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U.S. Tax Guide for Aliens

For use in preparing

2000 Returns

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Introduction

For tax purposes, an alien is an individual who is not a U.S. citizen. Aliens are classified as nonresident aliens and resident aliens. This publication will help you determine your status and give you information you will need to file your U.S. tax return. Resident aliens generally are taxed on their worldwide income, the same as U.S. citizens. Nonresident aliens are taxed only on their income from sources within the United States and on certain income connected with the conduct of a trade or business in the United States.

Table A, *What You Need To Know About U.S. Taxes,* provides a list of questions and the chapter or chapters in this publication where you will find the related discussion.

The information in this publication is not as comprehensive for resident aliens as it is for nonresident aliens. Resident aliens are generally treated the same as U.S. citizens and can find more information in other IRS publications.

Comments and suggestions. We welcome your comments about this publication and your suggestions for future editions.

You can e-mail us while visiting our web site at **www.irs.gov/help/email2.html**.

You can write to us at the following address:

Table A. **What You Need To Know About U.S. Taxes**

Commonly Asked Questions	Where To Find The Answer
Am I a nonresident alien or resident alien?	See chapter 1.
Can I be a nonresident alien and a resident alien in the same year?	• See *Dual-Status Aliens* in chapter 1. • See chapter 6.
I am a resident alien and my spouse is a nonresident alien. Are there special rules for us?	• See *Nonresident Spouse Treated as a Resident* in chapter 1. • See *Community Income* in chapter 2.
Is all of my income subject to U.S. tax?	• See chapter 2. • See chapter 3.
Is my scholarship subject to U.S. tax?	• See *Scholarships, Grants, Prizes, and Awards* in chapter 2. • See *Scholarships and Fellowship Grants* in chapter 3. • See chapter 9.
What is the tax rate on my income subject to U.S. tax?	See chapter 4.
I moved to the United States this year. Can I deduct my moving expenses on my U.S. return?	See *Deductions* in chapter 5.
Can I claim exemptions for my spouse and children?	See *Exemptions* in chapter 5.
I pay income taxes to my home country. Can I get credit for these taxes on my U.S. tax return?	See *Tax Credits and Payments* in chapter 5.
What forms must I file and when and where do I file them?	See chapter 7.
How should I pay my U.S. income taxes?	See chapter 8.
Am I eligible for any benefits under a tax treaty?	• See *Income Entitled to Tax Treaty Benefits* in chapter 8. • See chapter 9.
Are employees of foreign governments and international organizations exempt from U.S. tax?	See chapter 10.
Is there anything special I have to do before leaving the United States?	• See chapter 11. • See *Expatriation Tax* in chapter 4.

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We respond to many letters by telephone. Therefore, it would be helpful if you would include your daytime phone number, including the area code, in your correspondence.

Important Changes

Foreign earned income exclusion. For 2000, the foreign earned income exclusion is $76,000. The exclusion increases to $78,000 for 2001. For more information, see chapter 3.

Estimated tax safe harbor for higher income individuals. For installment payments for tax years beginning in 2001, the estimated tax safe harbor for higher income individuals (other than farmers and fishermen) has been modified. If your 2000 adjusted gross income is more than $150,000 ($75,000 if married filing a separate return in 2001), you will have to deposit the smaller of 90% of your expected tax for 2001 or ***110%*** of the tax shown on your 2000 return to avoid an estimated tax penalty. For more information, see *Estimated Tax Form 1040–ES (NR)* in chapter 8.

Documentation requirements. The Internal Revenue Service issued regulations relating to the withholding of income tax on certain U.S. source income paid to foreign persons. These regulations apply to payments made beginning January 1, 2001.

You may be asked to give withholding agents new withholding certificates that contain the necessary information and representations required by the regulations.

The following are the withholding certificates that you may be asked to complete and submit.

1) Form W–8BEN, *Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding,* should be provided to a withholding agent or payer by a beneficial owner of certain types of income to:

   a) Establish foreign status,

   b) Claim that such person is the beneficial owner of the income for which the form is being furnished, and

   c) If applicable, claim a reduced rate of, or exemption from, withholding as a resident of a foreign country with which the United States has an income tax treaty.

2) Form W–8ECI, *Certificate of Foreign Person's Claim for Exemption From*

Withholding on Income Effectively Connected With the Conduct of a Trade or Business in the United States, should be provided to a withholding agent or payer by a foreign person to:

a) Establish foreign status,

b) Claim that such person is the beneficial owner of the income for which the form is being furnished, and

c) Claim that certain income is effectively connected with the conduct of a trade or business in the United States.

The new certificates will replace the following forms and statement, which are no longer valid.

- Form W–8, *Certificate of Foreign Status*.
- Form 1001, *Ownership, Exemption, or Reduced Rate Certificate*.
- Form 1078, *Certificate of Alien Claiming Residence in the United States*.
- Form 4224, *Exemption From Withholding of Tax on Income Effectively Connected With the Conduct of a Trade or Business in the United States*.
- Statement under regulation section 1.1441–5, relating to an individual's claim to be a U.S. citizen or resident.

Paid preparer authorization. Beginning with your return for 2000, you can check a box and authorize the IRS to discuss your tax return with the paid preparer who signed it. If you check the "Yes" box in the signature area of your return, the IRS can call your paid preparer to answer any questions that may arise during the processing of your return. Also, you are authorizing your paid preparer to perform certain actions. See your income tax package for details.

Photographs of missing children. The Internal Revenue Service is a proud partner with the National Center for Missing and Exploited Children. Photographs of missing children selected by the Center may appear in this publication on pages that would otherwise be blank. You can help bring these children home by looking at the photographs and calling **1–800–THE–LOST (1–800–843–5678)** if you recognize a child.

Important Reminders

Individual taxpayer identification number (ITIN). The IRS will issue an ITIN to a nonresident or resident alien who does not have and is not eligible to get a social security number. To apply for an ITIN, file Form W–7, *Application for IRS Individual Taxpayer Identification Number,* with the IRS. An ITIN is for tax use only. It does not entitle the holder to social security benefits or change the holder's employment or immigration status under U.S. law. See *Identification Number* in chapter 5.

Disclosure of a treaty-based position that reduces your tax. If you take the position that any U.S. tax is overruled or otherwise reduced by a U.S. treaty (a treaty-based position), you generally must disclose that position on your affected return. See *Effect of Tax Treaties* in chapter 1.

Form 1040NR–EZ. You may be able to use Form 1040NR–EZ, *U.S. Income Tax Return for Certain Nonresident Aliens With No Dependents.* This form is shorter and easier to prepare than Form 1040NR. To see if you meet the conditions for filing this form, see *Form 1040NR–EZ* in chapter 7.

Earned income credit for nonresident aliens. If you are a nonresident alien for any part of the year, you cannot claim the earned income credit unless you choose to be treated as a resident alien for the earlier year. See *Choosing Resident Alien Status* and *Nonresident Spouse Treated as a Resident* in chapter 1.

Leaving the United States. Generally, aliens must obtain a sailing permit or departure permit before leaving the United States. See chapter 11 for more information.

Change of address. If you change your mailing address, be sure to notify the Internal Revenue Service using Form 8822, *Change of Address.*

Nonresident aliens who filed Form 1040NR or Form 1040NR–EZ with the Internal Revenue Service Center, Philadelphia, PA 19255, should send the form there. Resident aliens should send the form to the Internal Revenue Service Center for their old address (addresses for the Service Centers are on the back of the form).

Expatriation tax. If you are a former U.S. citizen or former long-term U.S. resident, special tax rules may apply to you. See *Expatriation Tax* in chapter 4.

1. Nonresident Alien or Resident Alien?

Introduction

You should first determine whether, for income tax purposes, you are a nonresident alien or a resident alien. *Figure 1–A* will help you find whether you are a nonresident or resident alien.

If you are both a nonresident and resident in the same year, you have a dual status. Dual status is explained later. Also explained later are a choice to treat your nonresident spouse as a resident and some other special situations.

Topics

This chapter discusses:

- How to determine if you are a nonresident, resident, or dual-status alien, and
- How to treat a nonresident spouse as a resident alien.

Useful Items

You may want to see:

Form (and Instructions)

- ☐ **1040** U.S. Individual Income Tax Return
- ☐ **1040A** U.S. Individual Income Tax Return
- ☐ **1040NR** U.S. Nonresident Alien Income Tax Return
- ☐ **8833** Treaty-Based Return Position Disclosure Under Section 6114 or 7701(b)
- ☐ **8840** Closer Connection Exception Statement for Aliens
- ☐ **8843** Statement for Exempt Individuals and Individuals With a Medical Condition

See chapter 12 for information about getting these forms.

Nonresident Aliens

If you are an alien (not a U.S. citizen), you are considered a nonresident alien unless you meet one of the two tests described next under *Resident Aliens.*

Resident Aliens

You are a resident alien of the United States for tax purposes if you meet either the ***green card test*** or the ***substantial presence test*** for the calendar year (January 1–December 31). Even if you do not meet either of these tests, you may be able to choose to be treated as a U.S. resident for part of the year. See *First-Year Choice* under *Dual-Status Aliens,* later.

Green Card Test

You are a resident for tax purposes if you are a lawful permanent resident of the United States ***at any time*** during the calendar year. (However, see *Dual-Status Aliens,* later.) This is known as the "green card" test. You are a lawful permanent resident of the United States at any time if you have been given the privilege, according to the immigration laws, of residing permanently in the United States as an immigrant. You generally have this status if the Immigration and Naturalization Service (INS) has issued you an alien registration card, also known as a "green card." You continue to have resident status under this test unless the status is taken away from you or is administratively or judicially determined to have been abandoned.

Resident status taken away. Resident status is considered to have been taken away from you if the U.S. government issues you a final administrative or judicial order of exclusion or deportation. A ***final judicial order*** is an order that you may no longer appeal to a higher court of competent jurisdiction.

Resident status abandoned. An administrative or judicial determination of abandonment of resident status may be initiated by you, the INS, or a U.S. consular officer.

If you initiate the determination, your resident status is considered to be abandoned when you file either of the following with the INS or U.S. consular officer:

1) Your application for abandonment, or
2) Your Alien Registration Receipt Card attached to a letter stating your intent to abandon your resident status.

You must file the letter by certified mail, return receipt requested. You must keep a copy of the letter and proof that it was mailed and received.

If the INS or U.S. consular officer initiates this determination, your resident status will be considered to be abandoned when the final administrative order of abandonment is issued. If you are granted an appeal to a federal court of competent jurisdiction, a final judicial order is required.

CAUTION *A long-term resident who ceases to be a lawful permanent resident may be subject to special reporting requirements and tax provisions. See* Expatriation Tax *in chapter 4.*

Substantial Presence Test

You will be considered a U.S. resident for tax purposes if you meet the substantial presence test for the calendar year. To meet this test, you must be physically present in the United States on at least:

1) 31 days during the current year, ***and***
2) 183 days during the 3-year period that includes the current year and the 2 years immediately before that, counting:
   a) All the days you were present in the current year, and
   b) 1/3 of the days you were present in the first year before the current year, and
   c) 1/6 of the days you were present in the second year before the current year.

Example. You were physically present in the United States on 120 days in each of the years 1998, 1999, and 2000. To determine if you meet the substantial presence test for 2000, count the full 120 days of presence in 2000, 40 days in 1999 (1/3 of 120), and 20 days in 1998 (1/6 of 120). Since the total for the 3-year period is 180 days, you are not considered a resident under the substantial presence test for 2000.

The term **United States** includes the following:

1) All 50 states and the District of Columbia,
2) The territorial waters of the United States, and
3) The seabed and subsoil of those submarine areas that are adjacent to U.S. territorial waters and over which the United States has exclusive rights under international law to explore and exploit natural resources.

The term does not include U.S. possessions and territories or U.S. airspace.

Days of Presence in the United States

You are treated as present in the United States on any day you are physically present in the country at any time during the day. However, there are exceptions to this rule. Do not count the following as days of presence in the United States for the substantial presence test.

- Days you commute to work in the United States from a residence in Canada or Mexico if you regularly commute from Canada or Mexico.
- Days you are in the United States for less than 24 hours when you are in transit between two places outside the United States.
- Days you are in the United States as a crew member of a foreign vessel.
- Days you are unable to leave the United States because of a medical condition that develops while you are in the United States.
- Days you are an exempt individual.

The specific rules that apply to each of these categories are discussed next.

Regular commuters from Canada or Mexico. Do not count the days on which you commute to work in the United States from your residence in Canada or Mexico if you regularly commute from Canada or Mexico. You are considered to commute regularly if you commute to work in the United States on more than 75% of the workdays during your working period.

For this purpose, “commute” means to travel to work and return to your residence within a 24-hour period. “Workdays” are the days on which you work in the United States or Canada or Mexico. “Working period” means the period beginning with the first day in the current year on which you are physically present in the United States to work and ending on the last day in the current year on which you are physically present in the United States to work. If your work requires you to be present in the United States only on a seasonal or cyclical basis, your working period begins on the first day of the season or cycle on which you are present in the United States to work and ends on the last day of the season or cycle on which you are present in the United States to work. You can have more than one working period in a calendar year, and your working period can begin in one calendar year and end in the following calendar year.

Example. Maria Perez lives in Mexico and works for Compania ABC in its office in Mexico. She was assigned to her firm's office in the United States from February 1 through June 1. On June 2, she resumed her employment in Mexico. On 69 days, Maria commuted each morning from her home in Mexico to work in Compania ABC's U.S. office. She returned to her home in Mexico on each of those evenings. On 7 days, she worked in her firm's Mexico office. For purposes of the substantial presence test, Maria does not count the days she commuted to work in the United States because those days equal more than 75% of the workdays during the working period (69 workdays in the United States divided by 76 workdays in the working period equals 90.8%).

Days in transit. Do not count the days you are in the United States for less than 24 hours and you are in transit between two places outside the United States. You are considered to be in transit if you engage in activities that are substantially related to completing travel to your foreign destination. For example, if you travel between airports in the United States to change planes en route to your foreign destination, you are considered to be in transit. However, you are ***not*** considered to be in transit if you attend a business meeting while in the United States. This is true even if the meeting is held at the airport.

Crew members. Do not count the days you are temporarily present in the United States as a regular crew member of a foreign vessel engaged in transportation between the United States and a foreign country or a U.S. possession. However, this exception does not apply if you otherwise engage in any trade or business in the United States on those days.

Medical condition. Do not count the days you intended to leave, but could not leave the United States because of a medical condition or problem that developed while you were in the United States. Whether you intended to leave the United States on a particular day is determined based on all the facts and circumstances. For example, you may be able to establish that you intended to leave if your purpose for visiting the United States could be accomplished during a period that is not long enough to qualify you for the substantial presence test. However, if you need an extended period of time to accomplish the purpose of your visit and that period would qualify you for the substantial presence test, you would not be able to establish an intent to leave the United States before the end of that extended period.

In the case of an individual who is judged mentally incompetent, proof of intent to leave the United States can be determined by analyzing the individual's pattern of behavior before he or she was judged mentally incompetent.

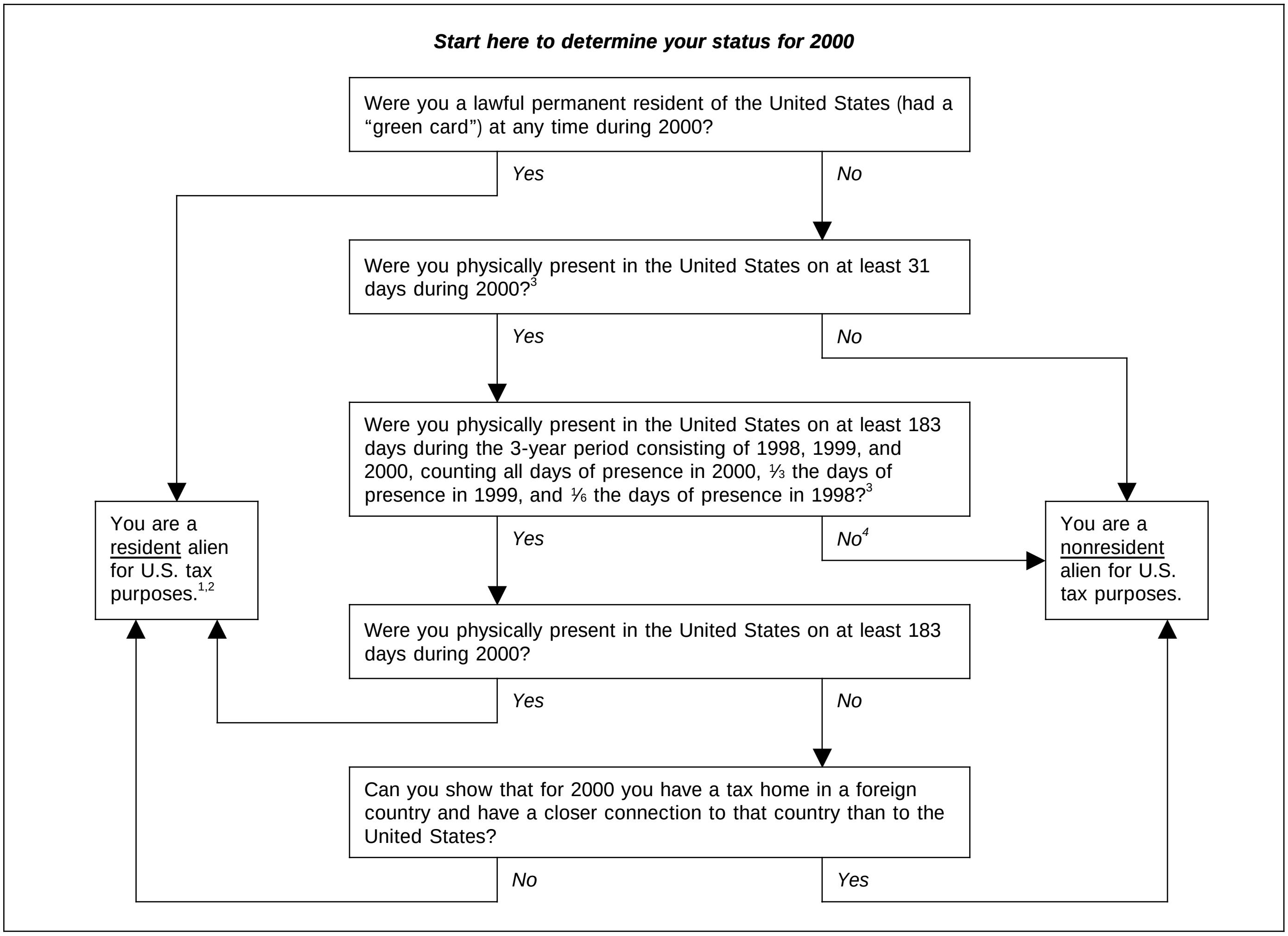
If you qualify to exclude days of presence because of a medical condition, you must file a fully completed Form 8843 with the IRS. See *Form 8843,* later.

You cannot exclude any days of presence in the United States under the following circumstances.

1) You were initially prevented from leaving, were then able to leave, but remained in the United States beyond a reasonable period for making arrangements to leave.
2) You returned to the United States for treatment of a medical condition that developed during a prior stay.
3) The condition existed before your arrival in the United States and you were aware of the condition. It does not matter whether you needed treatment for the condition when you entered the United States.

Exempt individual. Do not count days for which you are an exempt individual. The term “exempt individual” does not refer to someone exempt from U.S. tax, but to anyone in the following categories.

Figure 1-A. **Nonresident Alien or Resident Alien?**



[1] If this is your first or last year of residency, you may have a dual status for the year. See *Dual-Status Aliens* in chapter 1.

[2] In some circumstances you may still be considered a nonresident alien under an income tax treaty between the U.S. and your country. Check the provisions of the treaty carefully.

[3] See *Days of Presence in the United States* in this chapter for days that do not count as days of presence in the United States.

[4] If you meet the substantial presence test for 2001, you may be able to choose treatment as a U.S. resident alien for part of 2000. For details, see *Substantial Presence Test* under *Resident Aliens* and *First-year choice* under *Dual-Status Aliens* in chapter 1.

1) An individual temporarily present in the United States as a foreign government-related individual.

2) A teacher or trainee temporarily present in the United States under a "J" or "Q" visa, who substantially complies with the requirements of the visa.

3) A student temporarily present in the United States under an "F," "J," "M," or "Q" visa, who substantially complies with the requirements of the visa.

4) A professional athlete temporarily in the United States to compete in a charitable sports event.

The specific rules for each of these four categories are discussed next.

Foreign government-related individuals. A foreign government-related individual is an individual (or a member of the individual's immediate family) who is temporarily present in the United States:

1) As a full-time employee of an international organization,

2) By reason of diplomatic status, or

3) By reason of a visa (other than a visa that grants lawful permanent residence) that the Secretary of the Treasury determines represents full-time diplomatic or consular status.

An ***international organization*** is any public international organization that the President of the United States has designated by Executive Order as being entitled to the privileges, exemptions, and immunities provided for in the International Organizations Act. An individual is a full-time employee if his or her work schedule meets the organization's standard full-time work schedule.

An individual is considered to have ***full-time diplomatic or consular status*** if he or she:

1) Has been accredited by a foreign government that is recognized by the United States,

2) Intends to engage primarily in official activities for that foreign government while in the United States, and

3) Has been recognized by the President, Secretary of State, or a consular officer as being entitled to that status.

Members of the ***immediate family*** include the individual's spouse and unmarried children (whether by blood or adoption) but only if the spouse's or unmarried children's visa statuses are derived from and dependent on the exempt individual's visa classification. Unmarried children are included only if they:

1) Are under 21 years of age,

2) Reside regularly in the exempt individual's household, and

3) Are not members of another household.

The immediate family of an exempt individual does ***not*** include attendants, servants, or personal employees.

Teachers and trainees. A teacher or trainee is an individual, other than a student, who is temporarily in the United States under a "J" or "Q" visa and substantially complies with the requirements of that visa. You are considered to have substantially complied with the visa requirements if you have not engaged in activities that are prohibited by U.S. immigration laws and could result in the loss of your visa status.

Also included are immediate family members of exempt teachers and trainees. See the definition of immediate family, earlier, under *Foreign government-related individuals.*

You will ***not*** be an exempt individual as a teacher or trainee if you were exempt as a teacher, trainee, or student for any part of 2 of the 6 preceding calendar years. However, you ***will be*** an exempt individual if you were exempt as a teacher, trainee, or student for any part of 3 (or fewer) of the 6 preceding calendar years ***and***:

1) A foreign employer paid all of your compensation during the current year, and

2) A foreign employer paid all of your compensation during each of the preceding 6 years you were present in the United States as a teacher or trainee.

A foreign employer includes an office or place of business of an American entity in a foreign country or a U.S. possession.

If you qualify to exclude days of presence as a teacher or trainee, you must file a fully completed Form 8843 with the IRS. See *Form 8843*, later.

Example. Carla was temporarily in the United States during the year as a teacher on a "J" visa. Her compensation for the year was paid by a foreign employer. Carla was treated as an exempt teacher for the past 2 years but her compensation was not paid by a foreign employer. She will not be considered an exempt individual for the current year because she was exempt as a teacher for at least 2 of the past 6 years.

If her compensation for the past 2 years had been paid by a foreign employer, she would be an exempt individual for the current year.

Students. A student is any individual who is temporarily in the United States on an "F," "J," "M," or "Q" visa and who substantially complies with the requirements of that visa. You are considered to have substantially complied with the visa requirements if you have not engaged in activities that are prohibited by U.S. immigration laws and could result in the loss of your visa status.

Also included are immediate family members of exempt students. See the definition of immediate family, earlier, under *Foreign government-related individuals.*

You will not be an exempt individual as a student if you have been exempt as a teacher, trainee, or student for any part of more than 5 calendar years unless you establish to the satisfaction of the IRS Field Assistance Area Director that you do not intend to reside permanently in the United States and you have substantially complied with the requirements of your visa. The facts and circumstances to be considered in determining if you have demonstrated an intent to reside permanently in the United States include, but are not limited to:

1) Whether you have maintained a closer connection to a foreign country (discussed later), and

2) Whether you have taken affirmative steps to change your status from nonimmigrant to lawful permanent resident as discussed, later, under *Closer Connection to a Foreign Country.*

If you qualify to exclude days of presence as a student, you must file a fully completed Form 8843 with the IRS. See *Form 8843*, later.

Professional athletes. A professional athlete who is temporarily in the United States to compete in a charitable sports event is an exempt individual. A charitable sports event is one that meets the following conditions:

1) The main purpose is to benefit a qualified charitable organization,

2) The entire net proceeds go to charity, and

3) Volunteers perform substantially all the work.

In figuring the days of presence in the United States, you can exclude only the days on which you actually competed in a sports event. You cannot exclude the days on which you were in the United States to practice for the event, to perform promotional or other activities related to the event, or to travel between events.

If you qualify to exclude days of presence as a professional athlete, you must file a fully completed Form 8843 with the IRS. See *Form 8843*, next.

Form 8843. If you exclude days of presence in the United States because you fall into any of the following categories, you must file a fully completed Form 8843.

1) You were unable to leave the United States as planned because of a medical condition.

2) You were temporarily in the United States as a teacher or trainee on a "J" or "Q" visa.

3) You were temporarily in the United States as a student on an "F," "J," "M," or "Q" visa.

4) You were a professional athlete competing in a charitable sports event.

Attach Form 8843 to your 2000 income tax return. If you do not have to file a return, send Form 8843 to the Internal Revenue Service Center, Philadelphia, PA 19255, by the due date for filing an income tax return. The due date for filing is discussed in chapter 7.

If you do not timely file Form 8843, you cannot exclude the days you were present in the United States as a professional athlete or because of a medical condition that arose while you were in the United States. This does not apply if you can show by clear and convincing evidence that you took reasonable actions to become aware of the filing requirements and significant steps to comply with those requirements.

Closer Connection to a Foreign Country

Even if you meet the substantial presence test, you can be treated as a nonresident alien if you:

1) Are present in the United States for less than 183 days during the year,

2) Maintain a tax home in a foreign country during the year, and

3) Have a closer connection during the year to one foreign country in which you have a tax home than to the United States (unless you have a closer connection to ***two*** foreign countries, discussed next).

Closer connection to two foreign countries. You can demonstrate that you have a closer connection to ***two*** foreign countries (but not more than two) if you meet all of the following conditions:

1) You maintained a tax home beginning on the first day of the year in one foreign country,

2) You changed your tax home during the year to a second foreign country,

3) You continued to maintain your tax home in the second foreign country for the rest of the year,

4) You had a closer connection to each foreign country than to the United States for the period during which you maintained a tax home in that foreign country, and

5) You are subject to tax as a resident under the tax laws of either foreign country for the entire year or subject to tax as a resident in both foreign countries for the period during which you maintained a tax home in each foreign country.

Tax home. Your tax home is the general area of your main place of business, employment, or post of duty, regardless of where you maintain your family home. Your tax home is the place where you permanently or indefinitely work as an employee or a self-employed individual. If you do not have a regular or main place of business because of the nature of your work, then your tax home is the place where you regularly live. If you do not fit either of these categories, you are considered an itinerant and your tax home is wherever you work.

For determining whether you have a closer connection to a foreign country, your tax home must also be in existence for the **entire** current year, and must be located in the same foreign country for which you are claiming to have a closer connection.

Foreign country. In determining whether you have a closer connection to a foreign country, the term "foreign country" means:

1) Any territory under the sovereignty of the United Nations or a government other than that of the United States,

2) The territorial waters of the foreign country (determined under U.S. law),

3) The seabed and subsoil of those submarine areas which are adjacent to the territorial waters of the foreign country and over which the foreign country has exclusive rights under international law to explore and exploit natural resources, and

4) Possessions and territories of the United States.

Establishing a closer connection. You will be considered to have a closer connection to a foreign country than the United States if you or the IRS establishes that you have maintained more significant contacts with the foreign country than with the United States. In determining whether you have maintained more significant contacts with the foreign country than with the United States, the facts and circumstances to be considered include, but are not limited to, the following.

1) The country of residence you designate on forms and documents.

2) The types of official forms and documents you file, such as Form W–9, Form W–8BEN, or Form W–8ECI.

3) The location of:

   a) Your permanent home,

   b) Your family,

   c) Your personal belongings, such as cars, furniture, clothing, and jewelry,

   d) Your current social, political, cultural, or religious affiliations,

   e) Your business activities (other than those that constitute your tax home),

   f) The jurisdiction in which you hold a driver's license, and

   g) The jurisdiction in which you vote.

It does not matter whether your permanent home is a house, an apartment, or a furnished room. It also does not matter whether you rent or own it. It is important, however, that your home be available at all times, continuously, and not solely for short stays.

You cannot claim you have a closer connection to a foreign country if either of the following applies:

1) You personally applied, or took other steps during the year, to change your status to that of a permanent resident, or

2) You had an application pending for adjustment of status during the current year.

Steps to change your status to that of a permanent resident include, but are not limited to, the filing of the following forms.

Form I–508, *Waiver of Rights, Privileges, Exemptions and Immunities*

Form I–485, *Application to Register Permanent Residence or Adjust Status*

Form I–130, *Petition for Alien Relative,* on your behalf

Form I–140, *Immigrant Petition for Alien Worker,* on your behalf

Form ETA–750, *Application for Alien Employment Certification,* on your behalf

Form OF–230, *Application for Immigrant Visa and Alien Registration*

Form 8840. You must attach a fully completed Form 8840 to your income tax return to claim you have a closer connection to a foreign country or countries.

If you do not have to file a return, send the form to the Internal Revenue Service Center, Philadelphia, PA 19255, by the due date for filing an income tax return. The due date for filing is discussed later in chapter 7.

If you do not timely file Form 8840, you cannot claim a closer connection to a foreign country or countries. This does not apply if you can show by clear and convincing evidence that you took reasonable actions to become aware of the filing requirements and significant steps to comply with those requirements.

Effect of Tax Treaties

The rules given here to determine if you are a U.S. resident do not override tax treaty definitions of residency. If your residency is determined under a treaty and not under the rules discussed here, you must file a fully completed Form 8833 if the payments or income items reportable because of that determination are more than $100,000. If you are a dual resident taxpayer, you can still claim the benefits under an income tax treaty. A ***dual resident taxpayer*** is one who is a resident of both the United States and another country under each country's tax laws. The income tax treaty between the two countries must contain a provision that provides for resolution of conflicting claims of residence. If you are treated as a resident of a foreign country under a tax treaty, you are treated as a nonresident alien in figuring your U.S. income tax. For purposes other than figuring your tax, you will be treated as a U.S. resident. For example, the rules discussed here do not affect your residency time periods as discussed, later, under *Dual-Status Aliens.*

Information to be reported. If you are a dual resident taxpayer and you claim treaty benefits, you must timely file a return (including extensions) using Form 1040NR or Form 1040NR–EZ, and compute your tax as a nonresident alien. You must also attach a fully completed Form 8833. See *Reporting Treaty Benefits Claimed* in chapter 9 for more information on reporting treaty benefits.

Dual-Status Aliens

You can be both a nonresident alien and a resident alien during the same tax year. This usually occurs in the year you arrive in or depart from the United States. Aliens who have dual status should see chapter 6 for information on filing a return for a dual-status tax year.

First Year of Residency

If you are a U.S. resident for the calendar year, but you were not a U.S. resident at any time during the preceding calendar year, you are a U.S. resident only for the part of the calendar year that begins on the ***residency starting date.*** You are a nonresident alien for the part of the year before that date.

Residency starting date under substantial presence test. If you meet the substantial presence test for a calendar year, your ***residency starting date*** is generally the first day you are present in the United States during that calendar year. However, you do not have to count up to 10 days of actual presence in the United States if on those days you establish that:

1) You had a closer connection to a foreign country than to the United States, and

2) Your tax home was in that foreign country.

See *Closer Connection to a Foreign Country*, earlier.

In determining whether you can exclude up to 10 days, the following rules apply.

1) You can exclude days from more than one period of presence as long as the total days in all periods are not more than 10.

2) You cannot exclude any days in a period of consecutive days of presence if all the days in that period cannot be excluded.

3) Although you can exclude up to 10 days of presence in determining your residency starting date, you must include those days when determining whether you meet the substantial presence test.

Example. Ivan Ivanovich is a citizen of Russia. He came to the United States for the first time on January 6, 2000, to attend a business meeting and returned to Russia on January 10, 2000. His tax home remained in Russia. On March 1, 2000, he moved to the United States and resided here for the rest of the year. Ivan is able to establish a closer connection to Russia for the period January 6–10. Thus, his residency starting date is March 1.

Statement required to exclude up to 10 days of presence. You must file a statement with the IRS if you are excluding up to 10 days of presence in the United States for purposes of your residency starting date. You must sign and date this statement and include a declaration that it is made under penalties of perjury. The statement must contain the following information (as applicable).

1) Your name, address, U.S. taxpayer identification number (if any), and U.S. visa number (if any).

2) Your passport number and the name of the country that issued your passport.

3) The tax year for which the statement applies.

4) The first day that you were present in the United States during the year.

5) The dates of the days you are excluding in figuring your first day of residency.

6) Sufficient facts to establish that you have maintained your tax home in and a closer connection to a foreign country during the period you are excluding.

Attach the required statement to your income tax return. If you are not required to file a return, send the statement to the Internal Revenue Service Center, Philadelphia, PA 19255, on or before the due date for filing an income tax return. The due date for filing is discussed in chapter 7.

If you do not file the required statement as explained above, you cannot claim that you have a closer connection to a foreign country or countries. Therefore, your first day of residency will be the first day you are present in the United States. This does not apply if you can show by clear and convincing evidence that you took reasonable actions to become aware of the requirements for filing the statement and significant steps to comply with those requirements.

Residency starting date under green card test. If you meet the green card test at any time during a calendar year, but do not meet the substantial presence test for that year, your ***residency starting date*** is the first day in the calendar year on which you are present in the United States as a lawful permanent resident.

If you meet ***both*** the substantial presence test and the green card test, your residency starting date is the earlier of the first day during the year you are present in the United States under the substantial presence test or as a lawful permanent resident.

Residency during the preceding year. If you were a U.S. resident during any part of the preceding calendar year and you are a U.S. resident for any part of the current year, you will be considered a U.S. resident at the beginning of the current year. This applies whether you are a resident under the substantial presence test or green card test.

Example. Robert Bach is a citizen of Switzerland. He came to the United States as a U.S. resident for the first time on May 1, 1999, and remained until November 5, 1999, when he returned to Switzerland. Robert came back to the United States on March 5, 2000, as a lawful permanent resident and still resides here. In calendar year 2000, Robert's U.S. residency is deemed to begin on January 1, 2000, because he qualified as a resident in calendar year 1999.

First-Year Choice

If you ***do not*** meet either the green card test or the substantial presence test for 1999 or 2000 and you did not choose to be treated as a resident for part of 1999, but you meet the substantial presence test for 2001, you can choose to be treated as a U.S. resident for part of 2000. To make this choice, you must:

1) Be present in the United States for at least 31 days in a row in 2000, ***and***

2) Be present in the United States for at least 75% of the number of days beginning with the first day of the 31-day period and ending with the last day of 2000. For purposes of this 75% requirement, you can treat up to 5 days of absence from the United States as days of presence in the United States.

When counting the days of presence in (1) and (2) above, do not count the days you were in the United States under any of the exceptions discussed, earlier, under *Days of Presence in the United States.*

If you make the first-year choice, your residency starting date for 2000 is the first day of the earliest 31-day period (described in (1) above) that you use to qualify for the choice. You are treated as a U.S. resident for the rest of the year. If you are present for more than one 31-day period and you satisfy condition (2) above for each of those periods, your residency starting date is the first day of the first 31-day period. If you are present for more than one 31-day period but you satisfy condition (2) above only for a later 31-day period, your residency starting date is the first day of the later 31-day period.

Example 1. Juan DaSilva is a citizen of the Philippines. He came to the United States for the first time on November 1, 2000, and was here on 31 consecutive days (from November 1 through December 1, 2000). Juan returned to the Philippines on December 1 and came back to the United States on December 17, 2000. He stayed in the United States for the rest of the year. During 2001, Juan was a resident of the United States under the substantial presence test. Juan can make the first-year choice for 2000 because he was in the United States in 2000 for a period of 31 days in a row (November 1 through December 1) and for at least 75% of the days following (and including) the first day of his 31-day period (46 total days of presence in the United States divided by 61 days in the period from November 1 through December 31 equals 75.4%). If Juan makes the first-year choice, his residency starting date will be November 1, 2000.

Example 2. The facts are the same as in *Example 1*, except that Juan was also absent from the United States on December 24, 25, 29, 30, and 31. He can make the first-year choice for 2000 because up to 5 days of absence are considered days of presence for purposes of the 75% requirement.

Statement required to make the first-year choice. You must attach a statement to Form 1040 to make the first-year choice. The statement must contain your name and address and specify the following:

1) That you are making the first-year choice,

2) That you were not a resident in 1999,

3) That you are a resident under the substantial presence test in 2001,

4) The number of days of presence in the United States during 2001,

5) The date or dates of your 31-day period of presence and the period of continuous presence in the United States during 2000, and

6) The date or dates of absence from the United States during 2000 that you are treating as days of presence.

You cannot file Form 1040 or the statement until you meet the substantial presence test for 2001. If you have not met the test for 2001 as of April 16, 2001, you can request an extension of time for filing your 2000 Form 1040 until a reasonable period after you have met that test. To request an extension to file, use Form 4868, *Application for Automatic Extension of Time To File U.S. Individual Income Tax Return.* You should pay with this form the amount of tax you expect to owe for 2000 figured as if you were a nonresident alien the entire year. You can use Form 1040NR or Form 1040NR–EZ to figure the tax. Enter the tax on Form 4868. If you do not pay the tax due, you will be charged interest on any tax not paid by the regular due date of your return, and you may be charged a penalty on the late payment. If you pay the tax due by credit card, you do not file Form 4868. See the form instructions for information on paying by credit card. If you need more time after filing Form 4868, file Form 2688, *Application for Additional Extension of Time To File U.S. Individual Income Tax Return.*

Once you make the first-year choice, you may not revoke it without the approval of the Internal Revenue Service.

If you do not follow the procedures discussed here for making the first-year choice, you will be treated as a nonresident alien for all of 2000. However, this does not apply if you can show by clear and convincing evidence that you took reasonable actions to become aware of the filing procedures and significant steps to comply with the procedures.

