

Benefits for Students, Interns, & Summer Workers Who Served at U.S. Department of Energy (DOE) / ERDA / AEC Research Laboratories During the 1970s-1980s (Updated)

Stephen A. McFadden, M.S.

Comments to the U.S. Department of Labor (DOL) Office of Worker's Compensation Programs (OWCP) Advisory Board on Toxic Substances and Worker Health for the Energy Employees Occupational Illness Meeting of May 8-9, 2024¹

I served five Summer, internship, & Student Employeeships with U.S. DOE / ERDA laboratories before the age of 25, including two nationally competitive internships, but was never an employee of U.S. DOE / ERDA or any of its contractors. I previously provided public comments to the U.S. Department of Labor (DOL) Office of Worker's Compensation Programs (OWCP) Advisory Board on Toxic Substances and Worker Health for the Energy Employees Occupational Illness Compensation Program Act (EEOICPA) at its meeting of November 20-21, 2019, which I now seek to extend. My comments were titled "Occupational Hazards to and Benefits Coverage for Students, Interns, & Summer Workers at U.S. Department of Energy (DOE) / ERDA / AEC Research Laboratories During the 1970s-1980s", and is currently available online at https://www.dol.gov/sites/dolgov/files/owcp/energy/regs/compliance/advboard/mcfadden_email1_attachment11202019.pdf Those comments included on Slide 5 the following:

__2 (previously __5)

Example 1: LLNL DAS SEs:

Lawrence Livermore National Laboratory (LLNL) Student Employees (SEs) through U/Cal. Davis Department of Applied Science (DAS) (AKA "Teller Tech") During Early 1980s

=>LLNL is covered during that period by **SEC Cohort P#221**

=>Example location: 1981-3 Biomedical Division Computer Center

=>Example concern: Center air handling was in flux (being upgraded with chiller & raised floor); DOE SEM lists >20 solvents used in LLNL Biomed (Bldg 361 complex).

Issue: DAS Students were given a letter stating that their employeeship was tax exempt, should they choose to file it. BUT, if they filed W2 "exempt", then LLNL did not withhold and match Social Security deductions, whereas if they filed for a tax refund at the end of the year, they were covered for Disability, Child, Old Age, & Survivor's benefits.

Question: If LLNL did not pay Social Security contributions on these workers, did they pay Worker's Compensation contributions?

Take home point: U.S. DOE had grad students with Top Secret security clearances working in a SEC cohort who did not have Social Security Disability, Child, Old Age, & Survivor's Benefits coverage (and thus were bare risks).

Legacy: The Teller/Hertz facility (LLNL Bldg 661) is vacant & U/Cal. Davis has ended the DAS graduate program.

¹ See Federal Register Notice 89 FR 26942-3.

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University of California, Davis (UCD) Department of Applied Science (DAS), known as “Teller Tech” to its students, was located in Building 661 of the Lawrence Livermore National Laboratory (LLNL) lab site. Nearly all DAS students either held Student Employeeships (SEs) at LLNL or were LLNL regular employees. There were really no other reasons for being a UCD DAS student—there was no campus or dorms, just one building on the East side of the lab across from the LLNL Visitor’s Center, 90 miles away from UC Davis.

LLNL is one of the two principal nuclear weapons design laboratories in the United States. The early 1980s was the height of the Cold War Strategic Defense Initiative (SDI) arms buildup. Like LLNL itself, the UCD’s DAS program was FOUNDED by Dr. Edward Teller, called the “Father of the H-bomb”; it served LLNL & U.S. DOE’s mission by providing LLNL with research grade human talent. There is no other reason that LLNL provided UCD with a building for DAS inside the square mile footprint of the LLNL lab site.

The Regents of the University of California (UC) then ran LLNL for U.S. DOE, and the LLNL Student Policy Committee appointed each UCD DAS Student Employee to the SE program. UCD DAS memoranda to SEs were written on LLNL letterhead. All UCD DAS SEs were presumably asked to file for and expected to obtain U.S. DOE security clearances in order that they could access the LLNL lab site to do their SE research. Thus, not only did the Regents of UC run LLNL, but UCD DAS SE policies were official U.S. DOE LLNL lab policies, carried out with U.S. DOE funding at a DOE facility using DOE security clearances.

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UCD DAS then had two departments, Applied Science and Computing Science. (They later had a computer graphics program.) UCD DAS SEs worked on a number of LLNL research projects, including Applied Science students working on fusion research (e.g. at the MFTF-B or MFECC sites) and Computer Science students working with the LLNL Computer Research Group & the Biomedical Division Computer Center, but SEs were available at many LLNL research projects across the site. U.S. DOE “Green Badge” (“Q” clearance) SEs had access to the majority of the LLNL site at will.

LLNL had significant occupational hazards; it was a research site, and research, by definition, involves unknown risks.



