PACKET # 3

Required by:

Foreign Individual (Sole Proprietor or DBA)

Contains:

Vendor Welcome Letter
LBNL's Substitute Form W-8BEN for Foreign Individuals
Form 587 – CA Nonresident

Controller's Office
1 Cyclotron Road – MS: 971-AP
Berkeley, CA 94720-0001
(510) 486-6954

Dear Vendor:

Welcome. On behalf of Lawrence Berkeley National Laboratory (LBNL) we look forward to serving you. Enclosed you will find the required vendor registration packet we need back from you. Please review all sections of this letter carefully.

Required Information

In order to establish you as a LBNL Vendor, please complete and return the packet provided to the Procurement contact. Failure to return the forms indicated to the Procurement contact could result in Federal (28%) and State (7%) backup withholding.

California Nonresident Withholding

If services are performed inside the State of California nonresident withholding of 7% could apply. Please complete either Form 590 or 587, but not both. If services are performed inside and outside the State of California, please identify as separate line items on your invoice. Otherwise withholding could apply to the entire invoice amount. Additional information is available at http://www.ftb.ca.gov/forms/2011/11_592.pdf

LBNL Resale Certificate

A copy of our Resale Certificate is available on line at http://www.lbl.gov/Workplace/CFO/co/ap/.
Vendors and Subcontractors are responsible for knowing and understanding sales and use tax regulations of the State of California. Additional information is available at http://www.boe.ca.gov/sutax/sutprograms.htm

How to Submit Invoices

All invoices **should be emailed** to apinvoice@lbl.gov. Please make sure your company's name appears in the subject line of the email. We have implemented a new enterprise content management software. In order to maximize efficient processing and timely payment of invoices please ensure that you are submitting one invoice per email preferably in a PDF format. Your PDF file should contain your invoice on page one and any relating back up in subsequent pages all within the same file.

All invoices should be presented in the agreed upon format as outlined in the purchase order/subcontract and must include the PO # on the face of the invoice. Any invoice not meeting these requirements will not be accepted and returned.

If you email us your invoice, please do not mail or fax us a hard copy.

Vendors that are unable to email their invoices should mail them to the following billing address:

Lawrence Berkeley National Laboratory
Accounts Payable Department
1 Cyclotron Road – MS 971-AP
Berkeley, CA 94720-0001

Required Purchase Order Information on Invoice

Note our purchase order/subcontract number on your invoice. LBNL's purchase order numbers are seven (7) digits long, contain only numerical characters and are preceded by a six (6). Invoices without a purchase order number will be returned to you.

Recycled Invoice Numbers

Our system does not allow LBNL to enter duplicate invoice numbers. Invoice numbers are audited by vendor, not by the date of an invoice or purchase order number. It is important when submitting an invoice that LBNL has not already been billed using the same number (regardless of the date and PO number).

Invoice Payment Terms

Invoices are paid based on the terms and conditions of the subcontract from the date of receipt of the invoice in our office.

Finance Charges and Late Fees

LBNL does not pay the above charges. Do not send finance charge invoices. They will be returned to you.

Electronic Payments

Effective February 1, 2010, LBNL's Accounts Payable Department will make its domestic (U.S.) vendor payments electronically via the Automated Clearing House network (ACH). ACH is the fastest and most secure method for our vendors to receive timely payments. In addition, you will receive detailed payment information via email to assist with payment application whenever an ACH payment is made to you.

US DOMESTIC VENDORS ONLY: Please take a few moments to fill out the attached Direct Deposit (ACH) enrollment form and return it to cfo-ap-vendorsetup@lbl.gov or fax it to 510-486-6975. If you have any questions or payment inquiries, please contact our vendor set up desk at cfo-ap-vendorsetup@lbl.gov or 510-486-4784.

Lawrence Berkeley National Laboratory (LBNL)
Certificate of Foreign Status for Federal Tax Withholding (LBNL W-8BEN)

This information is required in accordance with the provisions of the Internal Revenue Code applicable to foreign individuals. LBNLwill use this information to determine the appropriate Federal and State tax withholding applicable to any payment(s) you receive. You must complete this form prior to receiving a payment from LBNL. In addition, if there is a change in your immigration status, you must complete a new form. The information requested below is confidential and will be used only to determine your correct tax withholding status. Please read the Instructions before completing this form.

If you are an employee and have a Form I-20, DS2019, or Notice of Action, please attach it. If you are an independent contractor, attach a copy of your Form I-94. If you are receiving payments from a source that did not sponsor your J visa, you must attach a copy of your approval notice from the sponsor.

Do not complete this form if you are a U.S CITIZEN or LAWFUL PERMANENT RESIDENT of the United States. If you are an employee, your Employment Eligibility Verification, Form I-9, must indicate that you are a U.S. citizen or lawful permanent resident.

