



4152

Electronic Toolkit for Nonresident Alien **VITA/TCE** Sites
Volunteer Income Tax Assistance (**VITA**) / Tax Counseling for the Elderly (**TCE**)

2025 RETURNS



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Taxpayer Services

STAKEHOLDER PARTNERSHIPS,
EDUCATION & COMMUNICATION

Foreign Student and Scholar Volunteer Tax Return Preparation

Publication 4756 (Rev. 6-2025) Catalog Number 53052M Department of the Treasury Internal Revenue Service www.irs.gov

The Foreign Student and Scholar module is part of Link & Learn Taxes (L<).

The traditional VITA/TCE and Foreign Student modules are available on the site. Thus, you should introduce the concept to your students now.

Share key components of L<:

Link & Learn Taxes, IRS-SPEC's e-learning application available 24/7 on www.irs.gov/individuals/link-and-learn-taxes is the key to the future of volunteer return preparation training. It can be used for independent study and certification or as part of a pre or post-classroom training strategy.



e-learning Options

VITA/TCE ***Central***

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- Icebreaker (your choice)
- Teacher and student (general introductions)
- Welcome new and old students and instructors/partners, etc.
- Provide scope of program and objectives
- Introduce students to the products (**Publication 4011, VITA/TCE Foreign Student and Scholar Resource Guide** and **Link & Learn Taxes for Foreign Students**) and purpose.



Fact-Gathering Process

Effective Interviewing

- Steps to Effective Interviews
- Interview Tips
- Form 13614-NR, Nonresident Alien Intake and Interview Sheet
- Form 14446, Virtual VTA/TCE Taxpayer Consent (as necessary according to virtual plan)

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- Restate the importance of getting accurate and appropriate information from the taxpayer.
- Show the students **Form 13614-NR, Nonresident Alien Intake and Interview Sheet** and how it must be used to assist in the interview process.
- Put up two big pieces of paper or use a chalkboard. Label one “Steps” and the other “Tips”. Let the class spend some time brainstorming about what steps and tips they think they might need to assist the foreign students and scholars. List their suggestions on the pieces of paper and be sure to share any relevant issues with your RM and Coalition.
- Encourage the students to keep the interview process in mind as you work through the rest of this course. They should make notes of what they think would be good interview questions to ask the taxpayer and make notes on their F13614-NR & P4011.

Hand out copy of Form 13614-NR

- Note changes and problematic areas (i.e. Identity Theft, months dependents live in U.S., potentially expiring ITINs, etc.)
- Review as necessary throughout the course.



Standards of Conduct

- Volunteers have a responsibility to provide quality service and to uphold ethical standards
- The Standards of Conduct training and certification must be completed by ALL volunteers
- A signed copy of Form 13615 will be required from all volunteers

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Form 13615, Volunteer Standards of Conduct Agreement – VITA/TCE Programs, can be found in the Link & Learn Taxes for Foreign Student module. After successfully completing a test online, your electronic version of this form will appear. Check the box in Link & Learn Taxes acknowledging you have read and completed Form 13615. You can then sign and/or print this completed form to turn into your Site Coordinator.

- Discuss the standards of conduct by reading each standard,
 - Explain the intent of the standards, and
 - Seek comments and understanding from the class.
- The Standards of Conduct is part of the certification process.
- All volunteers must sign the Standards of Conduct (Form 13615) electronically or manually.
- The Site Coordinator, instructor, other authorized partner representative, or SPEC Relationship Manager must review the Form 13615, verify volunteer ID, sign, and maintain a copy.
- The Standards of Conduct Test must be taken and **passed** in order for the Foreign Student Test to register as complete.



Privacy and Confidentiality Guide

- Privacy Act of 1974
- IRC 7216 Disclosure or use of Taxpayer Information
- Taxpayers can report site/volunteer misconduct through VolTax

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Privacy Act of 1974

- A key principle of the Internal Revenue Service is to ensure that public trust is protected and confidentiality is guaranteed.
- [Publication 4299, Privacy and Confidentiality](#), addresses areas where diligence to detail is needed to protect the information provided for tax return preparation.
- When the IRS collects information from volunteers, we must adhere to the Privacy Act of 1974. This Act requires that when IRS asks volunteers for information, we tell them our legal right to ask for the information, why we are asking for it, and how it will be used. This statement was added to applicable Volunteer Return Preparation Program documents.

IRC 7216 Disclosure or Use of Taxpayer Information

All volunteer sites (paper and e-file) using or disclosing taxpayer data for purposes other than current, prior or subsequent year tax return preparation must secure the taxpayer's consent to use and disclose the data.

VolTax

The VolTax poster ([Publication 4836, VITA/TCE Free Tax Programs](#)) must also be posted at the first point of entry for the taxpayers. This provides the contact procedures for the taxpayer to report conduct violations to the IRS.



Volunteer Testing and Certification

Assist only with:

- Returns,
- Forms, and
- Supporting schedules

...for which you are trained and certified

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- The Volunteer Protection Act protects the volunteer **as long as** they are preparing returns within their scope.
- Check locally for any additional volunteer protection legislation.
- Explain to students that preparing returns beyond their training and certification may result in errors and cause difficulties for those we wish to help - delayed returns, audit, etc. and is in violation of the Quality Site Standards
- Encourage students to certify in additional VITA training levels to enhance their knowledge base.
- Encourage students to refer taxpayers with difficult returns or issues beyond their training and certification to the Site Coordinator and/or a professional tax preparer.
- Explain – that “trained and certified” means they met the training requirements to be a volunteer return preparer and passed the required test(s). Also, their sponsor/site coordinator has their required signed certification and verified the volunteer’s identification by a current, government issued ID.
- See your Site Coordinator for the processing of requests for Continuing Education Credits available to certain professionals who volunteer and/or instruct after passing their advanced certification. (14 to 18 CE Credits may be available for those who volunteer or instruct 10+ hours)

RESIDENCY STATUS FOR FEDERAL TAX PURPOSES

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The determination of residency status for federal income tax purposes is the first step in assisting foreign students and scholars.

Reference Materials for this Lesson May Include:

- [Publication 4011, VITA/TCE Foreign Student and Scholar Volunteer Resource Guide](#)
- [Publication 501, Dependents, Standard Deduction, and Filing Information](#)
- [Publication 519, U.S. Tax Guide for Aliens](#)
- [Publication 5087-FS, VITA/TCE Foreign Student and Scholar Resource Guide](#)
- [Form 1040, U.S. Individual Income Tax Return](#)
- [Form 1040-NR, U.S. Nonresident Alien Income Tax Return](#)
- [Form 8840, Closer Connection Exception Statement for Aliens](#)
- [Form 8843, Statement for Exempt Individuals and Individuals with a Medical Condition](#)

All forms and publications cited in this presentation are available in [Publication 5087-FS, VITA/TCE Foreign Student and Scholar Resource Guide](#), and at www.irs.gov, or you may order a copy by calling 1-800-829-3676.



Determination of Residency Status

Do not confuse residency for federal tax purposes with:

- immigration residency
- residency requirements for earning a degree, etc.
- residency requirements for state taxes



Resident or Nonresident

- Substantial Presence Test (SPT)
- Green Card Test
- Residency through Marriage

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[Publication 519, U.S. Tax Guide for Aliens](#), provides additional information about these topics.

There are exceptions to the Substantial Presence Test (SPT) for certain categories of aliens. The student and scholar exceptions are covered later in this presentation.

In some cases, an alien may be both a resident and a nonresident in the same year. This is referred to as a dual-status alien. These returns are **OUT-OF-SCOPE**.

See the following slides for additional information.



Substantial Presence Test

- 31 days during the current tax year
- AND**
- At least 183 days* during the three-year period ending with the current tax year.

* 183 days or more being calculated as follows:

- All days of (nonexempt) presence in the current tax year, plus
- One-third of the (nonexempt) days of presence in the first preceding year, plus
- One-sixth of the (nonexempt) days of presence in the second preceding year.

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The 183 days are calculated as follows:

- All days of (nonexempt) presence in the current year, plus
- One-third of the (nonexempt) days of presence in the first preceding year, plus
- One-sixth of the (nonexempt) days of presence in the second preceding year.

Example: Jules was in H-1 immigration status from June 19, 2021, until April 30, 2024 (when he returned to his home country). He is a resident alien for 2021, 2022, 2023 and 2024 because he meets or exceeds 183 days of presence using the formula as stated above.

As you will see on the subsequent slides, there are exceptions to this test.



Exempt Individuals

- Student on F, J or M Visa
- Teacher on J or Q Visa
- Trainee on J Visa
- **Not** exempt from taxation on U.S. income

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The term “exempt” as used in this lesson means that the alien is exempt from counting their days of presence for the substantial presence test.

Aliens often think their exempt status means that they are not required to pay taxes in the U.S. The exempt status does not mean that the student is exempt from filing or paying federal income taxes.

The exempt status is covered in more depth later in this presentation.



Exempt Student (F, J or M Visa)

- Arrived in the U.S. for primary purpose of studying
- 5 years
- Dependents are generally included
- All must file Form 8843

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While most undergraduate international students are in F immigration status, it is possible for an alien with J or M immigration status to be classified as a student. The determining factor, is what was the primary purpose for the alien's admission to the U.S. (The primary purpose for entering the U.S. must be for study, or as a F-2 or J-2 Spouse/ Dependent of someone who is studying, **not** for research, teaching, or as a visitor.)

Students (and their dependents who derive their immigration status from the student) are generally exempt from counting their days of presence for 5 years. The 5-year period is any part of any 5 different calendar years at any time in their life.

Form 8843, Statement for Exempt Individuals and Individuals with a Medical Condition, must be filed when a student or scholar (and their dependents) are excluding days of presence from the Substantial Presence Test.



Closer Connection Election for Students (OUT-OF-SCOPE)

If the student meets these four requirements:

- 1) does not intend to reside permanently in the United States;
- 2) has substantially complied with the immigration laws and requirements relating to his student nonimmigrant status;
- 3) has not taken any steps to change his nonimmigrant status in the United States toward becoming a permanent resident of the United States; **and**
- 4) has a closer connection to a foreign country than to the United States as evidenced by the factors listed in Treasury Regulation 301.7701(b)-2(d)(1).