Choosing Resident Alien Status

If you are a dual-status alien, you can choose to be treated as a U.S. resident for the entire year if:

1) You were a nonresident alien at the beginning of the year,

2) You are a resident alien or U.S. citizen at the end of the year,

3) You are married to a U.S. citizen or resident alien at the end of the year, and

4) Your spouse joins you in making the choice.

This includes situations in which both you and your spouse were nonresident aliens at the beginning of the tax year and both of you are resident aliens at the end of the tax year.

If you make this choice, the following rules apply.

- You and your spouse are treated as U.S. residents for the entire year for income tax purposes.
- You and your spouse are taxed on worldwide income.
- You and your spouse must file a ***joint return*** for the year of the choice.
- Neither you nor your spouse can make this choice for any later tax year, even if you are separated, divorced, or remarried.
- The special instructions and restrictions for dual-status taxpayers in chapter 6 do not apply to you.

Note. A similar choice is available if, at the end of the tax year, one spouse is a nonresident alien and the other spouse is a U.S. citizen or resident. See *Nonresident Alien Spouse Treated as a Resident,* later. If you previously made that choice and it is still in effect, you do not need to make the choice explained here.

Making the choice. You should attach a statement signed by both spouses to your joint return for the year of the choice. The statement must contain the following information.

1) A declaration that you both qualify to make the choice and that you choose to be treated as U.S. residents for the entire tax year.

2) The name, address, and taxpayer identification number (SSN or ITIN) of each spouse. (If one spouse died, include the name and address of the person who makes the choice for the deceased spouse.)

You generally make this choice when you file your joint return. However, you also can make the choice by filing Form 1040X. Attach Form 1040, Form 1040A, or Form 1040EZ and print “Amended” across the top of the corrected return. If you make the choice with an amended return, you and your spouse must also amend any returns that you may have filed after the year for which you made the choice.

You generally must file the amended joint return within 3 years from the date you filed your original U.S. income tax return or 2 years from the date you paid your income tax for that year, whichever is later.

Last Year of Residency

If you were a U.S. resident in 2000 but are not a U.S. resident during any part of 2001, you cease to be a U.S. resident on your ***residency termination date.*** Your residency termination date is December 31, 2000, unless you qualify for an earlier date as discussed next.

Earlier residency termination date. You may qualify for a residency termination date that is earlier than December 31. This date is:

1) The last day in 2000 that you are physically present in the United States, if you met the substantial presence test,
2) The first day in 2000 that you are no longer a lawful permanent resident of the United States, if you met the green card test, or
3) The later of (1) or (2), if you met both tests.

You can use this date only if, for the remainder of 2000, your tax home was in a foreign country and you had a closer connection to that foreign country. See *Closer Connection to a Foreign Country,* earlier.

CAUTION *A long-term resident who ceases to be a lawful permanent resident may be subject to special reporting requirements and tax provisions. See* Expatriation Tax *in chapter 4.*

De minimis presence. If you are a U.S. resident because of the substantial presence test and you qualify to use the earlier residency termination date, you can exclude up to 10 days of actual presence in the United States in determining your residency termination date. In determining whether you can exclude up to 10 days, the following rules apply.

1) You can exclude days from more than one period of presence as long as the total days in all periods are not more than 10.
2) You cannot exclude any days in a period of consecutive days of presence if all the days in that period cannot be excluded.
3) Although you can exclude up to 10 days of presence in determining your residency termination date, you must include those days when determining whether you meet the substantial presence test.

Example. Lola Bovary is a citizen of Malta. She came to the United States for the first time on March 1, 2000, and resided here until August 25, 2000. On December 12, 2000, Lola came to the United States for vacation and stayed here until December 16, 2000, when she returned to Malta. She is able to establish a closer connection to Malta for the period December 12–16. Lola is not a U.S. resident for tax purposes during 2001 and can establish a closer connection to Malta for the rest of calendar year 2000. Lola is a U.S. resident under the substantial presence test for 2000 because she was present in the United States for 183 days (178 days for the period March 1 to August 25 plus 5 days in December). Lola's residency termination date is August 25, 2000.

Residency during the next year. If you are a U.S. resident during any part of 2001 and you are a resident during any part of 2000, you will be taxed as a resident through the end of 2000. This applies whether you have a closer connection to a foreign country than the United States during 2000, and whether you are a resident under the substantial presence test or green card test.

Statement required to establish your residency termination date. You must file a statement with the IRS to establish your residency termination date. You must sign and date this statement and include a declaration that it is made under penalties of perjury. The statement must contain the following information (as applicable).

1) Your name, address, U.S. taxpayer identification number (if any), and U.S. visa number (if any).
2) Your passport number and the name of the country that issued your passport.
3) The tax year for which the statement applies.
4) The last day that you were present in the United States during the year.
5) Sufficient facts to establish you have maintained your tax home in and that you have a closer connection to a foreign country following your last day of presence in the United States during the year or following the abandonment or rescission of your status as a lawful permanent resident during the year.
6) The date that your status as a lawful permanent resident was abandoned or rescinded.
7) Sufficient facts (including copies of relevant documents) to establish that your status as a lawful permanent resident has been abandoned or rescinded.
8) If you can exclude days under the de minimis presence rule, discussed earlier, include the dates of the days you are excluding and sufficient facts to establish that you have maintained your tax home in and that you have a closer connection to a foreign country during the period you are excluding.

Attach the required statement to your income tax return. If you are not required to file a return, send the statement to the Internal Revenue Service Center, Philadelphia, PA 19255, on or before the due date for filing an income tax return. The due date for filing is discussed in chapter 7.

If you do not file the required statement as explained above, you cannot claim that you have a closer connection to a foreign country or countries. This does not apply if you can show by clear and convincing evidence that you took reasonable actions to become aware of the requirements for filing the statement and significant steps to comply with those requirements.

Nonresident Spouse Treated as a Resident

If, at the end of your tax year, you are married and one spouse is a U.S. citizen or a resident alien and the other spouse is a nonresident alien, you can choose to treat the nonresident spouse as a U.S. resident. This includes situations in which one spouse is a nonresident alien at the beginning of the tax year, but a resident alien at the end of the year, and the other spouse is a nonresident alien at the end of the year.

If you make this choice, you and your spouse are treated for income tax purposes as residents for your entire tax year. Generally, neither you nor your spouse can claim tax treaty benefits as a resident of a foreign country for a tax year for which the choice is in effect and you are both taxed on worldwide income. You must file a joint income tax return for the year you make the choice, but you and your spouse can file joint or separate returns in later years.

CAUTION *If you file a joint return under this provision, the special instructions and restrictions for dual-status taxpayers in chapter 6 do not apply to you.*

Example. Bob and Sharon Williams are married and both are nonresident aliens at the beginning of the year. In June, Bob became a resident alien and remained a resident for the rest of the year. Bob and Sharon both choose to be treated as resident aliens by attaching a statement to their joint return. Bob and Sharon must file a joint return for the year they make the choice, but they can file either joint or separate returns for later years.

How To Make the Choice

Attach a statement, signed by both spouses, to your joint return for the first tax year for which the choice applies. It should contain the following information.

1) A declaration that one spouse was a nonresident alien and the other spouse a U.S. citizen or resident alien on the last day of your tax year, and that you choose to be treated as U.S. residents for the entire tax year.
2) The name, address, and identification number of each spouse. (If one spouse died, include the name and address of the person making the choice for the deceased spouse.)

Amended return. You generally make this choice when you file your joint return. However, you can also make the choice by filing a joint amended return on Form 1040X. Attach Form 1040, Form 1040A, or Form 1040EZ and print “Amended” across the top of the corrected return. If you make the choice with an amended return, you and your spouse must also amend any returns that you may have filed after the year for which you made the choice.

You generally must file the amended joint return within 3 years from the date you filed your original U.S. income tax return or 2 years from the date you paid your income tax for that year, whichever is later.

Suspending the Choice

The choice to be treated as a resident alien does not apply to any tax year (after the tax year you made the choice) if neither spouse is a U.S. citizen or resident alien at any time during the tax year.

Example. Dick Brown was a resident alien on December 31, 1997, and married to Judy, a nonresident alien. They chose to treat Judy as a resident alien and filed joint 1997 and 1998 income tax returns. On January 10, 1999, Dick became a nonresident alien. Judy had remained a nonresident alien throughout the period. Dick and Judy could have filed joint or separate returns for 1999. However, since neither Dick nor Judy is a resident alien at any time during 2000, their choice is suspended for that year. If either has U.S. source income or foreign source income effectively connected with a U.S. trade or business in 2000, they must file separate returns as nonresident aliens. If Dick becomes a resident alien again in 2000, their choice is no longer suspended.

Ending the Choice

Once made, the choice to be treated as a resident applies to all later years unless suspended (as explained above) or ended in one of the following ways.

If the choice is ended in one of the following ways, neither spouse can make this choice in any later tax year.

1) ***Revocation.*** Either spouse can revoke the choice for any tax year, provided he or she makes the revocation by the due date for filing the tax return for that tax year. The spouse who revokes must attach a signed statement declaring that the choice is being revoked. The statement must include the name, address, and identification number of each spouse. (If one spouse dies, include the name and address of the person who is revoking the choice for the deceased spouse.) The statement also must include a list of any states, foreign countries, and possessions that have community property laws in which either spouse is domiciled or where real property is located from which either spouse receives income. File the statement as follows:

   a) If the spouse revoking the choice must file a return, attach the statement to the return for the first year the revocation applies,

   b) If the spouse revoking the choice does not have to file a return, but does file a return (for example, to obtain a refund), attach the statement to the return, or

   c) If the spouse revoking the choice does not have to file a return and does not file a claim for refund, send the statement to the Internal Revenue Service Center where you filed the last joint return.

2) ***Death.*** The death of either spouse ends the choice, beginning with the first tax year following the year the spouse died. However, if the surviving spouse is a U.S. citizen or resident and is entitled to the joint tax rates as a surviving spouse, the choice will not end until the close of the last year for which these joint rates may be used. If both spouses die in the same tax year, the choice ends on the first day after the close of the tax year in which the spouses died.

3) ***Legal separation.*** A legal separation under a decree of divorce or separate maintenance ends the choice as of the beginning of the tax year in which the legal separation occurs.

4) ***Inadequate records.*** The Internal Revenue Service can end the choice for any tax year that either spouse has failed to keep adequate books, records, and other information necessary to determine the correct income tax liability, or to provide adequate access to those records.

Special Situations

If you are a nonresident alien from ***American Samoa*** or ***Puerto Rico***, you may be treated as a resident alien.

If you are a nonresident alien in the United States and a bona fide resident of American Samoa or Puerto Rico during the entire tax year, you are taxed, with certain exceptions, according to the rules for resident aliens of the United States. For more information, see chapter 5.

If you are a nonresident alien from American Samoa or Puerto Rico who does not qualify as a bona fide resident of American Samoa or Puerto Rico for the entire tax year, you are taxed as a nonresident alien.

Resident aliens who formerly were bona fide residents of American Samoa or Puerto Rico are taxed according to the rules for resident aliens.

2. Source of Income

Introduction

After you have determined your alien status, you must determine the source of your income. This chapter will help you determine the source of different types of income you may receive during the tax year. This chapter also discusses special rules for married individuals who are domiciled in a country with community property laws.

Topics

This chapter discusses:

- Income source rules, and
- Community income.

Useful Items

You may want to see:

Publication

- ☐ **520** Scholarships and Fellowships
- ☐ **721** Tax Guide to U.S. Civil Service Retirement Benefits

See chapter 12 for information about getting these publications.

Resident Aliens

A resident alien's income is generally subject to tax in the same manner as a U.S. citizen. If you are a resident alien, you must report all interest, dividends, wages, or other compensation for services, income from rental property or royalties, and other types of income on your U.S. tax return. You must report these amounts whether from sources within or outside the United States.

Nonresident Aliens

A nonresident alien usually is subject to U.S. income tax only on U.S. source income. Under limited circumstances, certain foreign source income is subject to U.S. tax. See *Foreign Income* in chapter 4.

The general rules for determining U.S. source income that apply to most nonresident aliens are shown in *Table 2–1*. The following discussions cover the general rules as well as the exceptions to these rules.

TIP *Not all items of U.S. source income are taxable. See chapter 3.*

Interest

Generally, U.S. source interest income includes the following items.

- Interest on bonds, notes, or other interest-bearing obligations of U.S. residents or domestic corporations.
- Interest paid by a domestic or foreign partnership or foreign corporation engaged in a U.S. trade or business at any time during the tax year.
- Original issue discount.
- Interest from a state, the District of Columbia, or the U.S. Government.

The place or manner of payment is immaterial in determining the source of the income.

A substitute interest payment made to the transferor of a security in a securities lending transaction or a sale-repurchase transaction is sourced in the same manner as the interest on the transferred security.

Exceptions. U.S. source interest income does not include the following items.

1) Interest paid by a resident alien or a domestic corporation if for the 3-year period ending with the close of the payer's tax year preceding the interest payment at least 80% of the payer's total gross income:

   a) Is from sources outside the United States, and

b) Is attributable to the active conduct of a trade or business by the individual or corporation in a foreign country or a U.S. possession.

2) Interest paid by a foreign branch of a domestic corporation or a domestic partnership on deposits or withdrawable accounts with mutual savings banks, cooperative banks, credit unions, domestic building and loan associations, and other savings institutions chartered and supervised as savings and loan or similar associations under federal or state law if the interest paid or credited can be deducted by the association.

3) Interest on deposits with a foreign branch of a domestic corporation or domestic partnership, but only if the branch is in the commercial banking business.

Dividends

In most cases, dividend income received from domestic corporations is U.S. source income. Dividend income from foreign corporations is usually foreign source income. Exceptions to both of these rules are discussed below.

A substitute dividend payment made to the transferor of a security in a securities lending transaction or a sale-repurchase transaction is sourced in the same manner as a distribution on the transferred security.

First exception. Dividends received from a domestic corporation are not U.S. source income if the corporation elects to take the Puerto Rico economic activity credit or the possession tax credit.

Second exception. Part of the dividends received from a foreign corporation is U.S. source income if 25% or more of its total gross income for the 3-year period ending with the close of its tax year preceding the declaration of dividends was effectively connected with a trade or business in the United States. If the corporation was formed less than 3 years before the declaration, use its total gross income from the time it was formed. Determine the part that is U.S. source income by multiplying the dividend by the following fraction.

$$\frac{\text{Foreign corporation's gross income connected with a U.S. trade or business for the 3-year period}}{\text{Foreign corporation's gross income from all sources for that period}}$$

Personal Services

All wages and any other compensation for services performed in the United States are considered to be from sources in the United States. The only exception to this rule is discussed in chapter 3, under *Employees of foreign persons, organizations, or offices.*

If your compensation is for personal services performed both inside and outside the United States, you must figure the amount of income that is for services performed in the United States. You usually do this on a time basis. That is, you must include in gross income as U.S. source income the amount that results from multiplying the total amount of compensation by the following fraction.

$$\frac{\text{Number of days you performed services in the United States}}{\text{Total number of days of service for which you receive payment}}$$

Example. Jean Blanc, a nonresident alien, is a professional hockey player with a U.S. hockey club. Under Jean's contract, he received $98,500 for 242 days of play during the year. This includes days spent at preseason training camp, days during the regular season, and playoff game days. Of the 242 days, Jean spent 194 days performing services in the United States and 48 days playing hockey in Canada. Jean's U.S. source income is $78,963, figured as follows:

$$\frac{194}{242} \times \$98,500 = \$78,963$$

Reenlistment bonus. A reenlistment bonus received by a nonresident alien for reenlistment in the U.S. Navy while in a foreign country is not U.S. source income.

Crew members. Compensation for services performed by a nonresident alien in connection with the individual's temporary presence in the United States as a regular crew member of a foreign vessel engaged in transportation between the United States and a foreign country or U.S. possession is not U.S. source income.

Transportation Income

Transportation income is income from the use of a vessel or aircraft or for the performance of services directly related to the use of any vessel or aircraft. This is true whether the vessel or aircraft is owned, hired, or leased. The term “vessel or aircraft” includes any container used in connection with a vessel or aircraft.

All income from transportation that begins ***and*** ends in the United States is treated as derived from sources in the United States. If the transportation begins ***or*** ends in the United States, 50% of the transportation income is treated as derived from sources in the United States.

For transportation income from personal services, 50% of the income is U.S. source income if the transportation is between the United States and a U.S. possession. For nonresident aliens, this only applies to income derived from, or in connection with, an aircraft.

For information on how U.S. source transportation income is taxed, see chapter 4.

Scholarships, Grants, Prizes, and Awards

Generally, the source of scholarships, fellowship grants, grants, prizes, and awards is the residence of the payer regardless of who actually disburses the funds. However, see *Activities to be performed outside the United States,* later.

For example, payments for research or study in the United States made by the United States, a noncorporate U.S. resident, or a domestic corporation, are from U.S. sources. Similar payments from a foreign government or foreign corporation are foreign source payments even though the funds may be disbursed through a U.S. agent.

Payments made by an entity designated as a public international organization under the International Organizations Immunities Act are from foreign sources.

Table 2-1. **Summary of Source Rules for Income of Nonresident Aliens**

Item of Income	Factor Determining Source
Salaries, wages, other compensation	Where services performed
Business income:	
Personal services	Where services performed
Sale of inventory — purchased	Where sold
Sale of inventory — produced	Allocation
Interest	Residence of payer
Dividends	Whether a U.S. or foreign corporation*
Rents	Location of property
Royalties:	
Natural resources	Location of property
Patents, copyrights, etc.	Where property is used
Sale of real property	Location of property
Sale of personal property	Seller's tax home (but see *Personal Property,* later, for exceptions)
Pensions	Where services were performed that earned the pension
Sale of natural resources	Allocation based on fair market value of product at export terminal. For more information, see section 1.863-1(b) of the regulations.

* Exceptions include:
a) Dividends paid by a U.S. corporation are foreign source if the corporation elects the Puerto Rico economic activity credit or possessions tax credit.
b) Part of a dividend paid by a foreign corporation is U.S. source if at least 25% of the corporation's gross income is effectively connected with a U.S. trade or business for the 3 tax years before the year in which the dividends are declared.

Activities to be performed outside the United States. Scholarships, fellowship grants, targeted grants, and achievement awards received by nonresident aliens for activities performed, or to be performed, outside the United States are not U.S. source income.

CAUTION *These rules do not apply to amounts paid as salary or other compensation for services. See* Personal Services, *earlier, for the source rules that apply.*

Pensions and Annuities

When you receive a pension from a domestic trust for services performed both in and outside the United States, part of the pension payment is from U.S. sources. That part is the amount attributable to earnings of the trust and the employer contributions made for services performed in the United States. This applies whether the distribution is made under a qualified or nonqualified stock bonus, pension, profit-sharing, or annuity plan (whether or not funded).

If you performed services as an employee of the United States, you may receive a distribution from the U.S. Government under a plan, such as the Civil Service Retirement System, that is treated as a qualified pension plan. Your U.S. source income is the otherwise taxable amount of the distribution that is attributable to your total U.S. Government basic pay other than tax-exempt pay for services performed outside the United States.

Rents or Royalties

Your U.S. source income includes rent and royalty income received during the tax year from property located in the United States or from any interest in that property.

U.S. source income also includes rents or royalties for the use of, or for the privilege of using, in the United States, intangible property such as patents, copyrights, secret processes and formulas, goodwill, trademarks, franchises, and similar property.

Real Property

Real property is land and buildings and generally anything built on, growing on, or attached to land.

Gross income from sources in the United States includes gains, profits, and income from the sale or other disposition of real property located in the United States.

Natural resources. The income from the sale of products of any farm, mine, oil or gas well, other natural deposit, or timber located in the United States and sold in a foreign country, or located in a foreign country and sold in the United States, is partly from sources in the United States. For information on determining that part, see section 1.863–1(b) of the regulations.

Personal Property

Personal property is property, such as machinery, equipment, or furniture, that is not real property.

Gain or loss from the sale or exchange of personal property generally has its source in the United States if you have a ***tax home*** in the United States. If you do not have a tax home in the United States, the gain or loss generally is considered to be from sources outside the United States.

Tax home. Your tax home is the general area of your main place of business, employment, or post of duty, regardless of where you maintain your family home. Your tax home is the place where you permanently or indefinitely work as an employee or a self-employed individual. If you do not have a regular or main place of business because of the nature of your work, then your tax home is the place where you regularly live. If you do not fit either of these categories, you are considered an itinerant and your tax home is wherever you work.

Inventory property. Inventory property is personal property that is stock in trade or that is held primarily for sale to customers in the ordinary course of your trade or business. Income from the sale of inventory that you purchased is sourced where the property is sold. Generally, this is where title to the property passes to the buyer. For example, income from the sale of inventory in the United States is U.S. source income, whether you purchased it in the United States or in a foreign country.

Income from the sale of inventory property that you produced in the United States and sold outside the United States (or vice versa) is partly from sources in the United States and partly from sources outside the United States. For information on making this allocation, see section 1.863–3 of the regulations.

These rules apply even if your tax home is not in the United States.

Depreciable property. To determine the source of any gain from the sale of depreciable personal property, you must first figure the part of the gain that is not more than the total depreciation adjustments on the property. You allocate this part of the gain to sources in the United States based on the ratio of U.S. depreciation adjustments to total depreciation adjustments. The rest of this part of the gain is considered to be from sources outside the United States.

For this purpose, "U.S. depreciation adjustments" are the depreciation adjustments to the basis of the property that are allowable in figuring taxable income from U.S. sources. However, if the property is used predominantly in the United States during a tax year, all depreciation deductions allowable for that year are treated as U.S. depreciation adjustments. But there are some exceptions for certain transportation, communications, and other property used internationally.

Gain from the sale of depreciable property that is more than the total depreciation adjustments on the property is sourced as if the property were inventory property, as discussed above.

A loss recognized after January 10, 1999, is sourced in the same way as the depreciation deductions were sourced. However, if the property was used predominantly in the United States, the entire loss reduces U.S. source income. You can choose to apply this rule to losses recognized in tax years beginning after 1986. For details about making this choice, see section 1.865–1T(f)(2) of the regulations.

The ***basis of property*** usually means the cost (money plus the fair market value of other property or services) of property you acquire. ***Depreciation*** is an amount deducted to recover the cost or other basis of a trade or business asset. The amount you can deduct depends on the property's cost, when you began using the property, how long it will take to recover your cost, and which depreciation method you use. A depreciation deduction is any deduction for depreciation or amortization or any other allowable deduction that treats a capital expenditure as a deductible expense.

Intangible property. Intangible property includes patents, copyrights, secret processes or formulas, goodwill, trademarks, trade names, or other like property. Income from the sale of intangible property that is contingent on the productivity, use, or disposition of the property is sourced in the country where the property is used. If the income is not contingent on the productivity, use, or disposition of the property, the income is sourced according to the seller's tax home as discussed earlier. If payments for goodwill do not depend on its productivity, use, or disposition, their source is the country in which the goodwill was generated.

To the extent gain from the sale of an intangible does not exceed its depreciation adjustments, treat the gain as if the intangible were depreciable personal property, discussed earlier.

Sales through offices or fixed places of business. Despite any of the above rules, if you do not have a tax home in the United States, but you maintain an office or other fixed place of business in the United States, treat the income from any sale of personal property (including inventory property) that is attributable to that office or place of business as U.S. source income. However, this rule does not apply to sales of inventory property for use, disposition, or consumption outside the United States if your office or other fixed place of business outside the United States materially participated in the sale.

If you have a tax home in the United States but maintain an office or other fixed place of business outside the United States, income from sales of personal property, other than inventory, depreciable property, or intangibles, that is attributable to that foreign office or place of business may be treated as U.S. source income. The income is treated as U.S. source income if an income tax of less than 10% of the income from the sale is paid to a foreign country. This rule also applies to losses recognized after January 10, 1999, if the foreign country would have imposed an income tax of less than 10% had the sale resulted in a gain. You can choose to apply this rule to losses recognized in tax years beginning after 1986. For details about making this choice, see section 1.865–1T(f)(2) of the regulations. For stock losses, see section 1.865–2(e) of the regulations.

Community Income

If you are married and you or your spouse are subject to the community property laws of a foreign country, a U.S. state, or a U.S. possession, you generally must follow those laws to determine the income of yourself and your spouse for U.S. tax purposes. But you must disregard certain community property laws if:

1) Both you and your spouse are nonresident aliens, or

2) One of you is a nonresident alien and the other is a U.S. citizen or resident and you do not both choose to be treated as U.S. residents as explained in chapter 1.

In these cases, you and your spouse must report community income as explained below.

Earned income. Earned income of a spouse, other than trade or business income and a partner's distributive share of partnership income, is treated as the income of the spouse whose services produced the income. That spouse must report all of it on his or her separate return.

Trade or business income. Trade or business income, other than a partner's distributive share of partnership income, is treated as the income of the spouse carrying on the trade or business. That spouse must report all of it on his or her separate return.

Partnership income (or loss). A partner's distributive share of partnership income (or loss) is treated as the income (or loss) of the partner. The partner must report all of it on his or her separate return.

Separate property income. Income derived from the separate property of one spouse (and which is not earned income, trade or business income, or partnership distributive share income) is treated as the income of that spouse. That spouse must report all of it on his or her separate return. Use the appropriate community property law to determine what is separate property.

Other community income. All other community income is treated as provided by the applicable community property laws.

3. Exclusions From Gross Income

Introduction

Resident and nonresident aliens are allowed exclusions from gross income if they meet certain conditions. An exclusion from gross income is generally income you receive that is not included in your U.S. income and is not subject to U.S. tax. This chapter covers some of the more common exclusions allowed to resident and nonresident aliens.

Topics

This chapter discusses:

- Nontaxable interest,
- Certain compensation paid by a foreign employer,
- Gain from sale of home, and
- Scholarships and fellowship grants.

Useful Items

You may want to see:

Publication

- ☐ **54** Tax Guide for U.S. Citizens and Resident Aliens Abroad
- ☐ **523** Selling Your Home

See chapter 12 for information about getting these publications.

Resident Aliens

Resident aliens may be able to exclude the following items from their gross income.

Foreign Earned Income and Housing Amount

If you are physically present in a foreign country or countries for at least 330 full days during any period of 12 consecutive months, you may qualify for the foreign earned income exclusion. For tax years beginning in 2000, the exclusion is $76,000. In addition, you may be able to exclude or deduct certain foreign housing amounts. You may also qualify if you are a bona fide resident of a foreign country and you are a citizen or national of a country with which the United States has an income tax treaty. For more information, see Publication 54.

Foreign country. The term “foreign country” means any territory under the sovereignty of a government other than that of the United States. The term also includes territorial waters of the foreign country, the airspace over the foreign country, and the seabed and subsoil of submarine areas adjacent to the territorial waters of the foreign country.

Nonresident Aliens

Nonresident aliens can exclude the following items from their gross income.

Interest

U.S. source interest income that is not connected with a U.S. trade or business is excluded from income if it is from:

1) Deposits (including certificates of deposit) with persons in the banking business,
2) Deposits or withdrawable accounts with mutual savings banks, cooperative banks, credit unions, domestic building and loan associations, and other savings institutions chartered and supervised as savings and loan or similar associations under federal or state law (if the interest paid or credited can be deducted by the association), and
3) Amounts held by an insurance company under an agreement to pay interest on them.

Government obligations. Interest on obligations of a state or political subdivision, the District of Columbia, or a U.S. possession, generally is not included in income. However, interest on certain private activity bonds, arbitrage bonds, and certain bonds not in registered form is included in income.

Portfolio interest. U.S. source interest income that is not connected with a U.S. trade or business and that is portfolio interest on obligations issued after July 18, 1984, is excluded from income. Portfolio interest is interest (including original issue discount) that is paid on obligations:

1) Not in registered form (bearer obligations) that are sold only to foreign investors, and the interest on which is payable only outside the United States and its possessions, and that has on its face a statement that any U.S. person holding the obligation will be subject to limitations under the U.S. income tax laws,
2) In registered form that are targeted to foreign markets and the interest on which is paid through financial institutions outside the United States, or
3) In registered form that are ***not*** targeted to foreign markets, if you furnished the payer of the interest (or the withholding agent) a statement that you are not a U.S. person. You should have made this statement on a Form W–8 or on a substitute form similar to Form W–8. In either case, the statement should have been signed under penalties of perjury, should have been certified that you are not a U.S. citizen or resident, and should have included your name and address.

CAUTION *Form W–8 is not valid after 2000. After 2000, you must make the statement in (3) above on Form W–8BEN or on a substitute form provided by the withholding agent.*

Portfolio interest does not include the following types of interest.

1) Interest you receive on an obligation issued by a corporation of which you own, directly or indirectly, 10% or more of the total voting power of all classes of voting stock.
2) Interest you receive on an obligation issued by a partnership of which you own, directly or indirectly, 10% or more of the capital or profits interests.
3) Contingent interest.

Contingent interest. Portfolio interest does not include contingent interest. Contingent interest is either of the following:

1) Interest that is determined by reference to:
   a) Any receipts, sales, or other cash flow of the debtor or related person,
   b) Income or profits of the debtor or related person,
   c) Any change in value of any property of the debtor or a related person, or
   d) Any dividend, partnership distributions, or similar payments made by the debtor or a related person.

2) Any other type of contingent interest that is identified by the Secretary of the Treasury in regulations.

For the definition of "related person" in connection with any contingent interest, and for the exceptions that apply to interest described in item (1), see subparagraphs (B) and (C) of Internal Revenue Code section 871(h)(4).

Exception for existing debt. Portfolio interest includes any contingent interest paid or accrued on any debt with a fixed term that was issued:

1) On or before April 7, 1993, or
2) After April 7, 1993, pursuant to a written binding contract in effect on that date and at all times thereafter before that debt was issued.

Services Performed for Foreign Employer

If you were paid by a foreign employer, your U.S. source income may be exempt from U.S. tax, but only if you meet one of the situations discussed next.

Employees of foreign persons, organizations, or offices. If three conditions exist, income for personal services performed in the United States as a nonresident alien is not considered to be from U.S. sources and is tax exempt. If you do not meet ***all three*** conditions, your income from personal services performed in the United States is U.S. source income and is taxed according to the rules in chapter 4.

The three conditions are:

1) You perform personal services as an employee of or under a contract with a nonresident alien individual, foreign partnership, or foreign corporation, not engaged in a trade or business in the United States; or you work for an office or place of business maintained in a foreign country or possession of the United States by a U.S. corporation, a U.S. partnership, or a U.S. citizen or resident,
2) You perform these services while you are a nonresident alien temporarily present in the United States for a period or periods of not more than a total of 90 days during the tax year, and
3) Your pay for these services is not more than $3,000.

If your pay for these services is more than $3,000, the entire amount is income from a trade or business within the United States. To find if your pay is more than $3,000, do not include any amounts you get from your employer for advances or reimbursements of business travel expenses, if you were required to and did account to your employer for those expenses. If the advances or reimbursements are more than your expenses, include the excess in your pay for these services.

A day means a calendar day during any part of which you are physically present in the United States.

Example 1. During 2000, Henry Smythe, a nonresident alien from a nontreaty country, worked for an overseas office of a domestic partnership. Henry, who uses the calendar year as his tax year, was temporarily present in the United States for 60 days during 2000 performing personal services for the overseas office of the partnership. That office paid him a total gross salary of $2,800 for those services. During 2000, he was not engaged in a trade or business in the United States. The salary is not considered U.S. source income and is exempt from U.S. tax.

Example 2. The facts are the same as in *Example 1*, except that Henry's total gross salary for the services performed in the United States during 2000 was $4,500. He received $2,875 in 2000, and $1,625 in 2001. During 2000, he was engaged in a trade or business in the United States because the compensation for his personal services in the United States was more than $3,000. Henry's salary is U.S. source income and is taxed under the rules in chapter 4.

Crew members. Compensation for services performed by a nonresident alien in connection with the individual's temporary presence in the United States as a regular crew member of a foreign vessel engaged in transportation between the United States and a foreign country or U.S. possession is not U.S. source income and is exempt from U.S. tax.

Students and exchange visitors. Nonresident alien students and exchange visitors present in the United States under "F," "J," or "Q" visas can exclude from gross income pay received from a foreign employer.

This group includes bona fide students, scholars, trainees, teachers, professors, research assistants, specialists, or leaders in a field of specialized knowledge or skill, or persons of similar description. It also includes the alien's spouse and minor children if they come with the alien or come later to join the alien.

A nonresident alien temporarily present in the United States under a "J" visa includes an alien individual entering the United States as an ***exchange visitor*** under the Mutual Educational and Cultural Exchange Act of 1961.

Foreign employer. A foreign employer is:

1) A nonresident alien individual, foreign partnership, or foreign corporation, or
2) An office or place of business maintained in a foreign country or in a U.S. possession by a domestic corporation, a domestic partnership, or an individual who is a citizen or resident of the United States.

The term "foreign employer" does not include a foreign government. Pay from a foreign government that is exempt from U.S. income tax is discussed in chapter 10.

Income from certain annuities. Do not include in income any annuity received under a ***qualified annuity plan*** or from a ***qualified trust*** exempt from U.S. income tax if you meet both of the following conditions.

1) You receive the annuity only because:
   a) You performed personal services outside the United States while you were a nonresident alien, or
   b) You performed personal services inside the United States while you were a nonresident alien and you met the three conditions described earlier under *Employees of foreign persons, organizations, or offices.*
2) At the time the first amount is paid as an annuity under the plan (or by the trust), 90% or more of the employees for whom contributions or benefits are provided under the annuity plan (or under the plan of which the trust is a part) are citizens or residents of the United States.

If the annuity qualifies under condition (1) but not condition (2) above, you do not have to include the amount in income if:

1) You are a resident of a country that gives a substantially equal exclusion to U.S. citizens and residents, or
2) You are a resident of a beneficiary developing country under the Trade Act of 1974.

If you are not sure whether the annuity is from a qualified annuity plan or qualified trust, ask the person who made the payment.

Income affected by treaties. Income of any kind that is exempt from U.S. tax under a treaty to which the United States is a party is excluded from your gross income. Income on which the tax is only limited by treaty, however, is included in gross income. See chapter 9.

Gain From the Sale of Your Main Home

If you sold your main home, you may be able to exclude up to $250,000 of the gain on the sale of your home. If you are married and file a joint return, you may be able to exclude up to $500,000. For information on the requirements for this exclusion, see Publication 523.

This exclusion does not apply to nonresident aliens who are subject to the expatriation tax rules discussed in chapter 4.

Scholarships and Fellowship Grants

If you are a candidate for a degree, you may be able to exclude from your income part or all of the amounts you receive as a qualified scholarship. The rules discussed here apply to both resident and nonresident aliens.

If a nonresident alien receives a grant that is not from U.S. sources, it is not subject to U.S. tax. See Scholarships, Grants, Prizes, and Awards *in chapter 2 to determine whether your grant is from U.S. sources.*

Qualified scholarship. A qualified scholarship is any amount you receive as a scholarship or fellowship grant that you use according to the conditions of the grant for:

1) Tuition and fees required to enroll in, or to attend, an educational institution, or
2) Fees, books, supplies, and equipment that the educational institution requires for the courses of instruction.

Amounts you receive from a scholarship or fellowship that you use for other expenses, such as room and board or travel, are not excludable from income.

Terms of grant. Your scholarship or fellowship can still qualify as tax free even if the terms do not provide that it only be used for tuition and course-related expenses. It will qualify if you use the grant proceeds for tuition and course-related expenses. However, if the terms of the grant require its use for other purposes, such as room and board, or specify that the grant cannot be used for tuition or course-related expenses, the amounts received under the grant cannot be excluded from income.

Candidate for a degree. The term candidate for a degree means a student (whether full- or part-time) who:

1) Attends a primary or secondary school or is pursuing a degree at a college or university, or
2) Attends an educational institution that is authorized and accredited to provide:
   a) A program that is acceptable for full credit toward a bachelor's or higher degree, or
   b) A program of training to prepare students for gainful employment in a recognized occupation.

Payment for services. You cannot exclude from income the portion of any scholarship, fellowship, or tuition reduction that represents payment for teaching, research, or other services. This is true even if all candidates for a degree are required to perform the services as a condition for receiving the degree.

Example. On January 7, Maria Gomez is notified of a scholarship of $2,500 for the spring semester. As a condition for receiving the scholarship, Maria must serve as a part-time teaching assistant. Of the $2,500 scholarship, $1,000 represents payment for her services. Assuming that Maria meets all other conditions, she can exclude no more than $1,500 from income as a qualified scholarship.

4.

How Income of Aliens Is Taxed

Introduction

Resident and nonresident aliens are taxed in different ways. Resident aliens are generally taxed in the same way as U.S. citizens. Nonresident aliens are taxed based on the source of their income and whether or not their income is effectively connected with a U.S. trade or business. The following discussions will help you determine if income you receive during the tax year is effectively connected with a U.S. trade or business and how it is taxed.

Topics

This chapter discusses:

- Income that is effectively connected with a U.S. trade or business, and
- Income that is not effectively connected with a U.S. trade or business.

Useful Items

You may want to see:

Publication

- ☐ **544** Sales and Other Dispositions of Assets
- ☐ **1212** List of Original Issue Discount Instruments

Form (and Instructions)

- ☐ **6251** Alternative Minimum Tax—Individuals
- ☐ **Schedule D (Form 1040)** Capital Gains and Losses

See chapter 12 for information about getting these publications and forms.

Resident Aliens

Resident aliens are generally taxed in the same way as U.S. citizens. This means that their worldwide income is subject to U.S. tax and must be reported on their U.S. tax return. Income of resident aliens is subject to the graduated tax rates that apply to U.S. citizens. Resident aliens use the Tax Table and Tax Rate Schedules located in the Form 1040 instructions, which apply to U.S. citizens.

Nonresident Aliens

A nonresident alien's income that is subject to U.S. income tax must be divided into two categories:

1) Income that ***is*** effectively connected with a trade or business in the United States, and
2) Income that ***is not*** effectively connected with a trade or business in the United States (discussed under *The 30% Tax*, later).