SECTION A. IDENTIFICATION OF PAYEE		
1. Name (Last, First, Middle)	2. Employee ID. Number	3. Taxpayer ID. Number ☐SSN ☐ITIN
4. Division	5. Email address	
6. LBNL Status. Check all that apply ☐Staff, Post Doc or Student Employee ☐Fellowship Recipient ☐Independent Contractor ☐ Working outside the U.S. (If you check this box, proceed to Section H)		
7. Street Address In U.S.	8. Permanent Residence Address	
Street Address Line 2	Street Address Line 2	
City, State, Zip Code	City, Province, Country, Postal Code	

SECTION B. HEALTH INSURANCE INFORMATION
1. Name Of U.S. Health Insurance Carrier (See Instructions)

SECTION C. IMMIGRATION STATUS INFORMATION		
1. Visa Classification Do you have an F or J visa classification? ☐Yes. Complete C 2 and C 3 and proceed to section D. Step 1. ☐No. Proceed to section D. Step 1.	2. Enter Original Date You Entered The U.S. (See Instructions)	3. Enter Expiration Date of Current Visa (See Instructions)

SECTION D. SUBSTANTIAL PRESENCE TEST	
The substantial presence test is used to determine whether a non-U.S. citizen should be classified for tax purposes as a resident alien or as a nonresident alien. The information below will assist you in determining your U.S. tax residency status.	
Step 1 **Check the statement that describes your status and follow the instructions after the statement.** **If neither statement fits your status, proceed to Step 2.**	☐ I will be in the U.S. less than 31 days in the entire calendar year for which residency is being determined. You are a nonresident alien for tax purposes. Do not complete Step 2, proceed to section G.
	☐ I am a STUDENT on an F-1, J-1, M-1, or Q-1 visa, and including the calendar year in which this form is being prepared, throughout my lifetime I have been physically present in the U.S. as an F-1, J-1, M-1, or Q-1 visa holder (whether as a student, teacher, researcher, or trainee) for **five or fewer calendar years**. Physical presence in the U.S. in such visa status for any part of a calendar year constitutes a full calendar year of presence. List all years that you were present in the U.S. for all or any part of the calendar year in F-1, J-1, M-1, or Q-1 visa status whether as a student, teacher, researcher, or trainee status. Years present: _____ _____ _____ _____ _____ _____. If you meet these conditions, you are a nonresident alien for tax purposes for the calendar year in which this form is completed Do not complete Step 2, proceed to section G.
	☐ I am a TEACHER, RESEARCHER, or TRAINEE on a J-1 or Q-1 visa, and with respect to the six calendar years immediately prior to the calendar year in which this form is being prepared, I was physically present in the U.S. as an F-1, J-1, M-1, or Q-1 visa holder (whether as a student, teacher, researcher, or trainee) for **less than two of such six years**. Physical presence in the U.S in such visa status for any part of a calendar year constitutes a full calendar year of presence. List all years that you were present in the U.S. for all or any part of the calendar year in F-1, J-1, M-1, or Q-1 visa status whether as a student, teacher, researcher, or trainee status. Years present: _____ _____ _____ _____ _____ _____. If you meet these conditions, you are a nonresident alien for tax purposes for the calendar year in which this form is completed. Do not complete step 2, proceed to section G.
	☐No statement applies. Proceed to Step 2.

Step 2 Substantial Presence Test	This step involves a calculation of the number of days that you have been physically present in the U.S. during the current year and the two immediately preceding years. It is important to note that some days of physical presence may not be counted for this test. Please review the Instructions before completing step 2.			
YEAR	**PERIOD (S) WHEN YOU WERE PHYSICALLY PRESENT IN THE U.S.**	**TOTAL COUNTABLE DAYS OF U.S. PRESENCE**	**CALCULATION FACTOR**	**DAYS TO COUNT**
Current Year: _____			X 1 =	
Ist Preceding Year: _____			X 1/3 =	
2nd Preceding Year: _____			X 1/6 =	
			TOTAL	

SECTION E. SUMMARY OF FOREIGN STATUS FOR FEDERAL TAX WITHHOLDING

☐ Check here if your total days in Step 2 are less than 183 days. You are a nonresident alien for Federal tax purposes for the current year. Proceed to Section G.

☐ Check here if your total days in Step 2 are equal to or greater than 183 days. You are a resident alien for Federal tax purposes for the current year. Proceed to Section F.

SECTION F. CLOSER CONNECTION TEST

Even though you meet the substantial presence test and are considered a resident alien for Federal tax purposes, you may be eligible to claim the closer connection exception. Please read the Instructions for information regarding the closer connection exception.

☐ Yes, I qualify for the closer connection exception and have attached an IRS determination letter. Proceed to Section G.

☐ No, I do not qualify for the closer connection exception. Proceed to Section G.

SECTION G. CLAIM OF TAX TREATY BENEFITS (Complete if applicable, otherwise proceed to section I.) (Please note that tax treaty benefits do not apply to California Personal Income Tax Withholding).