The student may elect to continue to be treated as a Nonresident Alien (NRA).



Closer Connection Election for Students (cont.)

To claim this election, the student must also:

- File Form 8840 with a statement indicating that they are making the election and meet the four conditions.
- Send Form 8840 and the statement with Form 1040-NR at the Austin IRS Campus.

This election is **OUT-OF-SCOPE**.

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For information purposes only, this election is **OUT-OF-SCOPE**.

Refer taxpayer for additional information to see [Publication 519, U.S. Tax Guide for Aliens](#)



Establishing a Closer Connection (OUT-OF-SCOPE)

- Present in the U.S. less than 183 days in the current year
- Have a tax home in a foreign country
- File Form 8840
- Can be used by ALL nonresident aliens

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This option is used when the alien is trying to establish that even though the substantial presence test is met, they should still be considered as a nonresident alien because of their ties to their home country.

To claim a closer connection to their home country, the alien must be present for less than 183 days in the current (2024) year. The alien must also have a home in a foreign country for the entire year. Remember this is still **OUT-OF-SCOPE!**

Note: If you are using this presentation to instruct volunteers, you may want to download a copy of [Form 8840, Closer Connection Exception Statement for Aliens](#) from www.irs.gov to share with your class.



Exempt Teacher/Trainee

Teachers and trainees can be exempt from counting their days of presence for two out of six years. In their “look-back” calculation for the six years, they must consider any time spent in an exempt status as a student.

- Any two years out of a six-year period
- Dependents are generally included
- All must file Form 8843

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Teachers and trainees can be exempt from counting their days of presence for two out of six years. In their “look-back” calculation for the six years, they must consider any time spent in a exempt status as a student.

Example: Hans is in J-1 immigration status and started teaching at the local university in March, 2024 He had previously been in the U.S. in F-1 immigration status as a student in 2018–2020. For 2024, Hans is a resident alien since he cannot exclude any of his days of presence from the substantial presence test.

For additional information see [Publication 519, U.S. Tax Guide for Aliens](#).



Green Card Test

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

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When aliens are granted Permanent Resident immigration status, they will receive an identification card from the immigration authorities. Originally, the Permanent Resident cards were green and the term “green card” continues to be used even though these cards are no longer strictly green. (Currently cards being issued after May 1, 2017 will be green with the Statue of Liberty and various other security features.)

The official date of the status change is indicated on their letter from United States Citizenship and Immigration Services (USCIS). This date should be used when calculating resident alien status for tax purposes.



Residency Starting Date

- Passes Substantial Presence Test (SPT)
- Granted permanent residence status or green card test
- When **both** apply, use the earlier of the two dates

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When the alien is determined to be a resident by application of the Substantial Presence Test (SPT), their residency starting date for federal income tax purposes is the first day of the year that the SPT is passed.

If the alien is a resident for federal income tax purposes because they have gained Permanent Resident (PR) immigration status, their residency starting date is the first day of their PR status.

For more information on this topic, see [Publication 519, U.S. Tax Guide for Aliens](#).



Residency through Marriage

Nonresident alien spouse can be treated as a resident if married to a resident alien or US citizen

- Required to file jointly
- Must report world-wide income

This election is **OUT-OF-SCOPE** for the Foreign Student and Scholar certification.

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If the nonresident is married to a resident or citizen, the couple can make an election to file a joint return. This means that the nonresident spouse will be considered a resident for federal income tax purposes **from that point forward**.

Once the election is made, the spouse can file as a resident alien even when filing Married Filing Separately in subsequent years.

Note: Nonresident aliens who are married to other nonresident aliens cannot file a joint tax return. This will be discussed later in this presentation.

For more information on this topic, see [Publication 519, U.S. Tax Guide for Aliens](#). Chapter One

FILING REQUIREMENTS & WHAT TO FILE

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References for this lesson may include:

- Publication 4011, VITA/TCE Foreign Student and Scholar Volunteer Resource Guide
- Publication 17, Your Federal Income Tax for Individuals
- Publication 501, Exemptions, Standard Deduction, and Filing Information
- Publication 519, U.S. Tax Guide for Aliens
- Publication 4152, Electronic Toolkit for Nonresident Alien VITA/TCE Sites
- Publication 5087-FS, VITA/TCE Foreign Student and Scholar Resource Guide
- Form W-2, Wage and Tax Statement
- Form 1040-NR, U.S. Nonresident Alien Income Tax Return
- Form 1042-S, Foreign Person's U.S. Source Income Subject to Withholding
- Form 8843, Statement for Exempt Individuals and Individuals with a Medical Condition

All forms and publications cited in this presentation are available in [Publication 5087-FS, VITA/TCE Foreign Student and Scholar Resource Guide](#), and at www.irs.gov, or you may order a copy by calling 1-800-829-3676.



Who Must File?

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

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Some students and scholars think that their tax liability has been satisfied because money was withheld from their pay.

Some students and scholars come from a country where the government tells the taxpayers how much to pay and when to pay it. Some countries have a per capita tax in place of an income tax.



Resident Aliens

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

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Aliens who are determined to be residents for federal income tax purposes will file the same type of return as a U.S. citizen.

Publication 17, Your Federal Income Tax for Individuals, is a comprehensive reference book for the rules that apply to U.S. citizens and resident aliens.

Since resident aliens are treated the same as citizens for tax purposes, they can receive tax assistance from several sources including:

- www.irs.gov
- Volunteer Income Tax Assistance sites (the resident alien can find the closest site's information at IRS.gov)
- Professional tax preparers
- Tax software (Free File software is available through the IRS.gov homepage for most taxpayers)



Dual Status Aliens

- Taxpayer has two residency statuses during the same tax year
- Must file two returns
- Allocate income
- Too complex for this training
- Publication 519

This is **OUT-OF-SCOPE**.

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It is possible for a taxpayer to have more than one residency status for federal income tax purposes in the same tax year. This creates a dual-status situation. [Publication 519, U.S. Tax Guide for Aliens](#), provides a sample of a dual-status taxpayer. The taxpayer generally must file both a [Form 1040, U.S. Individual Income Tax Return](#) and a [Form 1040-NR, U.S. Nonresident Alien Income Tax Return](#). The taxpayer must allocate income and expenses based on the time spent in each status. This can be complex. The preparation of dual-status returns is not covered in the VITA/TCE program. Suggest that the taxpayer seek a professional tax preparer for assistance.

OUT-OF-SCOPE



How Nonresident is Different

- Most Credits may **not** be available (*i.e. EITC, American Opportunity Credit, etc.*)
- Generally, pay tax only on US-source income
- Interest may be tax free
- Two married Nonresidents cannot file jointly

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Nonresident aliens are not able to claim most of the tax credits. Since most nonresident aliens can't claim their children as dependents, the credits related to children often do not apply. Some credits, such as the Earned Income Tax Credit, and American Opportunity Credit specifically state that they are not available for nonresident aliens. [Publication 4152, Electronic Tool-kit for Nonresident Alien VITA Sites](#), contains a comprehensive segment on the availability of tax credits for nonresident aliens.

Alien status for federal income tax purposes determines which income the alien must include on the U.S. tax return. The alien status will also affect filing status and the eligibility of tax credits.

Generally, nonresident aliens pay tax on their U.S. source income only. They are not required to report earnings and profits from abroad.

In the case of nonresident aliens, some of their U.S. sourced interest income may not be taxable. See [Publication 519, U.S. Tax Guide for Aliens](#) for additional information.

Nonresident aliens who are married to other nonresident aliens cannot file a joint tax return. However, if one of the spouses is a citizen or resident alien, the nonresident spouse can elect to be treated as a resident and file a joint return.



How Nonresident is Different (cont.)

- Standard deduction not allowed
(except as allowed by treaty for students from India)

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Generally, a nonresident alien cannot claim an exemption for their spouse or dependents. This is explained further in the lesson on Family Issues of this presentation. Currently, no exemption amounts are given for personal exemptions through 2025.

The standard deduction is not available for nonresident aliens, except for students from India. Other nonresident aliens must itemize their deductions. Additional information is on the following slide.

For more information, see [Publication 519, U.S. Tax Guide for Aliens](#), Chapter 5, Worksheet 5-1, for instructions on both calculating the deduction and the verbiage required to be written next to the "itemized deduction" line on the tax return.



Nonresident Itemized Deductions

Itemized deductions limited to:

- State and local taxes withheld (\$10,000 limit)
- Contributions to U.S. charities

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Most nonresident aliens must itemize their deductions because they cannot claim the standard deduction (except students from India). [Publication 519, U.S. Tax Guide for Aliens](#) explains what types of expenses the nonresident can include in their itemized deductions.

Casualty and Theft Losses are **OUT-OF-SCOPE** for the VITA/TCE Foreign Student and Scholar program.



Nonresident Alien (NRA) Filing Requirements

Who?

- All exempt F, J, M, and Q status holders must file:
 - Form 8843 to substantiate non-residence, and
 - Possibly a tax return

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It is important to stress that all nonresident aliens who are excluding days of presence from the substantial presence test must file a [Form 8843, Statement for Exempt Individuals and Individuals with a Medical Condition](#) even if they had no income.

Even though there may not be a legal requirement to file, it might be in the taxpayer's best interest to file in order to get any refund that they might be entitled to receive.



Nonresident Alien (NRA) Filing Requirements (cont.)

What to File

- **Form 8843**, *Statement for Exempt Individuals and Individuals with a Medical Condition* (**mandatory** for all nonresidents), **and possibly**
- **Form 1040-NR**, *U.S. Nonresident Alien Income Tax Return*

The filing requirement amount for nonresident aliens is generally the personal exemption amount for the tax year (which is zero, through 2025). So currently, any amount of taxable income will trigger a filing requirement.



Nonresident Alien (NRA) Filing Requirements (cont.)

When to File

- Tax returns by April 15th of the year following the close of the tax year. (Form 1040-NR)
- Form 8843 only by June 15th of the year following the close of the tax year.

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The due date for the return is the 15th day of the fourth month following the end of the tax year.