The difference between these two categories is that effectively connected income, after allowable deductions, is taxed at ***graduated rates.*** These are the same rates that apply to U.S. citizens and residents. Income that is not effectively connected is taxed at a ***flat 30% (or lower treaty) rate.***

CAUTION *If you were formerly a U.S. citizen or resident alien, these rules may not apply. See* Expatriation Tax, *later, in this chapter.*

Trade or Business in the United States

Generally, you must be engaged in a trade or business during the tax year to be able to treat income received in that year as effectively connected with that trade or business. Whether you are engaged in a trade or business in the United States depends on the nature of your activities. The discussions that follow will help you determine whether you are engaged in a trade or business in the United States.

Personal Services

If you perform personal services in the United States at any time during the tax year, you usually are considered engaged in a trade or business in the United States.

TIP *Certain compensation paid to a nonresident alien by a foreign employer is not included in gross income. For more information, see* Services Performed for Foreign Employer *in chapter 3.*

Other Trade or Business Activities

Other examples of being engaged in a trade or business in the United States follow.

Students and trainees. You are considered engaged in a trade or business in the United States if you are temporarily present in the United States as a nonimmigrant under a “F,” “J,” “M,” or “Q” visa. A nonresident alien temporarily present in the United States under a “J” visa includes a nonresident alien individual admitted to the United States as an ***exchange visitor*** under the Mutual Educational and Cultural Exchange Act of 1961. The taxable part of any scholarship or fellowship grant that is U.S. source income is treated as effectively connected with a trade or business in the United States.

Business operations. If you own and operate a business in the United States selling services, products, or merchandise, you are, with certain exceptions, engaged in a trade or business in the United States.

Partnerships. If you are a member of a partnership that at any time during the tax year is engaged in a trade or business in the United States, you are considered to be engaged in a trade or business in the United States.

Beneficiary of an estate or trust. If you are the beneficiary of an estate or trust that is engaged in a trade or business in the United States, you are treated as being engaged in the same trade or business.

Trading in stocks, securities, and commodities. If your only U.S. business activity is trading in stocks, securities, or commodities (including hedging transactions) through a U.S. resident broker or other agent, you are not engaged in a trade or business in the United States.

For transactions in stocks or securities, this applies to any nonresident alien, including a dealer or broker in stocks and securities.

For transactions in commodities, this applies to commodities that are usually traded on an organized commodity exchange and to transactions that are usually carried out at such an exchange.

This discussion does not apply if you have a U.S. office or other fixed place of business at any time during the tax year through which, or by the direction of which, you carry out your transactions in stocks, securities, or commodities.

Trading for a nonresident alien's own account. You are not engaged in a trade or business in the United States if trading for your own account in stocks, securities, or commodities is your only U.S. business activity. This applies even if the trading takes place while you are present in the United States or is done by your employee or your broker or other agent.

This does not apply to trading for your own account if you are a dealer in stocks, securities, or commodities. This does not necessarily mean, however, that as a dealer you are considered to be engaged in a trade or business in the United States. Determine that based on the facts and circumstances in each case or under the rules given above in *Trading in stocks, securities, and commodities.*

Effectively Connected Income

If you are engaged in a U.S. trade or business, all income, gain, or loss for the tax year that you get from ***sources within the United States*** (other than certain investment income) is treated as effectively connected income. This applies whether or not there is any connection between the income and the trade or business being carried on in the United States during the tax year.

Two tests, described under *Investment Income* , determine whether certain items of investment income (such as interest, dividends, and royalties) are treated as effectively connected with that business.

In limited circumstances, some kinds of foreign source income may be treated as effectively connected with a trade or business in the United States. For a discussion of these rules, see *Foreign Income,* later.

Investment Income

Investment income from U.S. sources that may or may not be treated as effectively connected with a U.S. trade or business generally falls into the following three categories.

1) Fixed or determinable income (interest, dividends, rents, royalties, premiums, annuities, etc.).
2) Gains (some of which are considered capital gains) from the sale or exchange of the following types of property.
   a) Timber, coal, or domestic iron ore with a retained economic interest.
   b) Patents, copyrights, and similar property on which you receive contingent payments after October 4, 1966.
   c) Patents transferred before October 5, 1966.
   d) Original issue discount obligations.
3) Capital gains (and losses).

Use the two tests, described next, to determine whether an item of U.S. source income falling in one of the three categories above and received during the tax year is effectively connected with your U.S. trade or business. If the tests indicate that the item of income is effectively connected, you must include it with your other effectively connected income. If the item of income is not effectively connected, include it with all other income discussed under *The 30% Tax,* later, in this chapter.

Asset-use test. This test usually applies to income that is not directly produced by trade or business activities. Under this test, if an item of income is from assets (property) used in, or held for use in, the trade or business in the United States, it is considered effectively connected.

An asset is used in, or held for use in, the trade or business in the United States if the asset is:

1) Held for the principal purpose of promoting the conduct of a trade or business in the United States,
2) Acquired and held in the ordinary course of the trade or business conducted in the United States (for example, an account receivable or note receivable arising from that trade or business), or
3) Otherwise held to meet the present needs of the trade or business in the United States and not its anticipated future needs.

Generally, stock of a corporation is not treated as an asset used in, or held for use in, a trade or business in the United States.

Business-activities test. This test usually applies when income, gain, or loss comes directly from the active conduct of the trade or business. The business-activities test is most important when:

1) Dividends or interest are received by a dealer in stocks or securities,
2) Royalties are received in the trade or business of licensing patents or similar property, or
3) Service fees are earned by a servicing business.

Under this test, if the conduct of the U.S. trade or business was a material factor in producing the income, the income is considered effectively connected.

Personal Service Income

You usually are engaged in a U.S. trade or business when you perform personal services in the United States. Personal service income you receive in a tax year in which you are engaged in a U.S. trade or business is effectively connected with a U.S. trade or business. Income received in a year other than the year you performed the services is also effectively connected if it would have been effectively connected if received in the year you performed the services. Personal service income includes wages, salaries, commissions, fees, per diem allowances, and employee allowances and bonuses. The income may be paid to you in the form of cash, services, or property.

If you are engaged in a U.S. trade or business only because you perform personal services in the United States during the tax year, income and gains from assets, and gains and losses from the sale or exchange of capital assets are generally not effectively connected with your trade or business. However, if there is a ***direct economic relationship*** between your holding of the asset and your trade or business of performing personal services, the income, gain, or loss is effectively connected.

Pensions. If you were engaged in a U.S. trade or business in a tax year because you performed personal services in the United States, and you later receive a pension or retirement pay as a result of these services, the retirement pay is effectively connected income in each year you receive it. This is true whether or not you are engaged in a U.S. trade or business in the year you receive the retirement pay.

Transportation Income

Transportation income is effectively connected if you meet the following two conditions.

1) You had a fixed place of business in the United States involved in earning the income.
2) At least 90% of your U.S. source transportation income is attributable to regularly scheduled transportation.

“Fixed place of business” generally means a place, site, structure, or other similar facility through which you engage in a trade or business. “Regularly scheduled transportation” means that a ship or aircraft follows a published schedule with repeated sailings or flights at regular intervals between the same points for voyages or flights that begin or end in the United States. This definition applies to both scheduled and chartered air transportation.

If you do not meet the two conditions above, the income is not effectively connected and different rules apply. See *Transportation Tax,* later, in this chapter.

Business Profits and Losses and Sales Transactions

All profits or losses from U.S. sources that are from the operation of a business in the United States are effectively connected with a trade or business in the United States. For example, profit from the sale in the United States of inventory property purchased either in this country or in a foreign country is effectively connected trade or business income. A share of U.S. source profits or losses of a partnership that is engaged in a trade or business in the United States is also effectively connected with a trade or business in the United States.

Real Property Gain or Loss

Gains and losses from the sale or exchange of U.S. real property interests (whether or not they are capital assets) are taxed as if you are engaged in a trade or business in the United States. You must treat the gain or loss as effectively connected with that trade or business.

U.S. real property interest. This is any interest in real property located in the United States or the Virgin Islands or any interest in a domestic corporation that is a U.S. real property holding corporation. Real property includes:

1) Land and unsevered natural products of the land, such as growing crops and

timber, and mines, wells, and other natural deposits,

2) Improvements on land, including buildings, other permanent structures, and their structural components, and

3) Personal property associated with the use of real property, such as equipment used in farming, mining, forestry, or construction or property used in lodging facilities or rented office space, unless the personal property is:

   a) Disposed of more than one year before or after the disposition of the real property, or

   b) Separately sold to persons unrelated either to the seller or to the buyer of the real property.

U.S. real property holding corporation. A corporation is a U.S. real property holding corporation if the fair market value of the corporation's U.S. real property interests are at least 50% of the total fair market value of:

1) The corporation's U.S. real property interests, plus

2) The corporation's interests in real property located outside the United States, plus

3) The corporation's other assets that are used in, or held for use in, a trade or business.

You generally are subject to tax on the sale of the stock in any domestic corporation unless you establish that the corporation is ***not*** a U.S. real property holding corporation.

A U.S. real property interest does not include a class of stock of a corporation that is regularly traded on an established securities market, unless you hold more than 5% of the fair market value of that class of stock. An interest in a foreign corporation owning U.S. real property generally is not a U.S. real property interest unless the corporation chooses to be treated as a domestic corporation.

Alternative minimum tax. There may be a minimum tax on your net gain from the disposition of U.S. real property interests. Figure the amount of this tax, if any, on Form 6251.

Withholding of tax. If you dispose of a U.S. real property interest, the buyer may have to withhold tax. See the discussion of *Tax Withheld on Real Property Sales,* in chapter 8.

Foreign Income

Under limited circumstances, you must treat three kinds of foreign source income as effectively connected with a trade or business in the United States. These circumstances are:

1) You have an office or other fixed place of business in the United States to which the income can be attributed,

2) That office or place of business is a material factor in producing the income, and

3) The income is produced in the ordinary course of the trade or business carried on through that office or other fixed place of business.

An office or other fixed place of business is a ***material factor*** if it significantly contributes to, and is an essential economic element in, the earning of the income.

The three kinds of foreign source income are listed below.

1) Rents and royalties for the use of, or for the privilege of using, intangible personal property located outside the United States or from any interest in such property. Included are rents or royalties for the use, or for the privilege of using, outside the United States, patents, copyrights, secret processes and formulas, goodwill, trademarks, trade brands, franchises, and similar properties if the rents or royalties are from the active conduct of a trade or business in the United States.

2) Dividends or interest from the active conduct of a banking, financing, or similar business in the United States. A substitute dividend or interest payment received under a securities lending transaction or a sale-repurchase transaction is treated the same as the amounts received on the transferred security.

3) Income, gain, or loss from the sale outside the United States, through the U.S. office or other fixed place of business, of stock in trade, property that would be included in inventory if on hand at the end of the tax year, or property held primarily for sale to customers in the ordinary course of business. This will not apply if you sold the property for use, consumption, or disposition outside the United States and an office or other fixed place of business in a foreign country was a material factor in the sale.

Tax on Effectively Connected Income

Income you receive during the tax year that is effectively connected with your trade or business in the United States is, after allowable deductions, taxed at the rates that apply to U.S. citizens and residents.

Generally, you can receive effectively connected income only if you are a nonresident alien engaged in trade or business in the United States during the tax year. However, income you receive from the sale or exchange of property, the performance of services, or any other transaction in another tax year is treated as effectively connected in that year if it would have been effectively connected in the year the transaction took place or you performed the services.

Example. Ted Richards, a nonresident alien, entered the United States in August 1999, to perform personal services in the U.S. office of his overseas employer. He worked in the U.S. office until December 25, 1999, but did not leave this country until January 11, 2000. On January 7, 2000, he received his final paycheck for services performed in the United States during 1999. All of Ted's income during his stay here is U.S. source income.

During 1999, Ted was engaged in the trade or business of performing personal services in the United States. Therefore, all amounts paid to him in 1999 for services performed in the United States during 1999 are effectively connected with that trade or business during 1999.

The salary payment Ted received in January 2000 is U.S. source income to him in 2000. It is effectively connected with a trade or business in the United States because he was engaged in a trade or business in the United States during 1999 when he performed the services that earned the income.

Real property income. You may be able to choose to treat all income from real property as effectively connected. See *Income From Real Property,* later, in this chapter.

The 30% Tax

Tax at a 30% (or lower treaty) rate applies to certain items of income or gains from U.S. sources but only if the items are ***not*** effectively connected with your U.S. trade or business.

Fixed or Determinable Income

The 30% (or lower treaty) rate applies to the gross amount of U.S. source fixed or determinable annual or periodic gains, profits, or income.

Income is ***fixed*** when it is paid in amounts known ahead of time. Income is ***determinable*** whenever there is a basis for figuring the amount to be paid. Income can be ***periodic*** if it is paid from time to time. It does not have to be paid annually or at regular intervals. Income can be determinable or periodic even if the length of time during which the payments are made is increased or decreased.

Items specifically included as fixed or determinable income are interest (other than original issue discount), dividends, rents, premiums, annuities, salaries, wages, and other compensation. A substitute dividend or interest payment received under a securities lending transaction or a sale-repurchase transaction is treated the same as the amounts received on the transferred security. Other items of income, such as royalties, also may be subject to the 30% tax.

TIP *Some fixed or determinable income may be exempt from U.S. tax. See chapter 3 if you are not sure whether the income is taxable.*

Original issue discount. If you sold, exchanged, or received a payment on a bond or other debt instrument that was issued at a discount ***after*** March 31, 1972, all or part of the original issue discount (OID) (other than portfolio interest) may be subject to the 30% tax. The amount of OID is the difference between the stated redemption price at maturity and the issue price of the debt instrument. The 30% tax applies in the following circumstances.

1) You received a payment on an obligation. In this case, the amount of OID subject to tax is the OID that accrued while you held the obligation minus the OID previously taken into account. But the tax on the OID cannot be more than the payment minus the tax on the interest payment on the obligation.

2) You sold or exchanged the obligation. The amount of OID subject to tax is the OID that accrued while you held the obligation minus the amount already taxed in (1) above.

Report on your return the amount of OID shown on Form 1042–S, *Foreign Person's U.S. Source Income Subject to Withholding*, if you bought the debt instrument at original issue. However, you must recompute your proper share of OID shown on Form 1042–S if any of the following apply.

1) You bought the obligation at a premium or paid an acquisition premium.
2) The obligation is a stripped bond or a stripped coupon (including zero coupon instruments backed by U.S. Treasury securities).
3) You receive a Form 1042–S as a nominee recipient.

For the definition of ***premium*** and ***acquisition premium*** and instructions on how to recompute OID, get Publication 1212.

If you held a bond or other debt instrument that was issued at a discount ***before*** April 1, 1972, contact the IRS for further information. See chapter 12.

Social Security Benefits

A nonresident alien must include 85% of any U.S. social security benefit (and the social security equivalent part of a tier 1 railroad retirement benefit) in U.S. source fixed or determinable annual or periodic income. This income is exempt under some tax treaties. See *Table 1* in Publication 901, *U.S. Tax Treaties,* for a list of tax treaties that exempt U.S. social security benefits from U.S. tax.

Sales or Exchanges of Capital Assets

These rules apply only to those capital gains and losses from sources in the United States that are ***not*** effectively connected with a trade or business in the United States. They apply even if you are engaged in a trade or business in the United States. These rules do not apply to the sale or exchange of a U.S. real property interest or to the sale of any property that is effectively connected with a trade or business in the United States. See *Real Property Gain or Loss*, earlier, under *Effectively Connected Income.*

A ***capital asset*** is everything you own except:

- Inventory.
- Business accounts or notes receivable.
- Depreciable property used in a trade or business.
- Real property used in a trade or business.
- Supplies regularly used in a trade or business.
- Certain copyrights, literary or musical or artistic compositions, letters or memoranda, or similar property.
- Certain U.S. government publications.
- Certain commodities derivative financial instruments held by a commodities derivatives dealer.
- Hedging transactions.

A ***capital gain*** is a gain on the sale or exchange of a capital asset. A ***capital loss*** is a loss on the sale or exchange of a capital asset.

You may want to read Publication 544. However, use Publication 544 only to determine what is a sale or exchange of a capital asset, or what is treated as such. Specific tax treatment that applies to U.S. citizens or residents generally does not apply to you.

The following gains are subject to the 30% (or lower treaty) rate without regard to the 183-day rule, discussed later.

1) Gains on the disposal of timber, coal, or domestic iron ore with a retained economic interest.
2) Gains on contingent payments received from the sale or exchange of patents, copyrights, and similar property after October 4, 1966.
3) Gains on certain transfers of all substantial rights to, or an undivided interest in, patents if the transfers were made before October 5, 1966.
4) Gains on the sale or exchange of original issue discount obligations.

Gains in (1) are not subject to the 30% (or lower treaty) rate if you choose to treat the gains as effectively connected with a U.S. trade or business. See *Income From Real Property*, later.

183-day rule. If you were in the United States for 183 days or more during the tax year, your net gain from sales or exchanges of capital assets is taxed at a 30% (or lower treaty) rate. For purposes of the 30% (or lower treaty) rate, net gain is the excess of your capital gains from U.S. sources over your capital losses from U.S. sources. This rule applies even if any of the transactions occurred while you were not in the United States.

To determine your net gain, consider the amount of your gains and losses that would be recognized and taken into account only if, and to the extent that, they would be recognized and taken into account if you were in a U.S. trade or business during the year and the gains and losses were effectively connected with that trade or business during the tax year. Also take into account, in arriving at your net gain, all gains and losses treated under U.S. tax laws as gains or losses from the sales or exchanges of capital assets.

In arriving at your net gain, do ***not*** take the following into consideration.

- The four types of gains listed earlier.
- The deduction for a capital loss carryover.
- Capital losses in excess of capital gains.
- Exclusion for gain from the sale or exchange of qualified small business stock (section 1202 exclusion).
- Losses from the sale or exchange of property held for personal use. However, losses resulting from casualties or thefts may be deductible on Schedule A (Form 1040NR). See *Itemized Deductions* in chapter 5.

If you are not engaged in a trade or business in the United States and have not established a tax year for a prior period, your tax year will be the calendar year for purposes of the 183-day rule. Also, you must file your tax return on a calendar-year basis.

If you were in the United States for ***less than 183 days*** during the tax year, capital gains (other than gains listed earlier) are tax exempt unless they are effectively connected with a trade or business in the United States during your tax year.

Reporting. Report your gains and losses from the sales or exchanges of capital assets that are not connected with a trade or business in the United States on page 4 of Form 1040NR. Report gains and losses from sales or exchanges of capital assets (including real property) that are connected with a trade or business in the United States on a separate Schedule D (Form 1040) and attach it to Form 1040NR.

Income From Real Property

If you have income from real property located in the United States that you own or have an interest in and hold for the production of income, you can choose to treat all income from that property as income effectively connected with a trade or business in the United States. The choice applies to all income from real property located in the United States and held for the production of income and to all income from any interest in such property. This includes income from rents, royalties from mines, oil or gas wells, or other natural resources. It also includes gains from the sale or exchange of real property and from the sale or exchange of timber, coal, or domestic iron ore with a retained economic interest.

You can make this choice only for real property income that is not otherwise connected with your U.S. trade or business.

If you make the choice, you can claim deductions attributable to the real property income and only your net income from real property is taxed.

This choice does not treat a nonresident alien, who is not otherwise engaged in a U.S. trade or business, as being engaged in a trade or business in the United States during the year.

Making the choice. Make the initial choice by attaching a statement to your return, or amended return, for the year of the choice. Include in your statement:

1) A complete list of all your real property, or any interest in real property, located in the United States,
2) The extent of your ownership in the property,
3) The location of the property,
4) A description of any major improvements to the property, and
5) Details of any previous choices and revocations of the real property income choice.

This choice stays in effect for all later tax years unless you revoke it.

Revoking the choice. You can revoke the choice without IRS approval by filing Form 1040X, *Amended U.S. Individual Income Tax Return,* for the year you made the choice and for later tax years. You must file Form 1040X within 3 years from the date your return was filed or 2 years from the time the tax was paid, whichever is later. If this time period has expired for the year of choice, you cannot revoke the choice for that year. However, you may revoke the choice for later tax years only if you have IRS approval. For information on how to get IRS approval, see Regulation section 1.871–10(d)(2).

Transportation Tax

If you have transportation income that is not effectively connected (see *Transportation Income,* earlier in this chapter), a 4% tax rate applies. If you receive transportation income subject to the 4% tax, you should figure the tax and show it on line 52 of Form 1040NR. Attach a statement to your return that includes the following information (if applicable):

1) Your name, taxpayer identification number, and tax year,
2) A description of the types of services performed (whether on or off board),
3) Names of vessels or registration numbers of aircraft on which you performed the services,
4) Amount of U.S. source transportation income derived from each type of service for each vessel or aircraft for the calendar year, and
5) Total amount of U.S. source transportation income derived from all types of services for the calendar year.

This 4% tax applies to your U.S. source gross transportation income. This only includes transportation income that is treated as derived from sources in the United States if the transportation begins ***or*** ends in the United States. For transportation income from personal services, the transportation must be between the United States and a U.S. possession. For personal services of a nonresident alien, this only applies to income derived from, or in connection with, an aircraft.

Expatriation Tax

The expatriation tax provisions apply to U.S. citizens who have renounced their citizenship and long-term residents who have ended their residency, if one of the principal purposes of the action is the avoidance of U.S. taxes. The expatriation tax applies to the 10-year period following the date of the action.

If you expatriated in 2000, you are presumed to have tax avoidance as a principal purpose if:

1) Your average annual net income tax for the last five tax years ending before the date of the action is more than $112,000, or
2) Your net worth on the date of the action is $562,000 or more.

Ruling request. If you are presumed to have tax avoidance as a principal purpose because you meet either of the previous tests, you may be eligible to request a ruling from the IRS that you did not expatriate to avoid U.S. taxes. You must request this ruling within one year from the date of expatriation. For information that must be included in your ruling request, see section IV of Notice 97–19 in Cumulative Bulletin 1997–1 and Notice 98–34 in Cumulative Bulletin 1998–2.

Former U.S. citizen. If you are a former U.S. citizen, you are eligible to request a ruling if you are in one of the following categories.

1) You became at birth a U.S. citizen and a citizen of another country and continue to be a citizen of that other country.
2) You become (within a reasonable period after loss of U.S. citizenship) a citizen of the country in which you, your spouse, or one of your parents were born.
3) You were present in the United States for no more than 30 days during each year of the 10-year period ending on the date of expatriation.
4) You lost your U.S. citizenship before reaching age 18½.

Former long-term resident. If you are a former long-term resident, you are eligible to request a ruling if you are in one of the following categories.

1) You become (within a reasonable period after your expatriation) a resident fully liable to income tax in one of the following countries.
   a) The country in which you were born.
   b) The country where your spouse was born.
   c) The country where either of your parents was born.
2) You were present in the United States for no more than 30 days during each year of the 10-year period prior to expatriation.
3) You ceased to be a long-term resident before reaching age 18½.

You will not qualify under category (1) if you are not domiciled in that country unless your income is taxed in the same manner as a resident domiciled in that country.

Long-term residents. You are a long-term resident if you were a lawful permanent resident of the United States in at least 8 of the last 15 tax years ending with the year your residency ends. In determining if you meet the 8-year requirement, do not count any year that you are treated as a resident of a foreign country under a tax treaty and do not waive treaty benefits.

Your U.S. residency is considered to have ended when you cease to be a lawful permanent resident or you begin to be treated as a resident of another country under a tax treaty and do not waive treaty benefits.

Tax. If the expatriation tax applies to you, you are generally subject to tax on your U.S. source gross income and gains on a net basis at the graduated rates applicable to individuals (with allowable deductions), unless you would be subject to a higher tax under the 30% tax (discussed earlier) on income not connected with a U.S. trade or business. In making this determination, you may not claim that an income tax treaty in effect on August 21, 1996, reduces your tax liability under the 30% tax on any items of U.S. source income.

For this purpose, U.S. source gross income (defined in chapter 2) includes gains from the sale or exchange of:

- Property (other than stock or debt obligations) located in the United States,
- Stock issued by a U.S. domestic corporation, and
- Debt obligations of U.S. persons or of the United States, a state or political subdivision thereof, or the District of Columbia.

U.S. source income also includes any income or gain derived from stock in certain controlled foreign corporations if you owned, or were considered to own, at any time during the 2-year period ending on the date of expatriation, more than 50% of:

- The total combined voting power of all classes of that corporation's stock, or
- The total value of the stock.

The income or gain is considered U.S. source income only to the extent of your share of earnings and profits earned or accumulated before the date of expatriation.

Any exchange of property is treated as a sale of the property at its fair market value on the date of the exchange and any gain is treated as U.S. source gross income in the tax year of the exchange unless you enter into a gain recognition agreement under Notice 97–19.

Other information. For more information on the expatriation tax provisions, including exceptions to the tax and special U.S. source rules, see section 877 of the Internal Revenue Code.

Reporting Requirements

If you lost your U.S. citizenship, you must file Form 8854, *Expatriation Information Statement,* with a consular office or a federal court at the time of loss of citizenship. If you end your long-term residency, you must file Form 8854 with the Internal Revenue Service when you file your tax return for the year your residency ends.

Penalties. If you fail to file Form 8854, you may have to pay a penalty equal to the greater of 5% of the expatriation tax or $1,000. The penalty will be assessed for each year during which your failure to file continues for the 10-year period. The penalty will not be imposed if you can show that the failure is due to reasonable cause and not willful neglect.

Expatriation tax return. If you are subject to the expatriation tax, you must file Form 1040NR for each year of the 10-year period following expatriation. Complete line "P" on page 5 of Form 1040NR. See *Special Rules for Former U.S. Citizens and Former U.S. Long-Term Residents* in the instructions for Form 1040NR. You must attach Form 8854 and a statement to Form 1040NR listing, by category (dividends, interest, etc.), all items of U.S. and foreign source income, whether or not taxable in the United States.

If you do not attach a complete statement in any year you are liable for any U.S. taxes, you will not be considered to have filed a true and accurate return. You will not be entitled to any tax deductions or credits if your tax liability for that year is later adjusted.

Interrupted Period of Residence

You are subject to tax under a special rule if you interrupt your period of U.S. residence with a period of nonresidence. The special rule applies if you meet all of the following conditions.

1) You were a U.S. resident for a period that includes at least 3 consecutive calendar years.

2) You were a U.S. resident for at least 183 days in each of those years.

3) You ceased to be treated as a U.S. resident.

4) You then again became a U.S. resident before the end of the third calendar year after the period described in (1) above.

Under this special rule, you are subject to tax on your U.S. source gross income and gains on a net basis at the graduated rates applicable to individuals (with allowable deductions) for the period you were a nonresident alien, unless you would be subject to a higher tax under the 30% tax (discussed earlier) on income not connected with a U.S. trade or business.

Example. John Willow, a citizen of New Zealand, entered the United States on April 1, 1995, as a lawful permanent resident. On August 1, 1997, John ceased to be a lawful permanent resident and returned to New Zealand. During his period of residence, he was present in the United States for at least 183 days in each of three consecutive years (1995, 1996, and 1997). He returned to the United States on October 5, 2000, as a lawful permanent resident. He became a resident before the close of the third calendar year (2000) beginning after the end of his first period of residence (August 1, 1997). Therefore, he is subject to tax under the special rule for the period of nonresidence (August 2, 1997, through October 4, 2000) if it is more than the tax that would normally apply to him as a nonresident alien.

Reporting requirements. If you are subject to this tax for any year in the period you were a nonresident alien, you must file Form 1040NR for that year. The return is due by the due date (including extensions) for filing your U.S. income tax return for the year that you again become a U.S. resident. If you already filed returns for that period, you must file amended returns. You must attach a statement to your return that identifies the source of all of your U.S. and foreign gross income and the items of income subject to this special rule.

5. Figuring Your Tax

Introduction

After you have determined your alien status, the source of your income, and if and how that income is taxed in the United States, your next step is to figure your tax. The information in this chapter is not as comprehensive for resident aliens as it is for nonresident aliens. Resident aliens should get publications, forms, and instructions for U.S. citizens, because the information for filing returns for resident aliens is generally the same as for U.S. citizens.

If you are both a nonresident alien and a resident alien in the same tax year, see chapter 6 for a discussion of dual-status aliens.

Topics

This chapter discusses:

- Identification numbers,
- Filing status,
- Deductions,
- Exemptions,
- Tax credits and payments, and
- Special rules for bona fide residents of American Samoa and Puerto Rico.

Useful Items

You may want to see:

Publication

- ☐ **463** Travel, Entertainment, Gift, and Car Expenses
- ☐ **501** Exemptions, Standard Deduction, and Filing Information
- ☐ **521** Moving Expenses
- ☐ **526** Charitable Contributions
- ☐ **535** Business Expenses
- ☐ **597** Information on the United States–Canada Income Tax Treaty

Form (and Instructions)

- ☐ **W–7** Application for IRS Individual Taxpayer Identification Number
- ☐ **1040** U.S. Individual Income Tax Return
- ☐ **1040NR** U.S. Nonresident Alien Income Tax Return
- ☐ **1040NR–EZ** U.S. Income Tax Return for Certain Nonresident Aliens With No Dependents
- ☐ **2106** Employee Business Expenses
- ☐ **2106–EZ** Unreimbursed Employee Business Expenses
- ☐ **3903** Moving Expenses
- ☐ **4563** Exclusion of Income for Bona Fide Residents of American Samoa

See chapter 12 for information about getting these publications and forms.

Tax Year

You must figure your income and file a tax return on the basis of an annual accounting period called a tax year. If you have not previously established a fiscal tax year, your tax year is the calendar year. A calendar year is 12 consecutive months ending on December 31. If you have previously established a regular fiscal year (12 consecutive months ending on the last day of a month other than December or a 52–53 week year) and are considered to be a U.S. resident for any calendar year, you will be treated as a U.S. resident for any part of your fiscal year that falls within that calendar year.

Identification Number

A taxpayer identification number must be furnished on returns, statements, and other tax-related documents. For an individual, this is a social security number (SSN). If you do not have and are not eligible to get an SSN, the IRS will issue you an individual taxpayer identification number (ITIN). An employer identification number (EIN) is required if you are engaged in a trade or business as a sole proprietor and have employees or a qualified retirement plan.

You must furnish a taxpayer identification number if you are:

1) An alien who has income effectively connected with the conduct of a U.S. trade or business at any time during the year,

2) An alien who has a U.S. office or place of business at any time during the year,

3) A nonresident alien spouse treated as a resident, as discussed in chapter 1, or

4) Any other alien who files a tax return, an amended return, or a refund claim (but not information returns).

Social security number. Generally, you can get an SSN if you have been lawfully admitted to the United States for permanent residence or under other immigration categories that authorize U.S. employment.

To apply for this number, get Form SS–5, *Application for a Social Security Card*, from your local Social Security Administration office or call the SSA at 1–800–772–1213. The completed form should be returned to the SSA. It usually takes about 2 weeks to get an SSN.

Individual taxpayer identification number. If you are not eligible to obtain an SSN, you must get an ITIN. Enter your ITIN wherever an SSN is required on your tax return.

You cannot claim the earned income credit, discussed later, using an ITIN. You and your spouse (if filing a joint return) and any qualifying child must have work-related SSNs. If your social security card (or your spouse's or child's card) says “NOT VALID FOR EMPLOYMENT,” you cannot claim the earned income credit.

ITINs are for tax use only. They do not affect your immigration status or your right to be legally employed in the United States.

To apply for an ITIN, file Form W–7 with the IRS. It usually takes about 30 days to get an ITIN.

In addition to those aliens who are required to furnish a taxpayer identification number and are not eligible for an SSN, a Form W–7 should be filed for:

- Alien individuals who are claimed as dependents and are not eligible for an SSN, and
- Alien individual spouses who are claimed as exemptions and are not eligible for an SSN.

Employer identification number. An individual may use an SSN (or ITIN) for individual taxes and an EIN for business taxes. To apply for an EIN, file Form SS–4, *Application for Employer Identification Number*, with the IRS.

Filing Status

The amount of your tax depends on your filing status. Your filing status is important in determining whether you can take certain deductions and credits. The rules for determining your filing status are different for resident aliens and nonresident aliens.

Resident Aliens

Resident aliens can use the same filing statuses available to U.S. citizens. See your form instructions or Publication 501 for more information on filing status.

Married filing jointly. Generally, you can file as married filing jointly only if both you and your spouse were resident aliens for the entire tax year, or if you make one of the choices discussed in chapter 1 to treat your spouse as a resident alien for the entire tax year.

Qualifying widow(er). If your spouse died in 1998 or 1999, you have not remarried, and you have a dependent child living with you, you may qualify to file as a qualifying widow(er) and use the joint return tax rates. This applies only if you could have filed a joint return with your spouse for the year your spouse died.

Head of household. You can qualify as head of household if you are unmarried or considered unmarried on the last day of the year and you pay more than half the cost of keeping up a home for you and a qualifying person. You must be a resident alien for the entire tax year.

You are considered unmarried for this purpose if your spouse was a nonresident alien at any time during the year and you do not make one of the choices discussed in chapter 1 to treat your spouse as a resident alien for the entire tax year.

Note. Even if you are considered unmarried for head of household purposes because you are married to a nonresident alien, you may still be considered married for purposes of the earned income credit. In that case, you will not be entitled to the credit. See Publication 501 for more information.

Nonresident Aliens

If you are a nonresident alien filing Form 1040NR, you may be able to use one of the filing statuses discussed below. If you are filing Form 1040NR–EZ, you can only claim “Single nonresident alien” or “Married nonresident alien” as your filing status.

Married filing jointly. Generally, you cannot file as married filing jointly if either spouse was a nonresident alien at any time during the tax year.

However, nonresident aliens married to U.S. citizens or residents can choose to be treated as U.S. residents and file joint returns. For more information on these choices, see chapter 1.

Qualifying widow(er). You may be eligible to file as a qualifying widow(er) and use the joint return tax rates if:

1) You were a resident of Canada, Mexico, Japan, or South Korea, or a U.S. national (defined below),
2) Your spouse died in 1998 or 1999 and you have not remarried, and
3) You have a dependent child living with you.

See the instructions for Form 1040NR for the rules for filing as a qualifying widow(er) with a dependent child.

A ***U.S. national*** is an individual who, although not a U.S. citizen, owes his or her allegiance to the United States. U.S. nationals include American Samoans and Northern Mariana Islanders who chose to become U.S. nationals instead of U.S. citizens.

Head of household. You cannot file as head of household if you are a nonresident alien at any time during the tax year. However, if you are married, your spouse can qualify as a head of household if:

1) Your spouse is a resident alien or U.S. citizen for the entire tax year,
2) You do not choose to be treated as a resident alien, and
3) Your spouse meets the other requirements for this filing status, as discussed earlier under *Resident Aliens.*

Note. Even if your spouse is considered unmarried for head of household purposes because you are a nonresident alien, your spouse may still be considered married for purposes of the earned income credit. In that case, your spouse will not be entitled to the credit. See Publication 501 for more information.

Married filing separately. Married nonresident aliens who are not married to U.S. citizens or residents generally must use the Tax Table column or the Tax Rate Schedule for married filing separate returns when determining the tax on income effectively connected with a U.S. trade or business. They normally cannot use the Tax Table column or the Tax Rate Schedule for single individuals. However, if you are a married resident of Canada, Mexico, Japan, or South Korea, or are a married U.S. national, you may be able to file as single if you lived apart from your spouse during the last 6 months of the year. See the instructions for Form 1040NR to see if you qualify. U.S. national was defined earlier in this section under *Qualifying widow(er).*

Nonresident aliens who are married to U.S. citizens or residents can choose to be treated as a resident and file a joint return. For information on these choices, see chapter 1. If you do not make the choice to file jointly, use the Tax Table column or the Tax Rate Schedule for married individuals filing separately.

A nonresident alien estate or trust using Form 1040NR must use Tax Rate Schedule W in the Form 1040NR instructions when determining the tax on income effectively connected with a U.S. trade or business.

Special rules for aliens from certain U.S. possessions. A nonresident alien who is a bona fide resident of American Samoa or Puerto Rico for the entire tax year and who is temporarily working in the United States should read *Bona Fide Residents of American Samoa or Puerto Rico,* at the end of this chapter, for information about special rules.

Reporting Your Income

You must report each item of income that is taxable according to the rules in chapters 2, 3, and 4. For resident aliens, this includes income from sources both within and outside the United States. For nonresident aliens, this includes both income that is effectively connected with a trade or business in the United States (subject to graduated tax rates) and income from U.S. sources that is not effectively connected (subject to a flat 30% tax rate or lower tax treaty rate).

Deductions

Resident and nonresident aliens can claim similar deductions on their U.S. tax returns. However, nonresident aliens generally can claim only deductions related to income that is effectively connected with their U.S. trade or business.

Resident Aliens

You can claim the same deductions allowed to U.S. citizens if you are a resident alien for the entire tax year. While the discussion that follows contains some of the same general rules and guidelines that apply to you, it is specifically directed toward nonresident aliens. You should get Form 1040 and instructions for more information on how to claim your allowable deductions.

Nonresident Aliens

You can claim deductions to figure your effectively connected taxable income. You generally cannot claim deductions related to income that is not connected with your U.S. business activities. Except for personal exemptions, and certain itemized deductions, discussed later, you can claim deductions only to the extent they are connected with your effectively connected income.

Ordinary and necessary business expenses. You can deduct all ordinary and necessary expenses in the operation of your U.S. trade or business to the extent they relate to income effectively connected with that trade or business. The deduction for travel expenses while in the United States is discussed under *Itemized Deductions,* later. For information about other business expenses, see Publication 535.

Losses. You can deduct losses resulting from transactions that you entered into for profit and that you were not reimbursed for by insurance, etc., to the extent that they relate to income that is effectively connected with a trade or business in the United States.

Individual retirement arrangement (IRA). You may qualify to establish a traditional IRA whether or not you are covered by a qualified retirement plan at work. You can contribute the smaller of $2,000 or your taxable compensation effectively connected with your U.S. trade or business to an IRA each year. If you or your spouse are covered by a plan at work, or you are self-employed and had a SEP, SIMPLE, or qualified retirement plan, you can only deduct these contributions subject to certain limits.

For more information, see Publication 590, *Individual Retirement Arrangements (IRAs) (Including Roth IRAs and Education IRAs)*.

Moving expenses. If you are a nonresident alien temporarily in the United States earning taxable income for performing personal services, you can deduct moving expenses to the United States if you meet both of the following tests.