Presence at LLNL during that period is covered by U.S. Department of Labor (DOL) SEC Cohort P#221, which covers a list of radiation-induced cancers.

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UCD DAS SE students were NOT well paid: Their stipend was 5/8ths of their nominal salary (half time + Summers), but they had to live in the community so most had to own & maintain a car. Further, they were required to be UC students, & if they had been recruited to move to California to accept the SE appointment they needed to pay California Out-Of-State tuition unless they were approved for California residency--which in 1982 required proving that they were NOT being supported by & did not live with their parents.

UCD DAS SEs were given a letter stating that their Student Employeeship at LLNL was Ph.D. research and therefore was tax exempt, should they choose to file that letter with the IRS. This was an official capacity action by UCD DAS written on LLNL letterhead in a personal memorandum for each SE, who was provided a photocopy of IRS Section 117 and Revenue Ruling 75-280 to submit to the IRS with their Income tax filing.

UCD DAS SE students were expected to file an IRS tax withholding form (now W-4).

If UCD DAS SEs checked the box “exempt” on their (W-4) tax withholding form, then LLNL did not withhold income tax on their earnings, but also did not withhold and match Social Security and Medicare deductions, whereas if they did NOT file exempt and instead filed for a tax refund at the end of the year with the same documentation, Social Security and Medicare deductions were withheld and matched by LLNL. In the latter case, the UCD DAS SE was covered for Disability, Child, Old Age, & Survivor’s & Medicare benefits, while in the former case they were not.

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The bottom line is: At the pre-eminent U.S. Department of Energy (DOE) nuclear weapons lab at the height of the Cold War Strategic Defense Initiative (SDI), DOE had graduate students who held Top Secret (U.S. DOE “Q”) security clearances in the service of U.S. DOE & LLNL’s missions in the defense of the nation, who were working in what would later be classified a SEC cohort due to uncontrolled radiation contamination, who did NOT have Social Security disability, Child, Old Age, Survivor’s, or Medicare benefits coverage: they were bare risks for disability. Such was allowed as official policy in a LLNL / UCD DAS program founded by Dr. Edward Teller that served his lab’s purposes.

For instance, if a UCD DAS SE was later disabled so that they did NOT earn 30 or 40 Social Security “quarters” before age 65 but were denied Social Security disability benefits so that their “quarter” requirements for Social Security and Medicare were not reduced, then they might be required at age 65 to pay to buy-in to Medicare Part A hospital coverage, which currently is \$505 per month / \$6060 per year for less than 30 “quarters” or \$278 per month / \$3336 per year for less than 40 “quarters”, which constitutes a significant tax for a person who is disabled and NOT eligible for Social Security Old Age benefits.

In one person’s opinion, if a person worked a sufficient period of time at a U.S. DOE SEC cohort site like LLNL serving the national interest, then they should NOT have to pay to buy-in to Medicare Part A hospital coverage benefits, irrespective of any issue of proving disability or causation: The mere existence of the exposure hazard should be enough.

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The Energy Employees Occupational Injury Compensation Program (EEOICP) has always been designed as a Worker’s Compensation program; it has never been interfaced with the Social Security Act. But not all persons present on U.S. DOE facilities were workers, & many were not covered by retirement systems. Some were not even covered for Social Security Disability, Child, Old Age, Survivor’s & Medicare benefits.

One non-obvious problem is that if a person present on a U.S. DOE SEC facility for good reason in the service of national goals became disabled but was denied Social Security disability benefits, then, at age 65, they may be slammed with Medicare Part A buy-in costs of either \$6060 or \$3336 per year, depending on their number of Social Security work “quarters”. Attached is documentation of an instant case.

I argue that persons present for over 250 days in U.S. Department of Energy (DOE) EEOICPA-covered Special Exposure Cohort (SEC) facilities—and thus admittedly exposed to exotic health hazards in the U.S. Government’s interests—even students on an internship, fellowship or employeeship, ought to be provided with free Medicare Part A coverage even if the individual is NOT fully insured for Medicare, Social Security disability & Old Age benefits due to lack of required work “quarters”.

While this would probably require an Act of Congress e.g. as part of the annual National Defense Authorization Act (NDAA) or the proposed Social Security Fairness Act, it is an equitable request.

**Lawrence Livermore
National Laboratory**

P.O. Box 808 · Livermore, CA 94550

EMPLOYEE IDENTIFICATION

Employee Name _____ Emp. # _____

Employee Signature: *Helga M. Christensen* 01-31-84
 Manager of Human Resources Expiration Date

Operated by the University of California for the United States Department of Energy.

EMPL. # 596691

REGENTS OF THE UNIV OF CALIF.
 LAWRENCE LIVERMORE LABORATORY
 ACCOUNTING OFFICE PD BOX 5001
 LIVERMORE, CALIFORNIA 94550
 94-6031193

NO LEAVE: DP, S, AT, ME, V - 1981

Copy 2 to be filed with employee's State, City, or Local Income Tax Return.