The deadline for nonresidents who are filing only [Form 8843, Statement for Exempt Individuals and Individuals with a Medical Condition](#) is the 15th day of the sixth month following the end of the tax year. If submitting only a Form 8843, make sure that the nonresident signs page 2 of the form.

If the 15th falls on a Saturday, Sunday, or legal holiday, the return is due the next business day. (April 15th & June 15th)

The income tax return **must**:

- Be signed
- Be filed timely to avoid any penalties
- Have the reporting documents (W-2s, 1042-Ss, and 1099s) attached
- Be prepared using U.S. dollars as the currency denomination

The return **does not** have to be:

- Notarized
- Mailed certified, registered or by a private mail service
- Mailed in any specific type of envelope
- Witnessed

The return **should**:

- Include payment or schedule a direct debit or other payment plan before the due date, if there is a balance due
- Many Forms 1040-NR and accompanying Form 8843 can now be e-filed



Nonresident Alien (NRA) Filing Requirements (cont.)

Where to File

If you are not enclosing a payment:

Department of the Treasury
Internal Revenue Service Center
Austin, TX 73301-0215
USA

If you are enclosing a payment:

Internal Revenue Service
P.O. Box 1303
Charlotte, N.C. 28201-1303
USA

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A street address is not used by the IRS. (They have their own ZIP Code.)

A paper return must be signed and mailed in, if unable to efile.

No special mailing needed. Just put in an appropriate size envelope and add the required first-class postage.



Consequences of Failure to File

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

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VITA/TCE volunteers are not expected to know and should not attempt to communicate the immigration laws as part of the VITA program.

THE EFFECT OF TAX TREATIES

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References for this lesson may include:

- Publication 4011, VITA/TCE Foreign Student and Scholar Resource Guide
- Publication 901, U.S. Tax Treaties
- Publication 597, Information on the U.S. – Canadian Income Tax Treaty
- Form 1042-S, Foreign Person's U.S. Source Income Subject to Withholding
- Form 8233, Exemption from Withholding on Compensation for Independent Personal Services of a Nonresident Alien Individual

All forms and publications cited in this presentation are available in [Publication 5087-FS, VITA/TCE Foreign Student and Scholar Resource Guide](#), and at www.irs.gov.



Treaty Overview

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

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Publication 4011 has the basic treaty information for those eligible for assistance through the VITA/TCE Foreign Student and Scholar Program.

Publication 901 has further details pertaining to the treaty provisions. When using Publication 901, make sure that you are in the correct section. (The treaty tables and article references needed to claim treaty provisions are now available online at www.irs.gov/pub/irs-lbi/tax-treaty-table-2.pdf, the table is no longer printed in the Publication 901.)

Be aware that some treaties may lose their benefit retroactively if the time or amount stated in the treaty is exceeded. (See Publication 4011)

The full language of the treaties can also be found on www.irs.gov. However, it can be challenging to read the actual treaty and apply it to the taxpayer you are assisting.

It is usually easier to use the Publication 901.

If the topic or treaty provision is unclear, refer the taxpayer to a professional tax preparer. (**OUT-OF-SCOPE**).



Points to Consider

- Purpose of visit to the U.S.
- Current and past VISA status
- Tax residency immediately prior to coming to U.S.
- Type of Income

See [Publication 901, U.S. Tax Treaties](#).



Form 1042-S Common Income Codes

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

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All income on [Form 1042-S, Foreign Person's U.S. Source Income Subject to Withholding](#), will have an income code. This slide lists only some of the most frequent codes for students and scholars.

Scholarship income that is **qualified** is no longer required to be listed on a **Form 1042-S**. The only scholarship that should be listed on the Form 1042-S is for nonqualified amounts that are subject to U.S. tax (unless there is a treaty exemption).

If a **W-2** is issued instead of a **Form 1042-S**, this does not prevent the student from claiming a tax treaty benefit on the tax return.

For additional information, see [Publication 901, U.S. Tax Treaties](#).



Unique Treaty Provisions

- India Students
- Canada
- People's Republic of China

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Students from India can claim the standard deduction.

In general, Canadians can exclude their earned income if they earn not more than \$10,000. If they earn over \$10,000, they can't exclude any of the income.

The treaty for students who are residents of the People's Republic of China has no limit on the number of years the treaty can be used. So, you may find People's Republic of China treaty benefits claimed on Form 1040-NR as a nonresident or the Form 1040 as a resident alien (**OUT-OF-SCOPE**).

For additional information, see [Publication 901, U.S. Tax Treaties](#).

FAMILY ISSUES

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References for this lesson may include:

- Publication 4011, VITA/TCE Foreign Student and Scholar Resource Guide
- Publication 501, Exemptions, Standard Deduction and Filing Information
- Publication 519, U.S. Tax Guide for Aliens
- Form W-7 or W-7 (sp), Application for IRS Individual Taxpayer Identification Number
- Form 8843, Statement for Exempt Individuals and Individuals with a Medical Condition

All forms and publications cited in this presentation are available in [Publication 5087-FS, VITA/TCE Foreign Student and Scholar Resource Guide](#), and at www.irs.gov.



Family Issues

- Generally Nonresident Aliens do not have qualifying dependents
- Exceptions for nonresidents from Canada, India, Republic of Korea (S. Korea) and Mexico

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In general, nonresident aliens do not have qualifying dependents . There are exceptions for residents of Canada, Mexico, Republic of Korea (S. Korea), and India. For additional information, see [Publication 519, U.S. Tax Guide for Aliens](#) and [Publication 501, Exemptions, Standard Deduction and Filing Information](#).

Any dependents that the nonresident can claim must have a Taxpayer Identification Number (TIN). If the dependent is not eligible for a Social Security Number, they (the dependent) must apply for an Individual Tax Identification Number (ITIN). The Tax Identification Number, must be obtained before the due date of the return, including extensions.

Form W-7 or **W-7 (sp)**, **Application for IRS Individual Taxpayer Identification Number** is used to apply for an ITIN. You may download a copy of the most current version of the form from www.irs.gov.

More information on ITINs can be found in [Publication 1915, Understanding Your Individual Taxpayer Identification Number \(ITIN\)](#).

Note: Individual Taxpayer Identification Numbers (ITINs) will be deactivated if not used on a federal income tax return for any year during a period of three consecutive tax years. If deactivated, the taxpayer will need to renew using [Form W-7](#).



Filing Status & Marital Status

- Single
- Married Filing Separately
- Exceptions for nonresidents from Canada, Mexico, India and Republic of Korea (S. Korea)
- Qualifying Surviving Spouse

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Unmarried nonresident aliens generally use the **Single** filing status.

Some aliens may question if they can use the head of household status since they are the head of their household.

Nonresident aliens cannot file as head of household.

(Resident aliens can use the head of household filing status if all requirements are met.)

Nonresident aliens who are married to other nonresident aliens cannot file a joint return.

Exceptions apply for nonresidents from Canada, Mexico, Republic of Korea (S. Korea) and India.

If a nonresident alien was previously electing to file jointly with a U.S. spouse, and that spouse died during the year, the nonresident alien is still considered married for the whole year for filing status purposes. In the year the spouse dies, the taxpayer may still elect to file jointly (estate permitting). If the taxpayer has qualifying dependents, they may qualify to file as a Qualifying Surviving Spouse for the next 2 years.

See [Publication 519, U.S. Tax Guide for Aliens for additional inform](#)



Filing Status & Dependents

- Even though the nonresident alien may have family members in the U.S., they generally will not qualify as dependents for tax credits.

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Even though the alien may have family members in the U.S., they generally can't take a tax deduction or tax credit for them as long as they are considered nonresidents for federal income tax purposes.

Some exceptions apply for nonresidents from Canada, Mexico, Republic of Korea (S. Korea) and India.

For additional information see [Publication 519, U.S. Tax Guide for Aliens](#).



Spouse, Children, and Other Accompanying Family Members

- Each file their own Form 8843
- All U.S. source income must be reported

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Individuals in F-2 and J-2 immigration status, who are excluding days of presence from the Substantial Presence test must file [Form 8843, Statement for Exempt Individuals and Individuals with a Medical Condition](#) every year.

All U.S. source income must be reported on [Form 1040-NR, U.S. Nonresident Alien Income Tax Return](#).

Note: This *includes* income that was earned in violation of immigration or other laws.

TAXATION OF NONRESIDENTS

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References for this lesson may include:

- Publication 4011, VITA/TCE Foreign Student and Scholar Volunteer Resource Guide
- Publication 519, U.S. Tax Guide for Aliens
- Publication 901, U.S. Tax Treaties
- Publication 970, Tax Benefits for Education
- Form 1040-NR, U.S. Nonresident Alien Income Tax Return
- Form 1099-INT, Interest Income

All forms and publications cited in this presentation are available in [Publication 5087-FS, VITA/TCE Foreign Student and Scholar Resource Guide](#), and at www.irs.gov.



Taxation of Nonresidents

- Source of Income
- Type of Income

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In general, nonresidents are taxed only on their U.S. sourced income.

Publication 519, U.S. Tax Guide for Aliens contains information on how to determine the source and taxability of income. There is also some good information about source of income on www.irs.gov.



Interest Income

- Is usually excluded from income

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Interest Income

Interest earned on deposits in U.S. accounts that are not connected to a U.S. trade or business may be excluded from U.S. taxation. It is considered taxable income from the taxpayer's country of residence and not U.S. Source income. See [Publication 519, U.S. Tax Guide for Aliens](#), for additional information.

Some U.S. banks and other financial institutions still issue a [Form 1099-INT, Interest Income](#), to nonresident aliens. If the nonresident alien meets the conditions for the interest to be nontaxable in the U.S., they do not need to include the amount from the **Form 1099-INT** in their income calculation.



Qualified Scholarships/Fellowships

- Candidate for a Degree
- Qualified Expenses
 - tuition and mandatory fees
 - required fees, books, supplies & equipment

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Qualified scholarships and fellowships are usually not taxable. If the recipient has to perform personal services to receive the scholarship or fellowship, the amount that represents compensation should be counted as earned income.

[Publication 970, Tax Benefits for Education](#) for additional information on qualified scholarships.

Note: Scholarships and fellowships that cover room and board are *not* qualified and **must** be included in income unless a treaty provision applies.



