrally
Wesleyan Student – Stipend or Fellowship – activity US	14%	No	No – <u>Student Payment Attachment</u> to Supplier Invoice	Yes – facilitated centrally
Individual* – event in US – Honorarium	30% unless tax treaty or LPR. Potential 6.9% A&E Tax	Yes	Yes	Yes
Individual* – event in US – Expense Reimbursement with receipts	None	Yes – attach to supplier invoice	No	No
Individual* – event not in US	None	Yes – attach to supplier invoice	No	No
Company – Tangible Goods	None	No	No	No
Company – Royalties	30%	No	No	Yes

\*Assumes Non-Wesleyan employee. Wesleyan employees are paid either via Payroll or Workday Expense Report

# Requisitions

Use the [Verification](#) form to answer the questions on the Requisition and attach it to the requisition.

Instructions on completing the Workday requisition can be found [here](#). Remember, when it is time to make the payment you should [pull in the information from the requisition](#) directly into the supplier invoice.

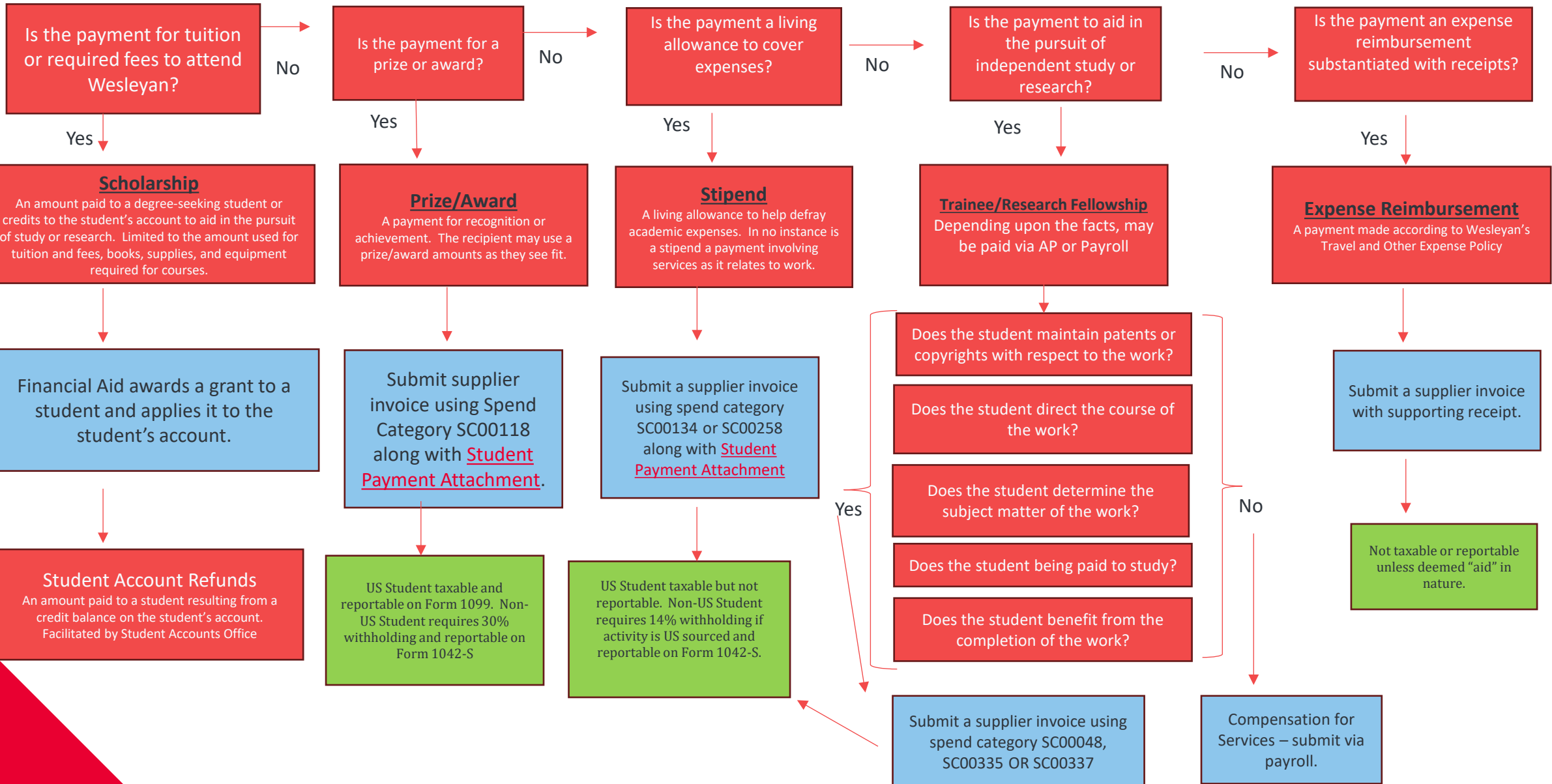
# Common Visa Statuses

- B – Most common for speakers. Ensure they will not be here for more than 9 days. (9/5/6/ rule).
- H-1B and F1 – STOP! Cannot pay. Can only accept payment from their Visa Sponsor and if that is not Wesleyan they cannot be paid. They can volunteer their time.
- J-1 – Requires Approval from their Responsible Officer. Request documentation of Approval
- O-1 – Requires an itinerary from their sponsor with Wesleyan listed. Request this itinerary.

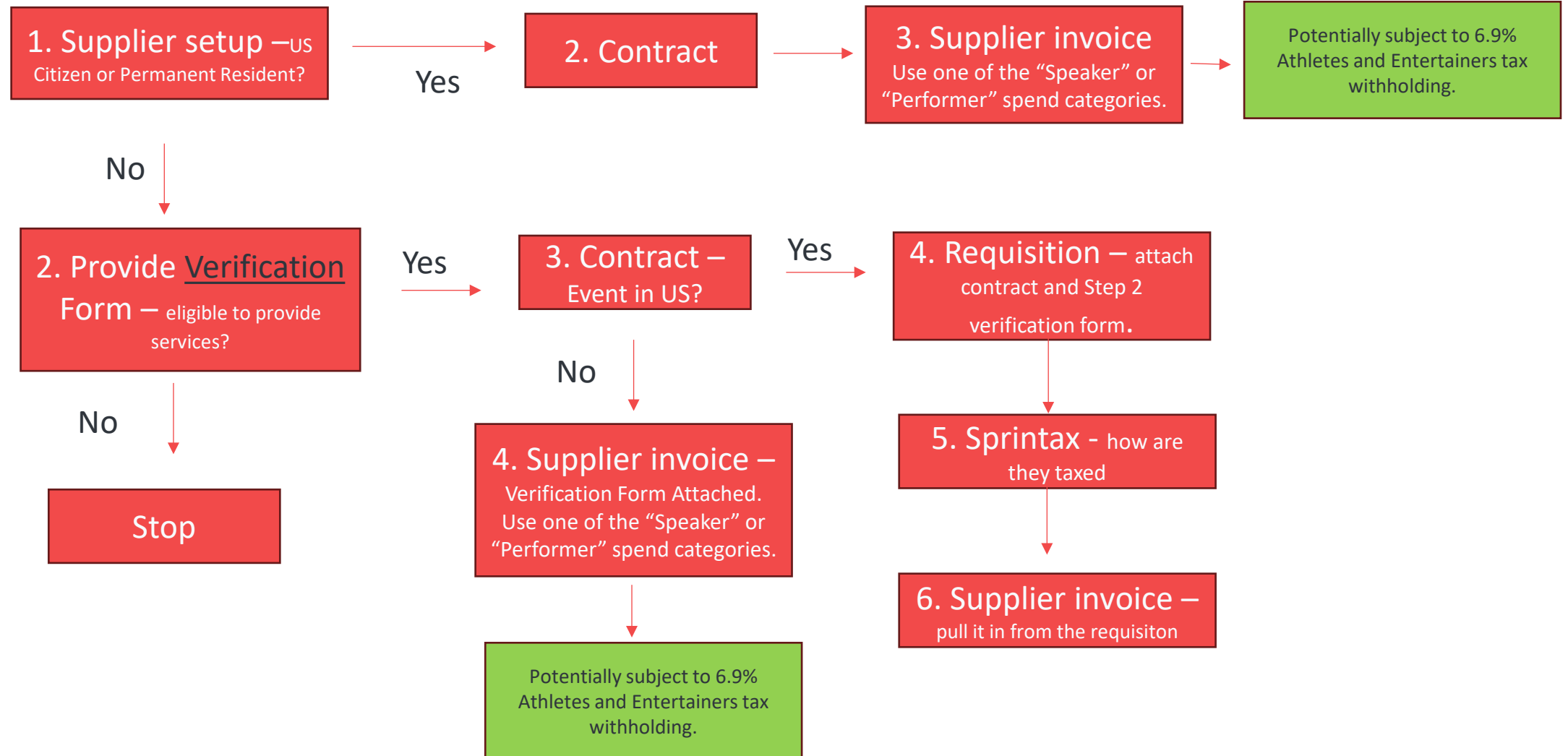
Additional information can be found [here](#).



