
International Students and Scholars Tax Year 2017



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- **How to determine residency status**
 - **Which U.S. tax forms must be filed**
 - **Where to find treaty information**
 - **How to complete Form 8843 and form 1040NR-EZ**



Determination of Residency Status

- **Do not confuse tax residency with:**
 - immigration residency
 - residency requirements for earning a degree etc.

Resident or Nonresident?

- **Green Card Test**
- **Residency Through Marriage**
- **Substantial Presence Test**

Green Card Test

- **Date of adjustment to status--not the date green card issued**
- **No option--if you are a Permanent Resident, you are a resident for tax purposes**

Residency through marriage

- **Nonresident spouse can choose to be treated as a resident**
 - Required to file jointly
 - Report world-wide income
 - Attach a statement to return the first year the choice is made

Substantial Presence Test

- 31 days during the current year,
and
- 183 days during the three year
period ending with the current
year

Substantial Presence Test

If an alien is present for at least 31 days in the current year, the 183-day residency test may be met by adding:

- 100% of the days present in the current year,
- 1/3 of the days present in the 1st preceding year, and
- 1/6 of the days the 2nd preceding year.
- BUT DO NOT COUNT days spent in the U.S. as an "exempt individual".



Residency Starting Date

- **Passes Substantial Presence Test**
- **Granted permanent residence status--green card test**
- **When both apply use the earlier of the two**

Dual-status Aliens

Taxpayer has two residency statuses during the same tax year

- **Must file two returns**
- **Allocate income**



Exempt Individuals

- Student -- F, J, M, & Q visa
- Teacher or Trainee --J & Q visa

**Exempt from Substantial
Presence Test --**

NOT exempt from taxation



Students (F & J)

- Exempt for 5 years (any part of a calendar year counts as a year)
- Spouse and dependents are generally included
- All must file Form 8843



Teacher/Trainee

- Exempt for any two years out of a six year period
- Spouse and dependents are generally included
- All must file Form 8843



Establishing a Closer Connection

If no longer qualified as exempt from the Substantial Presence test, you may still be considered a non-resident if you can show you have a closer connection to a foreign country than to the U.S. :

- **present in the U.S. less than 183 days in the current year**
- **have a tax home in a foreign country**
- **file Form 8840.**



Who Must File

In the United States it is the individual's responsibility to know what taxes must be filed with the government.



Resident Aliens

- File using U.S. citizen rules
- IRS Publication 17
- Extensive number of resources, public and private



Dual Status Aliens

- See examples in Publication 519
- Too complex for this training

Nonresident Aliens Filing Requirements

- All F, J, M, and Q status holders must file Form 8843 to substantiate non-residence
- A tax return should be filed if required, or to request a refund of withholding



Nonresident Aliens

A nonresident alien must file a tax return if ...

- **Wages connected to a trade or business conducted in the U.S. are more than \$4,050 (in 2017)**
- **Any amount of non-wage earnings connected to a trade or business in the U.S.**



How Nonresident is Different...

- **Generally pay tax only on US-source income**
 - **Effectively Connected – same rates as US resident**
 - **Not Effectively Connected – taxed at 30% unless lower treaty rate**
- **Bank Interest is tax free for non-residents**
- **Married nonresidents cannot file jointly**



How Nonresident is Different...

- One personal exemption
- Most tax credits do not apply
 - Not eligible for education credits
 - Not eligible for Earned Income Tax Credit
- Standard deduction not allowed (except students from India)



Nonresident Rules

- **Itemized deductions:**
 - state and local taxes withheld
 - contributions to charity
 - casualty/theft losses
 - miscellaneous business deductions



1040NR-EZ instead of 1040NR

- Does not claim dependents
- Cannot be claimed as someone's dependent
- Under 65

1040NR-EZ instead of 1040NR (cont.)

Types of income limited to:

- Wages
- Salaries
- Tips
- Taxable refunds of state/local income taxes
- Scholarships or fellowships



Additional Limitations of Form 1040NR-EZ

- Cannot claim any adjustment to income except scholarship & student loan interest
- Cannot claim tax credits
- No exemption claimed for spouse
- If itemizes, can only claim state income tax deductions
- The only taxes owed are income taxes



1040 NR

- **To claim dependents**
 - Canada, India, Japan, Korea, Mexico
- **Additional deductions**
 - Charitable contributions, etc.
- **Not effectively connected income**
 - Dividends



Consequences of Failure to File

- If no taxes are owed--no penalty from the IRS.
- However, nonimmigrant alien status requires that the individual not violate any U.S. laws, including tax laws.