Other Income

- Income Not Effectively Connected
 - 30% (or reduced treaty rate, if applicable)

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Income that is not connected to the nonresident's purpose for entering the U.S. is usually taxed at a flat rate of 30%. Some countries have treaty provisions that prescribe a lower tax rate on capital gains from U.S. stock sales.

If the taxpayer has no treaty-provided reduced rates for dividends (reduce rates are **OUT-OF-SCOPE**) or if the taxpayer was not a large shareholder and had sales of \$10,000 or less, a Foreign Student and Scholar VITA/TCE site may prepare the return if the volunteer and quality reviewers have also passed the advanced module on Link & Learn Training. You should reference the appropriate tax treaty and [Publication 4011](#) to ensure preparation is within scope.)

Example: A student from South Africa earned \$100 in dividends from an investment she made in a U.S. brokerage account. The dividends will be reported on Form 1040-NR, U.S. Nonresident Alien Income Tax Return. She does not have a treaty benefit for this type of income. The student will pay \$30 of U.S. income tax on this investment income.

FORM 8843 FILING REQUIREMENT

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References for this lesson may include:

- Publication 4011, VITA/TCE Foreign Student and Scholar Resource Guide
- Publication 519, U.S. Tax Guide for Aliens
- Form 8843, Statement for Exempt Individuals and Individuals with a Medical Condition

All forms and publications cited in this presentation are available in [Publication 5087-FS, VITA/TCE Foreign Student and Scholar Resource Guide](#), and at www.irs.gov.



Form 8843

- Name & TIN—must match the identification documents of the taxpayer
- U.S. address only if not filing with 1040-NR

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Form 8843, Statement for Exempt Individuals and Individuals with a Medical Condition can be filed without a Taxpayer Identification Number, if it is not being filed with a **Form 1040-NR**. However, if the nonresident has a number, it must be used.

Note: A TIN can be either an Individual Tax Identification Number (ITIN) or a Social Security Number (SSN). If the taxpayer has both, use the SSN.



Form 8843 (cont.)

- Part II, Scholars
- Part III, Students
- Signature required only if not filed with 1040-NR

It is up to the students and scholars to know what to include in Part II or Part III. However, you may want to put the name and phone number of the Foreign Student Advisor of your institution in your reference materials.

Note: Encourage the students and scholars to make a copy of this form for their records before sending it in.

FINISHING THE RETURN

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References for this lesson may include:

- Publication 4011, VITA/TCE Foreign Student and Scholar Resource Guide
- Publication 970, Tax Benefits for Education
- Form W-2, Wage and Tax Statement
- Form 1042-S, Foreign Person's U.S. Source Income Subject to Withholding
- Form 9465, Installment Agreement Request
- Form 8888, Allocation of Refund

All forms and publications cited in this presentation are available in [Publication 5087-FS, VITA/TCE Foreign Student and Scholar Resource Guide](#), and at www.irs.gov.



Finishing the Return

FIRST, Cover with the taxpayer,

- Direct Deposit
- Split refund
- Method of Payment (if balance due)
- QUALITY REVIEW the return

▪ **THEN**,

- Taxpayer signs the form(s)

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100% of returns prepared **must** be Quality Reviewed using **Form 13614-NR** and **Publication 4011** to ensure the return is within scope and is correct and complete.

Note: VITA/TCE volunteers *do not* sign the form but ensure that the SIDN and site name are properly listed. Make sure the taxpayer reads and understands the perjury statement on the return before signing.

Form 8879 should be signed by the taxpayer for e-filed returns.

Paper returns that are not signed by the taxpayer will be returned to the taxpayer. This can result in a delay in processing the paper return.

Encourage nonresidents to consider using direct deposit. Some students and scholars move frequently but maintain the same bank account. Direct deposit is an easy and secure way to receive the refund, if any. If they choose direct deposit of their refund, they may be able to split the refund into more than one account by checking the appropriate box and attaching **Form 8888**.

Payments in full can be made by the due date for the return, by direct pay, card or digital wallet, or an IRS Online Account.

Finishing the Return (cont'd)

If taxpayers have a balance due and cannot pay in full there are options available to assist them in paying their taxes. If taxpayers can pay within 30-120 days, recommend that they contact the IRS upon receipt of their first bill *before* requesting any installment agreement. An IRS installment agreement can be requested by completing [Form 9465, Installment Agreement Request](#), or visiting [IRS.gov](https://www.irs.gov). While an installment agreement allows taxpayers to pay the balance due over a period of time, it does not stop the accumulation of interest and any applicable penalties. There are fees that may apply of up to \$225. See [Form 9465](#) instructions for the various fees. Credit card, check, money order, direct debit, and payroll deduction are all optional payment methods. A reduced fee may be applicable for some taxpayers, please see [Form 13844](#), Application for Reduce User Fee For Installment Agreements.



Finishing the Return (cont.)

- Attach W-2s and 1042-S's
- Advise the taxpayer to keep copies
- Mail 8843 and tax return together

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Forms W-2, Wage and Tax Statement and Forms 1042-S, Foreign Person's U.S. Source Income Subject to Withholding should be attached to the left-hand side of the first page of the paper return. The best way to attach the forms is with staples. Do not use paper clips.

Note: The student or scholar *should* keep a copy of all items that are sent in, **for at least 3 years**.

E-filed returns – a copy of the return including all attachments and Forms W-2 should be maintained by the taxpayer.

SOCIAL SECURITY TAX MATTERS

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References for this lesson may include:

- Publication 4011, VITA/TCE Foreign Student and Scholar Resource Guide
- Publication 519, U.S. Tax Guide for Aliens
- Form 843, Claim for Refund and Request for Abatement.

All forms and publications cited in this presentation are available in [Publication 5087-FS, VITA/TCE Foreign Student and Scholar Resource Guide](#), and at www.irs.gov.



Social Security Tax

- Exemption from FICA (Social Security and Medicare taxes)
- If resident for tax purposes, usually subject to FICA taxes

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Generally, services performed by a nonresident alien temporarily in the United States as a nonimmigrant in (F), (J), (M), or (Q) immigration status 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. For additional information, see [Publication 519, U.S. Tax Guide for Aliens](#).

Any student (regardless of residency or citizenship status) who is enrolled and is regularly attending classes at a school may be exempt from Social Security and Medicare taxes on pay for **services performed for that school**.



Social Security Tax (cont.)

- Individuals in F-2 or J-2 immigration status are **never** exempt from FICA (Social Security and Medicare Taxes)

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The FICA exemption does not extend to family members or others who derive their immigration status from a nonresident student or scholar.

In general, immigration laws do not allow an individual in F-2 immigration status to work while in this country.

An individual in J-2 immigration status may receive permission from the immigration authorities to work while in this country. Even though they may be a nonresident for tax purposes, they are still subject to the FICA tax.



FICA Refunds

When withheld in error:

- FIRST, ask the employer to refund
- If not refunded by the employer, use IRS Form 843 to request a refund

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If Social Security tax and Medicare were withheld in error, the student or scholar must first contact the employer, who withheld the taxes, for reimbursement. If the employer cannot or will not refund the FICA withholdings, request a letter from them stating why. (An attempt should be made, if possible.) If you are unable to get a refund from the employer, file a claim for refund with the Internal Revenue Service on [Form 843, Claim for Refund and Request for Abatement](#) along with the attachments outlined in [Publication 519](#) and addressed on [Form 8316, Information Regarding Request for Refund of Social Security Tax Erroneously Withheld on Wages Received by a Nonresident Alien](#) on an F, J, M, or Q Type Visa.

[Publication 519, U.S. Tax Guide for Aliens](#) contains information on what should be attached to the claim form.

Also refer to the lesson on Social Security Taxes for Foreign Students and Scholars in the updated Link & Learn training.

FICA Refunds (cont'd)

File the [Form 843](#) claim, with attachments, including:

- [Form W-2](#) for the year in question
- [Form 8316](#) or signed statement addressing *all* the items listed on [Form 8316](#)
- Employer's letter (if acquired) – keeping a copy for your records.
- Copy of Visa
- Copy of USCIS [Form I-94, Arrival/Departure Record](#)
- Copy of the current [Form 1040-NR](#) filed with the IRS

Send all the above to:

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
OGDEN, UT 84201-0038
U.S.A.

Note: Completion of the [Form 843](#) is **OUT-OF-SCOPE** for the VITA/TCE program. However, volunteers may provide the form and basic information regarding the process to the taxpayer.

STATE INCOME TAX ISSUES

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Income tax treaties do not cover state income taxes. However, many states define income based on federal taxable income or federal adjusted gross income.

Please check with the state income tax authorities for further information.



State Income Tax Issues

- Although many states base their state returns on the federal adjusted gross income, some states DO NOT honor federal income tax treaty provisions.
- Contact your state's tax department for guidance

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Most states have a website that provides information about the state income tax system. You may visit www.irs.gov/businesses/small-businesses-self-employed/state-government-websites for links to the state income tax web pages. Some states also provide e-filing methods for the state return online.

You can **contact the state's income tax authorities** to learn more about completing the required state income tax return.



Questions?

- Refer to the publications and forms that have been mentioned in this presentation.
- www.irs.gov

All forms and publications cited in this presentation are available in [Publication 5087-FS, VITA/TCE Foreign Student and Scholar Resource Guide](#), and on the Internal Revenue Service's website at: www.irs.gov.



THANK YOU
FOR AGREEING TO HELP OTHERS
WITH THEIR TAX RETURNS.

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Stress again confidentiality, privacy, and security, as well as *all* of the Quality Site Requirements.

The logo features a red vertical bar on the left side of a dark blue rectangle. The text is centered in the blue area.

DEPARTMENT OF THE TREASURY
Internal Revenue Service
www.irs.gov

Section 2 – Tax Credits for Aliens

Who is Eligible?

