

IMPORTANT CONCEPTS OF THE U.S. LEGAL SYSTEM

(Source: The International Student Handbook by Allan Wernick)

In general, nonimmigrant international students and scholars enjoy the same constitutional protections as U.S. citizens. An international student or scholar can enjoy freedom of speech, freedom of assembly, protection from unreasonable searches and seizures, and the other protections included in the “Bill of Rights” of the U.S. Constitution. An international student or scholar can own property (land and buildings) if they wish to, and they are protected against discrimination on the grounds of race, religion, color and national origin. There are federal, state and often municipal rules protecting all persons from most forms of discrimination.

Civil Laws, Courts and Lawyers

If you have been wronged by another and can prove that you were damaged as a result, you may have the right to sue the wrongdoer in court for monetary damages. The person suing is called the plaintiff, and the person being sued is called the defendant. The fact that you are not a U.S. citizen will not affect your rights.

With the exception of small claims court, you might have the need to utilize the services of a lawyer. Lawyers generally charge for their services in one of three ways: a contingency fee, an hourly fee, and a flat fee. The fee agreement will often depend on the kind of case you have.

One type of court action in which you ordinarily do not need a lawyer is small claims court. Small claims court is designed to provide speedy relief for a person where a relatively small amount of money is involved. Generally the maximum you are allowed to sue for in small claims court is between \$500 and \$2000.

Criminal Cases

An international student or scholar has even more reason than a U.S. citizen to be concerned about the ramifications of criminal activity. A U.S. citizen who is convicted of a crime may face a fine or imprisonment. The international student or scholar will suffer these penalties and may be deported as well. If you are arrested or charged with a crime, you or your criminal attorney should consult with an immigration lawyer before pleading guilty to any charges.

An international student or scholar has the same rights as a U.S. citizen if accused of a crime: The right to be represented by a lawyer, and to be provided with a lawyer to represent you if you cannot afford to hire one; the right to remain silent or not to answer questions asked by a law enforcement officer regarding your possible involvement in criminal activity; and the right not to be searched unless

the police officer has a warrant, except in emergency circumstances. If you are accused of having committed a crime, the best advice in most circumstances is to not answer any questions regarding charges until you have had the opportunity to talk to a lawyer.

Freedom of Speech and Religion

International students and scholars have the constitutional right to express their views freely, to join together with others in the expression of those views, and to participate fully in the propagation and publication of ideas, popular or unpopular, so long as those expressions are made in an orderly and peaceful manner. International students and scholars have the same rights to free speech and are subject to the same limitations of freedom of action as U.S. citizens.

Enforcement of Laws

Laws exist in the U.S. that detail the rights and responsibilities of individuals living and working in the U.S. Each country's laws are unique to that country. If U.S. federal laws are involved, various federal agencies may become involved in the enforcement of these laws and the prosecution of individuals who have been deemed to have "broken" these laws. If state and/or local laws and regulations are involved, they are enforced by local, county, and/or state police and sheriffs departments (sometimes also known as public safety officials).

In some countries of the world, police units can act as both "judge and jury". In the U.S., police who overstep the responsibilities of their position can be prosecuted and punished. The purpose of police in the U.S. is to protect citizens and residents.

Paying Taxes

The United States of America (USA), most of its fifty states, and various local governments fund their programs and services through a variety of taxes on individuals physically present in the areas of their jurisdiction (whether citizens, permanent residents, or visitors). These taxes can include "sales taxes" (taxes on purchases), "investment taxes," and "income taxes" (taxes on earnings). These tax dollars are then utilized to pay for the cost of lights, streets, police, schools, retirement, etc. Paying these taxes and reporting income to these various governmental agencies is a legal requirement for an international student or scholar physically present in the USA.

It is common practice in the USA for an employer or the grantor of a scholarship/fellowship to state the gross amount an individual will earn/receive as a total or hourly dollar figure as the amount BEFORE tax. Taxes are removed from a

payment before the payment is made to an individual. Therefore, an international student or scholar should expect that the actual amount of money they will be receiving in the USA generally will be less than the amount stated to them verbally, in an award letter, or in an offer of employment letter.

Tax Status

International students and scholars physically present in the USA are determined to be either Non-Resident Aliens for Tax Purposes or Resident Aliens for Tax Purposes dependent upon their current immigration status, previous visits to the USA, and the date of their expected return to their home country. An individual's tax status directly affects which income taxes s/he must pay. The Office of International Education will determine and monitor an international student or scholar's tax status.

Federal Income Tax

International students and scholars studying and working in the USA (and their dependents who work) are required to pay federal income tax on any income they receive in the USA either paid to them directly or paid on their behalf. This means that any assistantship, scholarship, fellowship, salary, or compensation received by an international individual may be taxed by the US federal government. One exception to the general rule of paying tax may exist if the international student or scholars' country of residence has a tax treaty with the US federal government. These tax treaties are designed to foster trade and to prevent double taxation of citizens. The tax treaty between the US and Egypt is as follows (source: <http://www.irs.gov/publications/p901/ar02.html>):

An individual who is a resident of Egypt on the date of arrival in the United States and who is temporarily in the United States primarily to study at a university or other recognized educational institution in the United States, obtain professional training, or study or do research as a recipient of a grant, allowance, or award from a governmental, religious, charitable, scientific, literary, or educational organization is exempt from U.S. income tax on the following amounts.

- Gifts from abroad for maintenance, education, study, research, or training.
- The grant, allowance, or award.
- Income from personal services performed in the United States of up to \$3,000 each tax year.

An individual is entitled to the benefit of this exemption for a maximum of 5 tax years and for any additional period of time needed to complete, as a full-time student, educational requirements as a candidate for a postgraduate or professional degree from a recognized educational institution.

An individual who is a resident of Egypt on the date of arrival in the United States and who is temporarily in the United States as an employee of, or under contract with, a resident of Egypt is exempt from U.S. income tax for a period of 12 consecutive months on up to \$7,500 received for personal services if the individual is in the United States primarily to:

- Acquire technical, professional, or business experience from a person other than that resident of Egypt or other than a person related to that resident, or
- Study at a university or other educational institution.

An individual who is a resident of Egypt on the date of arrival in the United States and who is temporarily in the United States for no more than one year as a participant in a program sponsored by the U.S. Government primarily to train, research, or study is exempt from U.S. income tax on income received for personal services for the training, research, or study for a maximum of \$10,000.

State and Local Income Tax

Each state, city or county in the US determines its own tax rules. In some cases, you might be exempt from these taxes if you receive a fellowship or scholarship. Please check with the Office of International Education at your university. You can also ask the office for assistance with filing and paying these taxes.

Federal Income Tax Filing

The federal governmental agency responsible for the collection of the federal income tax is the Internal Revenue Service (IRS). By law, the federal government requires that all international individuals (including dependents) must file tax forms every year they are physically present in the USA, regardless of whether they earned any US income for that year. The individual must file these forms directly with the IRS. Various terms utilized to describe the process of filing these forms include “filing” and “reporting”.

Assistance with Income Tax Filing

Please check with the Office of International Education at your university if they provide volunteer assistance to international students in filing their taxes. Alternatively, you can log on to <http://www.irs.gov> or walk in to the nearest IRS office in your area. To find the IRS office closest to you log on to <http://www.irs.gov/localcontacts/>, click on your state and you will get a list of all the IRS offices in the state that can provide assistance. It is free of charge. Make sure you have your social security card before going to the IRS office asking for assistance.