Determine whether the alien is a Resident Alien or a Nonresident Alien

1. Resident Aliens, for withholding tax purposes, are treated the same as U.S. citizens.
2. All amounts paid to Nonresident Aliens are subject to federal income tax withholding and are required to be reported to the Internal Revenue Service, regardless of the amount paid and regardless of whether or not the amounts are taxable.
3. For U.S. income tax purposes, there are four categories of individuals: (i) U.S. citizens, (ii) permanent resident aliens (e.g., "green card holders"), (iii) resident aliens for tax purposes and (iv) nonresident aliens for tax purposes.
4. There are two tests that are used to determine whether a non-U.S. citizen should be treated as a U.S. resident for tax purposes: the "green card" test and the "substantial presence" test. If the non-U.S. citizen satisfies either test, he is considered a U.S. resident for tax purposes; if he satisfies neither test, he is taxed as a nonresident alien.

**Green Card Test** - the alien will be treated as a U.S. resident alien for tax purposes if he is a lawful permanent resident alien at any time during a calendar year. The individual will be deemed to have obtained this status if (i) he or she has been granted lawful permanent resident status, and (ii) has been issued or will receive an alien registration card (known as a "green card") by the Immigration and Naturalization Service.

**Substantial Presence Test** - the alien will satisfy this test if he or she has been physically present in the U.S. on at least:
1) 31 days during the current calendar year, and
2) 183 days during the 3-year period that includes the current calendar year and the 2 years immediately before that, counting
   1. All the days present in the current year and
   2. 1/3 of the days present in the first preceding year and
   3. 1/6 of the days present in the second preceding year

**Exception to the Substantial Presence Rule**
1) Any days the individual regularly commutes to work in the U.S. from a residence in Canada or Mexico
2) Any days the individual was an "exempt individual", defined below
   a) teacher or trainee - must be in the U.S. under a J or Q non-student visa
   - does not qualify for "exempt individual" status if he or she was exempt as a teacher, trainee, or student for any two of the last six calendar years
   b) student - must be in the U.S. under an F, J, M or Q student visa
   - does not qualify for "exempt individual" status if he or she has enjoyed that status for any part of more than five calendar years
   c) foreign government-related” individual or dependent (A visa)
For withholding purposes, treat resident aliens the same as U.S. citizens

1. Visiting Scholars - no tax withholding required, income in excess of $600 is reported to the Internal Revenue Service on form 1099-MISC
2. Students - no tax withholding required on fee exemptions and cash awards, income is not reported to the Internal Revenue Service

For withholding purposes, treat nonresident aliens according to the following rules

1. Amounts paid to Nonresident aliens who temporarily visit the campus for the purpose of giving lectures, giving live performances, doing research, and performing other services on a short-term, contract basis, or royalties paid to nonresident aliens, are reportable to the IRS on form 1042-S and are subject to withholding of federal income tax at the rate of 30%, or a lower tax treaty rate, unless the recipient can show that such amounts are exempt from tax under the Internal Revenue Code or the terms of a tax treaty.
2. All amounts, whether paid directly to the nonresident alien or paid to a third party on behalf of the nonresident alien, are subject to the tax withholding regulations.