To claim a tax credit, the nonresident alien must have effectively connected income. The credits do not offset “Other Taxes”. The information in this document contains information about Tax Credits for Aliens as follows:

Quick Reference for Common Credits	2-2
Foreign Tax Credit	2-3
Credit for Child and Dependent Care Expenses	2-4
Retirement Savings Contributions Credit	2-5
Child Tax Credit	2-6
Credit for Other Dependents	2-6
Other Credits – Mortgage Interest Credit, Credit for Prior Year Minimum Tax, Qualified Electric Vehicle Credit, General Business Credit, Empowerment Zone Employment Credit, Nonconventional Source Fuel Credit	2-6

Other credits are available to nonresidents aliens only if they **are eligible and choose to file a joint return**, and elect to be treated as a resident alien with their spouse who is a U.S. citizen or resident. Remember, a single nonresident alien generally *cannot* elect to file as a resident alien. The most common credits available to resident aliens include:

- 1. Education Credits** – If the taxpayer, spouse or dependents had qualifying tuition and related expenses they may be eligible for an education credit on a 1040. See [Publication 970, Tax Benefits for Education](#), for more information.
- 2. Earned Income Tax Credit** – Low income working people, especially families with children, may be eligible for the Earned Income Tax Credit if filing on a 1040.. Both spouses and any qualifying children must have a Social Security Number that allows them to work in the United States. See [Publication 596, Earned Income Credit](#), for more details or log onto www.irs.gov.

Form 1040-NR Credits – Quick Reference

Credit	Income Requirements for Nonresident Alien	Country of Residence	Filing Status	Other Requirements that may Eliminate Nonresident Aliens
Foreign Tax Credit	Effectively Connected-Foreign Source Income	Any	Any	None
Child and Dependent Care Credit	Effectively Connected Income	Canada, Mexico, South Korea, Students and Apprentices from India	Single or Qualifying Surviving Spouse	Taxpayer must maintain a home w/ dependent South Korea, Indian dependents must be child
Retirement Savings Contribution Credit	Effectively Connected Income	Any	Any	Must be working and saving for retirement in the U.S. May not be a full-time student
Child Tax Credit and Additional Child Tax Credit	Effectively Connected Income	Canada, Mexico, South Korea, Students and Apprentices from India	Any	Child must be U.S. resident and a dependent
Credit for Other Dependents	Effectively Connected Income	Any	Any	Must have ITIN for Qualifying dependent by due date of the return and not qualified for Child Tax Credit.

Generally, a married person filing a separate return may not claim these credits.

Note: Residents of **Canada, Mexico or the Republic of Korea (S. Korea)** who meet the tests for “Married Persons Living Apart” may be able to use the Single filing status.

For additional information on credits, see [Publication 519, U.S. Tax Guide for Aliens](#).

Reminder: Additional VITA certification is required to address many of these credits.

Foreign Tax Credit – OUT-OF-SCOPE

Nonresident aliens may qualify for the Foreign Tax Credit if the income being taxed is from **foreign sources** that is **effectively connected with a trade or business in the U.S.** and will be included on the Form 1040-NR.

Since non-resident aliens are not taxed on foreign income that is not effectively connected, foreign taxes paid on that income is not eligible for the credit.

For more information on the Foreign Tax Credit, see [Publication 514, Foreign Tax Credit for Individuals](#). This is **OUT-OF-SCOPE** for the Foreign Student and Scholar VITA/TCE program.

Credit for Child and Dependent Care Expenses

The credit is a percentage of the amount paid to care for a qualifying person while the taxpayer worked or looked for work.

Nonresident aliens are generally not eligible for this credit. To be eligible, all the following conditions must be met:

- The nonresident alien must have an eligible dependent as a qualifying person (Canada, Mexico, Republic of Korea (S. Korea), and India)
- Filing status is Single or Qualifying Surviving Spouse
- The nonresident alien has effectively connected earned income.
- The taxpayer kept up a home where he/she lived with the qualifying person for more than half of the year.

Married nonresident aliens will be able to claim the credit only if they choose to file a joint return, and elect to be treated as a resident alien, with a U.S. Citizen or resident. A married person filing a separate return may not claim the credit. However, U.S. residents married to nonresident aliens may meet the tests for “Married Persons Living Apart” and other requirements may be able to use the head of household filing status.

Disabled Spouse – Only a married nonresident alien electing to be treated as a resident alien on a joint return with a U.S. citizen or resident would be able to claim the credit based on expenses for a disabled spouse. Form 1040-NR does not allow for a joint return, and a married person filing a separate return cannot claim the credit. As the taxpayer must keep up a home where they lived with the qualifying person, the exceptions for “Married Persons Living Apart” would not apply.

For additional requirements for the Child and Dependent Care Credit including qualifying expenses, see [**Publication 503, Child and Dependent Care Expenses**](#).

Retirement Savings Contribution Credit

The Retirement Savings Contribution Credit allows a credit based on a percentage of the taxpayer's contributions to an IRA Individual Retirement Arrangement (IRA) or other qualified retirement plan defined under the U.S. Tax Code. The percentage allowed as a credit depends on the taxpayer's Adjusted Gross Income.

Nonresident aliens may qualify for this credit if they are working and saving for retirement in the U.S. However, full-time students are not eligible, so many F-1/ J-1 VITA/TCE clients will not qualify for the credit.

In order to claim the Retirement Savings Contribution Credit on Form 1040-NR, the nonresident alien must meet all the following conditions:

- Contributed to an IRA or qualified retirement plan
- **Must have effectively connected income**
- **Not a full-time student**
- At least 18 years of age
- Not able to be claimed as a dependent on another person's tax return
- Adjusted Gross Income must not be over the threshold amount

For more information on the Retirement Savings Contribution Credit, see [Form 8880, Credit for Qualified Retirement Savings Contributions](#).

Child Tax Credit and Additional Child Tax Credit

The Child Tax Credit is a nonrefundable credit for people who have a qualifying child. Certain lower-income taxpayers may also qualify for the refundable Additional Child Tax Credit, which is calculated on Schedule 8812.

To claim the Child Tax Credit on a Form 1040-NR, **the child must be a U.S. citizen or resident.**

A qualifying child for the Child Tax Credit must be:

- The taxpayer's dependent [Canada, Mexico, Republic of Korea (S. Korea), or India]
- Under age 17
- The taxpayer's child, adopted child, stepchild, grandchild, or eligible foster child, brother, sister, stepbrother, stepsister, or a descendant of any of them (i.e. grandchild).
- **A U.S. citizen or resident with a valid SSN** (must be obtained by the due date of the return, including extensions)

For more information on the Child Tax Credit and Additional Child Tax Credit, see Schedule 8812.

Credit for Other Dependents

This allows a new \$500 non refundable credit (per dependent) for any of your dependents who are not qualifying children for the Child Tax Credit. There is no age limit for the \$500 credit, but the tax tests for dependency must be met [Canada, Mexico, Republic of Korea (S. Korea), and India only may claim dependents].

Other Credits

Taxpayers that may qualify for these credits are **OUT-OF-SCOPE** and should be referred to a professional tax preparer:

- **Mortgage Interest Credit (Form 8396)**
- **Credit for Prior Year Minimum Tax - Individuals, Estates, and Trust (Form 8801)**
- **Qualified Electric Vehicle Credit (Form 8834)**
- **General Business Credit (Form 3800)**
- **Empowerment Zone Employment Credit (Form 8844)**

Section 3 – Frequently Asked Questions

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Basic Rules of U.S. Taxation

What determines the U.S. taxation of income?

The general rule of income taxation is that income is taxable where the activity or transaction occurs. All compensation for services performed in the U.S. is subject to U.S. taxes unless an exception applies. For additional information see [Publication 17, Your Federal Income Tax For Individuals](#) and [Publication 519, U.S. Tax Guide for Aliens](#).

How do I calculate the taxes on my U.S. income?

Your U.S. source income will be taxed based on your residency status for federal income tax purposes and any applicable Treaties between the U.S. and the country of residency. For additional information, see [Publication 519, U.S. Tax Guide for Aliens](#).

How do I determine my residency status?

Your residency status for federal income tax purposes will depend on your immigration status. In general, a nonimmigrant is considered a resident alien for federal tax purposes if he or she is present in the U.S. for 183 days or more, unless an exception applies. Most students and scholars will meet one of the exceptions for at least part of their stay. For additional information, see [Publication 519, U.S. Tax Guide for Aliens](#).

Since I already had taxes withheld from my pay, do I need to file a tax return?

Yes. The U.S. tax system is considered a “pay as you go” plan. Therefore, taxes are withheld from your pay as you earn it (based on withholding documents you give to your employer). You file a federal income tax return after the end of the calendar year to reconcile your withholdings with your actual tax liability. For additional information, see [Publication 519, U.S. Tax Guide for Aliens](#).

Canadian Questions

I am a Canadian citizen living and working in the U.S. for a U.S. employer on a visa. Do I need to file both a U.S. tax return and a Canadian tax return?

You must comply with both U.S. and Canadian filing requirements. In the United States, you generally are required to file a return if you have income from the performance of personal services within the United States. However, under certain circumstances, that income may be exempt from payment of U.S. tax pursuant to the U.S.-Canada Income Tax Treaty. You need to determine what type of visa you have, and how that impacts your residency status in the United States. If, based on the tax code and your immigration status you are treated as a U.S. resident, then your entitlement to treaty benefits will be impacted. For additional information, see [Publication 519, U.S. Tax Guide for Aliens](#) and [Publication 597, Information on the United States-Canada Income Tax Treaty](#).

I am a Canadian citizen who worked in the U.S. for 4 months. Do I have to file a U.S. income tax return as well as my income tax return in Canada?

In the United States, you generally are required to file a return if you have income from the performance of personal services within the U.S. The type of return to file would depend upon whether you are a resident of the U.S. for purposes of U.S. tax law. There are several tests to determine residency, including the substantial presence test, which is based on how many days you are present in the U.S. over a look back period of three years. For additional information, see [Publication 519, U.S. Tax Guide for Aliens](#) and [Publication 597, Information on the United States-Canada Income Tax Treaty](#).

I am a U.S. citizen. If I move to Canada to live and work there as a Canadian permanent resident, do I pay both U.S. and Canadian Taxes?

United States citizens living abroad are required to file annual U.S. income tax returns and report their worldwide income if they meet the minimum income filing requirements for their filing status and age. You must contact the Canadian Government to determine whether you must file a Canadian tax return and pay Canadian taxes. For the United States income tax return, you will have several options available to you regarding claiming a foreign tax credit or excluding some or all of your foreign earned income. For additional information, see [Publication 54, Tax Guide for U.S. Citizens and Resident Aliens Abroad](#).