1) You are a full-time employee for at least 39 weeks during the 12 months right after you move, or if you are self-employed, you work full time for at least 39 weeks during the first 12 months and 78 weeks during the first 24 months right after you move.
2) Your new job location is at least 50 miles farther (by the shortest commonly traveled route) from your former home than your former job location was. If you had no former job location, the new job location must be at least 50 miles from your former home.

You cannot deduct the moving expense you have when returning to your home abroad or moving to a foreign job site.

Figure your deductible moving expenses to the United States on Form 3903, and deduct them on line 27 of Form 1040NR.

For more information on the moving expense deduction, see Publication 521.

Reimbursements. If you were reimbursed by your employer for allowable moving expenses, your employer should have excluded these reimbursements from your income. You can only deduct allowable moving expenses that were not reimbursed by your employer or that were reimbursed but the reimbursement was included in your income. For more information, see Publication 521.

Moving expense or travel expense. If you deduct moving expenses to the United States, you cannot also deduct travel expenses (discussed, later, under *Itemized Deductions)* while temporarily away from your tax home in a foreign country. Moving expenses are based on a change in your principal place of business while travel expenses are based on your temporary absence from your principal place of business.

Self-employed SEP, SIMPLE, and qualified retirement plans. If you are self-employed, you may be able to deduct contributions to a SEP, SIMPLE, or qualified retirement plan that provides retirement benefits for yourself and your common-law employees, if any. To make deductible contributions for yourself, you must have net earnings from self-employment that are effectively connected with your U.S. trade or business.

Get Publication 560, *Retirement Plans for Small Business (SEP, SIMPLE, and Qualified Plans),* for further information.

Penalty on early withdrawal of savings. You must include in income all effectively connected interest income you receive or that is credited to your account during the year. Do not reduce it by any penalty you must pay on an early withdrawal from a time savings account. However, if the interest income is effectively connected with your U.S. trade or business during the year, you can deduct on line 30 of Form 1040NR the amount of the early withdrawal penalty that the banking institution charged.

Student loan interest. You may be able to deduct interest you pay on a qualified student loan. You can deduct student loan interest if **all** of the following apply.

1) You paid interest in 2000 on a qualified student loan.
2) At least part of the interest paid in 2000 was paid during the first 60 months that payments were required to be made.
3) Your filing status is any status except married filing separately.
4) Your **modified** adjusted gross income is less than $55,000.
5) You are not claimed as a dependent on someone's 2000 tax return.

For more information, see Publication 970, *Tax Benefits for Higher Education*.

Exemptions

Resident aliens can claim personal exemptions and exemptions for dependents in the same way as U.S. citizens. However, nonresident aliens generally can claim only a personal exemption for themselves on their U.S. tax return.

Resident Aliens

You can claim personal exemptions and exemptions for dependents according to the dependency rules for U.S. citizens. You can claim an exemption for your spouse on a separate return if your spouse had no gross income for U.S. tax purposes and was not the dependent of another taxpayer. You can claim this exemption even if your spouse has not been a resident alien for a full tax year or is an alien who has not come to the United States.

You can claim an exemption for each person who qualifies as a dependent according to the rules for U.S. citizens. The dependent must be a citizen or national (defined earlier) of the United States or be a resident of the United States, Canada, or Mexico for some part of the calendar year in which your tax year begins. Get Publication 501 for more information.

Your spouse and each dependent must have either an SSN or an ITIN. See Identification Number, *earlier.*

Phase-out of exemptions. If the adjusted gross income shown on your tax return is more than the amount shown below for your filing status, your deduction for exemptions may be reduced or eliminated. Use the worksheet in your income tax return instructions to figure the amount, if any, you can deduct.

- $96,700 if married filing separately
- $128,950 if single
- $161,150 if head of household
- $193,400 if married filing jointly or a qualifying widow(er) with dependent child

Nonresident Aliens

Generally, if you are a nonresident alien engaged in a trade or business in the United States, you can claim only one personal exemption ($2,800 for 2000). You may be able to claim an exemption for a spouse and a dependent if you are described in any of the following discussions.

Your spouse and each dependent must have either an SSN or an ITIN. See Identification Number*, earlier.*

Residents of Mexico or Canada or U.S. nationals. If you are a resident of Mexico or Canada or a national of the United States (defined earlier), you can also claim a personal exemption for your spouse if your spouse had no gross income for U.S. tax purposes and was not the dependent of another taxpayer. In addition, you can claim exemptions for your dependents who meet certain tests. Residents of Mexico, Canada, or nationals of the United States must use the same rules as U.S. citizens to determine who is a dependent and for which dependents exemptions can be claimed. See Publication 501 for these rules. For purposes of these rules, dependents who are U.S. nationals meet the citizenship test discussed in Publication 501.

Residents of Japan or South Korea. Nonresident aliens who are residents of Japan or South Korea may be able to claim exemptions for a spouse and children. The tax treaties with Japan and Korea impose two additional requirements on Japanese or Korean residents:

1) The spouse and all children claimed must live with the alien in the United States at some time during the tax year, and
2) The additional deduction for the exemptions must be prorated based on the ratio of the alien's U.S. source gross income effectively connected with a U.S. trade or business for the tax year to the alien's entire income from all sources during the tax year.

Example. Mr. Sato, a nonresident alien who is a resident of Japan, lives temporarily in the United States with his wife and two children. During the tax year he receives U.S. compensation of $9,000. He also receives $3,000 of income from sources outside the United States that is not effectively connected with his U.S. trade or business. Thus, his total income for the year is $12,000. Mr. Sato meets all requirements for claiming exemptions for his spouse and two children. The additional deduction is $6,300 figured as follows:

$$\frac{\$9,000}{\$12,000} \times \$8,400^{*} = \$6,300$$

$^{*}\ 3 \times \$2,800$

Students and business apprentices from India. Students and business apprentices who are eligible for the benefits of Article 21(2) of the United States–India Income Tax Treaty may be able to claim exemptions for their spouse and dependents.

You can claim an exemption for your spouse if he or she had no gross income during the year and is not the dependent of another taxpayer.

You can claim exemptions for each of your dependents ***not*** admitted to the United States on “F–2,” “J–2,” or “M–2” visas if they meet the same rules that apply to U.S. citizens. See Publication 501 for these rules.

List your spouse and dependents on line 7c of Form 1040NR. Enter the total on the appropriate line to the right of line 7c.

Phase-out of exemptions. If the adjusted gross income shown on line 33 of Form 1040NR is more than the amount shown below for your filing status, your deduction for exemptions may be reduced or eliminated. Use the worksheet in the Form 1040NR instructions to figure the amount, if any, you can deduct.

- $96,700 if married filing separately
- $128,950 if single
- $193,400 if a qualifying widow(er) with dependent child

Itemized Deductions

Nonresident aliens can claim some of the same itemized deductions that resident aliens can claim. However, nonresident aliens can claim itemized deductions only if they have income effectively connected with their U.S. trade or business.

Resident and nonresident aliens may not be able to claim all of their itemized deductions. If your adjusted gross income is more than $128,950 ($64,475 if married filing separately), use the worksheet in your income tax return instructions to figure the amount you can deduct.

Resident Aliens

You can claim the same itemized deductions as U.S. citizens, using Schedule A of Form 1040. These deductions include certain medical and dental expenses, state and local income taxes, real estate taxes, interest you paid on a home mortgage, charitable contributions, casualty and theft losses, and miscellaneous deductions.

If you do not itemize your deductions, you can claim the standard deduction for your particular filing status. For further information, see Form 1040 and instructions.

Nonresident Aliens

You can deduct certain itemized deductions if you receive income effectively connected with your U.S. trade or business. These deductions include state and local income taxes, charitable contributions to U.S. organizations, casualty and theft losses, and miscellaneous deductions. Use Schedule A of Form 1040NR to claim itemized deductions.

If you are filing Form 1040NR–EZ, you can only claim a deduction for state or local income taxes. If you are claiming any other deduction, you must file Form 1040NR.

Standard deduction. Nonresident aliens ***cannot*** claim the standard deduction. However, see *Students and business apprentices from India,* next.

Students and business apprentices from India. A special rule applies to students and business apprentices who are eligible for the benefits of Article 21(2) of the United States–India Income Tax Treaty. You can claim the standard deduction provided you do not claim itemized deductions.

Use Table 7, 8, or 9 in Publication 501 to figure your standard deduction. If you are married and your spouse files a return and itemizes deductions, you cannot take the standard deduction.

If you are filing Form 1040NR, enter the standard deduction on line 35 of Form 1040NR. In the space to the left of line 35, print, “Standard Deduction Allowed Under U.S.–India Income Tax Treaty.” If you are filing Form 1040NR–EZ, enter the amount on line 11.

State and local income taxes. If during the tax year, you receive income that is connected with a trade or business in the United States, you can deduct state and local income taxes you paid on that income.

Charitable contributions. You can deduct your charitable contributions or gifts to qualified organizations subject to certain limits. Qualified organizations include organizations that are religious, charitable, educational, scientific, or literary in nature, or that work to prevent cruelty to children or animals. Certain organizations that promote national or international amateur sports competition are also qualified organizations.

Foreign organizations. Contributions made directly to a foreign organization are not deductible. However, you can deduct contributions to a U.S. organization that transfers funds to a charitable foreign organization if the U.S. organization controls the use of the funds or if the foreign organization is only an administrative arm of the U.S. organization.

For more information about organizations that qualify to receive charitable contributions, see Publication 526, *Charitable Contributions*.

Contributions from which you benefit. If you receive a benefit as a result of making a contribution to a qualified organization, you can deduct only the amount of your contribution that is more than the value of the benefit you receive.

If you pay more than the fair market value to a qualified organization for merchandise, goods, or services, the amount you pay that is more than the value of the item can be a charitable contribution. For the excess amount to qualify, you must pay it with the intent to make a charitable contribution.

Contributions of $250 or more. You may deduct a contribution of $250 or more only if you have a written statement from the charitable organization showing:

1) The amount of any money contributed and a description (but not value) of any property donated,
2) Whether the organization did or did not give you any goods or services in return for your contribution, and
3) A description and estimate of the value of any goods or services described in (2).

If you received only intangible religious benefits, the organization must state this, but it does not have to describe or value the benefit.

Contributions of appreciated property. If you contribute property with a fair market value that is more than your basis in it, you may have to reduce the fair market value by the amount of appreciation (increase in value) when you figure your deduction. Your basis in the property is generally what you paid for it. If you need more information about basis, get Publication 551, *Basis of Assets*.

Different rules apply to figuring your deduction, depending on whether the property is:

1) Ordinary income property, or
2) Capital gain property.

Limit. The amount you can deduct in a tax year is limited in the same way it is for a citizen or resident of the United States. For a discussion of limits on charitable contributions and other information, get Publication 526.

Casualty and theft losses. You can deduct your loss from fire, storm, shipwreck, or other casualty, or theft of property even though your property is not connected with a U.S. trade or business. The property can be personal use property or income-producing property not connected with a U.S. trade or business. The property must be located in the United States at the time of the casualty or theft. You can deduct theft losses only in the year in which you discover the loss.

The fair market value of the property immediately before the casualty or theft less its fair market value immediately after the casualty or theft (but not more than its cost or adjusted basis) less any insurance or other compensation is the amount of the loss. The fair market value of property immediately after a theft is considered zero, since you no longer have the property.

If your property is covered by insurance, you should file a timely insurance claim for reimbursement. If you do not, you cannot deduct this loss as a casualty or theft loss.

Figure your deductible casualty and theft losses on Form 4684, *Casualties and Thefts*.

Losses from personal use property. You cannot deduct the first $100 of each casualty or theft loss to property held for personal use. You can deduct only the total of these losses for the year that is more than 10% of your adjusted gross income (line 33, Form 1040NR) for the year.

Losses from income-producing property. These losses are not subject to the limitations that apply to personal use property. Use Section B of Form 4684 to figure your deduction for these losses.

Job expenses and other miscellaneous deductions. You can deduct job expenses, such as allowable unreimbursed travel expenses (discussed next), and other miscellaneous deductions. Generally, the allowable deductions must be related to effectively connected income. Deductible expenses include:

- Union dues,
- Safety equipment and small tools needed for your job,
- Dues to professional organizations,
- Subscriptions to professional journals, and
- Tax return preparation fees.

Most miscellaneous deductions are deductible only if they are more than 2% of your adjusted gross income (line 33, Form

1040NR). For more information on miscellaneous deductions, see the instructions for Form 1040NR.

Travel expenses. You may be able to deduct your ordinary and necessary travel expenses while you are temporarily performing personal services in the United States. Generally, a temporary assignment in a single location is one that is realistically expected to last (and does in fact last) for one year or less. You must be able to show you were present in the United States on an activity that required your temporary absence from your regular place of work.

For example, if you have established a "tax home" through regular employment in a foreign country, and intend to return to similar employment in the same country at the end of your temporary stay in the United States, you can deduct reasonable travel expenses you paid. You cannot deduct travel expenses for other members of your family or party.

Deductible travel expenses. If you qualify, you can deduct your expenses for:

1) Transportation—airfare, local transportation, including train, bus, etc.,

2) Lodging—rent paid, utilities (do not include telephone), hotel or motel room expenses, and

3) Meal expenses—actual expenses allowed if you keep records of the amounts, or, if you do not wish to keep detailed records, you are generally allowed a standard meal allowance amount depending on the date and area of your travel. You can deduct only 50% of unreimbursed meal expenses. The standard meal allowance rates are given in Publication 1542, *Per Diem Rates (For Travel Within the Continental United States)*.

Use Form 2106 or 2106–EZ to figure your allowable expenses that you claim on line 9 of Schedule A (Form 1040NR).

Expenses allocable to U.S. tax-exempt income. You cannot deduct an expense, or part of an expense, that is allocable to U.S. tax-exempt income, including income exempt by tax treaty.

Example. Irina Oak, a citizen of Poland, resided in the United States for part of the year to acquire business experience from a U.S. company. During her stay in the United States, she received a salary of $8,000 from her Polish employer. She received no other U.S. source income. She spent $3,000 on travel expenses, of which $1,000 were for meals. None of these expenses were reimbursed. Under the tax treaty with Poland, $5,000 of her salary is exempt from U.S. income tax. In filling out Form 2106–EZ, she must reduce her deductible meal expenses by half ($500). She must reduce the remaining $2,500 of travel expenses by 62.5% ($1,563) because 62.5% ($5,000 ÷ $8,000) of her salary is exempt from tax. She enters the remaining total of $937 on line 9 of Schedule A (Form 1040NR). She completes the remaining lines according to the instructions for Schedule A.

More information. For more information about deductible expenses, reimbursements, and recordkeeping, get Publication 463.

Tax Credits and Payments

This discussion covers tax credits and payments for resident aliens, followed by a discussion of the credits and payments for nonresident aliens.

Resident Aliens

Resident aliens generally claim tax credits and report tax payments, including withholding, using the same rules that apply to U.S. citizens.

The following items are some of the credits you may be able to claim.

Child and dependent care credit. You may be able to take this credit if you pay someone to care for your dependent who is under age 13, or your disabled dependent or disabled spouse, so that you can work or look for work. Generally, you must be able to claim an exemption for your dependent.

For more information, get Publication 503, *Child and Dependent Care Expenses,* and Form 2441, *Child and Dependent Care Expenses.*

Credit for the elderly or the disabled. You may qualify for this credit if you are 65 or over or if you retired on permanent and total disability. For more information on this credit, get Publication 524, *Credit for the Elderly or the Disabled,* and Schedule R (Form 1040).

Child tax credit. You may be able to take this credit if you have a qualifying child. For this credit, a qualifying child:

- Is a U.S. citizen, national, or resident alien,
- Is claimed as a dependent on your tax return,
- Is your son, daughter, adopted child, grandchild, stepchild, or foster child, and
- Was under age 17 at the end of the year.

Use the *Child Tax Credit Worksheet* in your form instructions to figure the amount of your credit.

Education credits. You may qualify for these credits if you paid qualified tuition and related expenses for yourself, your spouse, or your dependent. There are two education credits: the Hope credit and the lifetime learning credit. You cannot claim these credits if you are married filing separately. Use Form 8863, *Education Credits (Hope and Lifetime Learning Credits)*, to figure the credit. For more information, see Publication 970.

Foreign tax credit. You can claim a credit, subject to certain limits, for income tax you paid or accrued to a foreign country on foreign source income. You cannot claim a credit for taxes paid or accrued on excluded foreign earned income. To claim a credit for income taxes paid or accrued to a foreign country, you generally will file Form 1116, *Foreign Tax Credit (Individual, Estate, Trust or Nonresident Alien Individual),* with your Form 1040.

For more information, get Publication 514, *Foreign Tax Credit for Individuals.*

Earned income credit. You may qualify for an earned income credit of up to $2,353 if your child lived with you in the United States and your earned income and modified adjusted gross income were each less than $27,413. If two or more children lived with you in the United States and your earned income and modified adjusted gross income were each less than $31,152 your credit could be as much as $3,888. If you do not have a qualifying child and your earned income and modified adjusted gross income were each less than $10,380, your credit could be as much as $353. If you are married, you must file a joint return to qualify unless you lived apart from your spouse during the last 6 months of the year and you are eligible to file as head of household.

You and your spouse (if filing a joint return) and any qualifying child must have work-related SSNs. You cannot claim this credit using an ITIN or a social security card that says "NOT VALID FOR EMPLOYMENT." See Identification Number*, earlier.*

Advance earned income credit. You may be able to get advance payments of part of the credit for one child in 2001 instead of waiting until you file your 2001 tax return. Fill out the 2001 Form W–5, *Earned Income Credit Advance Payment Certificate.* If you expect to qualify for the credit in 2001, give the bottom part of the form to your employer. Your employer will include part of the credit regularly in your pay during 2001.

If you received advance payments of the earned income credit in 2000, you must file a 2000 tax return to report the payments. Your Form W–2 will show the amount you received.

Other information. There are other eligibility rules that are not discussed here. For more information, get Publication 596, *Earned Income Credit.*

Adoption credit. You may qualify to take a tax credit of up to $5,000 for qualifying expenses paid to adopt an eligible child. The credit can be as much as $6,000 if the expenses are for the adoption of a child with special needs. To claim the adoption credit, file Form 8839, *Qualified Adoption Expenses,* with your Form 1040 or Form 1040A. For more information, get Publication 968, *Tax Benefits for Adoption*.

Nonresident Aliens

You can claim some of the same credits that resident aliens can claim. You can also report certain taxes you paid, are considered to have paid, or that were withheld from your income.

Credits

Credits are allowed only if you receive effectively connected income. You may be able to claim some of the following credits.

Child and dependent care credit. You may qualify for this credit if you pay someone to care for your dependent who is under age 13, or your disabled dependent or disabled spouse, so that you can work or look for work. Generally, you must be able to claim an exemption for your dependent.

Married nonresident aliens can claim the credit only if they choose to file a joint return with a U.S. citizen or resident spouse as discussed in chapter 1, or if they qualify as certain married individuals living apart (see *Married Persons Who Live Apart* under *Filing Status* in the Form 1040NR instructions).

The amount of your child and dependent care expense that qualifies for the credit in any tax year cannot be more than your earned income from the United States for that tax year. Earned income generally means wages, salaries, and professional fees for personal services performed.

For more information, get Publication 503.

Child tax credit. You may be able to take this credit if you have a qualifying child. For this credit, a qualifying child:

- Is a U.S. citizen, national, or resident alien,
- Is claimed as a dependent on your tax return,
- Is your son, daughter, adopted child, grandchild, stepchild, or foster child, and
- Was under age 17 at the end of the year.

Use the *Child Tax Credit Worksheet* in the Form 1040 instructions to figure the amount of your credit.

Education credits. If you are a nonresident alien for any part of the year, you generally cannot claim the education credits. However, if you are married and choose to file a joint return with a U.S. citizen or resident spouse as discussed in chapter 1, you may be eligible for these credits.

Foreign tax credit. If you receive income from sources outside the United States that is effectively connected with a trade or business in the United States, you can claim a credit for any income taxes paid or accrued to any foreign country or U.S. possession on that income.

If you do not have foreign source income effectively connected with a U.S. trade or business, you cannot claim credits against your U.S. tax for taxes paid or accrued to a foreign country or U.S. possession.

You cannot take any credit for taxes imposed by a foreign country or U.S. possession on your U.S. source income if those taxes were imposed only because you are a citizen or resident of the foreign country or possession.

If you claim a foreign tax credit, you generally will have to attach to your return a Form 1116 which contains additional information about the credit and limits. See Publication 514 for more information.

Credit for prior year minimum tax. If you paid alternative minimum tax in a prior year, get Form 8801, *Credit for Prior Year Minimum Tax—Individuals, Estates, and Trusts,* to see if you qualify for this credit.

Earned income credit. If you are a nonresident alien for any part of the tax year, you generally cannot get the earned income credit. However, if you are married and choose to file a joint return with a U.S. citizen or resident spouse as discussed in chapter 1, you may be eligible for the credit.

CAUTION *You and your spouse (if filing a joint return) and any qualifying child must have work-related SSNs. If your social security card says "NOT VALID FOR EMPLOYMENT," you cannot claim the earned income credit. You cannot claim this credit using an ITIN. See* Identification Number*, earlier.*

See Publication 596 for more information on the credit.

Adoption credit. You may qualify to take a tax credit of up to $5,000 for qualifying expenses paid to adopt an eligible child. The credit can be as much as $6,000 if the expenses are for the adoption of a child with special needs. To claim the adoption credit, file Form 8839 with your Form 1040NR. For more information, get Publication 968.

Married nonresident aliens can claim the credit only if they choose to file a joint return with a U.S. citizen or resident spouse as discussed in chapter 1, or if they qualify as certain married individuals living apart (see *Married Persons Who Live Apart* under *Filing Status* in the Form 1040NR instructions).

Tax Withheld

You can claim the tax withheld during the year as a payment against your U.S. tax. You claim it in the "Payments" section on page 2 of Form 1040NR. The tax withheld reduces any tax you owe with Form 1040NR.

Withholding from wages. Any federal income tax withheld from your wages during the tax year while you were a nonresident alien is allowed as a payment against your U.S. income tax liability for the same year. You can claim the income tax withheld whether or not you were engaged in a trade or business in the United States during the year, and whether or not the wages (or any other income) were connected with a trade or business in the United States.

Excess social security tax withheld. If you have two or more employers, you may be able to claim a credit against your U.S. income tax liability for social security tax withheld in excess of the maximum required. See *Social Security and Medicare Taxes* in chapter 8 for more information.

Regulated investment company credit. If you are a shareholder in a regulated investment company or mutual fund, you can claim a credit for your share of any taxes paid by the company on its undistributed capital gains. You will receive information on Form 2439, *Notice to Shareholder of Undistributed Long-Term Capital Gains,* which you must attach to your return.

Tax withheld at the source. You can claim as a payment any tax withheld at the source on investment and other fixed or determinable annual or periodic income paid to you. Fixed or determinable income includes interest, dividend, rental, and royalty income that you do not claim to be effectively connected income. Wage or salary payments can be fixed or determinable income to you, but usually are subject to withholding as discussed above. Taxes on fixed or determinable income are withheld at a 30% rate or at a lower treaty rate.

Tax withheld on partnership income. If you are a foreign partner in a partnership, the partnership will withhold tax on your share of effectively connected taxable income from the partnership. The partnership will give you a statement on Form 8805, *Foreign Partner's Information Statement of Section 1446 Withholding Tax,* showing the tax withheld. A partnership that is publicly traded may withhold on your actual distributions of effectively connected income. In this case, the partnership will give you a statement on Form 1042–S. In either case, claim the tax withheld as a payment on line 62b of Form 1040NR.

Claiming tax withheld on your return. When you fill out your tax return, take extra care to enter the correct amount of any tax withheld shown on your information documents. The following table lists some of the more common information documents and shows where to find the amount of tax withheld.

Form Number	Location of Tax Withheld
RRB–1042S	Box 12
SSA–1042S	Box 9
W–2	Box 2
W–2c	Line 2
1042–S	Column (g)
8805	Line 11
8288–A	Box 2

Bona Fide Residents of American Samoa or Puerto Rico

If you are a nonresident alien who is a bona fide resident of American Samoa or Puerto Rico for the entire tax year, you generally are taxed the same as resident aliens. You should file Form 1040 and report all income from sources both in and outside the United States.

Residents of Puerto Rico. If you are a bona fide resident of Puerto Rico for the entire year, you can exclude from gross income all income from sources in Puerto Rico (other than amounts for services performed as an employee of the United States or any of its agencies).

If you report income on a calendar year basis and you do not have wages subject to withholding, file your return and pay your tax by June 15. You must also make your first payment of estimated tax by June 15. You ***cannot*** file a joint income tax return or make joint payments of estimated tax. However, if you are married to a U.S. citizen or resident, see *Nonresident Spouse Treated as a Resident* in chapter 1.

If you earn wages subject to withholding, your U.S. income tax return is due on April 15. Your first payment of estimated tax is also due by April 15. For information on withholding and estimated tax, see chapter 8.

You ***cannot*** claim exemptions for dependents who are residents of Puerto Rico unless the dependents are citizens of the United States.

Residents of American Samoa. If you are a bona fide resident of American Samoa for the entire year, you can exclude from gross income all income from sources in American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands (other than amounts for services performed as an employee of the U.S. government or any of its agencies). For more information about this exclusion, get Publication 570, *Tax Guide for*

Individuals With Income From U.S. Possessions.

6.

Dual-Status Tax Year

Introduction

You have a dual-status tax year when you have been both a resident alien and a nonresident alien in the same year. Dual status does not refer to your citizenship, only to your resident status in the United States. In determining your U.S. income tax liability for a dual-status tax year, different rules apply for the part of the year you are a resident of the United States and the part of the year you are a nonresident.

The most common dual-status tax years are the years of arrival and departure. See *Dual-Status Aliens* in chapter 1.

If you are married and choose to be treated as a U.S. resident for the entire year, as explained in chapter 1, the rules of this chapter do not apply to you for that year.

Topics

This chapter discusses:

- Income subject to tax,
- Restrictions for dual-status taxpayers,
- Exemptions,
- How to figure the tax,
- Forms to file,
- When and where to file, and
- How to fill out a dual-status return.

Useful Items

You may want to see:

Publication

- ☐ **503** Child and Dependent Care Expenses
- ☐ **514** Foreign Tax Credit for Individuals
- ☐ **524** Credit for the Elderly or the Disabled
- ☐ **575** Pension and Annuity Income

Form (and Instructions)

- ☐ **1040** U.S. Individual Income Tax Return
- ☐ **1040–C** U.S. Departing Alien Income Tax Return
- ☐ **1040–ES** Estimated Tax for Individuals
- ☐ **1040–ES (NR)** U.S. Estimated Tax for Nonresident Alien Individuals
- ☐ **1040NR** U.S. Nonresident Alien Income Tax Return
- ☐ **1116** Foreign Tax Credit

See chapter 12 for information about getting these publications and forms.

Tax Year

You must file your tax return on the basis of an annual accounting period called a tax year. If you have not previously established a fiscal tax year, your tax year is the calendar year. A calendar year is 12 consecutive months ending on December 31. If you have previously established a regular fiscal year (12 consecutive months ending on the last day of a month other than December, or a 52–53 week year) and are considered to be a U.S. resident for any calendar year, you will be treated as a U.S. resident for any part of your fiscal year that falls within that calendar year.

Income Subject to Tax

For the part of the year you are a resident alien, you are taxed on income from all sources. Income from sources outside the United States is taxable if you receive it while you are a resident alien. The income is taxable even if you earned it while you were a nonresident alien or if you became a nonresident alien after receiving it and before the end of the year.

For the part of the year you are a nonresident alien, you are taxed on income from U.S. sources and on certain foreign source income treated as effectively connected with a U.S. trade or business. (The rules for treating foreign source income as effectively connected are discussed in chapter 4 under *Foreign Income.*)

Income from sources outside the United States that is not effectively connected with a trade or business in the United States is not taxable if you receive it while you are a nonresident alien. The income is not taxable even if you earned it while you were a resident alien or if you became a resident alien or a U.S. citizen after receiving it and before the end of the year.

Income from U.S. sources is taxable whether you receive it while a nonresident alien or a resident alien unless specifically exempt under the Internal Revenue Code or a tax treaty provision. Generally, tax treaty provisions apply only to the part of the year you were a nonresident.

When determining what income is taxed in the United States, you must consider exemptions under U.S. tax law as well as the reduced tax rates and exemptions provided by tax treaties between the United States and certain foreign countries. For a further discussion of tax treaties, see chapter 9.

Restrictions for Dual-Status Taxpayers

The following restrictions apply if you are filing a tax return for a dual-status tax year.

1) Standard deduction. You ***cannot*** use the standard deduction allowed on Form 1040. However, you can itemize any allowable deductions.

2) Exemptions. Your total deduction for the exemptions for your spouse and allowable dependents ***cannot*** be more than your taxable income (figured without deducting personal exemptions) for the period you are a resident alien.

3) Head of household. You ***cannot*** use the head of household Tax Table column or Tax Rate Schedule.

4) Joint return. You ***cannot*** file a joint return. However, see *Choosing Resident Alien Status* under *Dual-Status Aliens* in chapter 1.

5) Tax rates. If you are married and a nonresident of the United States for all or part of the tax year and you do not choose to file jointly as discussed in chapter 1, you must use the Tax Table column or Tax Rate Schedule for married filing separately to figure your tax on income effectively connected with a U.S. trade or business. You ***cannot*** use the Tax Table column or Tax Rate Schedules for married filing jointly or single. However, if you are a married resident of Canada, Mexico, Japan, or South Korea, or are a married U.S. national, you may be able to file as single if you lived apart from your spouse during the last 6 months of the year. See the instructions for Form 1040NR to see if you qualify.

A ***U.S. national*** is an individual who, although not a U.S. citizen, owes his or her allegiance to the United States. U.S. nationals include American Samoans and Northern Mariana Islanders who chose to become U.S. nationals instead of U.S. citizens.

Exemptions

As a dual-status taxpayer, you usually will be able to claim your own personal exemption. Subject to the general rules for qualification, you can claim exemptions for your spouse and dependents when you figure taxable income for the part of the year you are a resident alien. The amount you can claim for these exemptions is limited to your taxable income (figured before subtracting exemptions) for the part of the year you are a resident alien. You cannot use exemptions (other than your own) to reduce taxable income to less than zero for that period.

Special rules apply to exemptions for the part of the tax year you are a nonresident alien if you are a resident of Canada, Mexico, Japan, or Korea, are a U.S. national, or are a student or business apprentice from India. For more information, see *Exemptions* in chapter 5.

How To Figure Tax

When you figure your U.S. tax for a dual-status year, you are subject to different rules for the part of the year you are a resident and the part of the year you are a nonresident.

Income

All income for your period of residence and all income that is effectively connected with a trade or business in the United States for your period of nonresidence, after allowable deductions, is added and taxed at the rates that apply to U.S. citizens and residents. Income that is not connected with a trade or business in the United States for your period of nonresidence is subject to the flat 30% rate or lower treaty rate. You cannot take any deductions against this income.

Social security and railroad retirement benefits. During the part of the year you are a nonresident alien, 85% of any U.S. social security benefits (and the equivalent portion of tier 1 railroad retirement benefits) you receive is subject to the flat 30% tax, unless exempt, or subject to a lower treaty rate. (See *The 30% Tax* in chapter 4.)

During the part of the year you are a resident alien, part of the social security and the equivalent portion of tier 1 railroad retirement benefits will be taxed at graduated rates if your modified adjusted gross income plus half these benefits is more than a certain base amount.

Use the *Social Security Benefits Worksheet* in the Form 1040 instructions to help you figure the taxable part of your social security and equivalent tier 1 railroad retirement benefits for the part of the year you were a resident alien.

If you received U.S. social security benefits while you were a ***nonresident alien,*** the Social Security Administration will send you a copy of Form SSA–1042S showing your combined benefits for the entire year and the amount of tax withheld. You will not receive separate statements for the benefits received during your periods of U.S. residence and nonresidence. Therefore, it is important for you to keep careful records of these amounts. You will need this information to properly complete your return and determine your tax liability.

If you received railroad retirement benefits while you were a ***nonresident alien,*** the U.S. Railroad Retirement Board (RRB) will send you Form RRB–1042S, *Statement for Nonresident Alien Recipients of Payments by the Railroad Retirement Board,* and/or Form RRB–1099–R, *Annuities or Pensions by the Railroad Retirement Board.* If your country of legal residence changed or your rate of tax changed during the tax year, you may receive more than one form.

Tax Credits and Payments

This discussion covers tax credits and payments for dual-status aliens.

Credits

As a dual-status alien, you generally can claim tax credits using the same rules that apply to resident aliens. There are certain restrictions that may apply. These restrictions are discussed here, along with a brief explanation of credits often claimed by individuals.

Child and dependent care credit. You may qualify for this credit if you pay someone to care for your dependent who is under age 13, or your disabled dependent or disabled spouse so that you can work or look for work. Generally, you must be able to claim an exemption for your dependent.

Married dual-status aliens can claim the credit only if they choose to file a joint return as discussed in chapter 1, or if they qualify as certain married individuals living apart.

The amount of your child and dependent care expense that qualifies for the credit in any tax year cannot be more than your earned income for that tax year.

For more information, get Publication 503 and Form 2441.

Credit for the elderly or the disabled. You must be a U.S. citizen or resident to claim this credit. You cannot claim the credit if you were a nonresident alien at any time during your tax year. However, the credit can be taken by a dual-status alien who is married to a U.S. citizen or resident and chooses to be treated as a U.S. resident for the entire year. For further information about this credit, get Publication 524.

Child tax credit. You may be able to take this credit if you have a qualifying child. For this credit, a qualifying child:

- Is a U.S. citizen, national, or resident alien,
- Is claimed as a dependent on your tax return,
- Is your son, daughter, adopted child, grandchild, stepchild, or foster child, and
- Was under age 17 at the end of the year.

Use the *Child Tax Credit Worksheet* in the Form 1040 instructions to figure the amount of your credit.

Education credits. If you are a nonresident alien for any part of the year, you generally cannot claim the education credits. However, if you are married and choose to file a joint return with a U.S. citizen or resident spouse as discussed in chapter 1, you may be eligible for these credits.

Foreign tax credit. If you have paid or are liable for the payment of income tax to a foreign country on income from foreign sources, you may be able to claim a credit for the foreign taxes.

If you claim the foreign tax credit, you generally must file Form 1116 with your income tax return. If you need more information, see the instructions for Form 1116 or get Publication 514.

Adoption credit. You may qualify to take a tax credit of up to $5,000 for qualifying expenses paid to adopt an eligible child. The credit can be as much as $6,000 if the expenses are for the adoption of a child with special needs. To claim the adoption credit, file Form 8839 with the U.S. income tax return that you file. For more information, get Publication 968.

Married dual-status aliens can claim the credit only if they choose to file a joint return with a U.S. citizen or resident spouse as discussed in chapter 1, or if they qualify as certain married individuals living apart.

Payments

You can report as payments against your U.S. income tax liability certain taxes you paid, are considered to have paid, or that were withheld from your income. These include:

1) Tax withheld from wages earned in the United States,
2) Taxes withheld at the source from various items of income from U.S. sources other than wages,
3) Tax paid with Form 1040–ES or Form 1040–ES(NR), and
4) Tax paid with Form 1040–C, at the time of departure from the United States.

Forms To File

The U.S. income tax return you must file as a dual-status alien depends on whether you are a resident alien or a nonresident alien at the end of the tax year.

Resident at end of year. You must file Form 1040 if you are a dual-status taxpayer who becomes a resident during the year and who is a U.S. resident on the last day of the tax year. Write “Dual-Status Return” across the top of the return. Attach a statement to your return to show the income for the part of the year you are a nonresident. You can use Form 1040NR or Form 1040NR–EZ as the statement, but be sure to mark “Dual-Status Statement” across the top.

Nonresident at end of year. You must file Form 1040NR or Form 1040NR–EZ if you are a dual-status taxpayer who gives up residence in the United States during the year and who is not a U.S. resident on the last day of the tax year. Write “Dual-Status Return” across the top of the return. Attach a statement to your return to show the income for the part of the year you are a resident. You can use Form 1040 as the statement, but be sure to mark “Dual-Status Statement” across the top.

Statement. Any statement must have your name, address, and taxpayer identification number on it. You do not need to sign a separate statement or schedule accompanying your return, since your signature on the return also applies to the supporting statements and schedules.

When and Where To File

If you are a ***resident alien*** on the last day of your tax year and report your income on a calendar year basis, you must file no later than April 15 of the year following the close of your tax year. If you report your income on other than a calendar year basis, file your return no later than the 15th day of the 4th month following the close of your tax year. In either case, file your return with the Internal Revenue Service Center, Philadelphia, PA 19255.

If you are a ***nonresident alien*** on the last day of your tax year and you report your income on a calendar year basis, you must file no later than April 15 of the year following the close of your tax year if you receive wages subject to withholding. If you report your income on other than a calendar year basis, file your return no later than the 15th day of the 4th month following the close of your tax year. If you did not receive wages subject to withholding and you report your income on a calendar year basis, you must file no later than June 15 of the year following the close of your tax year. If you report your income on other than a calendar year basis, file your return no later than the 15th day of the 6th month following the close of your tax year. In any case, file your return with the Internal Revenue Service Center, Philadelphia, PA 19255.

TIP *If the regular due date for filing falls on a Saturday, Sunday, or legal holiday, the due date is the next day that is not a Saturday, Sunday, or legal holiday.*

Illustration of Dual-Status Return

Sam R. Brown is single and a subject of the United Kingdom (U.K.). He temporarily entered the United States with an H–1 visa to develop a new product line for the Major Product Co. He arrived in the United States March 18, 2000, and left May 25, 2000, returning to his home in England.

The Major Product Co. later offered Sam a permanent job, and he returned to the United States with a permanent visa on September 10, 2000.

During Sam's temporary assignment in the United States, the Major Product Co. paid him $6,500. He accounted to his employer for his expenses for travel, meals, and lodging while on temporary assignment, and was reimbursed for his expenses. This amount was not included on his wage statement, Form W–2, given to him when he left the United States.