Treaty Overview

- **IRS Publication 901, U.S. Tax Treaties**
- **www.irs.gov**
 - Search for tax treaties



Points to Consider

Treaty Benefits are based on:

- immigration status
- Tax residency immediately prior to coming to U.S.
- Type of Income
 - Treaties can exempt certain income from taxes while studying or teaching
 - File IRS Form 8233 with employer to exempt this income from withholding



Publication 901, U.S. Tax Treaties

- Starting on page 19 – brief description of treaty benefits for students
- If country is not listed, then no treaty applies
- The treaty tables previously contained in Pub 901 have been updated and moved to IRS.gov. On IRS.gov, enter "Tax Treaty Table" in the search box, then select "Tax Treaty Tables."
- You may find the most helpful table here:
https://www.irs.gov/pub/irs-utl/Tax_Treaty_Table_2.pdf



Some treaties...

- Barbados, Hungary and Jamaica
 - A student who is a resident of Barbados on the date of arrival in the United States and is here for full-time education or training is exempt from U.S. income tax on payments received from outside the United States for the individual's maintenance, education, or training.
 - An individual who qualifies for this exemption may instead choose to be treated as a resident alien of the United States for all U.S. income tax purposes. Once made, this choice applies for the entire period that the individual remains qualified for exemption and may not be revoked without the permission of the U.S. competent authority.



Some treaties...

- Canada
 - \$10,000 dependent personal services (but cannot exceed \$10,000)
 - If income is greater than \$10,000, Canadian resident must be in the U.S. less than 183 days **AND** income must not be paid by a U.S. resident or employer with a fixed base in the U.S.
 - May be able to claim dependents



Some treaties...

- **France**
 - Teaching: 2 years, no limit on income from teaching, can claim benefit only once
 - Studying: generally 5 years, \$5,000/yr personal services
 - Benefits for teaching and studying can be claimed for no more than 5 years combined.

Some treaties...

- **Germany**
 - Studying: 4 years, \$9,000/yr personal services BUT if student's visit exceeds 4 years the exemption is lost for the entire visit
 - Scholarship and fellowship grants exempt from tax, whether paid by US or foreign resident

Some treaties...

- **People's Republic of China**
 - Teaching: 3 years, no limit on income from teaching
 - Studying: no limit in time, exempt up to \$5,000/yr of personal services
 - Scholarships from US or foreign payer exempt, no limit in time
 - Treaty exemptions still available when student or scholar become US resident for tax purposes



Some treaties...

- **India**

- Teaching: no income limit as long as visit does not exceed 2 years BUT the exemption is lost for the entire visit if stay is longer
- Studying: Standard deduction and exemptions for spouse and dependents, U.S. source income is not exempted, “reasonable” amount of time to complete training



Some treaties...

Russia

- Wages are exempt only if in U.S. < 183 days AND if foreign employer (with no fixed U.S. presence).
- Payments from abroad and any grant for maintenance, education, study, research, training are exempt for up to 5 years - if studying at education institution, obtaining professional training, or doing qualified research.



Common Income Codes on Form 1042-S

Foreign Students and scholars should receive a Form 1042-S for any income that is covered by a treaty:

- Scholarship or Fellowship grants – Code 16
- Compensation for teaching and research – Code 19
- Compensation during study and training – Code 20



Family Issues

- **Deduction for dependents generally not allowed**

Except certain Nonresidents from Canada, India, Korea, and Mexico

Filing Status and Marital Status

- **Unmarried**
- **Married**

Except certain Nonresidents from Canada,
Korea, and Mexico



Filing Status and Dependents

- **Most nonresidents cannot claim their dependents—even if the dependent is a U.S. citizen.**

Except Nonresidents from Canada, India, Korea, and Mexico



Spouse and Dependent

- **Form 8843 required**
- **Form 1040NR or 1040NR-EZ if required to file**

Taxation of Nonresidents

– Source of Income

- Nonresident Aliens are taxed only on U.S. source income.