The payments that you receive from LBNL may be eligible for an exemption from Federal tax withholding under a tax treaty between the U.S. and your country of residence. If you are receiving a scholarship, fellowship, or royalty payment and are eligible to claim tax exemption, please complete the information below:

Country of Residence _____ Treaty Article _____

If you are an employee and previously used the tax treaty exemption, list all years in which you used the tax treaty exemption. Years:

_____ _____ _____ _____ _____ _____.

See Instructions for further information and any additional reporting requirements.

SECTION H. WORKING OUTSIDE THE U.S. (See Instructions)

I certify that I am not a U.S. citizen or permanent resident of the U.S., and all of my services for the University of California are performed in _____.

SECTION I. CERTIFICATION

Under penalties of perjury

I certify I have read the Instructions for this form and that the information on this form, to the best of my knowledge and belief, is true, correct, and complete. I understand that if my immigration status changes from that which I have indicated on this form, I must submit a new Certificate of Foreign Status for Federal Tax Withholding (LBNL W-8BEN) form.

The Internal Revenue Service does not require your consent to any provisions of this document other than the certifications required to establish your status as a non-U.S. person and, if applicable, obtain a reduced rate of withholding.

Signature _____ Date _____

BUSINESS STATUS (Check all that apply)

☐ Disadvantage Business	☐ Veteran-Owned Small Business
☐ Women-owned Business	☐ Service-Disabled Veteran-Owned Small Business
☐ HUB Zone Small Business	☐ California Disabled Veteran
☐ 8a Small Business	

Instructions for Completing the Certificate of Foreign Status for Federal Tax Withholding (LBNL W-8BEN)

You have been asked to complete the Certificate of Foreign Status for Federal Tax Withholding form because you are a non-U.S. citizen receiving payments from LBNL. Under Federal tax laws, all non-U.S. citizens are classified as either resident aliens or nonresident aliens. LBNL must establish your proper classification with respect to residency for Federal tax purposes in order to determine the proper tax withholding and file the appropriate reports with the Internal Revenue Service. By completing the information on the form, LBNL can determine whether you should be classified for Federal tax purposes as a resident alien or a nonresident alien. The Instructions below will assist you in completing this form. Please note that you must complete this form at the time of hire, rehire, or if there are any changes in your visa status.

SECTION A. IDENTIFICATION OF PAYEE

1. **NAME –** Enter your full name – Last, First, Middle.
2. **EMPLOYEE ID. NUMBER –** University employees enter your 9-digit University employee identification number. If you are a nonemployee, leave this field blank.
3. **TAXPAYER ID. NUMBER –** Check the box that applies to your taxpayer ID. Number: SSN (Social Security Number), ITIN (Individual Taxpayer Identification Number), or EIN (Employer Identification Number). (*If* you are a *Canadian, do not enter the social security number issued by the Canadian government).* An individual otherwise ineligible to obtain a SSN may obtain an ITIN. You may obtain an ITIN, if you are eligible, by filing Form W-7, Application for Individual Taxpayer Identification Number, along with necessary documentation with the IRS Service Center in Austin, TX. You may obtain the Form W-7 from the IRS web site, www.irs.gov.
4. **DEPARTMENT** – Enter the name of your division compensating you or providing the fellowship grant to you.
5. **EMAIL ADDRESS** – Enter your email address.
6. **LBNL STATUS –** Check all that apply.
7. **STREET ADDRESS IN U.S** – Enter your current mailing address. Utilize Employee Self-Service to change your address.
8. **PERMANENT RESIDENCE ADDRESS** – Enter your permanent address in the country where you claim to be a resident for purposes of that country's income tax. (Do not use a LBNL address, P.O. Box, or in-care of address). If your permanent address is the same as # 7, you may leave # 8 blank.

SECTION B. HEALTH INSURANCE INFORMATION

1. **NAME OF U.S. HEALTH INSURANCE CARRIER –** Enter the name of your health insurance provider in the U.S.

SECTION C. IMMIGRATION INFORMATION

1. **VISA Classification –** Check the box that applies to your classification. For F or J visa classifications, this information can be found on your Form I-20, DS-2019, Notice of Action, or I-94. (Please note that if your visa classification is H, O, or TN, you must be paid by the employer that filed and received approval of your petition).
2. **ORIGINAL DATE YOU ENTERED U.S.–** Enter the date on which you first entered the U.S. F and J visa holders please note that you may enter and leave the U.S. many times during the period of your study, teaching, or research in the U.S. (i.e., vacations, holidays, or summer breaks) but the original date of entry into the U.S. on your current visa is the first date that you arrived in the U.S. to begin your study, teaching, research, etc., not the last date that you entered the U.S.
3. **EXPIRATION DATE OF CURRENT VISA –** Enter the expiration date of your current visa (F visa holders this information can be found in Part 5 of the I-20 or the EAD card if on practical training. J visa holders this information can be found on the DS-2019 form in Box 3.). All other visa statuses check your Notice of Action, or I-94.