# Payments to Wesleyan Students



# Payments to Non Wes Individuals for Service\*



\*Wesleyan individuals are paid via Payroll or Expense Report. For Non-Wes individuals anticipated to provide ongoing services, refer to the [independent contractor checklist](#) to determine if they should be set up as an employee.

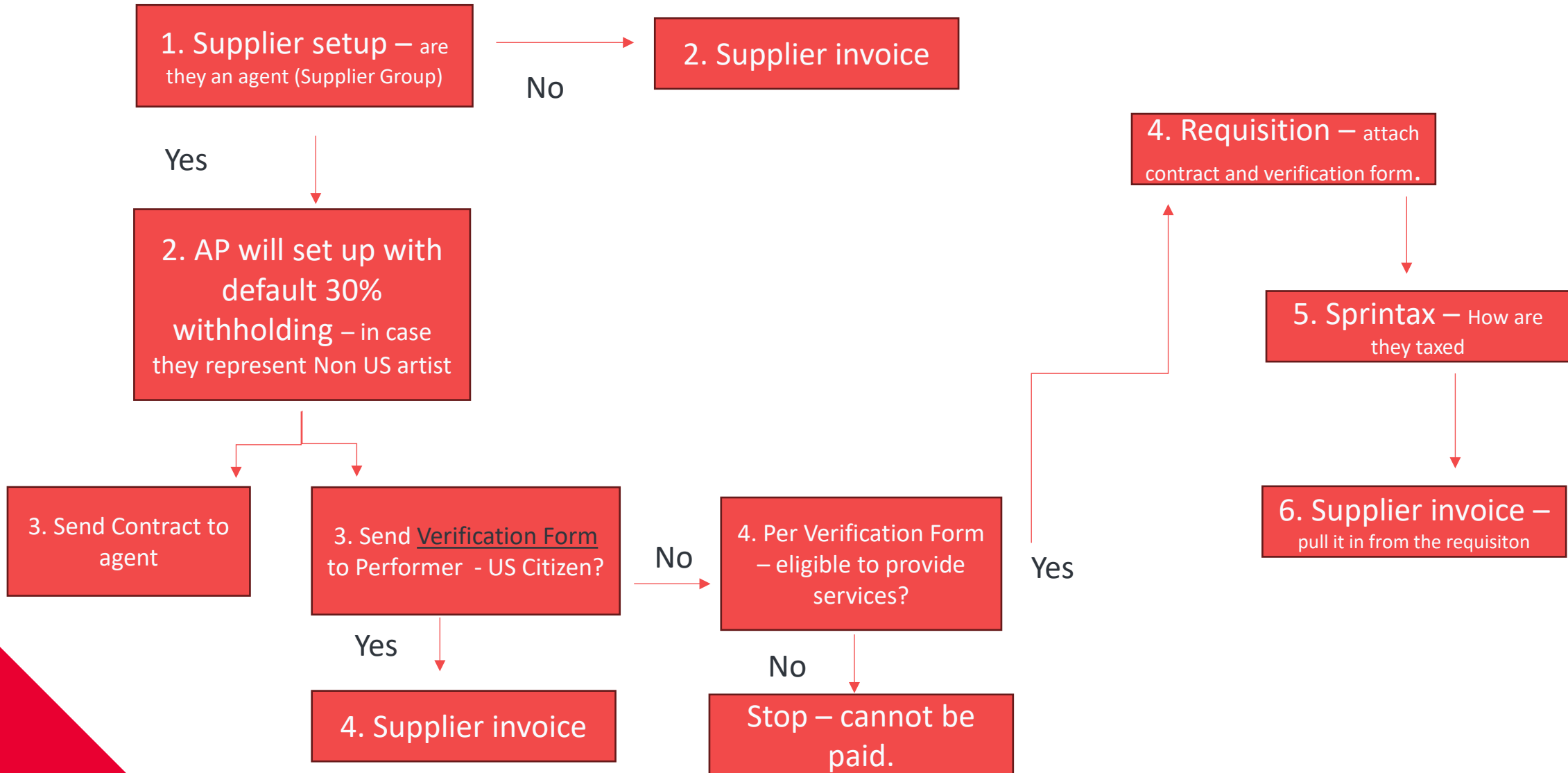
# Special Rules Related to Agents

The IRS is very specific about performer/agent relationships. Often an individual will ask for us to pay their agent. IRS sees right through this and requires us to collect information on the “beneficial owner” of the payment as if we were paying the performer directly.