– Type of Income

- Effectively Connected to a US trade or business – same rates as US resident
- Not Effectively Connected – taxed at 30% unless lower treaty rate



Taxable Income

Wages, Salaries, and Tips

- Subject to tax and withholding
- Effectively Connected
- Tax Treaty MAY provide a limited exemption for wages earned while studying



Taxable Income

Investment Income (except bank interest)

- Subject to tax and withholding
- NOT Effectively Connected

Bank Interest

- Not subject to tax unless connected with US trade or business



Scholarship/Fellowship Income

Excluded from tax if:

- Candidate for a degree
- Qualified Expenses
 - Tuition and Mandatory Fees
 - Required fees, books, supplies, & equipment

Scholarship/Fellowship income that covers room & board, or that is payment for services is subject to tax, unless exempt by treaty



Filing US Tax Forms

- Form 8843 **MUST** be filed by every person who is an “Exempt Individual” (exempt from the substantial presence test, NOT exempt from tax)
- 1040NR or 1040NR-EZ must be filed by those who have:
 - Taxable scholarship
 - Any taxable income (other than wages less than \$4050 for 2017), even if exempt under treaty

Form 8843

- Tax ID number (SSN or ITIN) if you have one. If you are only filing Form 8843, a Tax ID number is not required.
- US address only if not filing with 1040NR or 1040NR EZ
- Part I – visa/passport information
 - 4b: Normally, the days you were in U.S on student visa during 2017



Form 8843 (cont.)

- Part II, only Teachers & Trainees
- Part III, Students
 - Line 13: entering the green card lottery doesn't count



Form 8843 (cont.)

- **Signature--only if not filed with 1040NR or 1040NR EZ**
- **DON'T FORGET TO KEEP A COPY!**



The 1040NR EZ Return

Name , address and taxpayer identification number):

- Tax ID Number –
 - enter SSN if you have one
 - If not eligible for SSN, enter ITIN
 - If neither, you will need to complete Form W-7 and submit along with Form 1040NR-EZ to obtain TIN
- Address –
 - Enter current address
 - If refund should be mailed to another address outside the US, enter on line 23-e.



The 1040NR EZ Return

Lines 1 and 2 (Filing Status):

- **Single**
 - Not married on December 31
 - Married residents of Canada, Mexico, or South Korea who live apart from spouse the last 6 months of the year and kept up a home for a child who can be claimed as a dependent (must use 1040NR)
- **Married**
 - Everybody else



The 1040NR EZ Return

- **Line 3: Wages, salaries, tips, etc**

The amount in Box 1 of Form W-2

(+) Plus Code 19 income in box 2 of Form 1042-S

(+) Plus Code 20 income in box 2 of Form 1042-S

(-) Minus Treaty benefits for earnings

(=) Equals Amount for Line 3

- **Line 4: Taxable refunds from state taxes**

– 1099G (not students from India who took standard deduction)



The 1040NR EZ Return

- Line 5: **Scholarship/Fellowships**
 - Form 1042-S, Income Code 16
 - Do not include amounts from a U.S. source that is exempt via treaty
- Line 6: **Treaty exemption**
 - total exempt salary and scholarship
 - DO NOT include this amount in lines 3 or 5
- Line 7:
Add Line 3 + Line 4 + Line 5



The 1040NR EZ Return

- Line 8: **Amount included on Line 5 that paid for tuition, fees & books**
 - 1042-S Income code 16 and Exemption 2
- Line 9: Student Loan interest deduction
- Line 10: subtract **(Line 8 + Line 9) from Line 7**
- Line 11: **Itemized Deductions (probably \$0)**
 - India only: Single or Married = \$6,300

The 1040NR EZ Return

- Line 12: subtract **Line 11** from **Line 10**
- Line 13: **personal exemption = \$4,050**
- Line 14: **taxable income: subtract **Line 13** from **Line 12****
- Line 15: **find tax in tax tables** (1040NR-EZ instructions)
- Line 16: **May apply to J-2 working for tips**
- Line 17: **Total tax** (add lines 15 and 16)

The 1040NR EZ Return

- Line 18: **All Federal income tax withheld**
 - Form W-2, box 2
 - Form 1042-S, box 9
- Line 19: **Estimated payments (probably \$0)**
- Line 20: **F & J holders are not required to file 1040-C “sailing permits”**
- Line 21: **Add lines 18, 19 and 20 for total payments**



The 1040NR EZ Return

- **Direct deposit (check routing & account number carefully)**
- **Taxpayer must sign form**
- **Page 2**
 - use N/A if a question doesn't apply
 - Item "G" – enter the dates you entered and left the US, even if you are from Canada or Mexico. The checkboxes do not apply to students.