SECTION D. SUBSTANTIAL PRESENCE TEST

Step 1: Read the statements and check the box that corresponds to your status. Proceed to the step indicated by your choice.
Step 2: Complete each row and column in this chart. In the first column, enter the applicable calendar year. In the second column, enter the periods when you were or expect to be physically present in the U.S. In the third column, enter only "countable" days of physical presence in the U.S. In this connection, you should not count:

- Days spent solely commuting to work in the U.S. from a residence in Canada or Mexico.
- Days spent in the U.S. for less than 24 hours while in transit between two places, which are located outside the U.S.
- Days you were unable to leave the U.S. because of a medical condition that developed while in the U.S.
- Days in which you were exempt from having to count days as a student on an F-1, J-1, M-1, or Q-1 visa or as a teacher, researcher or trainee on a J-1 or Q-1 visa.

For each year, multiply the number of **TOTAL COUNTABLE DAYS OF U.S. PRESENCE** by the **CALCULATION FACTOR** indicated to arrive at the **DAYS TO COUNT** in the far right column. Add the number of days in the right hand column to calculate the Total.

SECTION E. SUMMARY OF FOREIGN STATUS FOR FEDERAL TAX WITHHOLDING

Check the appropriate box based on the Total Days to Count reported in Step 2 above.

SECTION F. CLOSER CONNECTION TEST

You may be eligible to claim the closer connection exception with the IRS if you can answer yes to the following three questions:

- Will you be in the U.S. for fewer than 183 days in the current year?
- Do you pay income taxes in your country of residency?
- Do you have a closer connection with the foreign country in which a tax home is maintained than to the U.S?

These factors are used to determine if you meet the requisite closer connection requirements. You must file Form 8840 with the IRS to establish your claim that you are a nonresident alien. Additional information regarding the closer connection exception is set forth in the IRS Form 8840, Closer Connection Exception Statement for Aliens and Publication 519, U.S. Tax Guide for Aliens. You may obtain this form and publication from the IRS web site at the following address: www.irs.gov. You must provide a copy of the IRS closer connection determination letter upon receipt to the Payroll Department.

SECTION G. CLAIM OF TAX TREATY BENEFITS

You may be eligible for exemption from Federal income tax withholding under a tax treaty between the U.S. and your country of residence. If you wish to claim the benefits of a tax treaty you must: 1) be receiving a type of income (e.g., wages, fellowship award, royalty, etc.,) that is exempt under a specific provision of the tax treaty; and 2) meet all treaty eligibility requirements.

TAXABLE YEAR | CALIFORNIA FORM

2012 Nonresident Withholding Allocation Worksheet 587

Part I Withholding Agent

Withholding agent's name: UC - LAWRENCE BERKELEY NATIONAL LABORATORY

Address (number and street, PO Box, or PMB no.): 1 CYCLOTRON ROAD, MS: 971-AP | Apt. no./Ste. no.:

City: BERKELEY | State: C A | ZIP Code: 9 4 7 2 0

Part II Nonresident Payee (Complete Part II through Part V and return this form to the above withholding agent)

Payee's name | Owner's full name if sole proprietor

Address (number and street, PO Box, or PMB no.) | Apt. no./Ste. no.

City | State | ZIP Code

☐ SSN or ITIN ☐ CA Corp. no. ☐ FEIN | Secretary of State (SOS) file no. | Daytime telephone number ( )

Nonresident payee's entity type: (Check one)

☐ Individual/sole proprietor ☐ Corporation ☐ Partnership ☐ Limited liability company (LLC) ☐ Estate or trust

Part III Payment Type

Nonresident payee: (Check one)

☐ Performs services totally outside California (no withholding required, skip to Part V)
☐ Provides only goods or materials (no withholding required, skip to Part V)
☐ Provides goods and services in California (see allocation in Part IV)
☐ Provides services within and outside California (see allocation in Part IV)
☐ Other (Describe)_____

If the payee performs all the services within California, withholding is required on the entire payment for services unless the payee is granted a withholding waiver from the Franchise Tax Board (FTB). For more information, get FTB Pub. 1017, Resident and Nonresident Withholding Guidelines.

Part IV Income Allocation

Gross payments expected from the above withholding agent during the calendar year for:

	(a) Within California	(b) Outside California	(c) Total payments
1 Goods and services:			
Goods/materials (no withholding required)			
Services (withholding required)			
2 Rents or lease payments			
3 Royalty payments			
4 Prizes and other winnings			
5 Other payments			
6 Total payments subject to withholding. Add column (a), line 1 through line 5			

Withholding threshold amount: $1,500.00

Withholding is optional, at the discretion of the withholding agent, on the first $1,500 in payments made during the calendar year. Withholding must begin as soon as the total payments of California source income for the calendar year exceed $1,500. If the FTB grants the withholding waiver, attach a copy of the FTB determination letter. See General Information E, Waivers.

Part V Certification of Payee

Under penalties of perjury, I certify that the information provided on this document is true and correct. If the reported facts change, I will promptly inform the withholding agent.