69-0932972-009
 Employer's State identifying number

Employee's social security number	Federal income tax withheld 353.08	Wages, tips, and other compensation 6,707.32	FICA employee tax withheld	Total FICA wages
LIVERMORE CA 94550		Pension plan coverage? Yes/No NO	State or local tax withheld 72.93	State or local wages 6,707.32
Type or print EMPLOYEE'S name, address, and ZIP code above.		State or local tax withheld CASDI 50	State or local wages	State or local wages CALIF.

Your Earnings Record

Years You Worked	Your Taxed Social Security Earnings	Your Taxed Medicare Earnings	Years You Worked	Your Taxed Social Security Earnings	Your Taxed Medicare Earnings
1977	\$ 1,421	\$ 1,421	2000	0	0
1978	1,320	1,320	2001	0	0
1979	500	500	2002	0	0
1980	0	0	2003	0	0
1981	0	0	2004	0	0
1982	0	0	2005	0	0
1983	0	0	2006	0	0
1984	17,833	17,833	2007	0	0
1985	22,465	22,465	2008	0	0
1986	18,293	18,293	2009	0	0
1987	23,544	23,544	2010	0	0
1988	6,783	6,783	2011	0	0
1989	0	0	2012	0	0
1990	0	0	2013	0	0
1991	0	0	2014	0	0
1992	0	0	2015	0	0
1993	0	0	2016	0	0
1994	1,363	1,363	2017	Not Yet Recorded	0
1995	0	0			
1996	0	0			
1997	0	0			
1998	0	0			
1999	0	0			

Interdepartmental letterhead

Mail Station L- 360
Ext: 29634

October 27, 1980

TO: Distribution
FROM: Student Policy Committee
SUBJECT: Student Employee Program Description; Objectives,
Implementation, and Responsibilities

The following is a description of the Student Employee Program, objectives, implementation, and responsibilities.

The LLNL student-employee program supports graduate education in the applied sciences by providing selected students:

- (1) direct financial support through LLNL employment and
- (2) LLNL facilities and resources required to carry out degree oriented tasks.

At present direct financial support is limited to students in the Department of Applied Science (DAS) in residence at the Livermore campus extension of the University of California at Davis. The goals of this program are to foster the education of professionals in the applied sciences and to encourage and provide for collaboration between LLNL professionals and the academic world. The Department of Applied Science selects and recommends students to LLNL for participation in the program. Appointment to the program is made by the LLNL Student Policy Committee. Continued participation in the program is contingent on continuing recommendation by the Department of Applied Science and is not expected to exceed six academic years for Ph. D. students and three years for M.S. students. Any requests beyond the bachelors degree to exceed these limits will be dealt with as exceptions to the rule. The LLNL employment takes place under dual supervisory responsibility:

- a) Payroll and administrative details of employment are supervised by Employee Development Department (Bunnie Beck at present.)
- b) Work assignments are supervised directly by LLNL researchers who are also responsible for the safety of the student in the work environment.

Specific job assignments within the student-employee program are facilitated by the LLNL student-employee coordinator (Ed Hulse at present) through a series of student and LLNL supervisor interviews. Assignments are then made by informal agreement between the student, the supervisor, DAS, and the sponsoring LLNL organization. Key issues in such an agreement are:

- o Potential benefit to the student in the specific assignment as measured by the attainment of specific academically related goals.
- o Acceptability of the LLNL supervisor to DAS in providing research guidance and direction.
- o Availability and commitment of LLNL resources and supervision sufficient to accomplish the academic tasks. The sponsoring LLNL organization has the responsibility to supply reasonable assurance to Ph.D. thesis students, in particular, that their work will be adequately supported over a reasonable period of time.
- o Active student supervision and counseling by DAS to insure reasonable academic progress and identify potential assignment problems.

Appointment to student-employee program positions is contingent on active student status at DAS, Livermore, continuing recommendation by DAS for such appointment, and formal approval by the LLNL Student Policy Committee. Student-employees are paid at a 50% rate during the academic term and at 100% rate during the three summer months. Accordingly, they are expected to work a minimum of 20 and 40 hours per week, respectively, on their LLNL assignment. The content of that assignment is at the joint discretion of the student-employee and his supervisor. The content is to reflect a projection for academic progress and the attainment of academic goals rather than free labor for ongoing LLNL projects.

For those students who have been advanced to Ph.D. candidacy, it is required that they submit a Ph.D. thesis proposal to the LLNL Student Policy Committee as soon as practical. In most cases, this is expected to occur at least two years before the completion of the thesis. The purpose of this filing is to encourage early commitment to a planned series of activities leading to a Ph.D. as well as to provide the Student Policy Committee the necessary information by which to oversee the progress of the student-employee program at LLNL. Appropriate forms are provided by the Employee Development Department for the Student Policy Committee (Ext. 2-9333). An important feature of these forms is the concurrence of the student, DAS, LLNL supervisor and LLNL sponsoring organization for the planned thesis work.