– Page 2, Item “J” – Treaty benefit information. You can find the tax treaty article here

– https://www.irs.gov/pub/irs-utl/Tax_Treaty_Table_2.pdf

J Income Exempt from Tax—If you are claiming exemption from income tax under a U.S. income tax treaty with a foreign country, complete (1) through (3) below. See Pub. 901 for more information on tax treaties.

1. Enter the name of the country, the applicable tax treaty article, the number of months in prior years you claimed the treaty benefit, and the amount of exempt income in the columns below. Attach Form 8833 if required (see instructions).

(a) Country	(b) Tax treaty article	(c) Number of months claimed in prior tax years	(d) Amount of exempt income in current tax year
Peoples Republic of China	Article 20b	0	\$10,000
	Article 20c	0	\$ 5,000
(e) Total. Enter this amount on Form 1040NR-EZ, line 6. Do not enter it on line 3 or line 5			
2. Were you subject to tax in a foreign country on any of the income shown in (d) above?			<input type="checkbox"/> Yes <input type="checkbox"/> No
3. Are you claiming treaty benefits pursuant to a Competent Authority determination? If “Yes,” attach a copy of the Competent Authority determination to your return.			<input type="checkbox"/> Yes <input checked="" type="radio"/> No

Form 1040NR-EZ (2016)

Treaty-
Exempt
Income



Finishing the Return

- Mail 8843 and return together
- Attach W-2 and 1042-S
- If you owe, attach check, payable to US Treasury; write SSN and tax year on check

Keep copies!



Nonresident Aliens

- **When to File**
 - Tax returns by **17 April**
 - Form 1040NR or Form 1040NR EZ, with Form 8843
 - Form 8843 alone by **15 June**



Where to File

- Mail Form 1040NR-EZ to:
Department of the Treasury
Internal Revenue Service
Austin, TX 73301-0215 U.S.A.
- **If enclosing a payment**, mail Form 1040NR-EZ and check to:
Internal Revenue Service
P.O. Box 1303
Charlotte, NC 28201-1303 U.S.A.



Most free websites are not for you!

- Most free on-line providers do not offer Forms 8843 and 1040NR-EZ
- If you file as a resident (Form 1040 or 1040EZ) you will likely receive benefits to which you are not entitled – could lead to IRS enforcement action
- This could affect immigration status in the future



Changes for 2018

- The personal exemption amount is reduced to \$0 for tax years 2018-2025.
- This may result in more foreign students having a filing requirement in 2018



Withholding for Nonresident Aliens

- **Form W-4 -- wages not subject to treaty benefit**
- **Form 8233 – personal services subject to treaty benefit**
- **Form W-8BEN – Non-personal services income subject to treaty benefit**



Form W-4: Instructions for **NRAs**

- Check the “Single” filing status on line 3.
- Claim only one allowance on line 5, unless from Canada, Mexico, Japan or S. Korea.
- Enter “NRA” on the dotted line on line 6, not in the box and no amount in the box .
- Do not claim “exempt” withholding status on line 7.



Social Security and Medicare Tax

- Foreign students and scholars are exempt from FICA (social security) and Medicare taxes while they are nonresidents for tax purposes
- Once they become resident for tax purposes, they are subject to FICA taxes.
 - Exception for all full-time students working on campus



Social Security and Medicare Tax

- Dependents in F2 or J2 status are never exempt from FICA
- H, O, and TN status holders are also subject to FICA taxes

Social Security and Medicare Tax

- **When withheld in error:**
 - Ask the employer in writing to refund
 - If not refunded, use IRS Form 843 to request a refund



For Additional Questions

- Refer to the publications and forms that have been mentioned in this presentation
- www.irs.gov or call 1-800-829-1040 (be sure to say you are a non-resident student)