▶ Authorized representative's signature | Title | ( ) Daytime telephone number

▶ Payee's signature | Date | ( ) Daytime telephone number

Instructions for Form 587

Nonresident Withholding Allocation Worksheet

References in these instructions are to the California Revenue and Taxation Code (R&TC).

General Information

Backup Withholding – Beginning on or after January 1, 2010, with certain limited exceptions, payers that are required to withhold and remit backup withholding to the Internal Revenue Service (IRS) are also required to withhold and remit to the Franchise Tax Board (FTB). The California backup withholding rate is 7% of the payment. For California purposes, dividends, interests, and any financial institutions, release of loan funds made in the normal course of business are exempt from backup withholding.

If a payee has backup withholding, the payee must contact the FTB to provide a valid Taxpayer Identification Number (TIN) before filing a tax return. The following are acceptable TINs: social security number (SSN); individual taxpayer identification number (ITIN); federal employer identification number (FEIN); California corporation number (CA Corp No.); or California Secretary of State (SOS) file number. Failure to provide a valid TIN will result in the denial of the backup withholding credit. For more information, go to **ftb.ca.gov** and search for **backup withholding.**

Private Mail Box (PMB) – Include the PMB in the address field. Write "PMB" first, then the box number. Example: 111 Main Street PMB 123.

Foreign Address – Enter the information in the following order: City, Country, Province/Region, and Postal Code. Follow the country's practice for entering the postal code. **Do not** abbreviate the country's name.

A Purpose

Use Form 587, Nonresident Withholding Allocation Worksheet, to determine the amount of withholding required on payments to nonresidents.

The payee completes, signs, and returns Form 587 to the withholding agent. The withholding agent relies on the certification made by the payee to determine the amount of withholding required, provided the completed and signed Form 587 is accepted in good faith. Retain the completed Form 587 for your records for a minimum of four years and provide it to the FTB upon request.

Do not use Form 587 if any of the following applies:

- You sold California real estate. Use Form 593-C, Real Estate Withholding Certificate.
- The payee is a resident of California or is a non-grantor trust that has at least one California resident trustee. Use Form 590, Withholding Exemption Certificate.
- The payee is a corporation, partnership, or limited liability company (LLC) that has a permanent place of business in California or is qualified to do business in California. Foreign corporations must be qualified to transact intrastate business. Use Form 590.
- The payment is to an estate and the decedent was a California resident. Use Form 590.

B Requirement

California Revenue and Taxation Code (R&TC) Section 18662 and the related regulations require withholding of income or franchise tax on certain payments made to nonresidents of California for personal services performed in California and for rents on property located in California and royalties with activities in California. The withholding rate is seven percent (.07) unless the FTB grants a waiver. See General Information E, Waivers.

C When to File This Form

The withholding agent requests that the payee completes, signs, and returns Form 587 when a contract is entered into or before payment is made to the payee. The withholding agent retains Form 587 for a minimum of four years and must provide it to the FTB upon request.

Form 587 remains valid for the duration of the contract (or term of payments), provided there is no material change in the facts. By signing Form 587, the payee agrees to promptly notify the withholding agent of any changes in the facts.

D Withholding Requirements

Payments made to nonresident payees (including individuals, corporations, partnerships, LLCs, estates, and trusts) are subject to withholding. However, no withholding is required if total payments of California source income to the payee during the calendar year are $1,500 or less.

If the California resident, qualified corporation, LLC, or partnership is acting as an agent for the nonresident payee, the payment is subject to withholding if the nonresident payee does not meet any of the exceptions on Form 590.

Payments subject to withholding include the following:

- Payments for services performed in California by nonresidents.
- Payments made in connection with a California performance.
- Rent paid to nonresidents if the rent is paid in the course of the withholding agent's business.
- Royalties paid to nonresidents from business activities in California.
- Payments of prizes for contests entered in California.
- Distributions of California source income to nonresident beneficiaries from an estate or trust.
- Other payments of California source income made to nonresidents.
- Endorsement payments received for services performed in California.

Payments not subject to withholding include payments:

- To a resident of California or to a corporation with a permanent place of business in California.
- To a corporation qualified to do business in California.
- To a partnership or LLC that has a permanent place of business in California.
- For sale of goods.
- For income from intangible personal property, such as interest and dividends, unless the property has acquired a business situs in California.
- For services performed outside of California.
- To a payee that is a tax-exempt organization under either California or federal law, use Form 590.
- Representing wages paid to employees. Wage withholding is administered by the California Employment Development Department (EDD). For more information, go to **edd.ca.gov** or call **888**.745.3886.
- To a payee that is a government entity.
- To reimburse a payee for expenses relating to services performed in California if the reimbursement is separately accounted for and not

subject to federal Form 1099 reporting. Corporate payees, for purposes of this exception, are treated as individual persons.

E Waivers

A nonresident payee may request that withholding be waived. To apply for a withholding waiver, use Form 588, Nonresident Withholding Waiver Request. If the FTB has granted a waiver, you must attach a copy of FTB's determination letter to Form 587.