It is understood that the thesis topics may change during the course of the thesis work for one of a number of reasons. In such cases where major changes in direction are made, a resubmittal of the thesis proposal is required. Furthermore, it is understood that assignment changes can be initiated by either the student-employee or the LLNL supervisor. The Student Policy Committee should be advised of such changes and the reasons for them.

In the most general terms: it is the responsibility of the student-employees to weigh the benefit of their job assignments with respect to their academic goals; it is the responsibility of the LLNL supervisor to provide proper aid and guidance to enable the student to expeditiously accomplish these academic goals through the LLNL assignment; it is the responsibility of the LLNL sponsoring organization (department/division) to provide the resources necessary for the accomplishment of the student's academic goals; it is the responsibility of the Employee Development Department to coordinate the administrative details of LLNL employment; and it is the responsibility of the Department of Applied Science to provide ongoing academic training, evaluation, and counseling to the student in pursuit of his academic goals.

The Student Policy Committee acts as the LLNL focal point for all matters related to the student-employee program. It's responsibility is to insure that the program is operating within the context of its goals and its resources.

MS/BB:sr
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Distribution
Department Heads
Division Leaders

cc: SPC Members
R. Orphan
E. Hulse
F. Wooten
B. Beck

Schedule B—Interest and Dividend Income

Name(s) as shown on Form 1040 (Do not enter name and social security number if shown on other side)

Your social se

Part I Interest Income

If you received more than \$400 in interest or you received any interest from an All-Savers Certificate, you must complete Part I and list ALL interest received. Also complete Part III if you received more than \$400 in interest. See page 8 of the Instructions to find out what interest to report. Then answer the questions in Part III, below. If you received interest as a nominee for another, or you received or paid accrued interest on securities transferred between interest payment dates, please see page 20 of the Instructions.

Table with 2 columns: Name of payer, Amount. Includes rows for 1a Interest income, 1b Total, 1c Qualifying interest, 1d Total, 1e Exclusion, 1f Subtract, 2 Total interest income.

Part II Dividend Income

If you received more than \$400 in gross dividends (including capital gain distributions) and other distributions on stock, complete Part II and Part III. Please see page 9 of the Instructions. Then answer the questions in Part III, below. If you received dividends as a nominee for another, please see page 21 of the Instructions.

Table with 2 columns: Name of payer, Amount. Includes rows for 3 University of California Thesis Research Assistance, 4 Total, 5 Capital gain distributions, 6 Nontaxable distributions, 7 Total, 8 Total dividend income.

Part III Foreign Accounts and Foreign Trusts

If you received more than \$400 of interest or dividends, OR if you had a foreign account or were a grantor of, or a transferor to, a foreign trust, you must answer both questions in Part III. Please see page 21 of the Instructions.

Table with 3 columns: Question, Yes, No. Includes questions about foreign accounts and foreign trusts.

For Paperwork Reduction Act Notice, see Form 1040 Instructions.



LAWRENCE LIVERMORE LABORATORY

January 15, 1982

To Whom This May Concern:

Lawrence Livermore Laboratory is operated by the University of California for the Federal Department of Energy under prime contract number 48.

_____ was offered a position as a physicist in the Student Employee program at the Laboratory on June 17, 1981. The Student Employee Program is a special category set up to support graduate students at the Department of Applied Science of the University of California - Davis. Student Employees receive a stipend based on half time employment during the academic year and full time employment in the summer. Upon the granting of a PhD or earlier withdrawal from school by the student, the stipend is terminated. Student Employees do not participate in the retirement system, nor do they have any assurance of future employment with the Laboratory. Student Employees are required to pay their own education fees.

_____ work assignment is totally on the subject and areas of his thesis research. To our knowledge, _____ has been under no other stipend during the period of his student employment, June 17, 1981 through December 31, 1981.

LAWRENCE LIVERMORE NATIONAL LABORATORY

M. Bunnie Beck

M. Bunnie Beck
Employee Development

JMB:mwb

• 0001W/0447W

Income Tax—Scholarships, Fellowship Grants 39

[Sec. 115(d)]

(d) CERTAIN NONRESIDENT ALIENS INELIGIBLE FOR EXCLUSION.—In the case of a nonresident alien individual, subsection (a) shall apply only—

(1) in determining the tax imposed for the taxable year pursuant to section 871(b)(1) and only in respect of dividends which are effectively connected with the conduct of a trade or business within the United States, or

(2) in determining the tax imposed for the taxable year pursuant to section 877(b).

Amendments: Sec. 93 amended effective: P. L. 89-509, § 103(g), 1-1-67
P. L. 89-509, § 103(g): Amended Code Sec. 115(d), to read as above. Prior to amendment, Sec. 115(d) read as follows:

(d) Certain Nonresident Aliens Ineligible for Exclusion.—Subsection (a) does not apply to a nonresident alien individual with respect to whom a tax is imposed for the taxable year under section 871(a).