After Sam became permanently employed, his wages for the rest of the year were $21,800, including reimbursement of his moving expenses. He received a separate Form W–2 for this period. His other income received in 2000 was:

Interest income paid by the U.S. Bank (not effectively connected):

March 31	$45
June 30	$48
September 30	$68
December 31	$89

Dividend income paid by Major Product Co. (not effectively connected):

April 3	$120
July 3	$120
October 2	$120

Interest income (in U.S. dollars) paid by the U.K. Bank:

March 31	$90
June 30	$110
September 30	$118
December 31	$120

Sam paid the following expenses while he was in the United States:

Moving expenses incurred and paid in September	$8,300
VA State income tax	$612
Contributions to U.S. charities	$310

Before Sam left the United States in May, he filed Form 1040–C (see chapter 11). He owed no tax when he left the United States.

Form 1040NR

Sam completes Form 1040NR as follows.

Sam prints his name, address, and social security number on page 1 of Form 1040NR. He prints “Dual-Status Statement” across the top of the form.

On line 8, Sam enters his salary while a nonresident. He enters the state income tax withheld from his salary on line 35 (carried from line 17, Schedule A) and the federal income tax withheld from his salary on line 55. He also carries these amounts to Form 1040 (discussed later).

Sam also reports the not effectively connected U.S. income received while he was a nonresident alien. He reports the April and July dividends from the Major Product Co. in column (c) of line 70a, page 4. He figures the tax on his dividend income on lines 82 and 83 and carries it forward to line 49 on Form 1040NR. (The rate of tax on this income is limited to 15% by Article 10 of the U.S.–U.K. income tax treaty. Treaty rates vary from country to country, so be sure to check the provisions in the treaty you are claiming.)

Sam also reports $36, the amount of tax withheld at source by the Major Product Co. in column (a) of line 70a, Form 1040NR, and carries it forward to line 62a. Later he will report the amount on Form 1040.

Sam is not required to report the interest credited to his account by the U.S. Bank during the period he was a nonresident alien. Interest on deposits with U.S. banks that is not effectively connected with a U.S. trade or business generally is treated as income from sources in the United States but is not taxable to a nonresident alien. He checks the “Yes” box on page 5, item L, of Form 1040NR, and explains why this income is not included on his return.

The interest income received from the U.K. Bank while Sam was a nonresident alien is foreign source income and not taxable on his U.S. return.

Sam completes all applicable items on page 5 of Form 1040NR. This provides the dates of arrival and departure, types of visas, and information concerning tax treaty benefits that he has claimed.

Form 1040

Sam completes Form 1040 as follows.

Sam prints his name, social security number, and address on page 1 of Form 1040. He checks “Yes” for the Presidential Election Campaign Fund and “Single” under filing status. He also checks the exemption block for himself and prints “Dual-Status Return” across the top of the form.

Sam reports on Form 1040 all income received during the period he was a resident of the United States and the income received during the period he was a nonresident alien that was effectively connected with his U.S. trade or business. This income is taxed at the graduated rates. For information purposes, he also reports on Form 1040NR his salary while he was a nonresident.

Sam reports on Form 1040 the interest income credited to his account by the U.S. Bank and the U.K. Bank in September and December, while he was a U.S. resident. If any of the interest income received while he was a nonresident alien was effectively connected with his U.S. trade or business, he would also report these amounts on Form 1040. If he had paid foreign income tax on the interest income received from the U.K. Bank, he would claim a foreign tax credit.

The dividend income includes only the October dividend, which was received while Sam was a U.S. resident. The dividend income received during his period of nonresidence was not effectively connected with his U.S. trade or business and, therefore, not taxed at the graduated rates.

Sam completes Form 3903 (not illustrated) to figure his moving expense deduction and reports the total on line 26, Form 1040.

Sam cannot claim the standard deduction because he has a dual-status tax year. He reports his itemized deductions on Schedule A (Form 1040). The only itemized deduction he had while he was a nonresident alien was the state income tax withheld from his pay. For information purposes, he lists this amount on line 1, Schedule A, Form 1040NR, in addition to including it on Schedule A, Form 1040.

Sam totals his itemized deductions on line 28, Schedule A (Form 1040). He reports the amount from line 28 of Schedule A (Form 1040) on line 36, Form 1040.

Sam enters $2,800 for one personal exemption on line 38, Form 1040. He subtracts the amount on line 38 from the amount on line 37 to figure his taxable income, line 39.

Sam is now ready to figure the tax on his income taxed at the graduated rates. He uses the column in the Tax Table for single individuals. To this tax ($2,516), he must add the tax on the income not effectively connected ($36), the income taxed at the 30% or lower treaty rate. Since there is no line on Form 1040 for this computation, he reports the two amounts in the margin in the *Tax and Credits* area of Form 1040.

Sam reports the total amount of tax withheld ($2,700) from his wages on line 58, Form 1040. He includes in this amount the tax withheld at source ($36 from line 62a, Form 1040NR) on dividends paid to him while he was a nonresident alien. He also writes a brief explanation.

For information purposes, Sam also reports on line 55, Form 1040NR, the amount of tax withheld ($536) from wages earned while he was a nonresident alien.

Sam compares the total tax on line 57, Form 1040, to the total payments on line 65, to see if he has overpaid his tax or if he owes an additional amount. Since the amount of tax withheld and the amount of tax paid at source are more than his total tax, he has overpaid his tax. He subtracts the amount on line 57 from the amount on line 65 to figure his refund.

Sam checks to be sure that he has completed all parts of Form 1040 that apply to him. He also checks to see if he has completed the necessary parts of the Form 1040NR that he is attaching as a statement. He then signs and dates the return and enters his occupation.

Sam mails the return to the following address.

Internal Revenue Service Center
Philadelphia, PA 19255

Dual-Status RETURN

Form **1040** Department of the Treasury—Internal Revenue Service
U.S. Individual Income Tax Return **2000** IRS Use Only—Do not write or staple in this space.

For the year Jan. 1–Dec. 31, 2000, or other tax year beginning , 2000, ending , 20 OMB No. 1545-0074

Label

(See instructions on page 19.)

Use the IRS label. Otherwise, please print or type.

LABEL HERE

Your first name and initial: Sam R.	Last name: Brown	Your social security number: 000 : 00 : 0000
If a joint return, spouse's first name and initial	Last name	Spouse's social security number
Home address (number and street). If you have a P.O. box, see page 19.: 2617 Pewter Place	Apt. no.	**Important!** You **must** enter your SSN(s) above.
City, town or post office, state, and ZIP code. If you have a foreign address, see page 19.: Anytown, VA 22000		

Presidential Election Campaign (See page 19.)
Note. Checking "Yes" will not change your tax or reduce your refund.
Do you, or your spouse if filing a joint return, want $3 to go to this fund? You: [X] Yes [ ] No Spouse: [ ] Yes [ ] No

Filing Status

Check only one box.

1. [X] Single
2. [ ] Married filing joint return (even if only one had income)
3. [ ] Married filing separate return. Enter spouse's social security no. above and full name here. ▶
4. [ ] Head of household (with qualifying person). (See page 19.) If the qualifying person is a child but not your dependent, enter this child's name here. ▶
5. [ ] Qualifying widow(er) with dependent child (year spouse died ▶). (See page 19.)

Exemptions

6a [X] **Yourself.** If your parent (or someone else) can claim you as a dependent on his or her tax return, **do not** check box 6a — No. of boxes checked on 6a and 6b: 1

b [ ] **Spouse**

c **Dependents:**

(1) First name Last name	(2) Dependent's social security number	(3) Dependent's relationship to you	(4) ✓ if qualifying child for child tax credit (see page 20)
			[ ]
			[ ]
			[ ]
			[ ]
			[ ]
			[ ]

If more than six dependents, see page 20.

No. of your children on 6c who: • lived with you • did not live with you due to divorce or separation (see page 20) Dependents on 6c not entered above

d Total number of exemptions claimed — Add numbers entered on lines above ▶ 1

Income

Attach Forms W-2 and W-2G here. Also attach Form(s) 1099-R if tax was withheld.

If you did not get a W-2, see page 21.

Enclose, but do not attach, any payment. Also, please use **Form 1040-V.**

7	Wages, salaries, tips, etc. Attach Form(s) W-2	28,300
8a	**Taxable** interest. Attach Schedule B if required	395
b	**Tax-exempt** interest. **Do not** include on line 8a — 8b	
9	Ordinary dividends. Attach Schedule B if required	120
10	Taxable refunds, credits, or offsets of state and local income taxes (see page 22)	
11	Alimony received	
12	Business income or (loss). Attach Schedule C or C-EZ	
13	Capital gain or (loss). Attach Schedule D if required. If not required, check here ▶ [ ]	
14	Other gains or (losses). Attach Form 4797	
15a	Total IRA distributions 15a — b Taxable amount (see page 23) 15b	
16a	Total pensions and annuities 16a — b Taxable amount (see page 23) 16b	
17	Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E	
18	Farm income or (loss). Attach Schedule F	
19	Unemployment compensation	
20a	Social security benefits 20a — b Taxable amount (see page 25) 20b	
21	Other income. List type and amount (see page 25)	
22	Add the amounts in the far right column for lines 7 through 21. This is your **total income** ▶	28,815

Adjusted Gross Income

23	IRA deduction (see page 27)		
24	Student loan interest deduction (see page 27)		
25	Medical savings account deduction. Attach Form 8853		
26	Moving expenses. Attach Form 3903	8,300	
27	One-half of self-employment tax. Attach Schedule SE		
28	Self-employed health insurance deduction (see page 29)		
29	Self-employed SEP, SIMPLE, and qualified plans		
30	Penalty on early withdrawal of savings		
31a	Alimony paid b Recipient's SSN ▶		
32	Add lines 23 through 31a		8,300
33	Subtract line 32 from line 22. This is your **adjusted gross income** ▶		20,515

For Disclosure, Privacy Act, and Paperwork Reduction Act Notice, see page 56. Cat. No. 11320B Form **1040** (2000)

Form 1040 (2000) Page **2**

Tax and Credits

Standard Deduction for Most People
Single: $4,400
Head of household: $6,450
Married filing jointly or Qualifying widow(er): $7,350
Married filing separately: $3,675

Line 40 Tax from Table-- $2,516
Tax from Form 1040NR $36

34	Amount from line 33 (adjusted gross income)		20,515
35a	Check if: [ ] **You** were 65 or older, [ ] Blind; [ ] **Spouse** was 65 or older, [ ] Blind. Add the number of boxes checked above and enter the total here ▶ 35a		
b	If you are married filing separately and your spouse itemizes deductions, or you were a dual-status alien, see page 31 and check here ▶ 35b [ ]		
36	Enter your **itemized deductions** from Schedule A, line 28, **or standard deduction** shown on the left. **But** see page 31 to find your standard deduction if you checked any box on line 35a or 35b **or** if someone can claim you as a dependent		922
37	Subtract line 36 from line 34		19,593
38	If line 34 is $96,700 or less, multiply $2,800 by the total number of exemptions claimed on line 6d. If line 34 is over $96,700, see the worksheet on page 32 for the amount to enter		2,800
39	**Taxable income.** Subtract line 38 from line 37. If line 38 is more than line 37, enter -0-		16,793
40	**Tax** (see page 32). Check if any tax is from a [ ] Form(s) 8814 b [ ] Form 4972		2,552
41	Alternative minimum tax. Attach Form 6251		
42	Add lines 40 and 41 ▶		2,552
43	Foreign tax credit. Attach Form 1116 if required		
44	Credit for child and dependent care expenses. Attach Form 2441		
45	Credit for the elderly or the disabled. Attach Schedule R		
46	Education credits. Attach Form 8863		
47	Child tax credit (see page 36)		
48	Adoption credit. Attach Form 8839		
49	Other. Check if from a [ ] Form 3800 b [ ] Form 8396 c [ ] Form 8801 d [ ] Form (specify)		
50	Add lines 43 through 49. These are your **total credits**		
51	Subtract line 50 from line 42. If line 50 is more than line 42, enter -0- ▶		2,552

Other Taxes

52	Self-employment tax. Attach Schedule SE	
53	Social security and Medicare tax on tip income not reported to employer. Attach Form 4137	
54	Tax on IRAs, other retirement plans, and MSAs. Attach Form 5329 if required	
55	Advance earned income credit payments from Form(s) W-2	
56	Household employment taxes. Attach Schedule H	
57	Add lines 51 through 56. This is your **total tax** ▶	2,552

Payments

If you have a qualifying child, attach Schedule EIC.

58	Federal income tax withheld from Forms W-2 and 1099	2,736	
59	2000 estimated tax payments and amount applied from 1999 return		
60a	**Earned income credit (EIC)**		
b	Nontaxable earned income: amount ▶ and type ▶		
61	Excess social security and RRTA tax withheld (see page 50)		
62	Additional child tax credit. Attach Form 8812		
63	Amount paid with request for extension to file (see page 50)		
64	Other payments. Check if from a [ ] Form 2439 b [ ] Form 4136		
65	Add lines 58, 59, 60a, and 61 through 64. These are your **total payments** ▶		2,736

Line 58

Includes $36 from Form 1040NR

Refund

Have it directly deposited! See page 50 and fill in 67b, 67c, and 67d.

66	If line 65 is more than line 57, subtract line 57 from line 65. This is the amount you **overpaid**	184
67a	Amount of line 66 you want **refunded to you** ▶	184
▶ b	Routing number ▶ c Type: [ ] Checking [ ] Savings	
▶ d	Account number	
68	Amount of line 66 you want **applied to your 2001 estimated tax** ▶ 68	

Amount You Owe

69	If line 57 is more than line 65, subtract line 65 from line 57. This is the **amount you owe.** For details on how to pay, see page 51 ▶	
70	Estimated tax penalty. Also include on line 69 — 70	

Sign Here

Joint return? See page 19. Keep a copy for your records.

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Your signature	Date	Your occupation	Daytime phone number
Sam R. Brown	3-16-2001	R&D Specialist	( )
Spouse's signature. If a joint return, **both** must sign.	Date	Spouse's occupation	May the IRS discuss this return with the preparer shown below (see page 52)? [ ] Yes [ ] No

Paid Preparer's Use Only

Preparer's signature	Date	Check if self-employed [ ]	Preparer's SSN or PTIN
Firm's name (or yours if self-employed), address, and ZIP code		EIN	
		Phone no. ( )	

Form **1040** (2000)

Dual-Status STATEMENT

SCHEDULES A&B (Form 1040)

Department of the Treasury
Internal Revenue Service

Schedule A—Itemized Deductions

(Schedule B is on back)

▶ Attach to Form 1040. ▶ See Instructions for Schedules A and B (Form 1040).

OMB No. 1545-0074

2000

Attachment Sequence No. 07

Name(s) shown on Form 1040: Sam R. Brown

Your social security number: 000 00 0000

Medical and Dental Expenses		**Caution.** Do not include expenses reimbursed or paid by others.				
	1	Medical and dental expenses (see page A-2)	1			
	2	Enter amount from Form 1040, line 34 [2]				
	3	Multiply line 2 above by 7.5% (.075)	3			
	4	Subtract line 3 from line 1. If line 3 is more than line 1, enter -0-			4	
Taxes You Paid (See page A-2.)	5	State and local income taxes	5	612		
	6	Real estate taxes (see page A-2)	6			
	7	Personal property taxes	7			
	8	Other taxes. List type and amount ▶	8			
	9	Add lines 5 through 8			9	612
Interest You Paid (See page A-3.)	10	Home mortgage interest and points reported to you on Form 1098	10			
	11	Home mortgage interest not reported to you on Form 1098. If paid to the person from whom you bought the home, see page A-3 and show that person's name, identifying no., and address ▶	11			
Note. Personal interest is not deductible.	12	Points not reported to you on Form 1098. See page A-3 for special rules	12			
	13	Investment interest. Attach Form 4952 if required. (See page A-3.)	13			
	14	Add lines 10 through 13			14	
Gifts to Charity	15	Gifts by cash or check. If you made any gift of $250 or more, see page A-4	15	310		
If you made a gift and got a benefit for it, see page A-4.	16	Other than by cash or check. If any gift of $250 or more, see page A-4. You **must** attach Form 8283 if over $500	16			
	17	Carryover from prior year	17			
	18	Add lines 15 through 17			18	310
Casualty and Theft Losses	19	Casualty or theft loss(es). Attach Form 4684. (See page A-5.)			19	
Job Expenses and Most Other Miscellaneous Deductions	20	Unreimbursed employee expenses—job travel, union dues, job education, etc. You **must** attach Form 2106 or 2106-EZ if required. (See page A-5.) ▶	20			
	21	Tax preparation fees	21			
(See page A-5 for expenses to deduct here.)	22	Other expenses—investment, safe deposit box, etc. List type and amount ▶	22			
	23	Add lines 20 through 22	23			
	24	Enter amount from Form 1040, line 34 [24]				
	25	Multiply line 24 above by 2% (.02)	25			
	26	Subtract line 25 from line 23. If line 25 is more than line 23, enter -0-			26	
Other Miscellaneous Deductions	27	Other—from list on page A-6. List type and amount ▶			27	
Total Itemized Deductions	28	Is Form 1040, line 34, over $128,950 (over $64,475 if married filing separately)? ☐ **No.** Your deduction is not limited. Add the amounts in the far right column for lines 4 through 27. Also, enter this amount on Form 1040, line 36. ☐ **Yes.** Your deduction may be limited. See page A-6 for the amount to enter.			28	922

For Paperwork Reduction Act Notice, see Form 1040 instructions. Cat. No. 11330X **Schedule A (Form 1040) 2000**

Form **1040NR**

Department of the Treasury
Internal Revenue Service

U.S. Nonresident Alien Income Tax Return

For the year January 1–December 31, 2000, or other tax year beginning , 2000, and ending , 20

OMB No. 1545-0089

2000

Please print or type.

Your first name and initial	Last name	Identifying number (see page 5 of inst.)
Sam R.	Brown	000-00-0000

Present home address (number, street, and apt. no., or rural route). If you have a P.O. box, see page 5.: 2617 Pewter Place

Check if: ☒ Individual ☐ Estate or Trust

City, town or post office, state, and ZIP code. If you have a foreign address, see page 5.: Anytown, VA 22000

For Disclosure and Paperwork Reduction Act Notice, see page 18.

Country ▶ USA — Of what country were you a **citizen** or national during the tax year? ▶ United Kingdom

Give address **outside the United States** to which you want any refund check mailed. If same as above, write "Same.": N/A

Give address in the country where you are a **permanent resident.** If same as above, write "Same.": Same

Filing Status and Exemptions for Individuals (See page 6.)

Filing status. Check only one box (1–6 below).

	Filing status	7a Yourself	7b Spouse
1	☐ Single resident of Canada or Mexico, or a single U.S. national		
2	☐ Other single nonresident alien		
3	☐ Married resident of Canada or Mexico, or a married U.S. national — If you check box 7b, enter your spouse's		
4	☐ Married resident of Japan or the Republic of Korea — identifying number ▶		
5	☐ Other married nonresident alien		
6	☐ Qualifying widow(er) with dependent child (year spouse died ▶). (See page 6.)		

Caution: ***Do not*** *check box 7a if your parent (or someone else) can claim you as a dependent.* ***Do not*** *check box 7b if your spouse had any U.S. gross income.*

No. of boxes checked on 7a and 7b ▶

7c Dependents:* (1) First name	Last name	(2) Dependent's identifying number	(3) Dependent's relationship to you	(4)✓ if qualifying child for child tax credit (see page 6)
				☐
				☐
				☐
				☐
				☐

No. of your children on 7c who: *lived with you ▶ ; **did not live with you due to divorce or separation ▶ ; **Dependents on 7c not entered above ▶ ; Add numbers entered on lines above ▶

***Applies generally only to residents of Canada, Mexico, Japan, and the Republic of Korea and to U.S. nationals.** (See page 6.)

****Applies generally only to residents of Canada and Mexico and to U.S. nationals.** (See page 6.)

d Total number of exemptions claimed

Attach Forms W-2 and W-2G here. Also attach Form(s) 1099-R if tax was withheld.

Enclose, but do not attach, any payment.

Income Effectively Connected With U.S. Trade/Business

8	Wages, salaries, tips, etc. Attach Form(s) W-2			8	6,500
9a	**Taxable** interest			9a	
b	**Tax-exempt** interest. **Do not** include on line 9a	9b			
10	Ordinary dividends			10	
11	Taxable refunds, credits, or offsets of state and local income taxes (see page 7)			11	
12	Scholarship and fellowship grants. Attach explanation (see page 7)			12	
13	Business income or (loss). Attach Schedule C or C-EZ (Form 1040)			13	
14	Capital gain or (loss). Attach Schedule D (Form 1040) if required. If not required, check here ☐			14	
15	Other gains or (losses). Attach Form 4797			15	
16a	Total IRA distributions	16a		16b	
	16b Taxable amount (see page 7)				
17a	Total pensions and annuities	17a		17b	
	17b Taxable amount (see page 8)				
18	Rental real estate, royalties, partnerships, trusts, etc. Attach Schedule E (Form 1040)			18	
19	Farm income or (loss). Attach Schedule F (Form 1040)			19	
20	Unemployment compensation			20	
21	Other income. List type and amount (see page 9)			21	
22	Total income exempt by a treaty from page 5, Item M	22			
23	Add lines 8, 9a, 10–15, 16b, and 17b–21. This is your **total effectively connected income**			23	6,500

Adjusted Gross Income

24	IRA deduction (see page 9)	24			
25	Student loan interest deduction (see page 9)	25			
26	Medical savings account deduction. Attach Form 8853	26			
27	Moving expenses. Attach Form 3903	27			
28	Self-employed health insurance deduction (see page 10)	28			
29	Self-employed SEP, SIMPLE, and qualified plans	29			
30	Penalty on early withdrawal of savings	30			
31	Scholarship and fellowship grants excluded	31			
32	Add lines 24 through 31			32	-0-
33	Subtract line 32 from line 23. Enter here and on line 34. This is your **adjusted gross income**			33	

Cat. No. 11364D Form **1040NR** (2000)

Tax and Credits	34	Amount from line 33 (adjusted gross income)			34	
	35	**Itemized deductions** from page 3, Schedule A, line 17			35	195
	36	Subtract line 35 from line 34			36	
	37	Exemptions (see page 11)			37	
	38	**Taxable income.** Subtract line 37 from line 36. If line 37 is more than line 36, enter -0-			38	
	39	**Tax** (see page 11). Check if any tax is from **a** ☐ Form(s) 8814 **b** ☐ Form 4972			39	
	40	Alternative minimum tax. Attach Form 6251			40	
	41	Add lines 39 and 40			41	
	42	Foreign tax credit. Attach Form 1116 if required	42			
	43	Credit for child and dependent care expenses. Attach Form 2441	43			
	44	Child tax credit (see page 12)	44			
	45	Adoption credit. Attach Form 8839	45			
	46	Other. Check if from **a** ☐ Form 3800 **b** ☐ Form 8396 **c** ☐ Form 8801 **d** ☐ Form (specify) ______	46			
	47	Add lines 42 through 46. These are your **total credits**			47	
	48	Subtract line 47 from line 41. If line 47 is more than line 41, enter -0-			48	
Other Taxes	49	Tax on income not effectively connected with a U.S. trade or business from page 4, line 83			49	36
	50	Social security and Medicare tax on tip income not reported to employer. Attach Form 4137			50	
	51	Tax on IRAs, other retirement plans, and MSAs. Attach Form 5329 if required			51	
	52	Transportation tax (see page 13)			52	
	53	Household employment taxes. Attach Schedule H (Form 1040)			53	
	54	Add lines 48 through 53. This is your **total tax**			54	
Payments	55	Federal income tax withheld from Forms W-2, 1099, 1042-S, etc.	55	536		
	56	2000 estimated tax payments and amount applied from 1999 return	56			
	57	Excess social security and RRTA tax withheld (see page 13)	57			
	58	Additional child tax credit. Attach Form 8812	58			
	59	Amount paid with Form 4868 (request for extension)	59			
	60	Other payments. Check if from **a** ☐ Form 2439 **b** ☐ Form 4136	60			
	61	Credit for amount paid with Form 1040-C	61			
	62	U.S. tax withheld at source:				
	a	From page 4, line 80	62a	36		
	b	By partnerships under section 1446 (from Form(s) 8805 or 1042-S)	62b			
	63	U.S. tax withheld on dispositions of U.S. real property interests:				
	a	From Form(s) 8288-A	63a			
	b	From Form(s) 1042-S	63b			
	64	Add lines 55 through 63b. These are your **total payments**			64	572
Refund	65	If line 64 is more than line 54, subtract line 54 from line 64. This is the amount you **overpaid**			65	
	66a	Amount of line 65 you want **refunded to you.** If you want it directly deposited, see page 14 and fill in 66b, c, and d			66a	
	b	Routing number ☐☐☐☐☐☐☐☐☐ **c** Type: ☐ Checking ☐ Savings				
	d	Account number ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐				
	67	Amount of line 65 you want **applied to your 2001 estimated tax**	67			
Amount You Owe	68	If line 54 is more than line 64, subtract line 64 from line 54. This is the **amount you owe.** For details on how to pay, including what to write on your payment, see page 14			68	
	69	Estimated tax penalty. Also include on line 68	69			

Sign Here

Keep a copy of this return for your records.

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Your signature | Your occupation in the United States | Date | May the IRS discuss this return with the preparer shown below (see page 17)? ☐ Yes ☐ No

Paid Preparer's Use Only

Preparer's signature | Date | Check if self-employed ☐ | Preparer's SSN or PTIN

Firm's name (or yours if self-employed), address, and ZIP code | EIN | Phone no. ( )

Schedule A—Itemized Deductions (See pages 14, 15, and 16.)

07

State and Local Income Taxes	1	State income taxes	1	195		
	2	Local income taxes	2			
	3	Add lines 1 and 2			3	195
Gifts to U.S. Charities		**Caution:** *If you made a gift and received a benefit in return, see page 15.*				
	4	Gifts by cash or check. If you made any gift of $250 or more, see page 15	4			
	5	Other than by cash or check. If you made any gift of $250 or more, see page 15. You **must** attach Form 8283 if "the amount of your deduction" (see definition on page 15) is more than $500	5			
	6	Carryover from prior year	6			
	7	Add lines 4 through 6			7	
Casualty and Theft Losses	8	Casualty or theft loss(es). Attach Form 4684			8	
Job Expenses and Most Other Miscellaneous Deductions	9	Unreimbursed employee expenses—job travel, union dues, job education, etc. You **must** attach Form 2106 or Form 2106-EZ if required. See page 15 ________	9			
	10	Tax preparation fees	10			
	11	Other expenses. See page 16 for expenses to deduct here. List type and amount ▸ ________	11			
	12	Add lines 9 through 11	12			
	13	Enter the amount from Form 1040NR, line 34 [13]				
	14	Multiply line 13 by 2% (.02)	14			
	15	Subtract line 14 from line 12. If line 14 is more than line 12, enter -0-			15	
Other Miscellaneous Deductions	16	Other—certain expenses of disabled employees, estate tax on income of decedent, etc. List type and amount ▸ ________			16	
Total Itemized Deductions	17	Is Form 1040NR, line 34, over $128,950 (over $64,475 if you checked filing status box 3, 4, or 5 on page 1 of Form 1040NR)? **No.** Your deduction is not limited. Add the amounts in the far right column for lines 3 through 16. Also enter this amount on Form 1040NR, line 35. **Yes.** Your deduction may be limited. See page 16 for the amount to enter here and on Form 1040NR, line 35.			17	195

Other Information (If an item does not apply to you, enter "N/A.")

A What country issued your passport? United Kingdom

B Were you ever a U.S. citizen? ☐ Yes ☒ No

C Give the purpose of your visit to the United States ▶ Temporary assignment

D Type of entry visa and visa number H-1 and type of current visa and date of change ▶ Permanent

E Date you first entered the United States ▶ 3-18-00

F Did you give up your permanent residence as an immigrant in the United States this year? ☐ Yes ☐ No

G Dates you entered and left the United States during the year. Residents of Canada or Mexico entering and leaving the United States at frequent intervals, give name of country only. ▶ Entered -- March 18, 2000 Departed -- May 25, 2000 Entered -- Sept. 10, 2000

H Give number of days (including vacation and nonwork days) you were present in the United States during: 1998 0, 1999 0, and 2000 182

I If you are a resident of Canada, Mexico, Japan, or the Republic of Korea, or a U.S. national, did your spouse contribute to the support of any child claimed on Form 1040NR, line 7c? ☐ Yes ☐ No

If "Yes," enter amount ▶ $ N/A

If you were a resident of Japan or the Republic of Korea for any part of the tax year, enter in the space below your total foreign source income not effectively connected with a U.S. trade or business. This information is needed so that the exemption for your spouse and dependents residing in the United States (if applicable) may be allowed in accordance with Article 4 of the income tax treaties between the United States and Japan or the United States and the Republic of Korea.

Total foreign source income not effectively connected with a U.S. trade or business ▶ N/A

J Did you file a U.S. income tax return for any year before 2000? ☐ Yes ☒ No

If "Yes," give the latest year and form number ▶

K To which Internal Revenue office did you pay any amounts claimed on Form 1040NR, lines 56, 59, and 61? N/A

L Have you excluded any gross income other than foreign source income not effectively connected with a U.S. trade or business? ☒ Yes ☐ No

If "Yes," show the amount, nature, and source of the excluded income. Also, give the reason it was excluded. (Do not include amounts shown in item M.) ▶ $93 U.S. bank interest not effectively connected with a U.S. trade or business

M If you are claiming the benefits of a U.S. income tax treaty with a foreign country, give the following information. See page 17 for additional information.

- Country ▶ United Kingdom
- Type and amount of effectively connected income exempt from tax. Also, identify the applicable tax treaty article. Do not enter exempt income on lines 8–15, 16b, and 17b–21 of Form 1040NR:

For 2000 (also, include this exempt income on line 22 of Form 1040NR) ▶

For 1999 ▶

- Type and amount of income not effectively connected that is exempt from or subject to a reduced rate of tax. Also, identify the applicable tax treaty article:

For 2000 ▶ Additional income of $240 taxed at 15% under Article 10

For 1999 ▶ N/A

- Were you subject to tax in that country on any of the income you claim is entitled to the treaty benefits? ☒ Yes ☐ No
- Did you have a permanent establishment or fixed base (as defined by the tax treaty) in the United States at any time during 2000? ☐ Yes ☒ No

N If you file this return to report community income, give your spouse's name, address, and identifying number. N/A

O If you file this return for a trust, does the trust have a U.S. business? ☐ Yes ☐ No

If "Yes," give name and address ▶ N/A

P Is this an "expatriation return" (see page 17)? ☐ Yes ☒ No

If "Yes," you must attach Form 8854 **or** attach an explanation as to why you are not submitting that form.

Q During 2000, did you apply for, or take other affirmative steps to apply for, lawful permanent resident status in the United States or have an application pending to adjust your status to that of a lawful permanent resident of the United States? ☒ Yes ☐ No

If "Yes," explain ▶ Permanent resident status granted

Form **1040NR** (2000)

Tax on Income Not Effectively Connected With a U.S. Trade or Business

Attach Forms 1042-S, SSA-1042S, RRB-1042S, 1001 or similar form.

Nature of income		(a) U.S. tax withheld at source	(b) 10%	(c) 15%	(d) 30%	(e) Other (specify) ___%	(e) Other (specify) ___%
70 Dividends paid by:							
a U.S. corporations	70a	36		240			
b Foreign corporations	70b						
71 Interest:							
a Mortgage	71a						
b Paid by foreign corporations	71b						
c Other	71c						
72 Industrial royalties (patents, trademarks, etc.)	72						
73 Motion picture or T.V. copyright royalties	73						
74 Other royalties (copyrights, recording, publishing, etc.)	74						
75 Real property income and natural resources royalties	75						
76 Pensions and annuities	76						
77 Social security benefits	77						
78 Gains (include capital gain from line 86 below)	78						
79 Other (specify) ▶	79						
80 **Total U.S. tax withheld at source.** Add column (a) of lines 70a through 79. Enter the total here and on Form 1040NR, line 62a ▶	80	36					
81 Add lines 70a through 79 in columns (b)–(e)	81			240			
82 **Multiply line 81 by rate of tax at top of each column**	82			36			

83 **Tax on income not effectively connected with a U.S. trade or business.** Add columns (b)–(e) of line 82. Enter the total here and on Form 1040NR, line 49 ▶ **83** 36

Capital Gains and Losses From Sales or Exchanges of Property

Enter only the capital gains and losses from property sales or exchanges that are from sources within the United States and not effectively connected with a U.S. business. Do not include a gain or loss on disposing of a U.S. real property interest; report these gains and losses on Schedule D (Form 1040).

84 (a) Kind of property and description (if necessary, attach statement of descriptive details not shown below)	(b) Date acquired (mo., day, yr.)	(c) Date sold (mo., day, yr.)	(d) Sales price	(e) Cost or other basis	(f) LOSS If (e) is more than (d), subtract (d) from (e)	(g) GAIN If (d) is more than (e), subtract (e) from (d)

Report property sales or exchanges that are effectively connected with a U.S. business on Schedule D (Form 1040), Form 4797, or both.

85 Add columns (f) and (g) of line 84 **85** ( )

86 **Capital gain.** Combine columns (f) and (g) of line 85. Enter the net gain here and on line 78 above (if a loss, enter -0-) ▶ **86**

Form **1040NR** (2000)

7.

What, When, and Where To File

Introduction

What return you must file, as well as when and where you file that return, depends on your status at the end of the tax year as a resident or a nonresident alien.

Topics

This chapter discusses:

- Forms aliens must file,
- When and where to file,
- Amended returns and claims for refund, and
- Transportation of currency or monetary instruments.

Useful Items

You may want to see:

Forms (and Instructions)

☐ **1040** U.S. Individual Income Tax Return,

☐ **1040A** U.S. Individual Income Tax Return

☐ **1040EZ** Income Tax Return for Single and Joint Filers With No Dependents

☐ **1040NR** U.S. Nonresident Alien Income Tax Return

☐ **1040NR–EZ** U.S. Income Tax Return for Certain Nonresident Aliens With No Dependents

See chapter 12 for information about getting these forms.

Resident Aliens

Resident aliens should file Form 1040EZ, 1040A, or 1040 at the address shown in the instructions for that form. The due date for filing the return and paying any tax due is April 15 of the year following the year for which you are filing a return (but see the *TIP*, below).

You are allowed an automatic extension to June 15 to file if your main place of business and the home you live in are outside the United States and Puerto Rico on April 15. You can get an extension of time to August 15 to file your return if you get an extension by April 15 (June 15 if you qualify for the June 15 extension). See the instructions for the form you are filing for more information.

TIP *If the due date for filing falls on a Saturday, Sunday, or legal holiday, the due date is the next day which is not a Saturday, Sunday, or legal holiday.*

You may be able to file your return electronically. See **IRS *e-file*** *in your form instructions.*

Nonresident Aliens

Nonresident aliens who are required to file an income tax return should use Form 1040NR or, if qualified, Form 1040NR–EZ.

If you are any of the following, you must file a return.

1) A nonresident alien individual engaged or considered to be engaged in a trade or business in the United States during 2000.

   You must file even if:

   a) Your income did not come from a trade or business conducted in the United States,

   b) You have no income from U.S. sources, or

   c) Your income is exempt from income tax.

2) A nonresident alien individual not engaged in a trade or business in the United States with U.S. income on which the tax liability was not satisfied by the withholding of tax at the source.

3) A representative or agent responsible for filing the return of an individual described in (1) or (2).

4) A fiduciary for a nonresident alien estate or trust.

Note. If you were a nonresident alien student or trainee who was temporarily present in the United States under an “F,” “J,” “M,” or “Q” visa, you are considered engaged in a trade or business in the United States. You must file Form 1040NR (or Form 1040NR–EZ) only if you have income that is subject to tax, such as wages, tips, scholarship and fellowship grants, dividends, etc.

You must also file if you want to:

1) Claim a refund of overwithheld or overpaid tax, or

2) Claim the benefit of any deductions or credits. For example, if you have no U.S. business activities but have income from real property that you choose to treat as effectively connected income (discussed in chapter 4), you must timely file a true and accurate return to take any allowable deductions against that income. For information on what is timely, see *When to file for deductions and credits* under *When and Where To File,* later.

CAUTION *Even if you have left the United States and filed a Form 1040–C,* U.S. Departing Alien Income Tax Return*, on departure, you still must file an annual U.S. income tax return. If you are married and both you and your spouse are required to file, you must each file a* ***separate*** *return.*

Form 1040NR–EZ

You can use Form 1040NR–EZ if ***all*** of the following conditions are met.

1) You do not claim any dependents.

2) You cannot be claimed as a dependent on someone else's return.

3) If you were married, you cannot claim an exemption for your spouse.

4) Your taxable income is less than $50,000.

5) You do not claim any itemized deductions (other than for state and local income taxes).

6) You had only wages, salaries, tips, taxable refunds of state and local income taxes, and scholarship or fellowship grants. (If you had taxable interest or dividend income, you cannot use this form.)

7) You are not claiming any adjustments to income other than the student loan interest deduction or scholarship and fellowship grants excluded.

8) You are not claiming any credits.

9) The only taxes you owe are:

   a) The income tax from the Tax Table.

   b) The social security and Medicare tax on tip income not reported to your employer.

   c) The household employment taxes.

If you do not qualify to file Form 1040NR–EZ, you must file Form 1040NR.

When and Where To File

If you are an employee and you receive wages subject to U.S. income tax withholding, you will generally file by the 15th day of the 4th month after your tax year ends. If you file for the 2000 calendar year, your return is due April 16, 2001, because April 15, 2001, falls on a Sunday.

If you are not an employee who receives wages subject to U.S. income tax withholding, you must file by the 15th day of the 6th month after your tax year ends. For the 2000 calendar year, file your return by June 15, 2001. For information on when and where to make estimated tax payments, see chapter 8.

File Form 1040NR–EZ and Form 1040NR at the following address.

Internal Revenue Service Center
Philadelphia, PA 19255

When to file for deductions and credits. To get the benefit of any allowable deductions or credits, you must timely file a true and accurate return. For this purpose, a return is timely if it is filed within 16 months of the due date just discussed. However, if you did not file a 1999 tax return and 2000 is not the first year for which you are required to file one, your 2000 return is timely for this purpose if it is filed by the earlier of:

1) The date that is 16 months after the due date for filing your 2000 return, or

2) The date the IRS notifies you that your 2000 return has not been filed and that

you cannot claim certain deductions and credits.

The allowance of the following credits is not affected by this time requirement.

1) Credit for withheld taxes.
2) Credit for excise tax on certain uses of gasoline and special fuels.
3) Credit for tax paid by a regulated investment company on undistributed capital gains.