F Requirement to File a California Tax Return

A payee's exemption certification on Form 587, Form 590, or a determination letter from the FTB waiving withholding does not eliminate the requirement to file a California tax return and pay the tax due. For return filing requirements, see the instructions for Long or Short Form 540NR, California Nonresident or Part-Year Resident Income Tax Return; Form 541, California Fiduciary Income Tax Return; Form 100, California Corporation Franchise or Income Tax Return; or Form 100S, California S Corporation Franchise or Income Tax Return.

Specific Instructions

Part I – Withholding Agent

The withholding agent must complete Part I before giving Form 587 to the payee.

Part II – Nonresident Payee

The payee must complete all information in Part II including the SSN, ITIN, CA Corp No., FEIN, or SOS file number, and entity type.

Part III – Payment Type

The nonresident payee must check the box that identifies the type of payment being received.

No withholding is required when payees are residents or have a permanent place of business in California.

Part IV – Income Allocation

Use Part IV to identify payments that are subject to withholding. Only payments sourced within California are subject to withholding. Services performed in California are sourced in California. In the case of payments for services performed when part of the services are performed outside California, enter the amount paid for performing services within California in column (a). Enter the amount paid for performing services while outside California in column (b). Enter the total amount paid for services in column (c).

If the payee's trade, business, or profession carried on in California is an integral part of a unitary business carried on within and outside California, the amounts included on line 1 through line 5 should be computed by applying the payee's California apportionment percentage (determined in accordance with the provisions of the Uniform Division of Income for Tax Purposes Act) to the payment amounts. For more information on apportionment, get California Schedule R, Apportionment and Allocation of Income.

Withholding agent. Withholding is optional, at your discretion, on the first $1,500 in payments made during the calendar year. Withholding must begin as soon as the total payments of California source income for the calendar year exceed $1,500. If circumstances change during the year (such as the total amount of payments), which would change the amount on line 6, the payee must submit a new Form 587 to the withholding agent reflecting those changes. The withholding agent should evaluate the need for a new Form 587 when a change in facts occurs.

Part V – Certification of Payee

The payee and/or the authorized representative must complete, sign, date, and return this form to the withholding agent.

Authorized representatives include those persons the payee authorized to act on their behalf through a power of attorney, third party designee, or other individual taxpayers authorized to view their confidential tax data via a waiver or release.

Additional Information

For additional information or to speak to a representative regarding this form, call the Withholding Services and Compliance automated telephone service at:

888.792.4900, or
916.845.4900
FAX 916.845.9512

OR write to:

WITHHOLDING SERVICES AND
COMPLIANCE MS F182
FRANCHISE TAX BOARD
PO BOX 942867
SACRAMENTO CA 94267-0651

Where to Get Publication, Forms, and Publications

For all other questions unrelated to withholding or to access the TTY/TDD numbers, see the information below.

TAX FORMS REQUEST UNIT MS F284
FRANCHISE TAX BOARD
PO BOX 307
RANCHO CORDOVA CA 95741-0307

Internet and Telephone Assistance

Website: **ftb.ca.gov**
Telephone: 800.852.5711 from within the United States
916.845.6500 from outside the United States
TTY/TDD: 800.822.6268 for persons with hearing or speech impairments

Asistencia Por Internet y Teléfono

Sitio web: **ftb.ca.gov**
Teléfono: 800.852.5711 dentro de los Estados Unidos
916.845.6500 fuera de los Estados Unidos
TTY/TDD: 800.822.6268 personas con discapacidades auditivas y del habla

By Automated Phone Service: Use this service to check the status of your refund, order California forms, obtain payment and balance due information, and hear recorded answers to general questions. This service is available 24 hours a day, 7 days a week, in English and Spanish.

Telephone: 800.338.0505 from within the United States
916.845.6600 from outside the United States

Follow the recorded instructions. Have paper and pencil available to take notes.

In addition to completing this form, nonresident aliens receiving a fellowship or royalty payment who want to claim the tax treaty exemption must complete the information requested in Section G to claim the exemption. Nonresident alien employees (including students, teachers, and researchers) claiming tax exemption for wages are required to submit to LBNL a Form 8233, Exemption From Withholding on Compensation for Independent (and Certain Dependent) Personal Service of a Nonresident Alien Individual, **and** must provide an additional tax treaty statement (as required under Revenue Procedures 87-8, 87-9, 93-22, and 93A).

Nonresident alien independent contractors must also submit a Form 8233 to claim tax treaty benefits. Resident aliens who are claiming a tax treaty exemption of any kind must complete a Form W-9, Request for Taxpayer Identification Number and Certification.

Tax treaty forms may be available on your Payroll Department.