[Sec. 117]

SEC. 117. SCHOLARSHIPS AND FELLOWSHIP GRANTS.

(a) GENERAL RULE.—In the case of an individual, gross income does not include—

(1) any amount received—

(A) as a scholarship at an educational institution (as defined in section 151 (c) (4)), or

(B) as a fellowship grant, including the value of contributed services and accommodations; and

(2) any amount received to cover expenses for—

(A) travel,

(B) research,

(C) clerical help, or

(D) equipment,

which are incident to such a scholarship or to a fellowship grant, but only to the extent that the amount is so expended by the recipient.

Source: New.

[Sec. 117(b)]

(b) LIMITATIONS.—

(1) INDIVIDUALS WHO ARE CANDIDATES FOR DEGREES.—In the case of an individual who is a candidate for a degree at an educational institution (as defined in section 151 (c) (4)), subsection (a) shall not apply to that portion of any amount received which represents payment for teaching, research, or other services in the nature of part-time employment required as a condition to receiving the scholarship or the fellowship grant. If teaching, research, or other services are required of all candidates (whether or not recipients of scholarships or fellowship grants) for a particular degree as a condition to receiving such degree, such teaching, research, or other services shall not be regarded as part-time employment within the meaning of this paragraph.

(2) INDIVIDUALS WHO ARE NOT CANDIDATES FOR DEGREES.—In the case of an individual who is not a candidate for a degree at an educational institution (as defined in section 151 (c) (4)), subsection (a) shall apply only if the condition in subparagraph (A) is satisfied and then only within the limitations provided in subparagraph (B).

(A) CONDITIONS FOR EXCLUSION.—The grantor of the scholarship or fellowship grant is—

(i) an organization described in section 501(c)(3) which is exempt from tax under section 501(a),

(ii) a foreign government,

Internal Revenue Code

Sec. 117(b)

(iii) an international organization, or a binational or multinational educational and cultural foundation or commission created or continued pursuant to the Mutual Educational and Cultural Exchange Act of 1961, or

(iv) the United States, or an instrumentality or agency thereof, or a State, a territory, or a possession of the United States, or any political subdivision thereof, or the District of Columbia.

(B) EXTENT OF EXCLUSION.—The amount of the scholarship or fellowship grant excluded under subsection (a) (1) in any taxable year shall be limited to an amount equal to \$300 times the number of months for which the recipient received amounts under the scholarship or fellowship grant during such taxable year, except that no exclusion shall be allowed under subsection (a) after the recipient has been entitled to exclude under this section for a period of 36 months (whether or not consecutive) amounts received as a scholarship or fellowship grant while not a candidate for a degree at an educational institution (as defined in section 151 (c) (4)).

Source: as originally enacted in the 1954 Code: New.

Amendment: Sec. as amended effective: P. L. 87-255, § 110(a) 1-1-62

P. L. 87-255, § 110(a) Amended Code Sec. 117(b)(2)(A) to read as above. Prior to amendment, it read as follows:

(A) Conditions for exclusion.—The grantor of the scholarship or fellowship

grant is an organization described in section 501(c)(3) which is exempt from tax under section 501(a), the United States, or an instrumentality or agency thereof, or a State, a Territory, or a possession of the United States, or any political subdivision thereof, or the District of Columbia.

Effective for taxable years beginning after 1951.

[Sec. 118]

SEC. 118. CONTRIBUTIONS TO THE CAPITAL OF A CORPORATION.

(a) GENERAL RULE.—In the case of a corporation, gross income does not include any contribution to the capital of the taxpayer.

Source: New.

(b) CROSS REFERENCE.—

For basis of property acquired by a corporation through a contribution to its capital, see section 352.

[Sec. 119]

SEC. 119. MEALS OR LODGING FURNISHED FOR THE CONVENIENCE OF THE EMPLOYER.

There shall be excluded from gross income of an employee the value of any meals or lodging furnished to him by his employer for the convenience of the employer, but only if—

- (1) in the case of meals, the meals are furnished on the business premises of the employer, or
(2) in the case of lodging, the employee is required to accept such lodging on the business premises of his employer as a condition of his employment.

In determining whether meals or lodging are furnished for the convenience of the employer, the provisions of an employment contract or of a State statute fixing terms of employment shall not be determinative of whether the meals or lodging are intended as compensation.

Source: New.

[¶ 6735] Rev. Rul. 75-280, I. R. B. 1975-29, 7.

[Code Sec. 117]

Scholarships and fellowships: Research stipends.—A stipend received by a degree candidate who performs research for a university under its contract with the Atomic Energy Commission, with the research satisfying the reasonably appropriate specifically stated degree requirements and equivalent services being required of all degree candidates, meets the primary purpose test of section 117 of the Code and is excludable from gross income; Rev. Rul. 63-250 superseded. Back reference: ¶ 1179.0301.