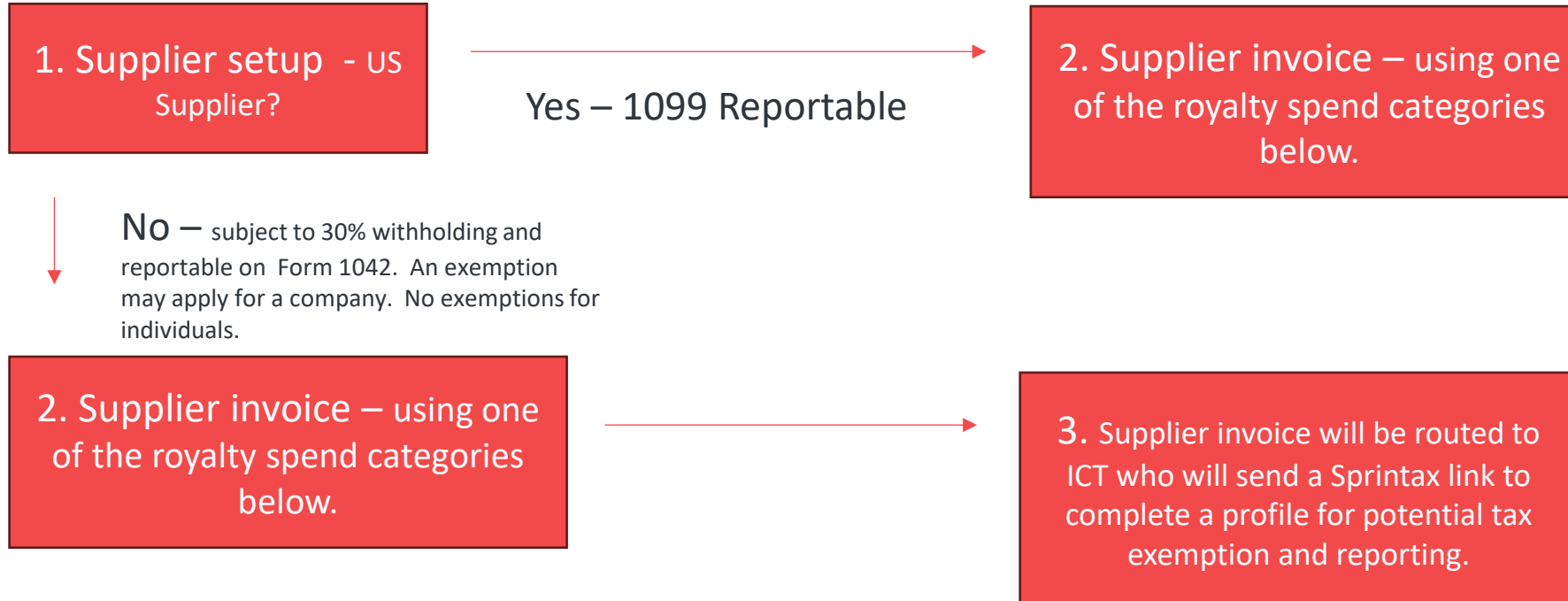
See [next page](#) for flowchart.

# Payments to Agents/Artists

Taxation is based on the “beneficial owner” of the income. The artist.



# Flowchart - Royalties



## Royalty Spend Categories (Designed to align with 1042 treaty and income codes) :

- SC00024 – Royalty - Copyright, Permission Fees
- SC00244 – Royalty – Motion Picture
- SC00245 – Royalty – Industrial
- SC00340 – Royalty – Equipment
- SC00341 – Royalty – Television/Radio
- SC00342 – Royalty – Software
- SC00343 – Royalty – Real Estate/Natural Resources Extraction

# Sources and Additional Resources

## **NRA Withholding**

<https://www.irs.gov/individuals/international-taxpayers/nra-withholding>

## **IRS Pub. 515 Withholding of Tax on Nonresident Aliens and Foreign Entities**

<https://www.irs.gov/forms-pubs/about-publication-515>

## **IRS Pub. 519 U.S. Tax Guide for Aliens**

<https://www.irs.gov/forms-pubs/about-publication-519>

## **IRS Pub. 901 US Tax Treaties**

<https://www.irs.gov/forms-pubs/about-publication-901>

## **International Taxpayers**

<https://www.irs.gov/individuals/international-taxpayers>

### **Internal Revenue Code Sections**

I.R.C. § 74 – Prizes and Awards

I.R.C. § 117 – Qualified Scholarships

I.R.C. § 861 - Income from sources within the United States

I.R.C. § 871 - Tax on nonresident alien individuals

I.R.C. § 1441 - Withholding of tax on nonresident aliens