SECTION H. WORKING OUTSIDE THE UNITED STATES

Compensation paid to a nonresident alien for services performed entirely outside of the U.S. is considered to be foreign source income; therefore, no U.S. tax withholding is required. If the services are performed both within and without the U.S., the total amount of the compensation must be prorated based on the total time associated with the performance of service within and without the U.S. This exclusion is applicable to both employee wages and independent contractor compensation. If you meet the above criteria, you must complete the information requested in Section H to claim this exclusion. You may obtain additional information from the IRS web site at the following address: www.irs.gov.

SECTION I. CERTIFICATION

Sign and date the form. Return the completed form to the office that issued it to you.

ADDITIONAL INFORMATION

CALIFORNIA PERSONAL INCOME TAX - Regardless of your Federal income tax status, you are subject to California Personal Income Tax in the same manner as U.S. citizens.

CHANGE IN CIRCUMSTANCES

If a change in circumstances makes the information on this form incorrect, you are required to immediately complete a new form. Failure to do so may result in incorrect Federal tax withholding and reporting. Please note that nonresident alien employees should complete the UC W-4NR/DE 4 to make a change in their withholding status. If a change in circumstances makes you a resident alien, you should complete the Form UC W-4/DE 4. If you become a U.S. citizen or a lawful permanent resident after submission of this form, notify your department.

EXPIRATION OF FORM

This form will remain in effect for a period of three years from the date that it is signed.

Frequently Asked Questions

1. *What is the difference between a resident alien and a nonresident alien for tax purposes?*

The Internal Revenue Service (IRS) classifies all foreign nationals as either resident aliens or nonresident aliens. Resident aliens are, for the most part, taxed in the same manner as U.S. citizens. The Internal Revenue Code (IRC), however, imposes an entirely different tax system on nonresident aliens. There are many differences between the two tax regimes, but perhaps the most significant is that resident aliens, like U.S. citizens, are taxed on their worldwide income, while nonresident aliens are taxed only on their U.S.-sourced income. In addition, different income tax withholding and reporting requirements are imposed on payments made to nonresident aliens.

2. *What are the "green card" and "substantial presence test"?*

These are the two tests that the IRS uses to classify a foreign national as either a resident alien or a nonresident alien. Generally, if either test is met, the person is a resident alien.

Under the green card test, a foreign national is classified as a resident alien on the date that the person is officially granted green card status. Resident alien status remains in effect until such time as the green card is rescinded or abandoned.

The substantial presence test measures the extent of a foreign national's physical presence in the U.S. to determine whether the person has been present in the U.S. for a sufficient amount of time to be classified as a resident alien. The substantial presence test (which is used only for tax purposes, not for immigration classification purposes) is met if the foreign national is physically present in the in the U.S. for a total of at least 183 days, taking into account all days of physical presence in the current year and in the two immediately preceding years. In addition, the person must be physically present for at least 31 days during the calendar year being tested. In making the 183-day calculation, the individual must count:

- The total number of days of physical presence in the U.S. during the current year;
- 1/3 of the number of days of physical presence in the U.S. during the 1st year preceding the current calendar year; and
- 1/6 of the number of days of physical presence in the U.S. during the 2nd year preceding the current calendar year.

This calculation is set forth in Section D, Step 2 of the Certificate of Foreign Status for Federal Tax Withholding (UC W-8BEN) form. For a non-exempt foreign national, the substantial presence test must be applied each calendar year to determine whether the foreign national will be treated as a resident or a nonresident alien for the year. Thus, a person's classification may change from year to year.

3. *Who is an "exempt Individual" for tax purposes?*

The term "exempt individual" does not refer to exemption from U.S. income tax; rather, it describes certain foreign national students, teachers, researchers, or trainees who are exempt from having to count days of physical presence in the U.S. toward the substantial presence test. The result of being an exempt individual is that the period of time that the person is classified as a nonresident alien is extended. In order to qualify as an exempt individual, the person must be temporarily present in the U.S. and be in substantial compliance with the conditions of his or her visa. In addition, the individual must fit one of the following profiles:

- Present in the U.S. as a teacher/researcher/trainee or postdoctoral fellow on a J or Q visa, except that such person will not be an exempt individual for the current year if he or she had been an exempt individual for any part of two or more of the previous six calendar years. In making the two-out-of-six year determination, the person must take into account any part of the year in which he or she was (1) a teacher, researcher, trainee, or postdoctoral fellow under a J-1 or Q-1 visa, and (2) a student under an F-1, J-1, M-1, or Q-1 visa.
- Present in the U.S. as a student on an F-1, J-1, M-1, or Q-1 visa, except that such person will not be an exempt individual for the current year if he or she had been an exempt individual for any part of five calendar years throughout the person's

lifetime. In making the five-year determination, the person must take into account any part of a calendar year that he or she was previously present in the U.S. as (1) a student under an F-1, J-1, M-1, or Q-1 visa, and (2) a teacher, researcher, trainee, postdoctoral fellow under a J-1 or Q-1 visa.

4. *What if I no longer qualify as an "exempt individual" and meet the substantial presence test — are there other ways I may be considered a nonresident alien for tax purposes?*

If a foreign national no longer qualifies as an exempt individual and meets the substantial presence test, he or she may still be classified as a nonresident alien under two exceptions set forth in the IRC.