Advice has been requested whether, under the circumstances described below, amounts received by a taxpayer from a university for research services are excludable from gross income under the provisions of section 117(a) of the Internal Revenue Code of 1954 and if they are excludable, whether the same rule would apply to amounts received for teaching or other services.

Under the terms of a contract entered into between the university and the Atomic Energy Commission (AEC), the university, in return for a stipulated amount, agreed to conduct experimental and theoretical research in nuclear physics and to furnish necessary personnel, facilities, and equipment and to do all things necessary for the purpose of conducting the research.

The contract also provided that the research was to be directed or conducted by personnel provided by the university who were satisfactory to the AEC; that the university would make an annual progress report and, upon completion of the research, submit a complete report of the work performed and results obtained; that the results of the research would be made available to all through normal and accepted channels, except that no classified information would be disclosed to unauthorized persons; that any publication of material resulting from the research would indicate that the research was supported by the AEC; and that if an invention or discovery was made in the course of performing the research under the contract, the AEC was to have the sole power to determine whether an application for a patent was to be filed and who should receive the rights under the patent.

In addition the contract provided that unless the university received prior written approval from the AEC it was restricted from using any of the funds provided under the contract to pay the stipend of any appointment for which commensurate services were not rendered or to pay any part of the stipend of a fellowship of any kind.

The taxpayer, a graduate student at the university working toward a Ph.D. degree in physics, was paid by the university for services performed in connection with research under the AEC contract. Services consisted of research in the general area of nuclear physics, and this research satisfied specifically stated requirements of the

Ph.D. degree that were in existence at the time that the taxpayer performed the research. Such services were not in excess of these requirements, and equivalent research was required of all candidates for the degree.

Section 61 of the Code provides that, unless otherwise excluded by law, gross income means all income from whatever source derived including, but not limited to, compensation for services.

Subject to certain limitations and qualifications, section 117(a) of the Code provides that gross income of an individual does not include any amount received as a scholarship at an educational institution or as a fellowship grant.

Whether an amount received by an individual is excludable from gross income under section 117 of the Code depends upon the facts and circumstances under which the payment is made. The exclusion provision applies only to scholarships or fellowship grants. A scholarship or fellowship grant is an amount paid or allowed to individuals for the primary purpose of furthering the education and training of the recipients in their individual capacity.

Section 117(b)(1) of the Code provides that in the case of an individual who is a candidate for a degree at an educational institution, the exclusion shall not apply to that portion of any amount received that represents payment for teaching, research or other services in the nature of part-time employment required as a condition to receiving a scholarship or fellowship grant. However, if teaching, research or other services are required of all candidates (whether or not recipients of scholarship or fellowship grants) for a particular degree, as a condition to receiving such degree, such teaching, research or other services shall not be regarded as part-time employment; therefore, in such a case, payments made by a university to such a degree candidate in respect of such services are not precluded from scholarship treatment.

Accordingly, when such services are required of all candidates for a particular degree, as a condition to receiving such degree, scholarship treatment may be available for such payments if the university's primary purpose in making them is to further the education and training of the recipients in their individual capacities. This could be so even though the degree require-

¶ 6735

ment work performed by the recipient might benefit the university in some independent manner and be made from funds granted to the university under a contract containing a provision restricting their use in the manner of the contract provision described above.

Rev. Rul. 63-250, 1963-2 C. B. 79, announced that pending cases substantially identical on their facts to *Chandler P. Bhalla* [CCH Dec. 24,390], 35 T. C. 13 (1960), *acq.*, 1955-1 C. B. 4, and *Lawrence Spruch*, [CCH Dec. 24,699(M)] 20 CCH Tax Ct. Mem. 324 (1961), would be disposed of in accordance with the decisions of the Tax Court of the United States in those cases.

In those decisions, the Tax Court held that, under the facts presented in each case, stipends that the taxpayers received while engaged in research programs at their respective universities, were primarily to further their education and training, and hence were excludable from gross income as scholarship or fellowship grants under section 117 of the Code. In both cases the taxpayers were candidates for a Ph.D. degree [of Doctor of Philosophy] in physics and the research in connection with which the stipends were paid was accepted by the respective universities in satisfaction of their degree requirements. In addition, equivalent research was required of all candidates for the Ph.D. degree [of Doctor of Philosophy] in physics at each university.

In the instant case since (1) the taxpayer was a candidate for a degree at an educational institution, (2) the taxpayer performed research, teaching, or other services for the institution that satisfied then existing specifically stated requirements for the degree, and (3) equivalent services were

required of all candidates for the degree, the research services shall not be regarded as part-time employment in accordance with section 117(b)(1) of the Code.