Capital Gain Income – Nonresident Aliens

Are international students required to pay income tax on their U.S. capital gains?

Nonresident alien students and scholars, and alien employees of foreign governments and international organizations who, at the time of their arrival in the United States, intend to reside in the United States for longer than one year, are subject to the 30% taxation on their U.S. source capital gains during any tax year, if during such tax year (usually calendar year), they are present in the United States for 183 days or more, unless a tax treaty provides for a lesser rate of taxation. This assumes that such capital gains are not effectively connected with the conduct of a United States trade or business. These capital gains would be reported on [1040-NR, Schedule NEC](#), and would not be reported on a Form 1040, Schedule D, because they are being taxed at a flat rate of 30%, under I.R.C. §871(a), or at a reduced flat rate under a tax treaty. For additional information, go to www.irs.gov.

I am a nonresident alien and invested money in U.S. stock market through a U.S. brokerage company. Are the dividends and the capital gains taxable? If yes, how are they taxed?

Generally, capital gains received by a nonresident alien present in the United States for 183 days or more are taxable in the United States. Certain gains, however, are subject to the 30% withholding rate or if applicable, a reduced tax treaty rate. Dividends are withheld upon at the 30% or lower tax treaty rate. If at a lower tax treaty rate the return is **OUT-OF-SCOPE** for the VITA/TCE Program. For additional information, see [Publication 519, U.S. Tax Guide for Aliens](#).

Currency Issues

How much money can a nonresident alien bring in to the U.S.?

There is no limit on the total amount of monetary instruments which may be brought into or taken out of the United States, nor is it illegal to do so. However, if the person transports more than \$10,000 in monetary instruments on any occasion into or out of the United States, FinCEN Form 105 (formerly Customs Form 4790, *Report of International Transportation of Currency or Monetary Instruments with U.S. Customs*) must be filed with U.S. Customs. For additional information, go to www.irs.gov or www.fincen.gov.

What is a “monetary instrument”?

Monetary instruments include U.S. or foreign coin in current circulation, currency, travelers’ checks (in any form), money orders, and negotiable instruments or investment securities in bearer form.

How does the foreign currency exchange rate work?

Foreign currency needs to be converted into U.S. dollars to determine the amount of income (such as income from the sale of goods or services, dividends or interest) to report on a taxpayer’s U.S. return and to determine gain or loss when foreign currency is disposed of. The proper conversion rate depends on the item of income. You can generally get the exchange rates from banks and U.S. Embassies. If there is more than one exchange rate, use the one that most properly reflects your income. For additional information, go to [foreign currency exchange rates](#).

Determination of Residency Status for Federal Income Tax Purposes

Why is my residency status for federal income tax purposes important?

Since resident and nonresident aliens are taxed differently, it is important for you to determine your status. You are considered a nonresident alien for any period that you are neither a United States citizen nor a United States resident alien.

How do I know if I am considered a resident alien for federal income tax purposes?

You are considered a resident alien if you met one of two tests for the calendar year. The first test is the “green card test.” If at any time during the calendar year you were a lawful permanent resident of the United States according to the immigration laws, and this status has not been rescinded or administratively or judicially determined to have been abandoned, you are considered to have met the green card test.

The second test is the “substantial presence test.” To meet this test, you must have been physically present in the United States on at least 31 days during the current year, and 183 days during the 3 year period that includes the current year and the 2 years immediately before. To satisfy the 183 days requirement, count all of the days you were present in the current year, and one-third of the days you were present in the first year before the current year, and one-sixth of the days you were present in the second year before the current year. Do not count any day you were present in the United States as an “exempt individual” or commute from Canada or Mexico to work in the United States on more than 75% of the workdays during your working period. An exempt individual may be anyone in the following categories:

- A foreign government-related individual,
- A teacher in J or Q Visa, or Trainee on J Visa status who substantially complies with the requirements of the visa,
- A student in F, J or M Visa status who substantially complies with the requirements of the visa; or
- A professional athlete temporarily present to compete in a charitable sports event.

For additional information, see [Publication 519, U.S. Tax Guide for Aliens](#).

I am a foreign national and came to this country on June 30th of last year. I have an H-1 visa. What is my tax status regarding residency; nonresident alien or resident alien?

You were a dual-status alien last year. In H-1 immigration status in the U.S. for 183 days or more, you likely became a resident, for tax purposes, as of June 30th. For the part of the year you are a resident alien, you are taxed on income from all sources. For the part of the year that you are not a resident alien, you are not taxed on income from sources outside the United States, unless the income is effectively connected with a trade or business in the United States. For additional information, see [Publication 519, U.S. Tax Guide for Aliens](#).

I have an H-1 visa and my husband has an F-1 visa. We both lived in the United States all last year and had income. What kind of form should we file? Do we file our taxes separately or jointly?

You will have met the substantial presence test and will be taxed as a resident alien for last year, while your husband is likely to be a nonresident alien. You may file a joint tax return if your husband makes the choice to be treated as a resident for the entire year. For additional information, see [Publication 519, U.S. Tax Guide for Aliens](#).

Determination of Residency Status for Federal Income Tax Purposes (cont'd)

I was an international student (F-1 visa) until October 1, and then my immigration status was changed to H-1. Should I file my income tax return as a dual-status or nonresident alien?

Assuming you were not in the U.S. in F-1 student immigration status for over 5 years, you may file as a nonresident for the entire year or, if you qualify under the first year choice, you may file as a dual-status alien. For additional information, see [Publication 519, U.S. Tax Guide for Aliens](#).

Last year I changed my immigration status from an F-1 student to an H-1 worker. Does my status change how I file my tax return or what forms I use?

It depends on whether or not you qualify as a resident alien. As a foreign national temporarily in the U.S. and now under H-1 immigration status, you must file [Form 1040-NR, U.S. Nonresident Alien Income Tax Return](#). You must also file [Form 8843, Statement for Exempt Individuals and Individuals With a Medical Condition](#) if you do not meet the substantial presence test. In order to file a Form 1040, Individual Tax Return, you must meet the substantial presence test. Based on the date your immigration status changed, you could be a dual-status alien for last year. For additional information, see [Publication 519, U.S. Tax Guide for Aliens](#).

I entered the U.S. in August and I have a J-2 visa with an Employment Authorization (work permit). Can I be considered as a U.S. resident for tax purposes under the 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. As an exempt individual, a person in J-2 immigration status will not initially meet this test. For additional information, see [Publication 519, U.S. Tax Guide for Aliens](#).

If someone in F or J immigration status was previously an F or J visa holder under a different stay, perhaps 10 years ago, do they need to include the previous stay in calculating the 2 or 5 year limit for exemption from the physical presence test?

Teachers and trainees (and their dependents) will not be exempt from counting their days of presence if he/she was exempt as a teacher, trainee or student for any part of 2 of the preceding 6 years. The student five-tax-year limit includes any time spent in exempt individual status after January 1, 1985. Therefore, any time in the U.S. in F, J, or M immigration status (including dependents) may effect the calculation of the five-year period. For additional information, See [Publication 519, U.S. Tax Guide for Aliens](#).

Are all J-1s subject to the 6 year look-back 2 year physical presence rule?

Only J non-students are subject to this rule. J students and their dependents follow the same five-year rule as F students and their dependents. For additional information, see [Publication 519, U.S. Tax Guide for Aliens](#).

Is there a look-back rule for the 5 year rule for F-1s?

The rule for F and J students is a five-year lifetime limit. You must look back to January 1, 1985 to see if there have been any years as an exempt individual to determine current year substantial presence test results. For additional information, see Publication 519, U.S. Tax Guide for Aliens.

Sometimes it would be better for a student to be considered a resident alien for tax purposes. Can they choose to be treated this way if it benefits them?

Nonresident aliens who are married to U.S. citizens or residents can elect to file a joint return and be treated as a resident alien. Students and trainees from Barbados and Jamaica, regardless of marital status may elect to be treated as a resident alien. All other nonresident students and scholars must follow the prescribed rules for counting or exempting their days of presence. For additional information, See [Publication 519, U.S. Tax Guide for Aliens](#).

Deductions – Nonresident Aliens

Can nonresident aliens claim the standard deduction?

Nonresident aliens cannot claim the standard deduction. However, a special rule applies to students and business apprentices who are eligible for the U.S.-India treaty benefits. For additional information, see [Publication 519, U.S. Tax Guide for Aliens](#).

Does a nonresident alien get a deduction for state or local income taxes?

Yes, the nonresident alien can take a deduction for state and local income taxes that have been withheld by the payer. The deduction can be taken on [Form 1040-NR, U.S. Nonresident Alien Income Tax Return](#).

For additional information, see [Publication 519, U.S. Tax Guide for Aliens](#).

What charitable contributions can the nonresident alien include on the tax return?

Charitable contributions or gifts to qualified U.S. organizations can be deducted on [Form 1040-NR, U.S. Nonresident Alien Income Tax Return](#), subject to certain limitations. Qualified U.S. organizations include organizations that are religious, charitable, educational, scientific, or literary in nature, or that work to prevent cruelty to children or animals. Contributions made directly to a foreign organization are not deductible. For additional information, see [Publication 519, U.S. Tax Guide for Aliens](#).

Can a nonresident alien deduct a loss from a theft of property?

Casualty and theft losses are deductible, if related to a federally declared disaster area, on Schedule A – Itemized Deductions, [Form 1040-NR, U.S. Nonresident Alien Income Tax Return](#). Several limitations apply. For additional information, see [Publication 519, U.S. Tax Guide for Aliens](#) and [Form 4684, Casualties and Thefts](#).

Note: Any claim for a Casualty and Theft Loss is **OUT-OF-SCOPE** for the VITA/TCE Program.

Educational Expenses – Nonresident Aliens

Can nonresident aliens claim a credit for tuition paid to go to school?

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, and elect to be treated as a resident alien with a U.S. citizen or resident spouse, you may be eligible for the American Opportunity Credit or Lifetime Learning Credit. For additional information, see [Publication 970, Tax Benefits for Education](#) and [Publication 519, U.S. Tax Guide for Aliens](#).