Protective return. If your activities in the United States were limited and you do not believe that you had any gross income effectively connected with a U.S. trade or business during the year, you can file a protective return (Form 1040NR) by the deadline explained above. By filing a protective return, you protect your right to receive the benefit of deductions and credits in the event it is later determined that some or all of your income is effectively connected. You are not required to report any effectively connected income or any deductions on the protective return, but you must give the reason the return is being filed.

If you believe some of your activities resulted in effectively connected income, file your return reporting that income and related deductions by the regular due date. To protect your right to claim deductions or credits resulting from other activities, attach a statement to that return explaining that you wish to protect your right to claim deductions and credits if it is later determined that the other activities produced effectively connected income.

You can follow the same procedure if you believe you have no U.S. tax liability because of a U.S. tax treaty. Be sure to also complete items L and M on page 5 of Form 1040NR.

Aliens from the Virgin Islands.

If you are a bona fide resident of the Virgin Islands on the last day of your tax year and work temporarily in the United States, you must pay your income taxes to the Virgin Islands and file your income tax returns at the following address.

Virgin Islands Bureau of Internal Revenue
9601 Estate Thomas
Charlotte Amalie, St. Thomas
U.S. Virgin Islands 00802

Report all income from U.S. sources, as well as income from other sources, on your return. For information on filing Virgin Islands returns, contact the Virgin Islands Bureau of Internal Revenue.

Chapter 8 discusses withholding from U.S. wages of Virgin Islanders.

Aliens from Guam or the Commonwealth of the Northern Mariana Islands. If you are a resident of Guam or the Commonwealth of the Northern Mariana Islands (CNMI) on the last day of your tax year, you must file your return and pay any tax due to Guam or the CNMI. Report all income, including income from U.S. sources, on your return. It is not necessary to file a separate U.S. income tax return.

Guam residents should file their Guam returns at the following address.

Department of Revenue and Taxation
Government of Guam
P.O. Box 23607
GMF, GU 96921

Residents of the CNMI should file their CNMI income tax returns at the following address.

Division of Revenue and Taxation
Commonwealth of the Northern Mariana Islands
P.O. Box 5234 CHRB
Saipan, MP 96950

If you are a resident of the United States on the last day of your tax year, you should file your return with the Internal Revenue Service Center, Philadelphia, PA 19255. Include with your return any balance of your tax due on income derived from all sources.

Penalties. The law imposes penalties for filing your tax return late or for late payment of any tax due. However, a penalty is not charged if you can show that there was reasonable cause for your filing or paying late.

You may be subject to additional penalties for:

1) Not supplying a taxpayer identification number when required,
2) Filing a frivolous income tax return, or
3) Not including a tax shelter identification number on a return when required.

Amended Returns and Claims for Refund

If you find changes in your income, deductions, or credits after you mail your return, file Form 1040X, *Amended U.S. Individual Income Tax Return.* Attach Form 1040NR or Form 1040NR–EZ showing the changes to your original return and write “Amended” across the top. Ordinarily, an amended return claiming a refund must be filed within 3 years from the date your return was filed or within 2 years from the time the tax was paid, whichever is later. A return filed before the final due date is considered to have been filed on the due date.

Transportation of Currency or Monetary Instruments

Customs Form 4790, *Report of International Transportation of Currency or Monetary Instruments,* must be filed by each person who physically transports, mails, or ships, or causes or attempts to cause to be physically transported, mailed, or shipped, currency or other monetary instruments in a total amount of more than $10,000 at one time from the United States to any place outside the United States, or into the United States from any place outside the United States. The filing requirement also applies to each person who receives in the United States currency or monetary instruments totaling more than $10,000 at one time from any place outside of the United States.

The term “monetary instruments” means the following:

- Coin and currency of the United States or of any other country,
- Travelers' checks in any form,
- Money orders,
- Investment securities in bearer form or otherwise in such form that title to them passes upon delivery,
- Negotiable instruments in bearer form or otherwise in such form that title to them passes upon delivery, and
- Bank checks, promissory notes, and money orders which are signed but on which the name of the payee has been omitted.

However, the term does not include bank checks, travelers' checks, or money orders made payable to the order of a named person which have not been endorsed or which contain restrictive endorsements, warehouse receipts, or bills of lading.

A transfer of funds through normal banking procedures (wire transfer) that does not involve the physical transportation of currency or bearer monetary instruments is not required to be reported on Customs Form 4790.

Filing requirements. Customs Form 4790 filing requirements follow.

Recipients. Each person who receives currency or other monetary instruments from a place outside the United States must file Customs Form 4790 within 15 days after receipt, with the Customs officer in charge at any port of entry or departure, or by mail to the following address.

Commissioner of Customs
Attention: Currency Transportation Reports
Washington, DC 20229

Shippers or mailers. If the currency or other monetary instrument does not accompany the person entering or departing the United States, Customs Form 4790 can be filed by mail with the Commissioner of Customs at the above address, on or before the date of entry, departure, mailing, or shipping.

Travelers. Travelers must file Customs Form 4790 with the Customs officer in charge at any Customs port of entry or departure, when entering or departing the United States.

Penalties. Civil and criminal penalties are provided for failing to file a report, filing a report containing material omissions or misstatements, or filing a false or fraudulent report. Also, the entire amount of the currency or monetary instrument may be subject to seizure and forfeiture.

More information regarding the filing of Customs Form 4790 can be found in the instructions on the back of the form.

8.

Paying Tax Through Withholding or Estimated Tax

Important Change

New forms. You may be asked to give withholding agents new withholding certificates that contain the necessary information and representations required by new IRS regulations relating to withholding of income tax on certain U.S. source income paid to foreign persons. For information, see *Important Changes* at the beginning of this publication.

Introduction

This chapter discusses how to pay your U.S. income tax as you earn or receive income during the year. In general, the federal income tax is a pay as you go tax. There are two ways to pay as you go.

1) **Withholding.** If you are an employee, your employer probably withholds income tax from your pay. Tax may also be withheld from certain other income—including pensions, bonuses, commissions, and gambling winnings. In each case, the amount withheld is paid to the U.S. Treasury in your name.

2) **Estimated tax.** If you do not pay your tax through withholding, or do not pay enough tax that way, you might have to pay estimated tax. People who are in business for themselves generally will have to pay their tax this way. You may have to pay estimated tax if you receive income such as dividends, interest, rent, and royalties. Estimated tax is used to pay not only income tax, but self-employment tax and alternative minimum tax as well.

Topics

This chapter discusses:

- How to notify your employer of your alien status,
- Income subject to withholding of income tax,
- Exemptions from withholding,
- Social security and Medicare taxes, and
- Estimated tax rules.

Useful Items

You may want to see:

Publication

- ☐ **515** Withholding of Tax on Nonresident Aliens and Foreign Corporations
- ☐ **533** Self-Employment Tax
- ☐ **901** U.S. Tax Treaties

Form (and Instructions)

- ☐ **W–4** Employee's Withholding Allowance Certificate
- ☐ **W–8BEN** Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding
- ☐ **W–8ECI** Certificate of Foreign Person's Claim for Exemption From Withholding on Income Effectively Connected With the Conduct of a Trade or Business in the United States
- ☐ **W–9** Request for Taxpayer Identification Number and Certification
- ☐ **1040–ES(NR)** U.S. Estimated Tax for Nonresident Alien Individuals
- ☐ **8233** Exemption From Withholding on Compensation for Independent (and Certain Dependent) Personal Services of a Nonresident Alien Individual
- ☐ **8288–B** Application for Withholding Certificate for Dispositions by Foreign Persons of U.S. Real Property Interests

See chapter 12 for information about getting these publications and forms.

Notification of Alien Status

You must let your employer know whether you are a resident or a nonresident alien so your employer can withhold the correct amount of tax from your wages.

If you are a resident alien under the rules discussed in chapter 1, you may file Form W–9 or a similar statement with your employer. If you are a nonresident alien under those rules, you must furnish to your employer Form 8233 or Form W-8BEN, establishing that your compensation is exempt from withholding, or Form W–4, establishing that your compensation is subject to graduated withholding at the same rates as resident aliens or U.S. citizens.

If you are a resident alien and you receive income other than wages (such as dividends and royalties) from sources within the United States, you may file Form W–9 or similar statement with the withholding agent (generally, the payer of the income) so the agent will not withhold tax on the income at the 30% (or lower treaty) rate. If you receive this type of income as a nonresident alien, it is usually subject to withholding at the 30% (or lower treaty) rate.

Withholding From Compensation

The following discussion generally applies only to nonresident aliens. Tax is withheld from resident aliens in the same manner as U.S. citizens.

Wages and other compensation paid to a nonresident alien for services performed as an employee are usually subject to graduated withholding at the same rates as resident aliens and U.S. citizens. Therefore, your compensation, unless it is specifically excluded from the term “wages” by law, or is exempt from tax by treaty, is subject to graduated withholding.

Withholding on Wages

If you are an employee and you receive wages subject to graduated withholding, you will be required to fill out a Form W–4. Nonresident aliens should use the following instructions instead of the instructions on the Form W–4.

Because of the restrictions on a nonresident alien's filing status, the limited number of personal exemptions a nonresident alien is allowed, and because a nonresident alien cannot claim the standard deduction, you should fill out Form W–4 following these instructions.

1) Check only “Single” marital status on line 3 (regardless of your actual marital status).

2) Claim only one allowance on line 5, unless you are a resident of Canada, Mexico, Japan, or South Korea, or a U.S. national.

3) Request that your employer withhold an additional amount of $7.60 per week on line 6. If your wages are paid based on a 2-week pay period, the additional amount will be $15.30. For other payroll periods, ask your employer for the amount to enter.

4) Do ***not*** claim “Exempt” withholding status on line 7.

A ***U.S. national*** is an individual who, although not a U.S. citizen, owes his or her allegiance to the United States. U.S. nationals include American Samoans, and Northern Mariana Islanders who chose to become U.S. nationals instead of U.S. citizens.

See *Reduced Withholding on Scholarships and Fellowship Grants,* later, for how to fill out Form W–4 if you receive a U.S. source scholarship or fellowship grant.

Students and business apprentices from India. If you are eligible for the benefits of Article 21(2) of the United States–India Income Tax Treaty, you may claim additional withholding allowances for the standard deduction and your spouse. You may also claim an additional withholding allowance for each of your dependents not admitted to the United States on “F–2,” “J–2,” or “M–2” visas if they meet the same rules that apply to U.S. citizens. You do not have to request additional withholding on line 6.

Withholding on Pensions

If you receive a pension after 2000 as a result of personal services performed in the United States, the pension income is subject to the 30% (or lower treaty) rate of withholding. You may, however, have tax withheld at graduated rates on the portion of the pension that arises from the performance of services in the United States after December 31, 1986. You must fill out Form W–8ECI and give it to the withholding agent or payer before the income is paid or credited to you.

Withholding on Tip Income

Tips you receive during the year for services performed in the United States are subject to U.S. income tax. Include them in taxable income. In addition, tips received while working for one employer, amounting to $20 or more in a month, are subject to graduated withholding.

Independent Contractors

If there is no employee-employer relationship between you and the person for whom you perform services, your compensation is subject to the 30% (or lower treaty) rate of withholding. However, if you are engaged in a trade or business in the United States during the tax year, your compensation for personal services as an independent contractor (independent personal services) may be entirely or partly exempt from withholding if you reach an agreement with the Internal Revenue Service on the amount of withholding required. Also, the final payment to you during the tax year for independent personal services may be entirely or partly exempt from withholding if you are engaged in a trade or business in the United States during the year and you file the forms and provide the information required by the IRS.

Withholding Agreement

An agreement that you reach with the IRS regarding withholding from your compensation for independent personal services is effective for payments covered by the agreement after it is agreed to by all parties. You must agree to timely file an income tax return for the current tax year.

Central withholding agreements. If you are a nonresident alien entertainer or athlete performing or participating in athletic events in the United States, you may be able to enter into a withholding agreement with the IRS for reduced withholding provided certain requirements are met. Under no circumstances will such a withholding agreement reduce taxes withheld to less than the anticipated amount of income tax liability.

Nonresident alien entertainers or athletes requesting a central withholding agreement must submit the following information.

1) A list of the names and addresses of the nonresident aliens to be covered by the agreement.
2) Copies of all contracts that the aliens or their agents and representatives have entered into regarding the time period and performances or events to be covered by the agreement including, but not limited to, contracts with:
   a) Employers, agents, and promoters,
   b) Exhibition halls,
   c) Persons providing lodging, transportation, and advertising, and
   d) Accompanying personnel, such as band members or trainers.
3) An itinerary of dates and locations of all events or performances scheduled during the period to be covered by the agreement.
4) A proposed budget containing itemized estimates of all gross income and expenses for the period covered by the agreement, including any documents to support these estimates.
5) The name, address, and telephone number of the person the IRS should contact if additional information or documentation is needed.
6) The name, address, and employer identification number of the agent or agents who will be the central withholding agents for the aliens and who will enter into a contract with the IRS. A central withholding agent ordinarily receives contract payments, keeps books of account for the aliens covered by the agreement, and pays expenses (including tax liabilities) for the aliens during the period covered by the agreement.

When the IRS approves the estimated budget and the designated central withholding agents, the Associate Chief Counsel (International) will prepare a withholding agreement. The agreement must be signed by each withholding agent, each nonresident alien covered by the agreement, and the Commissioner of the Internal Revenue Service.

Generally, each withholding agent must agree to withhold income tax from payments made to the nonresident alien, to pay over the withheld tax to the IRS on the dates and in the amounts specified in the agreement, and to have the IRS apply the payments of withheld tax to the withholding agent's Form 1042 account. Each withholding agent will be required to file Form 1042 and Form 1042–S for each tax year in which income is paid to a nonresident alien covered by the withholding agreement. The IRS will credit the withheld tax payments, posted to the withholding agent's Form 1042 account, in accordance with the Form 1042–S. Each nonresident alien covered by the withholding agreement must agree to file Form 1040NR or Form 1040NR–EZ.

A request for a central withholding agreement should be sent to the following address at least 90 days before the agreement is to take effect.

Internal Revenue Service
Compliance Area Director, Area 15
950 L'Enfant Plaza South, S.W. S:C:15
Washington, DC 20024

Final payment exemption. Your final payment of compensation during the tax year for independent personal services may be entirely or partly exempt from withholding. This exemption is available only once during your tax year and applies to a maximum of $5,000 of compensation. To obtain this exemption, you or your agent must give the following statements and information to the Commissioner.

1) A statement by each withholding agent from whom you have received gross income effectively connected with a trade or business in the United States during the tax year, showing the amount of income paid and the tax withheld. Each statement must be signed by the withholding agent and verified by a declaration that it is made under penalties of perjury.
2) A statement by the withholding agent from whom you expect to receive the final payment of compensation, showing the amount of the payment and the amount of tax that would be withheld if a final payment exemption were not granted. This statement must also be signed by the withholding agent and verified by a declaration that it is made under penalties of perjury.
3) A statement by you that you do not intend to receive any other income effectively connected with a trade or business in the United States during the current tax year.
4) The amount of tax that has been withheld or paid under any other provision of the Internal Revenue Code or regulations for any income effectively connected with your trade or business in the United States during the current tax year.
5) The amount of your outstanding tax liabilities, if any, including interest and penalties, from the current tax year or prior tax periods.
6) Any provision of an income tax treaty under which a partial or complete exemption from withholding may be claimed, the country of your residence, and a statement of sufficient facts to justify an exemption under the treaty.
7) A statement signed by you, and verified by a declaration that it is made under penalties of perjury, that all the information given is true and that to your knowledge no relevant information has been omitted.

If satisfied with the information, the IRS will determine the amount of your tentative income tax for the tax year on gross income effectively connected with your trade or business in the United States. Ordinary and necessary business expenses can be taken into account if proven to the satisfaction of the Commissioner.

The Commissioner will send you a letter, directed to the withholding agent, showing the amount of the final payment of compensation that is exempt from withholding and the amount that can be paid to you because of the exemption. You must give two copies of the letter to the withholding agent and must also attach a copy of the letter to your income tax return for the tax year for which the exemption is effective.

Allowance for Personal Exemption

Withholding on payments for independent personal services is generally based on the amount of your compensation payment minus the value of ***one*** exemption ($2,900 for 2001).

To determine the income for independent personal services performed in the United

States to which the 30% (or lower treaty) rate will apply, you are allowed one personal exemption if you are ***not*** a U.S. national and are ***not*** a resident of Canada, Mexico, Japan, or South Korea. For purposes of 30% withholding, the exemption is prorated at $7.95 a day in 2001 for the period that labor or personal services are performed in the United States. To claim an exemption from withholding on the personal exemption amount, fill out the applicable parts of Form 8233 and give it to the withholding agent.

Example. Eric Schmidt, who is a resident of Germany, worked under a contract with a U.S. firm (not as an employee) in the United States for 100 days during 2001 before returning to his country. He earned $6,000 for the services performed (not considered wages) in the United States. Eric is married and has three dependent children. His wife is not employed and has no income subject to U.S. tax. The amount of the personal exemption to be allowed against the income for his personal services performed within the United States in 2001 is $795 (100 days × $7.95), and withholding at 30% is applied against the balance. Thus, $1,561.50 in tax is withheld from Eric's earnings (30% of $5,205 ($6,000 – $795)).

U.S. nationals or residents of Canada, Mexico, Japan, or South Korea. If you are a nonresident alien who is a resident of Canada, Mexico, Japan, or South Korea, or who is a national of the United States, you are subject to the same 30% withholding on your compensation for independent personal services performed in the United States. However, if you are a U.S. national or a resident of Canada or Mexico, you are allowed the same personal exemptions as U.S. citizens. For the 30% (or lower treaty rate) withholding, you can take $7.95 per day for each allowable exemption in 2001. If you are a resident of Japan or Korea, you are allowed personal exemptions for yourself and for your spouse and children who live with you in the United States at any time during the tax year. However, the additional exemptions for your spouse and children must be further prorated as explained in chapter 5 under *Exemptions.*

Students and business apprentices from India. If you are eligible for the benefits of Article 21(2) of the United States–India Income Tax Treaty, you are allowed an exemption for your spouse only if your spouse has no gross income. You are also allowed an exemption for each dependent not admitted to the United States on “F–2,” “J–2,” or “M–2” visas if they meet the same rules that apply to U.S. citizens. For the 30% (or lower treaty rate) withholding on compensation for independent personal services performed in the United States, you are allowed $7.95 per day for each allowable exemption in 2001.

Residents of Canada or Mexico Engaged in Transportation-Related Employment

Certain residents of Canada or Mexico who enter or leave the United States at frequent intervals are not subject to withholding on their wages. These persons either:

1) Perform duties in transportation service between the United States and Canada or Mexico, or
2) Perform duties connected to the construction, maintenance, or operation of a waterway, viaduct, dam, or bridge crossed by, or crossing, the boundary between the United States and Canada or the boundary between the United States and Mexico.

CAUTION *This employment is subject to withholding of social security and Medicare taxes unless the services are performed for a railroad.*

To qualify for the exemption from withholding during a tax year, a Canadian or Mexican resident must give the employer a statement in duplicate with name, address, and identification number, certifying that the resident:

1) Is not a U.S. citizen or resident,
2) Is a resident of Canada or Mexico, whichever applies, and
3) Expects to perform duties previously described during the tax year in question.

The statement can be in any form, but it must be dated and signed by the employee and must include a written declaration that it is made under the penalties of perjury.

Certain Residents of Puerto Rico

If you are a nonresident alien employee who is a resident of Puerto Rico, wages for services performed in Puerto Rico are generally not subject to withholding unless you are an employee of the United States or any of its agencies in Puerto Rico.

Residents of the U.S. Virgin Islands

Nonresident aliens who are bona fide residents of the Virgin Islands are not subject to withholding of U.S. tax on income earned while temporarily employed in the United States. This is because those persons pay their income tax to the Virgin Islands. To avoid having tax withheld on income earned in the United States, bona fide residents of the Virgin Islands should write a letter, in duplicate, to their employers, stating that they are bona fide residents of the Virgin Islands and expect to pay tax on all income to the Virgin Islands.

Withholding From Other Income

Other income subject to 30% withholding generally includes fixed or determinable income such as interest (other than portfolio interest), dividends, pensions and annuities, and gains from certain sales and exchanges, discussed in chapter 4. It also includes 85% of social security benefits paid to nonresident aliens.

Income (other than compensation) that is effectively connected with your U.S. trade or business is not subject to withholding at the 30% (or lower treaty) rate. You must file Form W–8ECI with the payer of the income.

CAUTION *Form 4224 (used in prior years) is no longer valid. See* Important Changes *in the front of this publication.*

Special rules for withholding on partnership income, scholarships, and fellowships are explained next.

Tax Withheld on Partnership Income

If you are a foreign partner in a U.S. or foreign partnership, the partnership will withhold tax on your share of effectively connected taxable income from the partnership. The partnership will give you a statement on Form 8805, *Foreign Partner's Information Statement of Section 1446 Withholding Tax,* showing the tax withheld. A partnership that is publicly traded may withhold on your actual distributions of effectively connected income. In this case the partnership will give you a statement on Form 1042–S, *Foreign Person's U.S. Source Income Subject to Withholding.* In either case, the withholding rate is 39.6%. Claim the tax withheld as a credit on line 62b of Form 1040NR.

If you are a foreign partner responsible for withholding, see *Partnership Withholding on Effectively Connected Income* in Publication 515.

Reduced Withholding on Scholarships and Fellowship Grants

There is no withholding on a ***qualified scholarship*** received by a candidate for a degree. See chapter 3.

If you are a nonresident alien student or grantee with an “F,” “J,” “M,” or “Q” visa and you receive a U.S. source grant or scholarship that is not fully exempt, the withholding agent (usually the payer of the scholarship) withholds tax at 14% (or lower treaty rate) of the taxable part of the grant or scholarship. However, if you are not a candidate for a degree and the grant does not meet certain requirements, tax will be withheld at the 30% (or lower treaty) rate.

You may be entitled to reduce withholding on the taxable part of your grant or scholarship if the withholding agent chooses to withhold under an alternative withholding procedure. (This alternative withholding procedure is not mandatory, and the withholding agent does not have to use it.) Your withholding agent chooses this alternative procedure by asking you to fill out Form W–4 and the *Personal Allowances Worksheet* (attached to Form W–4). Use the following instructions instead of the Form W–4 instructions to complete the worksheet.

Line A. Enter the total of the following amounts on line A.

Personal exemption. Include the prorated part of your allowable personal exemption. Figure the amount by multiplying the number of days you expect to be in the United States in 2001 by the daily exemption amount ($7.95).

Expenses. Include expenses that will be deductible on your return. These include away-from-home expenses (meals, lodging, and transportation), certain state and local income taxes, charitable contributions, and casualty losses, discussed earlier under *Itemized Deductions* in chapter 5. They also include business expenses, moving expenses, and the IRA deduction discussed under *Deductions* in chapter 5.

The amount of away-from-home expenses should be the anticipated actual amount, if known. If you do not know the amount of actual expenses at the time you complete Form W–4, you can claim the current per diem allowance for participants in the Career Education Program under the Federal Travel Regulations. The current per diem allowance is $18 per day.

Nontaxable grant or scholarship. Include the part of your grant or scholarship that is not taxable under U.S. law or under a tax treaty.

Line B. Enter –0– unless the following paragraph applies to you.

If you are a student who qualifies under Article 21(2) of the United States–India income tax treaty, and you are not claiming deductions for away-from-home expenses or other itemized deductions (discussed earlier), enter the standard deduction on line B. The standard deduction amount for 2001 is $4,550 if you are single or $3,800 if you are married.

Lines C and D. Enter –0– on both lines unless the following paragraphs apply to you.

If you are a resident of Canada, Mexico, Japan, South Korea, or a U.S. national, an additional daily exemption amount may be allowed for your spouse and each of your dependents.

If you are a resident of India who is eligible for the benefits of Article 21(2) of the United States–India income tax treaty, you can claim an additional daily exemption amount for your spouse. You can also claim an additional amount for each of your dependents ***not*** admitted to the United States on "F–2," "J–2," or "M–2" visas if they meet the same rules that apply to U.S. citizens.

Enter any additional amount for your spouse on line C. Enter any additional amount for your dependents on line D.

Lines E, F, and G. No entries should be made on lines E, F, and G.

Line H. Add the amounts on lines A through D and enter the total on line H.

Form W–4. Complete lines 1 through 4 of Form W–4. Sign and date the form and give it with the *Personal Allowances Worksheet* to your withholding agent.

If you file a Form W–4 to reduce or eliminate the withholding on your scholarship or grant, you must file an annual U.S. income tax return to be allowed the exemptions and deductions you claimed on that form. If you are in the United States during more than one tax year, you must attach a statement to your yearly Form W–4 indicating that you have filed a U.S. income tax return for the previous year. If you have not been in the United States long enough to be required to file a return, you must attach a statement to your Form W–4 saying you will file a U.S. income tax return when required.

After the withholding agent has accepted your Form W–4, tax will be withheld on your scholarship or grant at the graduated rates that apply to wages. The gross amount of the income is reduced by the amount on line H of the worksheet and the withholding tax is figured on the remainder.

You will receive a Form 1042–S from the withholding agent (usually the payer of your grant) showing the gross amount of your scholarship or fellowship grant less the withholding allowance amount, the tax rate, and the amount of tax withheld. Use this form to file your annual U.S. income tax return.

Income Entitled to Tax Treaty Benefits

If a tax treaty between the United States and your country provides an exemption from, or a reduced rate of, withholding for certain items of income, you should notify the payor of the income (the withholding agent) of your foreign status to claim the benefits of the treaty. Generally, you do this by filing Form W–8BEN with the withholding agent.

Beginning January 1, 2001, the payor of dividends will no longer rely on your address of record as the basis for allowing you the benefit of the treaty. Give Form W–8BEN to the withholding agent to claim a reduced rate of withholding.

The rules that apply to compensation for personal services are discussed next.

Independent contractors. If you perform personal services as an independent contractor (rather than an employee) and you can claim an exemption from withholding on that personal service income because of a tax treaty, submit Form 8233 to each withholding agent from whom amounts will be received.

Students, teachers, and researchers. Alien students, teachers, and researchers who perform dependent personal services (as employees) can also use Form 8233 to claim exemption from withholding of tax on compensation for services that is exempt from U.S. tax under a U.S. tax treaty.

Students, teachers, and researchers must attach the appropriate statement shown in *Appendix A* (for students) or *Appendix B* (for teachers and researchers) at the end of this publication to the Form 8233 and give it to the withholding agent. For treaties not listed in the appendices, attach a statement in a format similar to those for other treaties.

Employees. If you are not a student, teacher, or researcher, but you perform services as an employee and your pay is exempt from U.S. income tax under a tax treaty, you can avoid having tax withheld from your wages. Give your employer a Form W–8BEN for the tax year. You must complete Part I of the form, including line 6 (U.S. taxpayer identification number). You must also complete lines 9(a), 9(b), and 10 of the form. On line 10 indicate the provision of the treaty under which you are claiming an exemption and include a statement showing that you meet the requirements of the applicable provision. The requirements can be found in the applicable tax treaty article. You must also sign and date Part IV of Form W–8BEN.

Special events and promotions. Withholding at the full 30% rate is required for payments made to a nonresident alien or foreign corporation for gate receipts (or television or other receipts) from rock music festivals, boxing promotions, and other entertainment or sporting events, unless the withholding agent has been specifically advised otherwise by letter from the IRS. This is true even if the income may be exempt from taxation by provisions of a tax treaty. One reason for this is that the partial or complete exemption is usually based on factors that cannot be determined until after the close of the tax year.

The required letter should be requested from the:

Internal Revenue Service
Compliance Area Director, Area 15
950 L'Enfant Plaza South, S.W. S:C:15
Washington, DC 20024.

Entertainers and athletes can also apply for reduced withholding on the basis of their net income after expenses. See *Central withholding agreements* under *Withholding From Compensation,* earlier.

CAUTION

You will be required to pay U.S. tax, at the time of your departure from the United States, on any income for which you incorrectly claimed a treaty exemption. For more details on treaty provisions that apply to compensation, see Publication 901.

Tax Withheld on Real Property Sales

If you are a nonresident alien and you dispose of a U.S. real property interest, the transferee (buyer) of the property generally must withhold a tax equal to 10% of the amount realized on the disposition. Withholding is also required on certain distributions and other transactions by domestic or foreign corporations, partnerships, trusts, and estates. These rules are covered in Publication 515 under *U.S. Real Property Interest.*

If you are a partner in a domestic partnership, and the partnership disposes of a U.S. real property interest at a gain, tax will be withheld by the partnership on the amount of gain allocable to its foreign partners. Your share of the income and tax withheld will be reported to you on Form 8805, *Foreign Partner's Information Statement of Section 1446 Withholding Tax,* or Form 1042–S, *Foreign Person's U.S. Source Income Subject to Withholding* (in the case of a publicly traded partnership).

Withholding is ***not*** required in the following situations.

1) The property is acquired by the buyer for use as a residence and the amount realized (sales price) is not more than $300,000.
2) The property disposed of is an interest in a domestic corporation if any class of stock of the corporation is regularly traded on an established securities market.
3) The property disposed of is an interest in a corporation that is not regularly traded on an established market if you give the buyer a copy of a statement issued by the corporation certifying that the interest is not a U.S. real property interest.
4) You (the seller) give the buyer a certification stating, under penalties of per-

jury, that you are not a foreign person, and containing your name, U.S. taxpayer identification number, and home address.

5) The buyer receives a withholding certificate from the Internal Revenue Service.

6) You give the buyer written notice that you are not required to recognize any gain or loss on the transfer because of a nonrecognition provision in the Internal Revenue Code or a provision in a U.S. tax treaty. The buyer must file a copy of the notice with the Internal Revenue Service Center, P.O. Box 21086, DP 8731 FIRPTA Unit, Philadelphia, PA 19114–0586. You must verify the notice as true and sign it under penalties of perjury. The notice must contain the following information.

   a) A statement that the notice is a notice of nonrecognition under regulation section 1.1445–2(d)(2).

   b) Your name, taxpayer identification number, and home address.

   c) A statement that you are not required to recognize any gain or loss on the transfer.

   d) A brief description of the transfer.

   e) A brief summary of the law and facts supporting your claim that recognition of gain or loss is not required.

7) The amount you realize on the transfer of a U.S. real property interest is zero.

8) The property is acquired by the United States, a U.S. state or possession, a political subdivision, or the District of Columbia.

The certifications in (3) and (4) must be disregarded by the buyer if the buyer has actual knowledge, or receives notice from a seller's or buyer's agent, that they are false.

Withholding certificates. The tax required to be withheld on a disposition can be reduced or eliminated under a withholding certificate issued by the IRS. Either you or the buyer can request a withholding certificate.

A withholding certificate can be issued due to any of the following.

1) The IRS determines that reduced withholding is appropriate because either:

   a) The amount required to be withheld would be more than your maximum tax liability, or

   b) Withholding of the reduced amount would not jeopardize collection of the tax.

2) All of your realized gain is exempt from U.S. tax.

3) You or the buyer enter into an agreement for the payment of tax providing security for the tax liability.

Get Publication 515 and Form 8288–B for information on procedures to request a withholding certificate.

Credit for tax withheld. The buyer must report and pay over the withheld tax within 20 days after the transfer using Form 8288, *U.S. Withholding Tax Return for Dispositions by Foreign Persons of U.S. Real Property Interests.* This form is filed with the IRS with two copies of Form 8288–A, *Statement of Withholding on Dispositions by Foreign Persons of U.S. Real Property Interests.* Copy B of this statement will be stamped received by the IRS and returned to you (the seller). You must file Copy B with your tax return to take credit for the tax withheld.

Social Security and Medicare Taxes

If you work as an employee in the United States, you must pay social security and Medicare taxes in most cases. Your payments of these taxes contribute to your coverage under the U.S. social security system. Social security coverage provides retirement benefits and medical insurance (Medicare) benefits to individuals who meet certain eligibility requirements.

In most cases, the first $76,200 of taxable wages received in 2000 for services performed in the United States is subject to social security tax. All taxable wages are subject to Medicare tax. Your employer deducts these taxes from each wage payment. Your employer must deduct these taxes even if you do not expect to qualify for social security or Medicare benefits. You can claim a credit for excess social security tax on your income tax return if you have more than one employer and the amount deducted from your combined wages for 2000 is more than $4,724.40. Use the worksheet in chapter 3 of Publication 505, *Tax Withholding and Estimated Tax*, to figure your credit.

If any one employer deducted more than $4,724.40, you cannot claim a credit for that amount. Ask your employer to refund the excess.

In general, U.S. social security and Medicare taxes apply to payments of wages for services performed as an employee in the United States, regardless of the citizenship or residence of either the employee or the employer. In limited situations, these taxes apply to wages for services performed outside the United States. Your employer should be able to tell you if social security and Medicare taxes apply to your wages. You cannot make voluntary payments if no taxes are due.

Students and Exchange Visitors

Generally, services performed by you as a nonresident alien temporarily in the United States as a nonimmigrant under subparagraph (F), (J), (M), or (Q) of section 101(a)(15) of the Immigration and Nationality Act are not covered under the social security program if the services are performed to carry out the purpose for which you were admitted to the United States. This means that there will be no withholding of social security or Medicare taxes from the pay you receive for these services. These types of services are very limited, and generally include only on-campus work, practical training, and economic hardship employment.

However, you are covered under the social security program for these services if you are considered a resident alien as discussed in chapter 1, even though your nonimmigrant classification ("F," "J," "M," or "Q") remains the same. Social security and Medicare taxes will be withheld from your pay.

Nonresident Alien Students

If you are a nonresident alien admitted to the United States as a student, you generally are not permitted to work for a wage or salary or to engage in business while you are in the United States. In some cases, a student admitted to the United States in "F–1," "M–1," or "J–1" status is granted permission to work, and it is so noted on the student's copy of Immigration Form I–94, *Arrival-Departure Record*. Social security and Medicare taxes are not withheld from pay for the work unless the student is considered a resident alien.

TIP *Any student who is enrolled and regularly attending classes at a school may be exempt from social security and Medicare taxes on pay for services performed for that school.*

The Immigration and Naturalization Service (INS) permits on-campus work for students in "F–1" status if it does not displace a U.S. resident. On-campus work means work performed on the school's premises. On-campus work includes work performed at an off-campus location that is educationally affiliated with the school. On-campus work under the terms of a scholarship, fellowship, or assistantship is considered part of the academic program of a student taking a full course of study and is permitted by the INS. In this case, the educational institution endorses the Form I–20. Social security and Medicare taxes are not withheld from pay for this work unless the student is considered a resident alien.

Employment due to severe economic necessity and for optional practical training is sometimes permitted for students in "F–1" status. Students granted permission to work due to severe economic necessity or for optional practical training will be issued Form I–688B or Form I–766 by INS. Social security and Medicare taxes are not withheld from pay for this work unless the student is considered a resident alien.

Students in "M–1" status who have completed a course of study can accept employment or practical training for up to six months and must have a Form I–688B or Form I–766 issued by INS. Social security and Medicare taxes are not withheld from "M–1" students' pay for these services unless the student is considered a resident alien.

In all other cases, any services performed by a nonresident alien student are not considered as performed to carry out the purpose for which the student was admitted to the United States. Social security and Medicare taxes will be withheld from pay for the services unless the pay is exempt under the Internal Revenue Code.

Exchange Visitors

Nonresident aliens are admitted to the United States as nonimmigrant exchange visitors under section 101(a)(15)(J) of the Immigration and Nationality Act through the sponsorship of approved organizations and institutions that are responsible for establishing a program for the exchange visitor and for any later modification of that program. Generally, an exchange visitor who has the permission of the sponsor can work for the same reasons as the students discussed above. In these cases, permission is granted by a letter from the exchange visitor's sponsor or by endorsement from the program sponsor on Form IAP–66, *Certificate of Eligibility.*

Social security and Medicare taxes are not withheld on pay for services of an exchange visitor who has been given permission to work and who possesses or obtains a letter of authorization from the sponsor unless the exchange visitor is considered a resident alien.

In all other cases, services performed by an exchange visitor are not considered as performed to carry out the purpose for which the visitor was admitted to the United States. Social security and Medicare taxes are withheld from pay for the services unless the pay is exempt under the Internal Revenue Code.

If you are a "J–1" visa holder, your spouse or child may be permitted to work in the United States with the prior approval of the INS and issuance of Form I–688B or Form I–766.

Nonresident aliens admitted to the United States as participants in cultural exchange programs under section 101(a)(15)(Q) of the Immigration and Nationality Act may be exempt from social security and Medicare taxes. Aliens with "Q" visas are aliens whose employment or training affords the opportunity for culture-sharing with the American public. They are allowed to work in the United States for a specific employer in an approved cultural exchange program. The employer must be the petitioner through whom the alien obtained the "Q" visa. Social security and Medicare taxes are not withheld from pay for this work unless the alien is considered a resident alien. Aliens with "Q" visas are not permitted to engage in employment outside the exchange program activities.

Refund of Taxes Withheld in Error

If social security or Medicare taxes were withheld in error from pay that is not subject to these taxes, contact the employer who withheld the taxes for a refund. If you are unable to get a full refund of the amount from your employer, file a claim for refund with the Internal Revenue Service on Form 843, *Claim for Refund and Request for Abatement.* Attach the following items to Form 843.

- A copy of your Form W–2 to prove the amount of social security and Medicare taxes withheld.
- A copy of your visa (if not stamped on Form I–94), INS Form I–94 and INS Form I–538, *Certification by Designated School Official.*
- A statement from your employer indicating the amount of the reimbursement your employer provided and the amount of the credit or refund your employer claimed or you authorized your employer to claim. If you cannot obtain this statement from your employer, you must provide this information on your ***own*** statement and explain why you are not attaching a statement from your employer.

File Form 843 (with attachments) with the IRS office where your employer's returns were filed. If you do not know where your employer's returns were filed, file Form 843 with the Internal Revenue Service Center, Philadelphia, PA 19255.

Self-Employment Tax

Self-employment tax is the social security and Medicare taxes for individuals who are self-employed. Nonresident aliens are not subject to self-employment tax. Residents of the Virgin Islands, Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, or American Samoa are considered U.S. residents for this purpose and are subject to the self-employment tax.

