SECTION 15 - ACCOUNTS PAYABLE

ADDENDUM
California Reporting & Withholding Requirement for Payments to Out-of-State Performers/Vendors

Background

The California Franchise Tax Board (FTB) requires that for tax reporting purposes, entities (e.g., CSULB Foundation) making payments to agents of performers/vendors for the performance of services report the payment as if it is being issued directly to the actual performer/vendor (the true owner of the income), and not the agent.

Any Department who retains the services of performers/vendors should request the tax information (e.g., Form W-9 information – name of performing entity, address, taxpayer identification number) of both the true performer/vendor and the agent. The information should be provided to the Foundation Accounts Payable department.

Withholding & Reporting for Nonresident Performer/Vendor Payments

When the Foundation requests a reduced rate of withholding through the FTB for California nonresident performers/vendors (i.e., a reduction that is less than the mandated 7% of gross payments that exceed or are expected to exceed $1,500 for the tax year), the Foundation will provide to the FTB, the name and taxpayer identification number of the vendor/performer, and the amount of income that represents the vendor's actual compensation.

If the Foundation or Department is aware of the amount of the agent's commission or fee up front, the fee can be subtracted from the amount of compensation being reported to the performer. For instance, if the check request from the Department is $10,000, and the Foundation or Department has knowledge that the agent's fee is $1,000, the Foundation would report the vendor payment of $9,000 to the FTB, therefore reducing the amount of state income tax that is required to be withheld from the payment. If the Foundation or Department does not know the amount of the agent's fee at the time the payment is issued, the entire amount of gross pay will be reported to the FTB for the actual performer/vendor. The vendor/performer may be allowed to take a deduction of the agent's fee on their personal income tax return.

Therefore, for California tax reporting purposes, the Foundation will disregard the agent and report the income as if it were being paid to the true performer/vendor. The only time the agent's name will be used is on the actual check. In these cases, the Foundation should make a note in the vendor file indicating that the payment related to the actual performer/vendor for the performance of services was actually issued to the agent.

Withholding & Reporting of Agent Fees

The FTB has indicated that paying entities are not required to report or withhold state income taxes from agent fees, even if the agent is a nonresident of California and the total annual payments exceed or are expected to exceed $1,500. The only exception to this would be in the instance where the nonresident agent is traveling with the performer/vendor in California. In this case, the Foundation would be required to report and withhold state income tax from the agent’s commission if the Department or Foundation is made aware that the agent is traveling with the performer/vendor in California and has been informed of the amount of the agent’s commission. If the Department or Foundation does not have sufficient facts to make this determination, the entire amount would be reported to the vendor/performer.
Year-End Reporting Requirements

Year-end Forms 592-B does not need to be filed for performers/vendors that the Foundation has previously remitted Forms 594 and the corresponding tax payments during the year. Therefore, no additional California year-end reporting will be required for these types of vendors.