

Taxability of Stipends

For information on tax liabilities and how to file federal tax forms, please contact a licensed tax professional in your jurisdiction. We recommend that you provide your tax preparer with a copy of the most recent *Terms of Appointment*.

Nature of the Program

The purpose of the research participation program is to support individuals to initiate and conduct collaborative research and related projects at the sponsoring agency approved sites. This program complements the individual's academic training, provides the opportunity for hands-on experience, and the opportunity to apply and practice the theories and methods learned in the classroom.

The *Terms of Appointment* for this program state:

By accepting this appointment, the Participant acknowledges understanding and agreement that this is NOT a contract of employment, and nothing contained in the appointment documents or in the performance of the appointment is intended or shall be construed to create or infer an employment relationship between the Participant and ORAU, ORISE, DOE, the host facility, or the sponsoring agency. Participant acknowledges and agrees that s/he is engaged in an educational experience for a specific term, and is not providing services to, is not receiving wages from, and is not working for, ORAU or ORISE. Therefore, by accepting this appointment, the Participant acknowledges and agrees that no employment related benefits, obligations, or programs (including, but not limited to, paid vacations, sick pay, bonuses, worker's compensation, or unemployment compensation) are appropriate or applicable to this appointment. Participant agrees that the fact that s/he administratively receives stipend payments from ORAU or ORISE shall not be construed as an indication of an employment relationship under the "paymaster" or any other theory. Participant further agrees that the parties intend that this paragraph shall be conclusive regarding the relationship of the parties before any administrative tribunal, regulatory or taxing agency, court proceeding, or otherwise, and agrees to take no future action contrary to this paragraph.

Federal Income Tax

All stipend payments paid by Oak Ridge Associated Universities (ORAU) directly to the participant are considered taxable by the U.S. federal government, and it is the participant's responsibility to report these payments to the Internal Revenue Service (IRS).

Because participants are not employees, stipend payments are not considered wages and should not be reported as such. Stipend payments are payments made in order to help defray living expenses while the participant is engaged in the research participation program. For IRS purposes, these payments are considered non-qualified scholarships and fellowships (not tuition and fees). For information on how to report this amount on the federal tax return, refer to IRS Publication 970, *Tax Benefits for Education*, which can be downloaded from www.irs.gov/Forms-&-Pubs or requested at 1-800-829-3676

Stipend payments are not subject to self-employment taxes. To determine self-employment taxability of the ORISE programs, ORAU refers to a 1994 Tax Court case, which held that certain types of fellowships are taxable for income tax purposes but are not subject to self-employment tax. ORAU's position is that although I.R.C. §117(a) states that fellowships for non-degree seeking candidates are subject to income tax, the fellowship is still considered as a grant under I.R.C. §117(a), *Spiegelman v. Comm'r*, 102 T.C. 394 (1994). Because a grant is not derived in the context of a trade or business, it is excludable from self-employment income and, therefore, not subject to self-employment tax. *Id.* The amount should be reported as "other income" on the individual income tax return. *Ruggiero v. Comm'r.*, 74 TCM 662 (1997).

Except for some foreign nationals, participants will have no Federal tax withheld by ORAU from their stipend payments.

Participants who have no tax withheld from their stipend payment can expect to receive an annual Statement of Payments letter from ORAU. Designed to help with tax preparation, this statement will be made available electronically in February and will include the total amount of payments made by ORAU during the previous calendar year.

Additional Information for Foreign Nationals: Some foreign nationals will have payments reported to the IRS and/or taxes withheld by ORAU based upon their residency and the tax treaty status with their country. Foreign nationals will receive notification of their tax status after beginning their appointment and upon any change/incident that may affect their status. Foreign nationals for whom ORAU reports payments to the IRS will receive notification of the amount of these payments on Form 1042-S before March 15 following the relevant tax year.

Other Taxes

Because stipend payments are awards (not wages), ORAU does not withhold Social Security or Medicare taxes for any participant. Participants are not self-employed, and therefore do not pay self-employment taxes. ORAU also does not withhold state income tax for any participant.

**ORAU's Responsibility to Withhold Federal Taxes and Report to the IRS
For U.S. Citizens and Non-Citizens Participating in its Fellowship, Scholarship and Internship
Programs**

Citizenship	Qualifying Condition	ORAU Withholds for Federal Income Tax	ORAU Reports to the IRS
U.S. Citizen		No	No
Lawful Permanent Resident (Green Card Holder)		No	No
Foreign national who is considered a resident for tax purposes*	Tax treaty between the U.S. and country of tax residency	No	Yes (on form 1042-S)
Foreign national who is considered a resident for tax purposes*	No tax treaty between the U.S. and country of tax residency	No	No
Foreign national who is not considered a resident for tax purposes**	Tax treaty between the U.S. and country of tax residency	No	Yes (on form 1042-S)
Foreign national who is not considered a resident for tax purposes**	No tax treaty between the U.S. and country of tax residency	Yes	Yes (on form 1042-S)

* A foreign national who meets the Substantial Presence Test and is, therefore, considered a resident of the U.S. for tax purposes

** A foreign national who does not meet the Substantial Presence Test and is, therefore, NOT considered a resident of the U.S. for tax purposes.