Under these circumstances the Internal Revenue Service will assume that the amounts paid or allowed were for the primary purpose of furthering the education and training of the recipients in their individual capacity. The Service however, will not assume that the primary purpose test has been satisfied to the extent that the taxpayer performs services in excess of those necessary to satisfy degree requirements. Nor will it assume that the primary purpose test has been satisfied if (1) the taxpayer performs research, teaching or other services for a party other than the educational institution (see *Elmer L. Reese, Jr.* [CCH Dec. 27,831], 45 T. C. 407 (1966), *affirmed per curiam* [67-1 USC ¶ 9307], 373 F. 2d 742 (4th Cir. 1967)); (2) the grant is made because of past services or is conditioned on, or subject to an understanding with respect to future employment or other requirements, including services in excess of those necessary to satisfy degree requirements; or (3) the degree requirements, or the nature and extent of the work that is approved as satisfying the degree requirements, are not reasonably appropriate to the particular degree.

Accordingly, the amounts received by the taxpayer from the university are excludable from gross income under section 117(a) of the Code. In addition, the same rule would apply to amounts received for teaching or other services under facts and circumstances similar to those in the instant case.

Rev. Rul. 63-250 is superseded.

[¶ 6736] Rev. Rul. 75-281, I. R. B. 1975-29, 8.

[Code Sec. 163. Also Code Sec. 1055]

Interest: Redeemable ground rents; Deductibility.—Periodic rental payments made under a redeemable ground rent agreement pursuant to the Residential Ground Rent Act of Virginia may be deducted as interest for Federal income tax purposes. Back references: ¶ 1416.137 and 4555J.078.

Advice has been requested whether rental payments made under a redeemable ground rent agreement pursuant to the Commonwealth of Virginia's Residential Ground Rent Act may be deducted as interest for Federal income tax purposes.

The Residential Ground Rent Act, approved March 19, 1975, amends the Code of Virginia by adding, in chapter 4 of title 55, a new article numbered 3.1 consisting of sections 55-79.01 through 55-79.06.

Section 55-79.01 of the Code of Virginia provides, in part, that the term "residential ground rent" means a rent or charge paid for the use of land, whether or not title

thereto is transferred to the user, or a lease of land for personal residential purposes, (i) which is assignable by the obligor without the obligee's consent, (ii) which is for a term in excess of fifteen years, including any rights of renewal at the option of the obligor, (iii) where the obligor has a present or future right to terminate such ground rent and to acquire the entire interest of the obligee in the land by the payment of a determined or determinable amount, and (iv) where the obligee's interest in the land is primarily a security interest to protect his right to be paid the rent or charge.

¶ 6736

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LAWRENCE LIVERMORE LABORATORY

June 4, 1981

TO: Prospective Student Employees
U.C.D. Department of Applied Science/Lawrence Livermore
National Laboratory

You have been admitted to Graduate School by the University of California at Davis and have received an offer of employment as a Student Employee by Lawrence Livermore National Laboratory.

Since you are not a California resident, there will be out-of-state tuition charged during your first year. However, you may be eligible for out-of-state tuition fellowship assistance.

You must submit a separate application if you have not already done so, and the forms can be obtained by writing to:

Graduate Division
Fellowship Section
252 MRAK Hall
University of California
Davis, California 95616

Ask for an application for an out-of-state tuition fellowship award. Do it now, even if you have not finally made a decision to come here. The forms must be returned by July 15.

E. H. Hulse
Student Employee
Placement Coordinator

jmv

DAVIS: OFFICE OF THE DEAN
GRADUATE STUDIES AND RESEARCH
December 3, 1981

TO: ALL CHAIRPERSONS & ADVISORS OF GRADUATE PROGRAMS

SUBJECT: NEW RESIDENCY REQUIREMENTS FOR TUITION PURPOSES

This directive concerns specifically the new requirements enacted by the California Legislature and the Board of Regents as those requirements affect the students who are (1) United States citizens or permanent residents and (2) non-residents of California for tuition purposes at the time of their application for admission. The contents do not apply to international students who come to Davis on F-1 or J-1 visas nor to applicants or students who are already legal residents of California for fee purposes.

The primary test of a student's ability to gain California residency has been that student's decision to become a permanent resident of the State. Evidence of such a decision has included (1) physical presence in the State for at least one year and (2) other indications of intent to become a resident, including taking out a California State driving license, registering to vote here (and not voting elsewhere during the year of physical presence), filing of California income tax reports. As part of the changes made in the Education Code in July, 1981, financial independence is now listed as one of the criteria to be considered in evaluation of applications for residency.

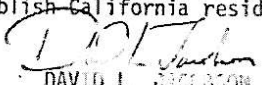
In advising new and prospective graduate students regarding the effect of this change on their status for tuition purposes, we can not give final answers: only campus deputies of the Office of the Attorney in Residence matters may do so in individual cases. We can only stress the following advice to individuals.