• CLOSER CONNECTION EXCEPTION. If an individual meets the closer connection exception as described in the Instructions for Section F, the Form 8840 must be filed with the IRS so that the individual can establish his claim that he is a nonresident alien of the U.S. by reasons of the closer connection exception. The Form 8840 must be attached to Form 1040NR or Form 1040NR-EZ, if filing a tax return, or the Form can be mailed directly to the Internal Revenue Service Center, Philadelphia, PA 19255 by the due date for filing Form 1040NR or Form 1040NR-EZ

• STUDENTS PRESENT LONGER THAN 5 CALENDAR YEARS. An individual may continue to extend his or her student exempt individual status beyond the 5-year lifetime maximum if he or she meets both of the following conditions:

1. The individual does not plan to reside permanently in the U.S. (In making this determination, the IRS looks at the same factors used to determine the "closer connection" exception described above, and whether the person has taken any affirmative steps to file for status as a lawful permanent resident).
2. The individual is in substantial compliance with the requirements of his or her current student visa.

5. *What is FICA?*

The Federal Insurance Contributions Act, (FICA) taxes are imposed on wages paid to employees. FICA taxes and benefits consist of two parts: Social Security or Old Age Survivors, and Disability Insurance (OASDI) and Hospital Insurance for senior citizens and the disabled (Medicare). The tax is imposed on both the employer and the employee. The employer is required to withhold the applicable FICA tax from the employee's wages and, in addition, contribute a like amount from its own funds. The FICA tax is imposed on U.S. citizens, resident aliens, and nonresident alien employees, but the IRC provides a FICA tax exemption for some student and nonresident alien employees (see below).

Am I exempt from FICA tax withholding?

A student employed by LBNL is exempt from FICA if he or she is:

• Enrolled at the University of California on at least a half-time basis, and not in a career employee position.

A nonresident alien employee is exempt from FICA tax if he or she is:

• Present in the U.S. under an F-1, J-1, M-1 or Q-1 visa, and

• Performing services in accordance with the primary purpose of the visa's issuance. In connection with these two FICA tax exemptions, please note that:

• An individual can qualify for both. Thus, a nonresident alien student who is later reclassified as a resident alien will no longer qualify for the FICA tax exemption under the nonresident alien FICA tax exemption, but may qualify under the student employee exemption.

• The spouse and dependents of the primary visa holder (i.e., F-2, J-2, or M-2, or Q-2 visa holders) are not eligible for the nonresident alien FICA tax exemption.

6. *Why do I need an SSN or ITIN?*

A resident or nonresident alien employed by the University must obtain a Social Security Number (SSN). Any individual not eligible to obtain an SSN must obtain an Individual Taxpayer Identification Number (ITIN) by filing a Form W-7, Application for IRS Individual Taxpayer Identification Number. The requirement to obtain an ITIN applies primarily to nonresident aliens who receive honoraria or other payments for independent contractor services or who are recipients of scholarship or fellowship grants. While Form W-7s are normally filed with the IRS, it may be possible for an individual to obtain an ITIN through the University. Persons interested in obtaining an ITIN through the University should contact their department for more information. An SSN or ITIN also is required on individual tax returns filed with the IRS and State tax authorities by foreign nationals, whether classified as resident aliens or nonresident aliens.

7. *What is an Income Tax Treaty?*

An income tax treaty is a bilateral agreement between two governments under which each country agrees to limit or modify the application of its domestic tax laws in an attempt to avoid double taxation. When the United States enters into a tax treaty agreement
with a foreign country, ***the treaty supersedes Federal tax laws*** and provides tax benefits to aliens who are residents of the treaty country. Such aliens may be eligible for reduced tax rates or for exemption from Federal tax withholding, if they meet the requirements
of the particular treaty. LBNL is a research institution for the purposes of claiming a tax treaty.

8. *How is my status for California State income tax purposes determined?*

California does not distinguish between U.S. citizens, residents, and nonresident aliens with respect to State income tax withholding. Wages paid to California residents for services performed both within and outside the State are subject to State income tax withholding. Wages paid to nonresidents of California for services performed inside the State are subject to withholding for State income tax; only wages paid to nonresidents of California for services performed outside the State are exempt from withholding. The LBNL Form UC W-4NR/DE 4 provides information for determining a nonresident employee's tax filing status and the number of allowances to claim for income tax withholding. All new employees must complete this form. Additional information regarding California residency status may be obtained in the Franchise Tax Board, Publication 1031; Guidelines for Determining Resident Status. This publication is available at the Franchise Tax Board web site.

9. *How may I obtain more information about my Federal and State tax status?*

For more information on your Federal tax status, contact the **IRS** on the web at: www.irs.gov or call (800) 829-1040.

For more information on your State tax status, contact the **Franchise Tax Board** on the web at: www.ftb.ca.gov or call (800) 852-5711.