Resident aliens must pay self-employment tax under the same rules that apply to U.S. citizens. However, a resident alien employed by an international organization, a foreign government, or a wholly-owned instrumentality of a foreign government is not subject to the self-employment tax on income earned in the United States.

Self-employment income you receive while you are a resident alien is subject to self-employment tax even if it was paid for services you performed as a nonresident alien.

Example. Bill Jones is an author engaged in the business of writing books. Bill had several books published in a foreign country while he was a citizen and resident of that country. During 2000, Bill entered the United States as a resident alien. After becoming a U.S. resident, he continued to receive royalties from his foreign publisher. Bill reports his income and expenses on the cash basis (he reports income on his tax return when received and deducts expenses when paid). Bill's 2000 self-employment income includes the royalties received after he became a U.S. resident even though the books were published while he was a nonresident alien.

Reporting self-employment tax. Use Schedule SE (Form 1040) to report and figure your self-employment tax. Then enter the tax on line 52 of Form 1040 and attach Schedule SE to Form 1040.

Deduction for one-half of self-employment tax. If you must pay self-employment tax, you can deduct one-half of the self-employment tax paid in figuring your adjusted gross income.

More information. Get Publication 533 for more information about self-employment tax.

International Social Security Agreements

The United States has entered into social security agreements with foreign countries to coordinate social security coverage and taxation of workers employed for part or all of their working careers in one of the countries. These agreements are commonly referred to as totalization agreements. Under these agreements, dual coverage and dual contributions (taxes) for the same work are eliminated. The agreements generally make sure that social security taxes (including self-employment tax) are paid only to one country. Agreements are in effect with the following countries.

- Austria.
- Belgium.
- Canada.
- Finland.
- France.
- Germany.
- Greece.
- Ireland.
- Italy.
- Luxembourg.
- The Netherlands.
- Norway.
- Portugal.
- Spain.
- Sweden.
- Switzerland.
- The United Kingdom.

Other agreements are also expected to enter into force in the future.

Employees. Generally, under these agreements, you are subject to social security taxes only in the country where you are working. However, if you are temporarily sent to work for the same employer in the United states and your pay would normally be subject to social security taxes in both countries, most agreements provide that you remain covered only by the social security system of the country from which you were sent. You can get more information on any agreement by contacting the U.S. Social Security Administration at the address given later. If you have access to the Internet, you can get more information at **www.ssa.gov/international**.

To establish that your pay is subject only to foreign social security taxes and is exempt from U.S. social security taxes (including the Medicare tax) under an agreement, you or your employer should request a certificate of coverage from the appropriate agency of the foreign country. This will usually be the same agency to which you or your employer pays your foreign social security taxes. The foreign agency will be able to tell you what information is needed for them to issue the certificate. Your employer should keep a copy of the certificate because it may be needed to show why you are exempt from U.S. social security taxes. Only wages paid on or after the effective date of the agreement can be exempt from U.S. social security taxes.

Some of the countries with which the United States has agreements will not issue certificates of coverage. In this case, either you or your employer should request a statement from the following address.

U.S. Social Security Administration
Office of International Programs
P.O. Box 17741
Baltimore, MD 21235–7741

Self-employed individuals. Under most agreements, self-employed individuals are covered by the social security system of the country where they reside. However, under some agreements, you may be exempt from U.S. self-employment tax if you temporarily transfer your business activity to or from the United States.

If you believe that your self-employment income is subject only to U.S. self-employment tax and is exempt from foreign social security taxes, request a certificate of coverage from the U.S. Social Security Administration at the address given earlier. This certificate will establish your exemption from foreign social security taxes.

To establish that your self-employment income is subject only to foreign social security taxes and is exempt from U.S. self-employment tax, request a certificate of coverage from the appropriate agency of the foreign country. If the foreign country will not issue the certificate, you should request a statement that your income is not covered by the U.S. social security system. Request it from the U.S. Social Security Administration at the address given earlier. Attach a photocopy of either statement to Form 1040 each year you are exempt. Also print “Exempt, see attached statement” on the line for self-employment tax.

Estimated Tax Form 1040–ES (NR)

You may have income from which no U.S. income tax is withheld. Or the amount of tax withheld may not equal the income tax you estimate you will owe at the end of the year. If so, you may have to pay estimated tax.

Generally, you must make estimated tax payments for 2001 if you expect to owe at least $1,000 in tax and you expect your withholding and credits to be less than the smaller of:

1) 90% of the tax to be shown on your 2001 income tax return, or
2) 100% of the tax shown on your 2000 income tax return (if your 2000 return covered all 12 months of the year).

If your adjusted gross income for 2000 was more than $150,000 ($75,000 if your filing status for 2001 is married filing separately), substitute 110% for 100% in (2) above if you are not a farmer or a fisherman.

A nonresident alien should use Form 1040–ES (NR) to figure and pay estimated tax. Checks should be made payable to the "United States Treasury."

How to estimate your tax for 2001. If you filed a 2000 return on Form 1040NR or Form 1040NR–EZ and expect your income, number of exemptions, and total deductions for 2000 to be nearly the same, you should use your 2000 return as a guide to complete the *Estimated Tax Worksheet* in the Form 1040–ES (NR) instructions. If you did not file a return for 2000, or if your income, exemptions, deductions, or credits will be different for 2001, you must estimate these amounts. Figure your estimated tax liability using the Tax Rate Schedule in the 2001 Form 1040–ES (NR) instructions for your filing status.

Note. If you expect to be a resident of Puerto Rico during the entire year, use Form 1040–ES.

When to pay estimated tax. Make your first estimated tax payment by the due date for filing the previous year's Form 1040NR or Form 1040NR–EZ. If you have wages subject to the same withholding rules that apply to U.S. citizens, you must file Form 1040NR or Form 1040NR–EZ and make your first estimated tax payment by April 16, 2001. If you do not have wages subject to withholding, file your income tax return and make your first estimated tax payment by June 15, 2001.

If your first estimated tax payment is due April 16, 2001, you can pay your estimated tax in full at that time, or in equal installments by April 16, 2001, June 15, 2001, September 17, 2001, and January 15, 2002. If your first payment is not due until June 15, 2001, you can pay your estimated tax in full at that time, or ½ of your estimated tax by June 15, 2001, ¼ of the tax by September 17, 2001, and ¼ by January 15, 2002.

Fiscal year. If your return is not on a calendar year basis, your due dates are the 15th day of the 4th, 6th, and 9th months of your fiscal year, and the 1st month of the following fiscal year. If any date falls on a Saturday, Sunday, or legal holiday, use the next day that is not a Saturday, Sunday, or legal holiday.

Changes in income, deductions, or exemptions. Even if you are not required to make an estimated tax payment in April or June, your circumstances may change so that you will have to make estimated tax payments later. This can happen if you receive additional income or if any of your deductions are reduced or eliminated. If so, see the instructions for Form 1040–ES (NR) and Publication 505 for information on figuring your estimated tax.

Amended estimated tax. If, after you have made estimated tax payments, you find your estimated tax is substantially increased or decreased because of a change in your income or exemptions, you should adjust your remaining estimated tax payments. To do this, see the instructions for Form 1040–ES (NR) and Publication 505.

Penalty for failure to pay estimated income tax. You will be subject to a penalty for underpayment of installments of estimated tax except in certain situations. These situations are explained on Form 2210, *Underpayment of Estimated Tax by Individuals, Estates, and Trusts.*

9. Tax Treaty Benefits

Introduction

If you are a nonresident alien from a country with which the United States has an income tax treaty, you may qualify for certain benefits. Most treaties require that the alien be a resident of the treaty country to qualify. However, some treaties require that the alien be a national or a citizen of the treaty country.

See *Table 9–1* for a list of tax treaty countries.

You can generally arrange to have withholding tax reduced or eliminated on wages and other income that is eligible for tax treaty benefits. See *Income Entitled to Tax Treaty Benefits* in chapter 8.

Topics

This chapter discusses:

- Typical tax treaty benefits,
- How to obtain copies of tax treaties, and
- How to claim tax treaty benefits on your tax return.

Useful Items

You may want to see:

Publication

- ☐ **901** U.S. Tax Treaties

Form (and Instructions)

- ☐ **1040NR** U.S. Nonresident Alien Income Tax Return
- ☐ **1040NR–EZ** U.S. Income Tax Return for Certain Nonresident Aliens With No Dependents
- ☐ **8833** Treaty-Based Return Position Disclosure Under Section 6114 or 7701(b)

See chapter 12 for information about getting these publications and forms.

Treaty Income

A nonresident alien's treaty income is the gross income on which the tax is limited by a tax treaty. Treaty income includes, for example, dividends from sources in the United States that are subject to tax at a tax treaty rate not to exceed 15%. Nontreaty income is the gross income of a nonresident alien on which the tax is not limited by a tax treaty.

Figure the tax on treaty income on each separate item of income at the reduced rate that applies to that item under the treaty.

To determine tax on nontreaty income, figure the tax at either the flat 30% rate or the graduated rate, depending upon whether or not the income is effectively connected with your trade or business in the United States.

Your tax liability is the sum of the tax on treaty income plus the tax on nontreaty income, but cannot be more than the tax liability figured as if the tax treaty had not come into effect.

Example. Arthur Banks is a nonresident alien who is single and a resident of a foreign country that has a tax treaty with the United States. He received gross income of $25,500 during the tax year from sources within the United States, consisting of the following items:

Dividends on which the tax is limited to a 15% rate by the tax treaty	$1,400
Compensation for personal services on which the tax is not limited by the tax treaty	24,100
Total gross income	$25,500

Arthur was engaged in business in the United States during the tax year. His dividends are not effectively connected with that business. He has no deductions other than his own personal exemption.

His tax liability, figured as though the tax treaty had not come into effect, is $3,619, determined as follows:

Total compensation	$24,100
Less: Personal exemption	2,800
Taxable income	$21,300
Tax determined by graduated rate (Tax Table column for single taxpayers)	$3,199
Plus: Tax on gross dividends ($1,400 × 30%)	420
Tax determined as though treaty had not come into effect	$3,619

Arthur's tax liability, figured by taking into account the reduced rate on dividend income as provided by the tax treaty, is $3,409, determined as follows:

Tax determined by graduated rate (same as figured above)	$3,199
Plus: Tax on gross dividends ($1,400 × 15%)	210
Tax on compensation and dividends	$3,409

His tax liability, therefore, is limited to $3,409, the tax liability figured using the tax treaty rate on the dividends.

Some Typical Tax Treaty Benefits

The following paragraphs briefly explain the exemptions that are available under tax treaties for personal services income, remittances, scholarships, fellowships, and capital gain income. The conditions for claiming the exemptions vary under each tax treaty. For more information about the conditions under a particular tax treaty, see Publication 901.

Tax treaty benefits also cover income such as dividends, interest, rentals, royalties, pensions, and annuities. These types of income may be exempt from U.S. tax or may be subject to a reduced rate of tax. For more information, see Publication 901.

Personal Services

Nonresident aliens from treaty countries who are in the United States for a short stay and also meet certain other requirements may be exempt from tax on their compensation received for personal services performed in the United States. Many tax treaties require that the nonresident alien claiming this exemption be present in the United States for a total of not more than 183 days during the tax year. Other tax treaties specify different periods of maximum presence in the United States, such as 180 days or 90 days. Spending part of a day in the United States counts as a day of presence.

Tax treaties may also require that:

1) The compensation cannot be more than a specific amount (frequently $3,000), and

2) The individual have a foreign employer; that is, an individual, corporation, or entity of a foreign country.

Teachers and Professors

Nonresident alien teachers or professors who are residents of certain treaty countries and who temporarily visit the United States for the primary purpose of teaching at a university or other accredited educational institution are not subject to U.S. income tax on compensation received for teaching for the first 2 or 3 years after their arrival in the United States. Many treaties also provide exemption for engaging in research.

Generally, the teacher or professor must be in the United States primarily to teach, lecture, instruct, or engage in research. A substantial part of that person's time must be devoted to those duties. The normal duties of a teacher or professor include not only formal classroom work involving regularly scheduled lectures, demonstrations, or other student-participation activities, but also the less formal method of presenting ideas in seminars or other informal groups and in joint efforts in the laboratory.

Employees of Foreign Governments

All treaties have provisions for the exemption of income earned by certain employees of foreign governments. However, a difference exists among treaties as to who qualifies for this benefit. Under many treaties, aliens admitted to the United States for permanent residence do not qualify. Under most treaties, aliens who are not nationals or subjects of the foreign country do not qualify. Employees of foreign governments should read the pertinent treaty carefully to determine whether they qualify for benefits. Chapter 10 of this publication also has information for employees of foreign governments.

Students, Apprentices, and Trainees

Students, apprentices, and trainees generally are exempt from tax on remittances (including scholarship and fellowship grants) received from abroad for study and maintenance. Also, under certain circumstances, a limited amount of compensation received by students, apprentices, and trainees may be exempt from tax.

Nonresident aliens who became resident aliens. Generally, you must be a nonresident alien student, apprentice, or trainee in order to claim a tax treaty exemption for remittances from abroad (including scholarship and fellowship grants) for study and maintenance in the United States. However, if you entered the United States as a nonresident alien, but you are now a resident alien for U.S. tax purposes, the treaty exemption will continue to apply if the tax treaty has an exception to the treaty's saving clause. If you qualify under an exception to the treaty's saving clause and the payor intends to withhold U.S. income tax on the scholarship, fellowship, or other remittance, you can avoid income tax withholding by giving the payor a Form W–9 with an attachment that includes the following information.

- Your name and U.S. identification number.
- A statement that you are a resident alien and whether you are a resident alien under the green card test, the substantial presence test, or a tax treaty provision.
- Tax treaty and article number under which you are claiming a tax treaty exemption, and description of the article.
- A statement that you are relying on an exception to the saving clause of the tax treaty under which you are claiming the tax treaty exemption.

Example. Mr. Yu, a citizen of the People's Republic of China, entered the United States as a nonresident alien student on January 1, 1996. He remained a nonresident alien through 2000 and was able to exclude his scholarship from U.S. tax in those years under Article 20 of the U.S.–China income tax treaty. On January 1, 2001, he became a resident alien under the substantial presence test because his stay in the United States exceeded 5 years. Even though Mr. Yu is now a resident alien, the provisions of Article 20 still apply because of the exception to the saving clause in paragraph 2 of the Protocol to the U.S.–China treaty dated April 30, 1984. If the payor of the scholarship intends to withhold U.S. income tax, Mr. Yu should submit Form W–9 and the required attachment to the payor.

Capital Gains

Most treaties provide for the exemption of gains from the sale or exchange of personal property. Generally, gains from the sale or exchange of real property located in the United States are taxable.

Reporting Treaty Benefits Claimed

If you claim treaty benefits that override or modify any provision of the Internal Revenue Code, and by claiming these benefits your tax is, or might be, reduced, you must attach a fully completed Form 8833 to your tax return. See *Exceptions,* below, for the situations where you are not required to file Form 8833.

You must file a U.S. tax return and Form 8833 if you claim the following treaty benefits.

1) A reduction or modification in the taxation of gain or loss from the disposition of a U.S. real property interest based on a treaty.

2) A change to the source of an item of income or a deduction based on a treaty.

3) A credit for a specific foreign tax for which foreign tax credit would not be allowed by the Internal Revenue Code.

You must also file Form 8833 if you receive payments or income items totaling more than $100,000 and you determine your country of residence under a treaty and not under the rules for residency discussed earlier in this publication.

These are the more common situations for which Form 8833 is required.

Exceptions. You do not have to file Form 8833 for any of the following situations.

1) You claim a reduced rate of withholding

Table 9-1. **Table of Tax Treaties** (Updated through December 31, 2000)

Country	Official Text Symbol[1]	General Effective Date	Citation	Applicable Treasury Explanations or Treasury Decision (T.D.)
Australia	TIAS 10773	Dec. 1, 1983	1986-2 C.B. 220	1986-2 C.B. 246
Austria	TIAS	Jan. 1, 1999		
Barbados	TIAS 11090	Jan. 1, 1984	1991-2 C.B. 436	1991-2 C.B. 466
Protocol	TIAS	Jan. 1, 1994		
Belgium	TIAS 7463	Jan. 1, 1971	1973-1 C.B. 619	
Protocol	TIAS 11254	Jan. 1, 1988		
Canada[2]	TIAS 11087	Jan. 1, 1985	1986-2 C.B. 258	1987-2 C.B. 298
Protocol	TIAS	Jan. 1, 1996		
China, People's Republic of	TIAS	Jan. 1, 1987	1988-1 C.B. 414	1988-1 C.B. 447
Commonwealth of Independent States[3]	TIAS 8225	Jan. 1, 1976	1976-2 C.B. 463	1976-2 C.B. 475
Cyprus	TIAS 10965	Jan. 1, 1986	1989-2 C.B. 280	1989-2 C.B. 314
Czech Republic	TIAS	Jan. 1, 1993		
Denmark	TIAS 1854	Jan. 1, 1948	1950-1 C.B. 77	T.D. 5692, 1949-1 C.B. 104; T.D. 5777, 1950-1 C.B. 76
Denmark (new treaty)	TIAS	Jan. 1, 2001		
Egypt	TIAS 10149	Jan. 1, 1982	1982-1 C.B. 219	1982-1 C.B. 243
Estonia	TIAS	Jan. 1, 2000		
Finland	TIAS	Jan. 1, 1991		
France	TIAS	Jan. 1, 1996		
Germany	TIAS	Jan. 1, 1990[4]		
Greece	TIAS 2902	Jan. 1, 1953	1958-2 C.B. 1054	T.D. 6109, 1954-2 C.B. 638
Hungary	TIAS 9560	Jan. 1, 1980	1980-1 C.B. 333	1980-1 C.B. 354
Iceland	TIAS 8151	Jan. 1, 1976	1976-1 C.B. 442	1976-1 C.B. 456
India	TIAS	Jan. 1, 1991		
Indonesia	TIAS 11593	Jan. 1, 1990		
Ireland	TIAS	Jan. 1, 1998		
Israel	TIAS	Jan. 1, 1995		
Italy	TIAS 11064	Jan. 1, 1985	1992-1 C.B. 442	1992-1 C.B. 473
Jamaica	TIAS 10207	Jan. 1, 1982	1982-1 C.B. 257	1982-1 C.B. 291
Japan	TIAS 7365	Jan. 1, 1973	1973-1 C.B. 630	1973-1 C.B. 653
Kazakstan	TIAS	Jan. 1, 1996		
Korea, Republic of	TIAS 9506	Jan. 1, 1980	1979-2 C.B. 435	1979-2 C.B. 458
Latvia	TIAS	Jan. 1, 2000		
Lithuania	TIAS	Jan. 1, 2000		
Luxembourg	TIAS 5726	Jan. 1, 1964	1965-1 C.B. 615	1965-1 C.B. 642
Mexico	TIAS	Jan. 1, 1994	1994-2 C.B. 424	1994-2 C.B. 489
Protocol	TIAS	Oct. 26, 1995		
Morocco	TIAS 10195	Jan. 1, 1981	1982-2 C.B. 405	1982-2 C.B. 427
Netherlands	TIAS	Jan. 1, 1994		
New Zealand	TIAS 10772	Nov. 2, 1983	1990-2 C.B. 274	1990-2 C.B. 303
Norway	TIAS 7474	Jan. 1, 1971	1973-1 C.B. 669	1973-1 C.B. 693
Protocol	TIAS 10205	Jan. 1, 1982	1982-2 C.B. 440	1982-2 C.B. 454
Pakistan	TIAS 4232	Jan. 1, 1959	1960-2 C.B. 646	T.D. 6431, 1960-1 C.B. 755
Philippines	TIAS 10417	Jan. 1, 1983	1984-2 C.B. 384	1984-2 C.B. 412
Poland	TIAS 8486	Jan. 1, 1974	1977-1 C.B. 416	1977-1 C.B. 427
Portugal	TIAS	Jan. 1, 1996		
Romania	TIAS 8228	Jan. 1, 1974	1976-2 C.B. 492	1976-2 C.B. 504
Russia	TIAS	Jan. 1, 1994		
Slovak Republic	TIAS	Jan. 1, 1993		
South Africa	TIAS	Jan. 1, 1998		
Spain	TIAS	Jan. 1, 1991		
Sweden	TIAS	Jan. 1, 1996		
Switzerland	TIAS	Jan. 1, 1998		
Thailand	TIAS	Jan. 1, 1998		
Trinidad and Tobago	TIAS 7047	Jan. 1, 1970	1971-2 C.B. 479	
Tunisia	TIAS	Jan. 1, 1990		
Turkey	TIAS	Jan. 1, 1998		
Ukraine	TIAS	Jan. 1, 2001		
United Kingdom	TIAS 9682	Jan. 1, 1975	1980-1 C.B. 394	1980-1 C.B. 455
Venezuela	TIAS	Jan. 1, 2000		

1 (TIAS)—Treaties and Other International Act Series.

2 Information on the treaty can be found in Publication 597, *Information on the United States—Canada Income Tax Treaty.*

3 The U.S.—U.S.S.R. income tax treaty applies to the countries of Armenia, Azerbaijan, Belarus, Georgia, Kyrgyzstan, Moldova, Tajikistan, Turkmenistan, Ukraine (before 2001), and Uzbekistan.

4 The general effective date for the area that was the German Democratic Republic is January 1, 1991.

tax under a treaty on interest, dividends, rent, royalties, or other fixed or determinable annual or periodic income ordinarily subject to the 30% rate.

2) You claim a treaty reduces or modifies the taxation of income from dependent personal services, pensions, annuities, social security and other public pensions, or income of artists, athletes, students, trainees, or teachers. This includes taxable scholarship and fellowship grants.

3) You claim a reduction or modification of taxation of income under an International Social Security Agreement or a Diplomatic or Consular Agreement.

4) You are a partner in a partnership or a beneficiary of an estate or trust and the partnership, estate, or trust reports the required information on its return.

5) The payments or items of income that are otherwise required to be disclosed total no more than $10,000.

Penalty for failure to provide required information on Form 8833. If you are required to report the treaty benefits but do not, you are subject to a penalty of $1,000 for each failure.

10. Employees of Foreign Governments and International Organizations

Employees of foreign governments (including foreign municipalities) have two ways to get exemption of their governmental wages from U.S. income tax:

1) By a provision in a tax treaty or consular convention between the United States and their country, or

2) By meeting the requirements of U.S. tax law.

Employees of international organizations can only exempt their wages by meeting the requirements of U.S. tax law.

The exemption discussed in this chapter applies only to pay received for services performed for a foreign government or international organization. Other U.S. income received by persons who qualify for this exemption may be fully taxable or given favorable treatment under an applicable tax treaty provision. The proper treatment of this kind of income (interest, dividends, etc.) is discussed, earlier, in this publication.

Exemption Under Tax Treaty

If you are from a country that has a tax treaty with the United States, you should first look at the treaty to see if there is a provision that exempts your income. The income of U.S. citizens and resident aliens working for foreign governments usually is not exempt. However, in a few instances, the income of a U.S. citizen with dual citizenship may qualify. Often the exemption is limited to the income of persons who also are nationals of the foreign country involved.

Resident aliens from France. The United States and France have an agreement to relieve double taxation of U.S. permanent residents who receive wages and pensions for governmental services performed for the government of France. Generally, this income is taxable in the United States and France. However, the United States will allow a credit for taxes paid to France on this income.

Exemption Under U.S. Tax Law

Employees of foreign governments who do not qualify under a tax treaty provision and employees of international organizations may qualify for exemption by meeting the following requirements of U.S. tax law.

CAUTION *The exemption under U.S. tax law applies only to current employees and not to former employees. Pensions received by former employees living in this country do not qualify for exemption.*

Employees of foreign governments. If you are not a U.S. citizen, or if you are a U.S. citizen but also a citizen of the Philippines, and you work for a foreign government in the United States, your foreign government salary is exempt from U.S. tax if you perform services similar to those performed by U.S. Government employees in that foreign country and that foreign government grants an equivalent exemption.

Certification. To qualify for the exemption under U.S. tax law, the foreign government for which you work must certify to the Department of State that you are their employee and that you perform services similar to those performed by employees of the United States in your country. However, see *Aliens who keep immigrant status*, later, for a special rule that may affect your qualifying for this exemption.

Employees of international organizations. If you work for an international organization in the United States and you are not a U.S. citizen (or you are a U.S. citizen but are also a citizen of the Philippines), your salary from that organization is exempt from U.S. tax.

An ***international organization*** is an organization designated by the President of the United States through Executive Order to qualify for the privileges, exemptions, and immunities provided in the International Organizations Immunities Act.

You should find out if you have been made known to, and have been accepted by, the Secretary of State as an officer or an employee of that organization, or if you have been designated by the Secretary of State, before formal notification and acceptance, as a prospective officer or employee.

If you are claiming exemption, you should know the number of the Executive Order covering the international organization and should have some written evidence of your acceptance or designation by the Secretary of State.

The exemption is denied when, because the Secretary of State determines your presence in the United States is no longer desirable, you leave the United States (or after a reasonable time allowed for leaving the United States). The exemption is also denied when a foreign country does not allow similar exemptions to U.S. citizens. Then the Secretary of State can withdraw the privileges, exemptions, and immunities from the nationals of that foreign country.

Aliens who keep immigrant status. If you file the waiver provided by section 247(b) of the Immigration and Nationality Act to keep your immigrant status, you no longer qualify for the exemption from U.S. tax under U.S. tax law from the date of filing the waiver with the Attorney General.

However, you do ***not*** lose the exemption if you file the waiver and meet either of the following conditions.

- You are exempt from U.S. tax by an income tax treaty, consular agreement, or international agreement between the United States and your country.
- You work for an international organization if the international agreement creating the international organization provides that alien employees are exempt from U.S. income tax. Two international organizations that have such a provision are the International Monetary Fund (IMF) and the International Bank for Reconstruction and Development (World Bank).

11. Departing Aliens and the Sailing or Departure Permit

Introduction

Before leaving the United States, all aliens (except those listed under *Aliens Not Required To Obtain Sailing or Departure Permits)* must obtain a certificate of compliance. This document, also popularly known as the ***sailing permit*** or ***departure permit,*** is part of the income tax form you must file before leaving. You will receive a sailing or departure permit after filing a Form 1040–C or Form 2063. These forms are discussed in this chapter.

To find out if you need a sailing or departure permit, first read *Aliens Not Required To Obtain Sailing or Departure Permits*. If you do not fall into one of the categories in that discussion, you **must** obtain a sailing or departure permit. Read *Aliens Required To Obtain Sailing or Departure Permits*.

Topics
This chapter discusses:

- Who needs a sailing permit,
- How to get a sailing permit, and
- Forms you file to get a sailing permit.

Useful Items
You may want to see:

Form (and Instructions)

☐ **1040–C** U.S. Departing Alien Income Tax Return

☐ **2063** U.S. Departing Alien Income Tax Statement

See chapter 12 for information about getting these forms.

Aliens Not Required To Obtain Sailing or Departure Permits

If you are included in one of the following categories, you do not have to get a sailing or departure permit before leaving the United States.

If you are in one of these categories and do not have to get a sailing or departure permit, you must be able to support your claim for exemption with proper identification or give the authority for the exemption.

Category 1. Representatives of foreign governments with diplomatic passports, whether accredited to the United States or other countries, members of their households, and servants accompanying them. Servants who are leaving, but not with a person with a diplomatic passport, must get a sailing or departure permit. However, they can get a sailing or departure permit on Form 2063 without examination of their income tax liability by presenting a letter from the chief of their diplomatic mission certifying that:

1) Their name appears on the "White List" (a list of employees of diplomatic missions), and
2) They do not owe to the United States any income tax, and will not owe any tax up to and including the intended date of departure.

The statement must be presented to an IRS office.

Category 2. Employees of international organizations and foreign governments (other than diplomatic representatives exempt under category 1) and members of their households:

1) Whose compensation for official services is exempt from U.S. tax under U.S. tax laws (described in chapter 10), and
2) Who receive no other income from U.S. sources.

CAUTION *If you are an alien in category* ***(1)*** *or* ***(2)****, above, who filed the waiver under section 247(b) of the Immigration and Nationality Act, you must get a sailing or departure permit. This is true even though you filed the waiver and your income is exempt from U.S. tax because of an income tax treaty, consular agreement, or international agreement.*

Category 3. Alien students, industrial trainees, and exchange visitors, including their spouses and children, who enter on an "F–1," "F–2," "H–3," "H–4," "J–1," "J–2," or "Q" visa only and who receive no income from U.S. sources while in the United States under those visas other than:

1) Allowances to cover expenses incident to study or training in the United States, such as expenses for travel, maintenance, and tuition,
2) The value of any services or food and lodging connected with this study or training,
3) Income from employment authorized by the Immigration and Naturalization Service (INS), or
4) Certain interest income that is not effectively connected with a U.S. trade or business. (See *Interest* in chapter 3.)

Category 4. Alien students, including their spouses and children, who enter on an "M–1" or "M–2" visa only and who receive no income from U.S. sources while in the United States on those visas, other than:

1) Income from employment authorized by the Immigration and Naturalization Service (INS), or
2) Certain interest income that is not effectively connected with a U.S. trade or business. (See *Interest* in chapter 3.)

Category 5. Certain other aliens temporarily in the United States who have received no taxable income during the tax year up to and including the date of departure or during the preceding tax year. If the IRS has reason to believe that an alien has received income subject to tax and that the collection of income tax is jeopardized by departure, it may then require the alien to obtain a sailing or departure permit. Aliens covered by this paragraph are:

1) Alien military trainees who enter the United States for training under the sponsorship of the Department of Defense and who leave the United States on official military travel orders,
2) Alien visitors for business on a "B–1" visa, or on both a "B–1" visa and a "B–2" visa, who do not remain in the United States or a U.S. possession for more than 90 days during the tax year,
3) Alien visitors for pleasure on a "B–2" visa,
4) Aliens in transit through the United States or any of its possessions on a "C–1" visa, or under a contract, such as a bond agreement, between a transportation line and the Attorney General, and
5) Aliens who enter the United States on a border-crossing identification card; or for whom passports, visas, and border-crossing identification cards are not required, if they are visitors for pleasure, or visitors for business who do not remain in the United States or a U.S. possession for more than 90 days during the tax year; or if they are in transit through the United States or any of its possessions.

Category 6. Alien residents of Canada or Mexico who frequently commute between that country and the United States for employment, and whose wages are subject to the withholding of U.S. tax.

Aliens Required To Obtain Sailing or Departure Permits

If you do not fall into one of the categories listed under *Aliens Not Required To Obtain Sailing or Departure Permits,* you must obtain a sailing or departure permit. To obtain a permit, file Form 1040–C or Form 2063 (whichever applies) with your local IRS office before you leave the United States. See *Forms To File,* later. You must also pay all the tax shown as due on Form 1040–C and any taxes due for past years. See *Paying Taxes and Obtaining Refunds,* later.

If you try to leave the United States without a sailing or departure permit, and cannot show that you qualify to leave without it, you may be subject to an income tax examination by an IRS employee at the point of departure. You must then complete the necessary income tax returns and statements and, ordinarily, pay any taxes due.

Getting a Sailing or Departure Permit

The following discussion covers when and where to get your sailing permit.

Where to get a sailing or departure permit. It is advisable for aliens who have been working in the United States to get the permit from an IRS office in the area of their employment, but it also can be obtained from an IRS office in the area of their departure.

When to get a sailing or departure permit. You should get your sailing or departure permit at least 2 weeks before you plan to leave. You cannot apply earlier than 30 days before your planned departure date. Do not wait until the last minute in case there are unexpected problems.

Papers to submit. Getting your sailing or departure permit will go faster if you bring to the IRS office papers and documents related to your income and your stay in the United States. Bring the following records with you if they apply.

1) Your passport and alien registration card or visa.
2) Copies of your U.S. income tax returns filed for the past 2 years. If you were in the United States for less than 2 years, bring the income tax returns you filed for that period.

3) Receipts for income taxes paid on these returns.
4) Receipts, bank records, canceled checks, and other documents that prove your deductions, business expenses, and dependents claimed on your returns.
5) A statement from each employer showing wages paid and tax withheld from January 1 of the current year to the date of departure if you were an employee. If you were self-employed, you must bring a statement of income and expenses up to the date you plan to leave.
6) Proof of estimated tax payments for the past year and this year.
7) Documents showing any gain or loss from the sale of personal property, including capital assets and merchandise.
8) Documents relating to scholarship or fellowship grants including verification of the grantor, source, and purpose of the grant.
9) Documents indicating you qualify for any special tax treaty benefits claimed.

Forms To File

If you must get a sailing or departure permit, you must file Form 2063 or Form 1040–C. Employees in the IRS office can assist in filing these forms. Both forms have a "certificate of compliance" section. When the certificate of compliance is signed by an agent of the Field Assistance Area Director, it certifies that your U.S. tax obligations have been satisfied according to available information. Your Form 1040–C copy of the signed certificate, or the one detached from Form 2063, is your sailing or departure permit.

Form 2063

This is a short form that asks for certain information but does not include a tax computation. The following departing aliens can get their sailing or departure permits by filing Form 2063.

1) Aliens, whether resident or nonresident, who have had no taxable income for the tax year up to and including the date of departure and for the preceding year, if the period for filing the income tax return for that year has not expired.
2) Resident aliens who have received taxable income during the tax year or preceding year and whose departure will not hinder the collection of any tax. However, if the IRS has information indicating that the aliens are leaving to avoid paying their income tax, they must file a Form 1040–C.

Aliens in either of these categories who have not filed an income tax return or paid income tax for any tax year must file the return and pay the income tax before they can be issued a sailing or departure permit on Form 2063.

The sailing or departure permit detached from Form 2063 can be used for all departures during the current year. However, the IRS may cancel the sailing or departure permit for any later departure if it believes the collection of income tax is jeopardized by that later departure.

Form 1040–C

If you must get a sailing or departure permit and you do not qualify to file Form 2063, you must file Form 1040–C.

Ordinarily, all income received or reasonably expected to be received during the tax year up to and including the date of departure must be reported on Form 1040–C and the tax on it must be paid. When you pay any tax shown as due on the Form 1040–C, and you file all returns and pay all tax due for previous years, you will receive a sailing or departure permit. However, the IRS may permit you to furnish a bond or an employer letter guaranteeing payment instead of paying the taxes for certain years. See *Bond or Employer Letter To Ensure Payment,* discussed later. The sailing or departure permit issued under the conditions in this paragraph is only for the specific departure for which it is issued.

If you submit an employer letter guaranteeing payment of tax with your Form 1040–C, you do not need to fill out the form in detail. Just fill out the identifying information on the form, check the "Yes" box on line A, sign it, and attach the letter. The IRS office where you submit the form will then issue your sailing or departure permit.

Returning to the United States. If you furnish the IRS with information showing, to the satisfaction of the IRS, that you intend to return to the United States and that your departure does not jeopardize the collection of income tax, you can get a sailing or departure permit by filing Form 1040–C without having to pay the tax shown on it. You must, however, file all income tax returns that have not yet been filed as required, and pay all income tax that is due on these returns.

Your Form 1040–C must include all income received and reasonably expected to be received during the entire year of departure. The sailing or departure permit issued with this Form 1040–C can be used for all departures during the current year. However, the Service may cancel the sailing or departure permit for any later departure if the payment of income tax appears to be in jeopardy.

Joint return on Form 1040–C. Departing husbands and wives who are nonresident aliens cannot file joint returns. However, if both spouses are resident aliens, they can file a joint return on Form 1040–C if:

1) Both spouses can reasonably be expected to qualify to file a joint return at the normal close of their tax year, and
2) The tax years of the spouses end at the same time.

Paying Taxes and Obtaining Refunds

Except when a bond or an employer letter is furnished, or the IRS is satisfied that your departure does not jeopardize the collection of income tax, you must pay all tax shown as due on the Form 1040–C at the time of filing it. You must also pay any taxes due for past years. If the tax computation on Form 1040–C results in an overpayment, there is no tax to pay at the time you file that return. However, the IRS cannot provide a refund at the time of departure. If you are due a refund, you must file either Form 1040NR or Form 1040NR–EZ at the end of the tax year.

Bond or Employer Letter To Ensure Payment

Usually, you must pay the tax shown as due on Form 1040–C when you file it. However, if you pay all taxes due that you owe for prior years, you can furnish a bond or an employer letter guaranteeing payment instead of paying the income taxes shown as due on the Form 1040–C or the tax return for the preceding year if the period for filing that return has not expired.

The bond must equal the tax due plus interest to the date of payment as figured by the IRS. Information about the form of bond and security on it can be obtained from your IRS office.

Filing Annual U.S. Income Tax Returns

Form 1040–C is not an annual U.S. income tax return. If an income tax return is required by law, that return must be filed even though a Form 1040–C has already been filed. Chapters 5 and 7 discuss filing an annual U.S. income tax return. The tax paid with Form 1040–C should be taken as a credit against the tax liability for the entire tax year on your annual U.S. income tax return.

12. How To Get Tax Help

You can get help with unresolved tax issues, order free publications and forms, ask tax questions, and get more information from the IRS in several ways. By selecting the method that is best for you, you will have quick and easy access to tax help.

Contacting your Taxpayer Advocate. If you have attempted to deal with an IRS problem unsuccessfully, you should contact your Taxpayer Advocate.

The Taxpayer Advocate represents your interests and concerns within the IRS by protecting your rights and resolving problems that have not been fixed through normal channels. While Taxpayer Advocates cannot change the tax law or make a technical tax decision, they can clear up problems that resulted from previous contacts and ensure that your case is given a complete and impartial review.

To contact your Taxpayer Advocate:

- Call the Taxpayer Advocate at **1–877–777–4778.**
- Call the IRS at **1–800–829–1040.**
- Call, write, or fax the Taxpayer Advocate office in your area.
- Call **1–800–829–4059** if you are a TTY/TDD user.

For more information, see Publication 1546, *The Taxpayer Advocate Service of the IRS.*

Free tax services. To find out what services are available, get Publication 910, *Guide to Free Tax Services.* It contains a list of free tax publications and an index of tax topics. It also describes other free tax information services, including tax education and assistance programs and a list of TeleTax topics.