- (1) Anyone desiring reclassification on the basis of an intention to become a permanent resident of the state must reside here at least one year and give evidence of the intention to continue to reside mentioned above.
- (2) An application for reclassification must be accompanied by financial information for the preceding three calendar years.
- (3) In evaluating this financial information, the Attorney for Resident Matters has taken the position that the immediately preceding calendar year is the more important, that is, for students seeking reclassification for Fall, 1981, it was the calendar year 1980; for students seeking reclassification for Winter, 1982, it will be the calendar year, 1981.

Advice for Students

To apply this specifically to new non-residents applying for the next academic year, they will not be able to achieve residency until they have been in the state for one year. For most entrants for Fall, 1982, they will apply for reclassification to resident status during the Summer, 1983. In so far as financial independence is concerned, the calendar year of most significance will be 1982. If they were not financially independent during 1982, they may be denied reclassification for Fall, 1983 even though they meet all other requirements. However, they will be eligible to apply again for Winter Quarter, 1984.

In order to give some reassurance to students being recruited for Fall, 1982, the Graduate Division will change its fee-waiver policy for Teaching Assistants and Distinguished Scholars who are admitted for the Quarter. Students receiving fee-waivers as departmentally designated Teaching Assistants or as Distinguished Scholars for Fall, 1982, will continue to receive such waivers through Fall, 1983, if they take steps to establish California residency and are otherwise eligible for continuing awards.


DAVID I. JACOBSON
Associate Dean

cc: Graduate Secretaries

UNIVERSITY OF CALIFORNIA — Letterhead for interdepartmental use. Date 12/78

AFFIDAVIT

1 STATE OF
2 COUNTY OF

3 I, _____, do declare that, if
4 called as a witness, I could competently testify as follows:

5 1. I am a student at the University of California,
6 Davis Campus.

7 2. I have resided in the State of California
8 since JUNE 10, 1981.

9 3. I have not been claimed as an exemption by my
10 parents for federal and state income tax purposes since
11 calendar year 1980, and I will not be claimed as an
12 exemption for calendar year 1982.

13 4. I have not received more than \$750 in financial
14 assistance from my parents in any calendar year since calendar
15 year 1980, and I will not receive more than \$750 in
16 financial assistance from my parents in calendar year 1982.

17 5. I have not lived in the home of my parents for
18 more than six weeks in any calendar year since calendar year
19 1978, and I will not live in their home for more than
20 six weeks in calendar year 1982.

21
22 Subscribed and sworn to before me May 24, 1982
23 on _____, 19____,
24 at _____ (state)
_____ (county)

25
26 Notary Public for State of

(Notarization required only if
affidavit completed outside

ATTACHMENT TO PETITION FOR RECLASSIFICATION

Fall QUARTER, 1982

1. Are your parents California residents? Yes () No (X)

If your parents are divorced or separated, indicate residence of each parent:

_____ Mother _____ Father _____

2. Did you or will you live with your parents for more than six weeks in:

	Yes	No
1982	()	(X)
1981	()	(X)
1980	()	(X)
1979	()	(X)

3. Did you or will you receive more than \$750 in financial assistance from your parents in:

	Yes	No
1982	()	(X)
1981	()	(X)
1980	(X)	()
1979	(X)	()

4. Source of your financial support in:

1982	<u>U/C Davis STUDENT EMPLOYEESHIP, GSI LOAN</u>
1981	<u>U/C Davis STUDENT EMPLOYEESHIP (including summer) LOANS</u>
1980	
1979	

5. Did your parents or will your parents claim you as an exemption on their state and federal income tax returns in:

	Yes	No
1982	()	(X)
1981	()	(X)
1980	(X)	()
1979	(X)	()

Signature

May 24, 1982
Date

Benefits and Payments


Benefit Summary

You are not currently receiving payments.

*No Social Security
Old Age Benefits*

You are currently **enrolled** in Medicare.

*Since lost 12 quarters
at LNL*

Need to update your Medicare address and phone number? Go to  My Profile.

Medicare Enrollment Details

Status: **Enrolled**

*Medicare Part A Buy-in
at \$505 per month*

Part A (Hospital Insurance)

Your coverage started **February 2024**. Your monthly premium is **\$505.00** (as [^ Get Help](#) 2024).

Part B (Medical Insurance)

Your coverage started **February 2024**. Your monthly premium is **\$174.70** (as of February 2024).

For **Part C (Medicare Advantage)** and **Part D (Medicare Prescription Drug Coverage)** details, please contact Medicare for the status of your enrollment.

Replace your Medicare Card

Medicare Questions?

This information should not be used as proof of coverage. It is provided by the Center for Medicare Services and **may not reflect recent updates**. Please call **1-800-633-4227** or visit [Medicare.gov](#) for assistance. If you are deaf or hard of hearing, you may call the TTY number, at **1-877-486-2048**.