Can a nonresident alien take a deduction for student loan interest?

If you paid interest on a qualified student loan from a U.S. financial institution, you may be able to deduct the interest if you meet all of the following requirements:

1. Your filing status is any filing status except married filing separately
2. Your MAGI is less than \$95,000
3. No one else can claim you as a dependent on a U.S. tax return
4. The loan was taken out to pay tuition at a qualified U.S. educational institution and other qualified expenses
5. The educational expenses were paid or incurred within a reasonable period of time before or after the loan was taken out
6. The person for whom the expenses were paid was an eligible student

For additional information, see [Publication 970, Tax Benefits for Education](#) and [Publication 519, U.S. Tax Guide for Aliens](#).

Form 8843, Statement for Exempt Individuals and Individuals with a Medical Condition

What happens if the student doesn't file the form 8843?

If [Form 8843](#) is not filed, the alien may not be able to exclude their days of presence from the Substantial Presence Test (SPT). This could mean that they may be viewed as a resident alien for tax purposes. They would have to report all of their worldwide income on the U.S. tax return and they may not be able to claim their treaty benefits.

I'm a first-year F-1 student and I had no U.S. earned income or scholarships. Do I need to file any federal income tax papers?

Yes. You must file [Form 8843, Statement for Exempt Individuals and Individuals With a Medical Condition](#). If any family members are here with you (F-2 status) they must also file a [Form 8843](#). For additional information see the instructions included in [Form 8843](#).

I arrived in the U.S. in December of last year. Do I still have to file a Form 8843?

Yes. If you were present in the U.S. for even 1 day, you must file [Form 8843](#) if you are excluding days of presence from the substantial presence test.

Filing Status, Dependents and other Family Issues – Nonresident Aliens

Can you please review which nonresidents can claim dependents?

Nonresidents (for income tax purposes) from the following countries may be able to claim their dependents and/or spouse on their return.

Canada, Mexico, Republic of Korea (S. Korea), and Students and Business Apprentices from India Refer to [Publication 519, U.S. Tax Guide for Aliens](#), for additional information. For additional information, see [Publication 501, Dependents, Standard Deduction, and Filing Information](#).

The current amount that can be claimed for a dependent is 0 (zero). However, they may qualify you for some allowable credits.

For additional information, see [Publication 501, Dependents, Standard Deduction and Filing Information](#).

I thought that children from the 4 countries you mentioned can only be claimed if they were U.S. citizens or permanent residents. Is that true?

To meet the citizen or resident test, a person must be a U.S. citizen or resident, or a resident of Canada or Mexico, for some part of the year. For additional information, see [Publication 501, Dependents, Standard Deduction and Filing Information](#).

I have a child who was born in the U.S. Can I claim an exemption for my wife and child?

If you are a nonresident alien for federal income tax purposes you generally can't claim exemptions for your family members. There are exceptions for students and scholars from Canada, Mexico, Republic of Korea (S. Korea), and India. For additional information, see [Publication 519, U.S. Tax Guide for Aliens](#).

I am a married nonresident alien. My wife is here with me in J-2 immigration status. Can we file a joint return?

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 additional information, see [Publication 519, U.S. Tax Guide for Aliens](#). 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. For additional information, see [Publication 519, U.S. Tax Guide for Aliens](#).

I am a scholar from Canada. My wife died in the prior tax year and I have two dependent children. What filing status should I use on my U.S. income tax return?

You may be eligible to file as a Qualifying Surviving Spouse and use the joint return tax rates if you meet certain requirements. For additional information, see [Publication 519, U.S. Tax Guide for Aliens](#).

I am the head of my household. As a nonresident alien, how do I claim the head of household filing status?

You cannot file as head of household if you are a nonresident alien at any time during the tax year. For additional information, see [Publication 519, U.S. Tax Guide for Aliens](#).

Form 2555, Foreign Earned Income Exclusion

I am a nonresident alien. Can I take the foreign earned income exclusion if I meet the bona fide residence test or physical presence test? If yes, what is the tax form used for nonresident taxpayer?

No, nonresident aliens do not qualify for the foreign earned income exclusion. Only if you are a U.S. citizen or a resident alien of the United States and live abroad, you may qualify to exclude part of your foreign earned income. But, if you are the nonresident alien spouse of a U.S. citizen or resident alien, you can elect to be treated as a U.S. resident in order to file a joint return. In this case, you can take the foreign earned income exclusion if otherwise qualified. For additional information, see [Publication 519, U.S. Tax Guide for Aliens](#).

For additional information see [Publication 54, Tax guide for U.S. Citizens and Resident Aliens Abroad](#).

Form 1116, Foreign Tax Credit – OUT-OF-SCOPE

I am a nonresident alien attending college and working in the U.S. Can I take the Foreign Tax Credit?

If you are a nonresident alien, you generally cannot take the credit. See [Publication 514, Foreign Tax Credit for Individuals](#) and [Publication 519, U.S. Tax Guide for Aliens](#).

How, When and Where to File Form 1040-NR, U.S. Nonresident Alien Tax Return

Can Form 1040-NR be filed electronically?

Yes. Various companies have developed software which allows the Form 1040-NR and accompanying Form 8843 to be filed electronically. Currently, there may continue to be limitations on which forms may be filed electronically. See your software provider for details on the most recent forms available.

Where can I find the mailing address? Can the tax forms be folded? What size envelope is needed? What needs to be attached to the form?

The mailing address for the return is listed in the instructions to the form. You may fold the tax return before sending it. There is no specified envelope size for your return. Attach one copy of each W-2 or 1042-S form that you received. For additional information see the Instructions to [Form 1040-NR, U.S. Nonresident Alien Income Tax Return](#).

What is the due date for the Form 1040-NR?

If the alien received any wages subject to withholding, such as a nonresident alien student working on campus, the return is due on the 15th day of the fourth month following the end of the year. This generally means that the return will be due on April 15 (If the 15th falls on a weekend, federal holiday, or District of Columbia holiday, it will be due on the next business day.). For additional information see the Instructions to [Form 1040-NR, U.S. Nonresident Alien Tax Return](#).

What private delivery services can I use to file my forms?

Certain private delivery services are designated by IRS to meet the “timely mailing as timely filing/paying” rule. These delivery services can’t deliver to a P.O. Box. For additional information see the Instructions to [Form 1040-NR, U.S. Nonresident Alien Income Tax Return](#).

Who signs the form?

Form 1040-NR is not considered a valid return unless the nonresident alien signs it. Under certain conditions, an agent may sign for the nonresident alien. For additional information see the Instructions to [Form 1040-NR, U.S. Nonresident Alien Income Tax Return](#).

How, When and Where to File Form 1040-NR, U.S. Nonresident Alien Tax Return (cont'd)

Should I keep a copy of my tax return?

Yes. You should make a copy of your completed return and keep it in your files.

Will the IRS send me anything to let me know that they got my return?

No. You can however, take the return to the local IRS office to turn it in. They can stamp your copy of the return with a receipt stamp. [Contact your local IRS Taxpayer Assistance Center \(TAC\)](#) for an appointment first. (See www.irs.gov for more information of services available at the local offices.)

What happens if I fail to file my taxes?

If you owe taxes and don't file, you may be assessed penalties and interest. There may also be immigration consequences for failing to file taxes. For additional information, see [Publication 519, U.S. Tax Guide for Aliens](#).

I'm a first-year F-1 student and I had no U.S. earned income or scholarships. Do I need to file any federal income tax papers?

Yes. You must file [Form 8843, Statement for Exempt Individuals and Individuals With a Medical Condition](#). If any family members are here with you (F-2 immigration status) they must also file a Form 8843. For additional information see the instructions included in Form 8843.

If I owe tax, to whom do I make the check payable?

The check should be made payable to **United States Treasury**. You should include your Social Security Number or Individual Taxpayer Identification Number, tax year and tax form on the check.

Pension Income

Does a nonresident alien (including international students and scholars) need to include pension income on the U.S. tax return?

A nonresident alien usually is subject to U.S. income tax only on U.S. source income. The source of pension income is usually determined based on where the services were performed that earned the pension. A nonresident alien would report pension income that is determined based on services performed in the U.S.

For additional information, see [Publication 519, U.S. Tax Guide for Aliens](#).

Scholarships, Fellowships, Grants and Awards for Nonresident Aliens

As a condition of their employment, resident assistants are required to live in the dorm. The room is provided for free, is this taxable income?

Since their employment required them to live in the dorm for the convenience of the employer, the value of the lodging is not taxable. For additional information, see [Publication 970, Tax Benefits for Education](#).

Are graduate assistantships taxable?

Yes, the cash stipend (salary portion) of an assistantship, whether a research assistantship or a teaching assistantship, is considered compensation for services rendered and is fully taxable (unless excluded by treaty). The portion of the assistantship which serves as tuition remission (tuition waiver) is considered a scholarship and is exempt from taxation. For additional information, see [Publication 970, Tax Benefits for Education](#).

Are athletic scholarships considered earned income since services must be performed? Is this taxable income?

Athletic scholarships are not considered earned income even though they require the recipient to perform services (play sports). An analogy can be made to academic scholarships that require the recipient to maintain a certain GPA. It takes “work” to maintain the GPA, but the scholarship is not considered earned income. However, any scholarship that covers room and board is taxable unless excludable by treaty. For additional information, see [Publication 970, Tax Benefits for Education](#).

Social Security, Medicare Taxes and the Nonresident Alien

Are international students and scholars subject to Social Security tax?

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. For additional information, see [Publication 519, U.S. Tax Guide for Aliens](#).

Under my visa as a temporary nonresident alien, I'm not subject to Social Security and Medicare withholding. My employer withheld the taxes from my pay. What should I do to get a refund of my Social Security and Medicare?

If Social Security tax and Medicare were withheld in error from pay received which was not subject to the taxes, you must first contact the employer who withheld the taxes for reimbursement. If you are unable to get a refund from the employer, file a claim for refund with the Internal Revenue Service on [Form 843, Claim for Refund and Request for Abatement](#).