Personal computer. With your personal computer and modem, you can access the IRS on the Internet at **www.irs.gov**. While visiting our web site, you can select:

- *Frequently Asked Tax Questions* (located under *Taxpayer Help & Ed)* to find answers to questions you may have.
- *Forms & Pubs* to download forms and publications or search for forms and publications by topic or keyword.
- *Fill-in Forms* (located under *Forms & Pubs)* to enter information while the form is displayed and then print the completed form.
- *Tax Info For You* to view Internal Revenue Bulletins published in the last few years.
- *Tax Regs in English* to search regulations and the Internal Revenue Code (under *United States Code (USC)).*
- *Digital Dispatch* and *IRS Local News Net* (both located under *Tax Info For Business)* to receive our electronic newsletters on hot tax issues and news.
- *Small Business Corner* (located under *Tax Info For Business)* to get information on starting and operating a small business.

You can also reach us with your computer using File Transfer Protocol at **ftp.irs.gov**.

TaxFax Service. Using the phone attached to your fax machine, you can receive forms and instructions by calling **703–368–9694.** Follow the directions from the prompts. When you order forms, enter the catalog number for the form you need. The items you request will be faxed to you.

Phone. Many services are available by phone.

- *Ordering forms, instructions, and publications.* Call **1–800–829–3676** to order current and prior year forms, instructions, and publications.
- *Asking tax questions.* Call the IRS with your tax questions at **1–800–829–1040.**
- *TTY/TDD equipment.* If you have access to TTY/TDD equipment, call **1–800–829–4059** to ask tax questions or to order forms and publications.
- *TeleTax topics.* Call **1–800–829–4477** to listen to pre-recorded messages covering various tax topics.

Evaluating the quality of our telephone services. To ensure that IRS representatives give accurate, courteous, and professional answers, we evaluate the quality of our telephone services in several ways.

- A second IRS representative sometimes monitors live telephone calls. That person only evaluates the IRS assistor and does not keep a record of any taxpayer's name or tax identification number.
- We sometimes record telephone calls to evaluate IRS assistors objectively. We hold these recordings no longer than one week and use them only to measure the quality of assistance.
- We value our customers' opinions. Throughout this year, we will be surveying our customers for their opinions on our service.

Walk-in. You can walk in to many post offices, libraries, and IRS offices to pick up certain forms, instructions, and publications. Also, some libraries and IRS offices have:

- An extensive collection of products available to print from a CD-ROM or photocopy from reproducible proofs.
- The Internal Revenue Code, regulations, Internal Revenue Bulletins, and Cumulative Bulletins available for research purposes.

Mail. You can send your order for forms, instructions, and publications to the Distribution Center nearest to you and receive a response within 10 workdays after your request is received. Find the address that applies to your part of the country.

- **Western part of U.S.:**
  Western Area Distribution Center
  Rancho Cordova, CA 95743–0001
- **Central part of U.S.:**
  Central Area Distribution Center
  P.O. Box 8903
  Bloomington, IL 61702–8903
- **Eastern part of U.S. and foreign addresses:**
  Eastern Area Distribution Center
  P.O. Box 85074
  Richmond, VA 23261–5074

CD-ROM. You can order IRS Publication 1796, *Federal Tax Products on CD-ROM,* and obtain:

- Current tax forms, instructions, and publications.
- Prior-year tax forms, instructions, and publications.
- Popular tax forms which may be filled in electronically, printed out for submission, and saved for recordkeeping.
- Internal Revenue Bulletins.

The CD-ROM can be purchased from National Technical Information Service (NTIS) by calling **1–877–233–6767** or on the Internet at **www.irs.gov/cdorders.** The first release is available in mid-December and the final release is available in late January.

IRS Publication 3207, *The Business Resource Guide,* is an interactive CD-ROM that contains information important to small businesses. It is available in mid-February. You can get one free copy by calling **1–800–829–3676.**

This appendix contains the statements nonresident alien students must file with Form 8233, *Exemption From Withholding on Compensation for Independent (and Certain Dependent) Personal Services of a Nonresident Alien Individual,* to claim a tax treaty exemption from withholding of tax on compensation for dependent personal services. For treaty countries not listed, attach a statement in a format similar to those for other treaties. See chapter 8 for more information on withholding.

Belgium, Iceland, Japan, Korea, Norway, Poland, and Romania

I was a resident of ______ *[insert the name of the country under whose treaty you claim exemption]* on the date of my arrival in the United States. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.

I am temporarily present in the United States for the primary purpose of studying at ______ *[insert the name of the university or other recognized educational institution at which you study]*.

I will receive compensation for personal services performed in the United States. This compensation qualifies for exemption from withholding of federal income tax under the tax treaty between the United States and ______ *[insert the name of the country under whose treaty you claim exemption]* in an amount not in excess of $2,000 for any tax year. I have not previously claimed an income tax exemption under this treaty for income received as a teacher, researcher, or student before the date of my arrival in the United States.

I will be present in the United States only for such period of time as may be reasonably or customarily required to effectuate the purpose of this visit.

I arrived in the United States on ______ *[insert the date of your last arrival in the United States before beginning study at the U.S. educational institution]*. The treaty exemption is available only for compensation paid during a period of five tax years beginning with the tax year that includes my arrival date.

People's Republic of China

I was a resident of the People's Republic of China on the date of my arrival in the United States. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.

I am present in the United States solely for the purpose of my education or training.

I will receive compensation for personal services performed in the United States. This compensation qualifies for exemption from withholding of federal income tax under the tax treaty between the United States and the People's Republic of China in an amount not in excess of $5,000 for any tax year.

I arrived in the United States on ______ *[insert the date of your last arrival in the United States before beginning study or training]*. I am claiming this exemption only for such period of time as is reasonably necessary to complete the education or training.

Cyprus

I was a resident of Cyprus on the date of my arrival in the United States. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.

I am temporarily present in the United States for the primary purpose of studying at ______ *[insert the name of the university or other recognized educational institution at which you study]*.

I will receive compensation for personal services performed in the United States. This compensation qualifies for exemption from withholding of federal income tax under the tax treaty between the United States and Cyprus in an amount not in excess of $2,000 for any tax year. I have not previously claimed an income tax exemption under that treaty for income received as a student before the date of my arrival in the United States.

I arrived in the United States on ______ *[insert the date of your last arrival in the United States before beginning study at the U.S. educational institution]*. The treaty exemption is available only for compensation paid during a period of five tax years beginning with the tax year that includes my arrival date, and for such additional period of time as is necessary to complete, as a full-time student, educational requirements as a candidate for a postgraduate or professional degree from a recognized educational institution.

Egypt

I was a resident of Egypt on the date of my arrival in the United States. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.

I am temporarily present in the United States for the primary purpose of studying at ______ *[insert the name of the university or other recognized educational institution at which you study]*.

I will receive compensation for personal services performed in the United States. This compensation qualifies for exemption from withholding of federal income tax under the tax treaty between the United States and Egypt in an amount not in excess of $3,000 for any tax year. I have not previously claimed an income tax exemption under that treaty for income received as a teacher, researcher, or student before the date of my arrival in the United States.

I will be present in the United States only for such period of time as may be reasonably or customarily required to effectuate the purpose of this visit.

I arrived in the United States on ______ *[insert the date of your last arrival in the United States before beginning study at the U.S. educational institution]*. The treaty exemption is available only for compensation paid during a period of five tax years beginning with the tax year that includes my arrival date, and for such period of time as is necessary to complete, as a full-time student, educational requirements as a candidate for a postgraduate or professional degree from a recognized educational institution.

Germany

I was a resident of the Federal Republic of Germany on the date of my arrival in the United States. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.

I am temporarily present in the United States as a student or business apprentice for the purpose of full-time study or training at ______ *[insert the name of the accredited university, college, school or other educational institution]*; or, I am temporarily present in the United States as a recipient of a grant, allowance, or award from ______ *[insert the name of the nonprofit organization or government institution providing the grant, allowance, or award]*.

I will receive compensation for dependent personal services performed in the United States. This compensation qualifies for exemption from withholding of federal income tax under the tax treaty between the United States and the Federal Republic of Germany in an amount not in excess of $5,000 for any tax year, provided that such services are performed for the purpose of supplementing funds otherwise available for my maintenance, education, or training.

I arrived in the United States on ______ *[insert the date of your last arrival in the United States before beginning study at the U.S. educational institution]*. The treaty exemption is available only for compensation paid during a period of four tax years beginning with the tax year that includes my arrival date.

Indonesia

I was a resident of Indonesia on the date of my arrival in the United States. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.

I am temporarily present in the United States solely for the purpose of study at ______ *[insert the name of the university or other accredited educational institution at which you study]*; or, I am temporarily present in the United States as a recipient of a grant, allowance or award from ______ *[insert the name of the nonprofit organization or government institution providing the grant, allowance, or award]* for the primary purpose of study, research, or training.

I will receive compensation for services performed in the United States. This compensation qualifies for exemption from withholding of federal income tax under the tax treaty between the United States and Indonesia in an amount not in excess of $2,000 for my tax year, provided such services are performed in connection with my studies or are necessary for my maintenance.

I arrived in the United States on ______ *[insert the date of your last arrival in the United States before beginning study at the U.S. educational institution]*. The treaty exemption is available only for compensation paid during a period of five tax years beginning with the tax year that includes my arrival date.

Morocco

I was a resident of Morocco on the date of my arrival in the United States. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.

I am temporarily present in the United States for the primary purpose of studying at ______ *[insert the name of the university or other recognized educational institution at which you study]*.

I will receive compensation for personal services performed in the United States. This compensation qualifies for exemption from withholding of federal income tax under the tax treaty between the United States and Morocco in an amount not in excess of $2,000 for any tax year. I have not previously claimed an income tax exemption under that treaty for income received as a student before the date of my arrival in the United States.

I arrived in the United States on ______ *[insert the date of your last arrival in the United States before beginning study at the U.S. educational institution]*. The treaty exemption is available only for compensation paid during a period of five tax years, beginning with the tax year that includes my arrival date.

Pakistan

I am a resident of Pakistan. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.

I am temporarily present in the United States solely as a student at ______ *[insert the name of the recognized university, college, or school in the United States at which you study]*.

I will receive compensation for personal services performed in the United States. This compensation qualifies for exemption from withholding of federal income tax under the tax treaty between the United States and Pakistan in an amount not in excess of $5,000 for any tax year.

Philippines

I was a resident of the Philippines on the date of my arrival in the United States. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.

I am temporarily present in the United States for the primary purpose of studying at ______ *[insert the name of the university or other recognized educational institution at which you study]*.

I will receive compensation for personal services performed in the United States. This compensation qualifies for exemption from withholding of federal income tax under the tax treaty between the United States and the Philippines in an amount not in excess of $3,000 for any tax year. I have not previously claimed an income tax exemption under that treaty for income received as a teacher, researcher, or student before the date of my arrival in the United States.

I will be present in the United States only for such period of time as may be reasonably or customarily required to effectuate the purpose of this visit.

I arrived in the United States on ______ *[insert the date of your last arrival in the United States before beginning study at the U.S. educational institution]*. The treaty exemption is available only for compensation paid during a period of five tax years beginning with the tax year that includes my arrival date.

Spain

I was a resident of Spain on the date of my arrival in the United States. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.

I am temporarily present in the United States for the primary purpose of studying or training at ______ *[insert the name of the university or other accredited educational institution at which you study or train]*; or, I am temporarily present in the United States as a recipient of a grant, allowance, or award from ______ *[insert the name of the nonprofit organization or government institution providing the grant, allowance, or award]*.

I will receive compensation for services performed in the United States. This compensation qualifies for exemption from withholding of federal income tax under the tax treaty between the United States and Spain in an amount not in excess of $5,000 for any tax year.

I arrived in the United States on ______ *[insert the date of your last arrival in the United States before beginning study at the U.S. educational institution]*. The treaty exemption is available only for compensation paid during a period of five tax years beginning with the tax year that includes my arrival date.

Trinidad and Tobago

I was a resident of Trinidad and Tobago on the date of my arrival in the United States. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.

I am temporarily present in the United States for the primary purpose of studying at ______ *[insert the name of the university or other accredited educational institution at which you study]*.

I will receive compensation for personal services performed in the United States. This compensation qualifies for exemption from withholding of federal income tax under the tax treaty between the United States and Trinidad and Tobago in an amount not in excess of $2,000 for any tax year. I have not previously claimed an income tax exemption under this treaty for income received as a teacher, researcher, or student before the date of my arrival in the United States.

I will be present in the United States only for such period of time as may be reasonably or customarily required to effectuate the purpose of this visit.

I arrived in the United States on ______ *[insert the date of your last arrival in the United States before beginning study at the U.S. educational institution]*. The treaty exemption is available only for compensation paid during a period of five tax years.

Tunisia

I was a resident of Tunisia on the date of my arrival in the United States. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.

I am temporarily present in the United States for the purpose of full-time study, training, or research at ______ *[insert the name of the university or other accredited educational institution at which you study, train, or perform research]*.

I will receive compensation for services performed in the United States. This compensation qualifies for exemption from withholding of federal income tax under the tax treaty between the United States and Tunisia in an amount not in excess of $4,000 for any tax year.

I arrived in the United States on ______ *[insert the date of your last arrival in the United States before beginning study at the U.S. educational institution]*. The treaty exemption is available only for compensation paid during a period of five tax years beginning with the tax year that includes my arrival date.

This appendix contains the statements nonresident alien teachers and researchers must file with Form 8233, *Exemption From Withholding on Compensation for Independent (and Certain Dependent) Personal Services of a Nonresident Alien Individual,* to claim a tax treaty exemption from withholding of tax on compensation for dependent personal services. For treaty countries not listed, attach a statement in a format similar to those for other treaties. See chapter 8 for more information on withholding.

Denmark and Pakistan

Note: Residents of Denmark should use the following statement only if they are electing to have the old United States–Denmark treaty apply in its entirety for 2001. The new treaty has no exemption specifically for teaching compensation.

I am a resident of ______ *[insert the name of the country under whose treaty you claim exemption]*. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.

I am a professor or teacher visiting the United States for the purpose of teaching at ______ *[insert the name of the educational institution at which you teach]*, which is a recognized educational institution. I will receive compensation for my teaching activities.

The teaching compensation received during the entire tax year (or during the period from _____ to_____) qualifies for exemption from withholding of federal tax under the tax treaty between the United States and ______ *[insert the name of the country under whose treaty you claim exemption]*. I have not previously claimed an income tax exemption under this treaty for income received as a teacher or student before the date of my arrival in the United States.

I arrived in the United States on ______ *[insert the date of your last arrival into the United States before beginning the teaching services for which exemption is claimed]*. The treaty exemption is available only for compensation paid during a period of two years beginning on that date.

Belgium and Japan

I was a resident of ______ *[insert the name of the country under whose treaty you claim the exemption]* on the date of my arrival in the United States. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.

I have accepted an invitation by the U.S. government, or by a university or other recognized educational institution in the United States, to come to the United States for the purpose of teaching or engaging in research at ______ *[insert the name of the educational institution]*, which is a recognized educational institution. I will receive compensation for my teaching or research activities.

The teaching or research compensation received during the entire tax year (or during the portion of the year from _____ to_____) qualifies for exemption from withholding of federal tax under the tax treaty between the United States and ______ *[insert the name of the country under whose treaty you claim exemption]*. I have not previously claimed an income tax exemption under this treaty for income received as a teacher, researcher, or student before the date of my arrival in the United States.

Any research I perform will be undertaken in the public interest and not primarily for the private benefit of a specific person or persons.

I arrived in the United States on ______ *[insert the date of your last arrival in the United States before beginning the teaching or research services for which the exemption is claimed]*. The treaty exemption is available only for compensation received during a period of two years beginning on that date.

People's Republic of China

I was a resident of the People's Republic of China on the date of my arrival in the United States. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.

I am visiting the United States for the purpose of teaching, giving lectures, or conducting research at ______ *[insert the name of the educational institution or scientific research institution at which you teach, lecture, or conduct research]*, which is an accredited educational institution or scientific research institution. I will receive compensation for my teaching, lecturing, or research activities.

The teaching, lecturing, or research compensation received during the entire tax year (or during the period from _____ to_____) qualifies for exemption from withholding of federal tax under the tax treaty between the United States and the People's Republic of China. I have not previously claimed an income tax exemption under that treaty for income received as a teacher, lecturer, researcher, or student before the date of my arrival in the United States.

Any research I perform will be undertaken in the public interest and not primarily for the private benefit of a specific person or persons.

I arrived in the United States ______ *[insert the date of your last arrival in the United States before beginning your teaching, lecturing, or research activities]*. The treaty exemption is available only for compensation received during a maximum aggregate period of three years.

Commonwealth of Independent States (except Kazakstan and Russia)

Note: Residents of Ukraine should use the following statement only if they are electing to have the treaty between the United States and the former Soviet Union apply in its entirety for 2001. The United States–Ukraine treaty has no exemption specifically for teaching, research, or conference compensation.

I am a resident of ______ *[insert name of C.I.S. member]*. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.

I have accepted an invitation by a governmental agency or institution in the United States, or by an educational or scientific research institution in the United States, to come to the United States for the purpose of teaching, engaging in research, or participating in scientific, technical, or professional conferences at ______ *[insert the name of the governmental agency or institution, educational or scientific institution, or organization sponsoring a professional conference]*, which is a governmental agency or institution, an educational or scientific institution, or an organization sponsoring a professional conference. I will receive compensation for my teaching, research, or conference activities.

The teaching, research, or conference compensation received during the entire tax year (or during the period from _____ to_____) qualifies for exemption from withholding of federal tax under the tax treaty between the United States and the former Union of Soviet Socialist Republics. I have not previously claimed an income tax exemption under that treaty for income received as a teacher, researcher, conference participant, or student before the date of my arrival in the United States.

Any research I perform will not be undertaken primarily for the benefit of a private person or commercial enterprise of the United States or a foreign trade organization of ______ *[insert name of C.I.S. member]*, unless the research is conducted on the basis of intergovernmental agreements on cooperation.

I arrived in the United States on ______ *[insert the date of your last arrival in the United States before beginning the teaching, research, or conference services for which exemption is claimed]*. The treaty exemption is available only for compensation received during a period of two years beginning on that date.

Egypt, Hungary, Korea, Philippines, Poland, and Romania

I was a resident of ______ *[insert the name of the country under whose treaty you claim exemption]* on the date of my arrival in the United States. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.

I have accepted an invitation by the U.S. government (or by a political subdivision or local authority thereof), or by a university or other recognized educational institution in the United States for a period not expected to exceed two years for the purpose of teaching or engaging in research at ______ *[insert the name of the educational institution]*, which is a recognized educational institution. I will receive compensation for my teaching or research activities.

The teaching or research compensation received during the entire tax year (or for the portion of the year from ____ to____) qualifies for exemption from withholding of federal tax under the tax treaty between the United States and ______ *[insert the name of the country under whose treaty you claim exemption]*. I have not previously claimed an income tax exemption under this treaty for income received as a teacher, researcher, or student before the date of my arrival in the United States.

Any research I perform will be undertaken in the public interest and not primarily for the private benefit of a specific person or persons.

I arrived in the United States on ______ *[insert the date of your last arrival in the United States before beginning the teaching or research services for which exemption is claimed]*. The treaty exemption is available only for compensation received during a period of two years beginning on that date.

Germany

I am a resident of the Federal Republic of Germany. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.

I am a professor or teacher visiting the United States for the purpose of advanced study, teaching, or research at ______ *[insert the name of the accredited university, college, school, or other educational institution, or a public research institution or other institution engaged in research for the public benefit]*. I will receive compensation for my teaching, research, or study activities.

The compensation received during the entire tax year (or during the period from ______ to______) for these activities qualifies for exemption from withholding of federal tax under the tax treaty between the United States and the Federal Republic of Germany. I have not previously claimed an income tax exemption under that treaty for income received as a student, apprentice, or trainee during the immediately preceding period. (If, however, following the period in which the alien claimed benefits as a student, apprentice, or trainee, that person returned to the Federal Republic of Germany and resumed residence and physical presence before returning to the United States as a teacher or researcher, that person may claim the benefits of this treaty.)

Any research I perform will be undertaken in the public interest and not primarily for the private benefit of a specific person or persons.

I arrived in the United States on ______ *[insert the date of your last arrival into the United States before beginning the services for which the exemption is claimed]*. The treaty exemption is available only for compensation paid during a period of two years beginning on that date.

Greece

I am a resident of Greece. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.

I am a professor or teacher visiting the United States for the purpose of teaching at ______ *[insert the name of the other educational institution at which you teach]*, which is an educational institution. I will receive compensation for my teaching activities.

The teaching compensation received during the entire tax year (or during the period from _____ to_____) qualifies for exemption from withholding of federal tax under the tax treaty between the United States and Greece. I have not previously claimed an income tax exemption under that treaty for income received as a teacher or student before the date of my arrival in the United States.

I arrived in the United States on ______ *[insert the date of your last arrival in the United States before beginning the teaching services for which exemption is claimed]*. The treaty exemption is available only for compensation received during a period of three years beginning on that date.

Iceland and Norway

I was a resident of ______ *[insert the name of the country under whose treaty you claim exemption]* on the date of my arrival in the United States. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.

I have accepted an invitation by the U.S. government, or by a university or other recognized educational institution in the United States for a period not expected to exceed two years for the purpose of teaching or engaging in research at ______ *[insert the name of the educational institution]*, which is a recognized educational institution. I will receive compensation for my teaching or research activities.

The teaching or research compensation qualifies for exemption from withholding of federal tax under the tax treaty between the United States and ______ *[insert the name of the country under whose treaty you claim exemption]*. I have not previously claimed an income tax exemption under this treaty for income received as a teacher, researcher, or student before the date of my arrival in the United States.

Any research I perform will not be undertaken primarily for the private benefit of a specific person or persons.

I arrived in the United States on ______ *[insert the date of your last arrival in the United States before beginning the teaching or research services for which exemption is claimed]*. The treaty exemption is available only for compensation received during a period of two years beginning on that date.

India

I was a resident of India on the date of my arrival in the United States. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.

I am visiting the United States for the purpose of teaching or conducting research at ______ *[insert the name of the university, college, or other recognized educational institution]*. I will receive compensation for my teaching or study activities.

The teaching or research compensation received during the entire tax year (or during the period from ______ to______) for these activities qualifies for exemption from withholding of federal tax under the tax treaty between the United States and India.

Any research I perform will be undertaken in the public interest and not primarily for the private benefit of a specific person or persons.

I arrived in the United States on ______ *[insert the date of your last arrival into the United States before beginning the services for which the exemption is claimed]*. The treaty exemption is available only for compensation paid during a period of two years beginning on that date.

Indonesia

I was a resident of Indonesia on the date of my arrival in the United States. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.

I have accepted an invitation by ______ *[insert the name of the university, college, school, or other similar educational institution]* to come to the United States solely for the purpose of teaching or engaging in research at that educational institution. I will receive compensation for my teaching or research activities.

The teaching or research compensation received during the entire tax year (or during the period from ______ to______) qualifies for exemption from withholding of federal tax under the tax treaty between the United States and Indonesia. I have not previously claimed an income tax exemption under that treaty for income received as a teacher or researcher before the date specified in the next paragraph.

I arrived in the United States on ______ *[insert the date of your arrival into the United States before beginning the teaching or research services for which the exemption is claimed]*. The treaty exemption is available only for compensation paid during a period of two years beginning on that date.

Any research I perform will be undertaken in the public interest and not primarily for the private benefit of a specific person or persons.

Italy

I was a resident of Italy on the date of my arrival in the United States. I am not a U.S. citizen. I have not been accorded the privilege of residing permanently in the United States as an immigrant.

I am a professor or teacher visiting the United States for the purpose of teaching or performing research at ______ *[insert the name of the educational institution or medical facility at which you teach or perform research]*, which is an educational institution or a medical facility primarily funded from governmental sources. I will receive compensation for my teaching or research activities.

The compensation received during the entire tax year (or during the period from _____ to_____) qualifies for exemption from withholding of federal tax under the tax treaty between the United States and Italy. I have not previously claimed an income tax exemption under that treaty for income received as a teacher, researcher, or student before the date of my arrival in the United States.

Any research I perform will be undertaken in the general interest and not primarily for the private benefit of a specific person or persons.

I arrived in the United States on ______ *[insert the date of your last arrival in the United States before beginning the teaching or research services for which exemption is claimed]*. The treaty exemption is available only for compensation received during a period of two years beginning on that date.

Jamaica

I was a resident of Jamaica on the date of my arrival in the United States. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.

I am visiting the United States for the purpose of teaching or conducting research for a period not expected to exceed two years at ______ *[insert the name of the educational institution at which you teach or conduct research]*, which is a recognized educational institution. I will receive compensation for my teaching or research activities.

The teaching or research compensation received during the entire tax year (or during the period from _____ to_____) qualifies for exemption from withholding of federal tax under the tax treaty between the United States and Jamaica. I have not previously claimed an income tax exemption under that treaty for income received as a teacher, researcher, or student before the date of my arrival in the United States.

I arrived in the United States on ______ *[insert the date of your last arrival in the United States before beginning the teaching or research services for which exemption is claimed]*. The treaty exemption is available only for compensation paid during a period of two years beginning on that date.

Luxembourg

I am a resident of Luxembourg. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.

I have accepted an invitation by ______ *[insert the name of the educational institution where you teach or engage in research]*, which is a recognized educational institution, to come to the United States for the purpose of teaching or engaging in research at that institution. I will receive compensation for my teaching or research activities.

The teaching or research compensation received during the entire tax year (or during the period from _____ to_____) qualifies for exemption from withholding of federal tax under the tax treaty between the United States and Luxembourg. I have not previously claimed an income tax exemption under that treaty for income received as a teacher, researcher, or student before the date of my arrival in the United States.

Any research I perform will not be carried on for the benefit of any person using or disseminating the results for purposes of profit.

I arrived in the United States on ______ *[insert the date of your last arrival in the United States before beginning the teaching or research services for which exemption is claimed]*. The treaty exemption is available only for compensation received during a period of two years beginning on that date.

Trinidad and Tobago

I was a resident of Trinidad and Tobago on the date of my arrival in the United States. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.

I have accepted an invitation by the U.S. government, or by a university or other educational institution in the United States, to come to the United States for the purpose of teaching or engaging in research at ______ *[insert the name of the educational institution]*, which is an educational institution approved by an appropriate governmental education authority. No agreement exists between the government of the United States and the government of Trinidad and Tobago for the provision of my services. I will receive compensation for my teaching or research services.

The teaching or research compensation received during the entire tax year (or for the period from _____ to_____) qualifies for exemption from withholding of federal tax under the tax treaty between the United States and Trinidad and Tobago. I have not previously claimed an income tax exemption under that treaty for income received as a teacher, researcher, or student before the date of my arrival in the United States.

Any research I perform will be undertaken in the public interest and not primarily for the private benefit of a specific person or persons.

I arrived in the United States on ______ *[insert the date of your last arrival in the United States before beginning the teaching or research services for which exemption is claimed]*. The treaty exemption is available only for compensation received during a period of two years beginning on that date.

United Kingdom

I was a resident of the United Kingdom on the date of my arrival in the United States. I am not a U.S. citizen. I have not been accorded the privilege of residing permanently in the United States as an immigrant.

I am a professor or teacher visiting the United States for a period of not more than two years for the purpose of teaching or engaging in research at ______ *[insert the name of the educational institution]*, which is a recognized educational institution. I will receive compensation for my teaching or research activities.

The teaching or research compensation received during the entire tax year (or during the period from _____ to_____) qualifies for exemption from withholding of federal tax under the tax treaty between the United States and the United Kingdom. I have not previously claimed an income tax exemption under that treaty for income received as a teacher, researcher, or student before the date of my arrival in the United States.

Any research I perform will be undertaken in the public interest and not primarily for the benefit of any private person or persons.

I arrived in the United States on ______ *[insert the date of your last arrival in the United States before beginning the teaching or research services for which exemption is claimed].* The treaty exemption is available only for compensation received during a period of two years beginning on that date. The entire treaty exemption is lost retroactively if my stay in the United States exceeds two years.

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Tax Publications for Individual Taxpayers

See *How To Get Tax Help* for a variety of ways to get publications, including by computer, phone, and mail.

General Guides

1 Your Rights as a Taxpayer
17 Your Federal Income Tax (For Individuals)
334 Tax Guide for Small Business (For Individuals Who Use Schedule C or C-EZ)
509 Tax Calendars for 2001
553 Highlights of 2000 Tax Changes
910 Guide to Free Tax Services

Specialized Publications

3 Armed Forces' Tax Guide
225 Farmer's Tax Guide
378 Fuel Tax Credits and Refunds
463 Travel, Entertainment, Gift, and Car Expenses
501 Exemptions, Standard Deduction, and Filing Information
502 Medical and Dental Expenses
503 Child and Dependent Care Expenses
504 Divorced or Separated Individuals
505 Tax Withholding and Estimated Tax
508 Tax Benefits for Work-Related Education
514 Foreign Tax Credit for Individuals
516 U.S. Government Civilian Employees Stationed Abroad
517 Social Security and Other Information for Members of the Clergy and Religious Workers
519 U.S. Tax Guide for Aliens
520 Scholarships and Fellowships
521 Moving Expenses
523 Selling Your Home
524 Credit for the Elderly or the Disabled
525 Taxable and Nontaxable Income
526 Charitable Contributions
527 Residential Rental Property
529 Miscellaneous Deductions
530 Tax Information for First-Time Homeowners
531 Reporting Tip Income
533 Self-Employment Tax
534 Depreciating Property Placed in Service Before 1987
537 Installment Sales
541 Partnerships
544 Sales and Other Dispositions of Assets
547 Casualties, Disasters, and Thefts (Business and Nonbusiness)
550 Investment Income and Expenses
551 Basis of Assets
552 Recordkeeping for Individuals
554 Older Americans' Tax Guide
555 Community Property
556 Examination of Returns, Appeal Rights, and Claims for Refund
559 Survivors, Executors, and Administrators
561 Determining the Value of Donated Property
564 Mutual Fund Distributions
570 Tax Guide for Individuals With Income From U.S. Possessions
575 Pension and Annuity Income
584 Casualty, Disaster, and Theft Loss Workbook (Personal-Use Property)
587 Business Use of Your Home (Including Use by Day-Care Providers)
590 Individual Retirement Arrangements (IRAs) (Including Roth IRAs and Education IRAs)
593 Tax Highlights for U.S. Citizens and Residents Going Abroad
594 The IRS Collection Process
595 Tax Highlights for Commercial Fishermen
596 Earned Income Credit (EIC)
721 Tax Guide to U.S. Civil Service Retirement Benefits
901 U.S. Tax Treaties
907 Tax Highlights for Persons with Disabilities
908 Bankruptcy Tax Guide
911 Direct Sellers
915 Social Security and Equivalent Railroad Retirement Benefits
919 How Do I Adjust My Tax Withholding?
925 Passive Activity and At-Risk Rules
926 Household Employer's Tax Guide
929 Tax Rules for Children and Dependents
936 Home Mortgage Interest Deduction
946 How To Depreciate Property
947 Practice Before the IRS and Power of Attorney
950 Introduction to Estate and Gift Taxes
967 IRS Will Figure Your Tax
968 Tax Benefits for Adoption
970 Tax Benefits for Higher Education
971 Innocent Spouse Relief
972 Child Tax Credit
1542 Per Diem Rates
1544 Reporting Cash Payments of Over $10,000
1546 The Taxpayer Advocate Service of the IRS

Spanish Language Publications

1SP Derechos del Contribuyente
579SP Cómo Preparar la Declaración de Impuesto Federal
594SP Comprendiendo el Proceso de Cobro
596SP Crédito por Ingreso del Trabajo
850 English-Spanish Glossary of Words and Phrases Used in Publications Issued by the Internal Revenue Service
1544SP Informe de Pagos en Efectivo en Exceso de $10,000 (Recibidos en una Ocupación o Negocio)

Commonly Used Tax Forms

See *How To Get Tax Help* for a variety of ways to get forms, including by computer, fax, phone, and mail. For fax orders only, use the catalog number when ordering.

Form Number and Title	Catalog Number
1040 U.S. Individual Income Tax Return	11320
Sch A & B Itemized Deductions & Interest and Ordinary Dividends	11330
Sch C Profit or Loss From Business	11334
Sch C-EZ Net Profit From Business	14374
Sch D Capital Gains and Losses	11338
Sch D-1 Continuation Sheet for Schedule D	10424
Sch E Supplemental Income and Loss	11344
Sch EIC Earned Income Credit	13339
Sch F Profit or Loss From Farming	11346
Sch H Household Employment Taxes	12187
Sch J Farm Income Averaging	25513
Sch R Credit for the Elderly or the Disabled	11359
Sch SE Self-Employment Tax	11358
1040A U.S. Individual Income Tax Return	11327
Sch 1 Interest and Ordinary Dividends for Form 1040A Filers	12075
Sch 2 Child and Dependent Care Expenses for Form 1040A Filers	10749
Sch 3 Credit for the Elderly or the Disabled for Form 1040A Filers	12064
1040EZ Income Tax Return for Single and Joint Filers With No Dependents	11329
1040-ES Estimated Tax for Individuals	11340
1040X Amended U.S. Individual Income Tax Return	11360
2106 Employee Business Expenses	11700
2106-EZ Unreimbursed Employee Business Expenses	20604
2210 Underpayment of Estimated Tax by Individuals, Estates, and Trusts	11744
2441 Child and Dependent Care Expenses	11862
2848 Power of Attorney and Declaration of Representative	11980
3903 Moving Expenses	12490
4562 Depreciation and Amortization	12906
4868 Application for Automatic Extension of Time To File U.S. Individual Income Tax Return	13141
4952 Investment Interest Expense Deduction	13177
5329 Additional Taxes Attributable to IRAs, Other Qualified Retirement Plans, Annuities, Modified Endowment Contracts, and MSAs	13329
6251 Alternative Minimum Tax–Individuals	13600
8283 Noncash Charitable Contributions	62299
8582 Passive Activity Loss Limitations	63704
8606 Nondeductible IRAs	63966
8812 Additional Child Tax Credit	10644
8822 Change of Address	12081
8829 Expenses for Business Use of Your Home	13232
8863 Education Credits	25379

Tax Publications for Business Taxpayers

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910 Guide to Free Tax Services

Employer's Guides

15 Circular E, Employer's Tax Guide
15-A Employer's Supplemental Tax Guide
15-B Employer's Tax Guide to Fringe Benefits
51 Circular A, Agricultural Employer's Tax Guide
80 Circular SS, Federal Tax Guide For Employers in the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands
179 Circular PR Guía Contributiva Federal Para Patronos Puertorriqueños
926 Household Employer's Tax Guide

Specialized Publications

225 Farmer's Tax Guide
378 Fuel Tax Credits and Refunds
463 Travel, Entertainment, Gift, and Car Expenses
505 Tax Withholding and Estimated Tax
510 Excise Taxes for 2001
515 Withholding of Tax on Nonresident Aliens and Foreign Corporations
517 Social Security and Other Information for Members of the Clergy and Religious Workers
527 Residential Rental Property
533 Self-Employment Tax
534 Depreciating Property Placed in Service Before 1987
535 Business Expenses
536 Net Operating Losses (NOLs) for Individuals, Estates, and Trusts
537 Installment Sales
538 Accounting Periods and Methods
541 Partnerships
542 Corporations
544 Sales and Other Dispositions of Assets
551 Basis of Assets
556 Examination of Returns, Appeal Rights, and Claims for Refund
560 Retirement Plans for Small Business (SEP, SIMPLE, and Qualified Plans)
561 Determining the Value of Donated Property
583 Starting a Business and Keeping Records
587 Business Use of Your Home (Including Use by Day-Care Providers)
594 The IRS Collection Process
595 Tax Highlights for Commercial Fishermen
597 Information on the United States-Canada Income Tax Treaty
598 Tax on Unrelated Business Income of Exempt Organizations
686 Certification for Reduced Tax Rates in Tax Treaty Countries
901 U.S. Tax Treaties
908 Bankruptcy Tax Guide
911 Direct Sellers
925 Passive Activity and At-Risk Rules
946 How To Depreciate Property
947 Practice Before the IRS and Power of Attorney
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Form Number and Title	Catalog Number
W-2 Wage and Tax Statement	10134
W-4 Employee's Withholding Allowance Certificate*	10220
940 Employer's Annual Federal Unemployment (FUTA) Tax Return*	11234
940-EZ Employer's Annual Federal Unemployment (FUTA) Tax Return*	10983
941 Employer's Quarterly Federal Tax Return	17001
1040 U.S. Individual Income Tax Return*	11320
Sch A & B Itemized Deductions & Interest and Ordinary Dividends*	11330
Sch C Profit or Loss From Business*	11334
Sch C-EZ Net Profit From Business*	14374
Sch D Capital Gains and Losses*	11338
Sch D-1 Continuation Sheet for Schedule D	10424
Sch E Supplemental Income and Loss*	11344
Sch F Profit or Loss From Farming*	11346
Sch H Household Employment Taxes*	12187
Sch J Farm Income Averaging*	25513
Sch R Credit for the Elderly or the Disabled*	11359
Sch SE Self-Employment Tax*	11358
1040-ES Estimated Tax for Individuals*	11340
1040X Amended U.S. Individual Income Tax Return*	11360
1065 U.S. Return of Partnership Income	11390
Sch D Capital Gains and Losses	11393
Sch K-1 Partner's Share of Income, Credits, Deductions, etc.	11394
1120 U.S. Corporation Income Tax Return	11450
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1120S U.S. Income Tax Return for an S Corporation	11510
Sch D Capital Gains and Losses and Built-In Gains	11516
Sch K-1 Shareholder's Share of Income, Credits, Deductions, etc.	11520
2106 Employee Business Expenses*	11700
2106-EZ Unreimbursed Employee Business Expenses*	20604
2210 Underpayment of Estimated Tax by Individuals, Estates, and Trusts*	11744
2441 Child and Dependent Care Expenses*	11862
2848 Power of Attorney and Declaration of Representative*	11980
3800 General Business Credit	12392
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4797 Sales of Business Property*	13086
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5329 Additional Taxes Attributable to IRAs, Other Qualified Retirement Plans, Annuities, Modified Endowment Contracts, and MSAs*	13329
6252 Installment Sale Income*	13601
8283 Noncash Charitable Contributions*	62299
8300 Report of Cash Payments Over $10,000 Received in a Trade or Business*	62133
8582 Passive Activity Loss Limitations*	63704
8606 Nondeductible IRAs*	63966
8822 Change of Address*	12081
8829 Expenses for Business Use of Your Home*	13232