You must attach the following to your claim:

- A copy of your Form W-2 to prove the amount of Social Security and Medicare taxes withheld.
- A copy of your valid entry visa;
- Form I-94 (or other documentation showing your dates of arrival or departure).
- If you have an F-1 visa, documentation showing permission to work in the U.S.
- If you have a J-1 visa, documentation showing permission to work in the U.S.
- If you are engaged in optional practical training or employment due to severe economic necessity, documentation showing permission to work in the U.S.
- 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 or on Form 8316 claiming your employer will not issue the refund.
- If you were exempt from Social Security and Medicare tax for only part of the year, pay statements showing the tax paid during the period you were exempt.

In addition to the documentation listed above foreign student visa holders should also attach the following: a copy of Form I-20, Certificate of Eligibility for Nonimmigrant (F-1) Student Status, endorsed by your student advisor and stamped by the U.S. Citizenship and Immigration Services and a copy of the Employment Authorization Document of your Optional Practical Training (e.g., Form I-766 or I-688B). If you are an exchange visitor, attach a copy of Form DS-2019, Certificate of Eligibility for Exchange Visitor (J-1) Status, to your claim. Submit the claim, (with attachments) to the Department of Treasury, Internal Revenue Service Center, Ogden, UT 84201-0038.

Reminder: Nonresident aliens in J-2/F-2 immigration status are not exempt from Social Security and Medicare tax withholding.

Social Security, Medicare Taxes and the Nonresident Alien (cont'd)

I am a graduate student and serve as a teaching assistant. I would like to know whether FICA taxes need to be withheld from my pay.

Students who perform services for the school, college, or university where they are enrolled and regularly attend classes are usually not subject to Social Security and Medicare taxes.

As I understand the law, student stipends are exempt from FICA and Medicare taxes. If my university takes these taxes out of my stipend income, can these taxes be recovered in some way?

If you are not performing a service for the university, your stipend would be subject to income tax only if it does not meet the qualified scholarship rules. If you are performing a service for the university, your income is taxable for income tax purposes, but would generally be exempt from Social Security and Medicare taxes if you are enrolled and regularly attending classes. For additional information, see [Publication 970, Tax Benefits for Education](#).

I am an F-1 student status who was employed during my school studies and directly afterwards I completed practical training. Do I have to pay FICA taxes? Which taxes should be taken out of my pay?

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 and Medicare programs if the services are performed to carry out the purpose for which you were admitted to the United States. This means that there should 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 and Medicare programs for these services if you are considered a resident alien, even though your nonimmigrant classification ("F," "J," "M," or "Q") remains the same. Social Security and Medicare taxes will be withheld from your pay. For additional information, see [Publication 519, U.S. Tax Guide for Aliens](#).

I entered the U.S. in August and I have a J-2 visa with an Employment Authorization (work permit). Can I be considered as a U.S. resident for tax purposes under the substantial presence test? Since my visa does not allow me to stay in this country am I subjected to Social Security tax and Medicare tax?

You will be considered a U.S. resident for tax purposes if you meet the substantial presence test for the calendar year. As an exempt individual, a J-2 visa holder will not initially meet this test. 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. This exception does not apply to a derivative visa holder. For additional information, see [Publication 519, U.S. Tax Guide for Aliens](#).

Can you please explain the Social Security Exemption in more detail?

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, even though your nonimmigrant classification ("F," "J," "M," or "Q") remains the same. Social Security and Medicare taxes will be withheld from your pay.

Social Security, Medicare Taxes and the Nonresident Alien (cont'd)

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" immigration 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.

Note: 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 U.S. Citizen and Immigration Service (USCIS) permits on-campus work for students in "F-1" immigration 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 USCIS. 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" immigration 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 USCIS. 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" immigration 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 USCIS. Social Security and Medicare taxes are not withheld from "M-1" students' pay for these services unless the student is considered a resident alien.

For additional information, go to [Publication 519, U.S. Tax Guide for Aliens](#).

Tax Credits – Nonresident Aliens

Can a nonresident alien claim the Earned Income Credit?

If the taxpayer was a nonresident (for tax purposes) at any time during the year, they generally can't claim the Earned Income Credit (EIC). However, if they are married to a U.S. citizen or resident and choose to file a joint return, on Form 1040, they may be eligible for the credit, if both spouses hold a valid Social Security Number which allowed them to work. For additional information see [Publication 519, U.S. Tax Guide for Aliens](#).

Can nonresident aliens claim any of the Education Credits for tuition paid to go to school?

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, you may be eligible for the American Opportunity Credit or Lifetime Learning Credit. For additional information, see [Publication 970, Tax Benefits for Education](#).

My young children live with me and my wife. We are originally from Japan. We are both students (F-1 immigration status) and we must pay someone to watch our children. Can I claim the Child and Dependent Care Credit?

Generally, no. For additional information see [Publication 519, U.S. Tax Guide for Aliens](#).

Treaties

How do I know if the U.S. has an income tax treaty with another country?

[Publication 901, U.S. Tax Treaties](#), has information regarding United States tax treaties. You can also locate the complete text of current treaties at www.irs.gov/businesses/international-businesses/united-states-income-tax-treaties-a-to-z or use our search engine with keywords “income tax treaties.”

I am a student from the People's Republic of China currently studying in the United States. How does the income tax treaty between the U.S. and the People's Republic of China apply, especially for students with scholarships and fellowships?

If you are in the United States solely for the purpose of your education, training, or obtaining special technical experience, you may be able to exclude from your income grants or awards that you receive from a government, scientific, educational, or other tax-exempt organization. You also may be able to exclude payments that you receive from abroad for the purpose of your maintenance, education, study, research, or training and up to \$5,000 of income that you receive from personal services performed in the United States. Please refer to [Publication 901, U.S. Tax Treaties](#), for further details.

What form is used to let the payor know that a treaty exists?

Nonresident students, teachers, and researchers who perform dependent personal services (as employees) can use [Form 8233, Exemption From Withholding on Compensation for Independent \(and Certain Dependent\) Personal Service of a Nonresident Alien](#), to claim exemption from withholding of tax on compensation for services that is exempt from U.S. tax under a U.S. tax treaty. See Form 8233 for more information. For other sources of income, you may need to use Form W-8BEN, Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding and Reporting (Individuals) or another form.

What about employees who aren't students or scholars?

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, Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding](#), for the tax year. For additional information, see Form W-8BEN.

Can resident aliens claim treaty benefits? – OUT-OF-SCOPE

Generally, resident aliens can't claim treaty benefits. However, most treaties contain a provision known as a “saving clause.” Exceptions specified in the saving clause may permit an exemption from tax to continue for income even after the recipient has otherwise become a U.S. resident alien for tax purposes. For additional information see [Publication 519, U.S. Tax Guide for Aliens](#) and [Publication 901, U.S. Tax Treaties](#).

If someone has met the substantial presence test but is still eligible for treaty benefits, must they wait until they file their return to get the benefit? Can payroll honor the treaty?

A resident who is claiming an income tax treaty exemption from withholding tax based on a treaty article must submit a Form W-9, Request for Taxpayer Identification Number and Certification, not a Form 8233, to the withholding agent (employer). For additional information, see [Publication 519, U.S. Tax Guide for Aliens](#) and [Publication 901, U.S. Tax Treaties](#).

What does the term unlimited mean in the amount column of the charts in Publication 901?

Unlimited means that there is not a maximum on the dollar amount that the nonresident can exclude. For additional information, see [Publication 901, U.S. Tax Treaties](#).

Treaties (cont'd)

Are all amounts reported as code 16 on Form 1042-S taxable?

Generally, the code 16 (scholarship) amounts reported on Form 1042-S represent the portion of the scholarship that was for room and board expenses. Room and board scholarships are taxable unless there is a treaty benefit. Often, you can determine if there is an available treaty by looking at the exemption code box of the 1042-S. For additional information see [Publication 519, U.S. Tax Guide for Aliens](#) and [Publication 4011, VITA/TCE, Foreign Student and Scholar Resource Guide](#).

Where do you put the treaty information on the Form 1040-NR?

On the first page of the 1040-NR, you report the total income exempt by a treaty. You must also complete Schedule OI form. It is very important that you include the treaty article number in column (b). The article number can be found in Publication 4011. If the article number is omitted, the form will be returned to the taxpayer. For additional information see the instructions for Form 1040-NR.

If a student has a tax treaty, how does this help him on his tax return?

Tax treaties generally allow a nonresident to exclude a specified amount of U.S. source income from their U.S. tax return. This, in turn, reduces the tax liability.

A nonresident entered the U.S. in F-2 immigration status but was later granted F-1 status, without leaving the country. How long must the nonresident be out of the country to reestablish residency and potentially become eligible for treaty benefits?

A full year, 365 days (366 days during leap years).

If a student doesn't have any wages or taxable scholarship, how much is their treaty benefit?

There are treaty benefits for other types of income, such as a reduced tax rate on investment income. If the nonresident doesn't have **any** income, he/she would not benefit from the treaty provisions.

If the student is eligible for a treaty benefit on part of his wages but the full amount of the wages are reported on Form W-2, can he still claim the treaty benefit?

Yes, it is allowable for the nonresident to apply the full treaty benefit that he/she is entitled to on the federal return. However if the nonresident is claiming treaty benefits and he/she failed to submit adequate documentation to their employer, he/she must attach (to the federal tax return) a statement that provides all of the information that would have otherwise been required on the withholding document (Form 8233 or W-8BEN).

Does it make any difference if the amount is being paid by a foreign employer?

Yes, normally amounts received from a foreign employer are not taxable to nonresidents. Nonresidents are taxed on their U.S. source income only.

Section 4 – Individual Taxpayer Identification Number (ITIN)



Taxpayer Services

STAKEHOLDER PARTNERSHIPS,
EDUCATION & COMMUNICATION

Individual Taxpayer Identification Number (ITIN)

Publication 4757 (Rev. 6-2025) Catalog Number 53053X Department of the Treasury Internal Revenue Service www.irs.gov

The Foreign Student and Scholar module is part of Link & Learn Taxes (L<). The traditional VITA/TCE and Foreign Student modules are available on the site. Thus, you should introduce the concept to your students now.

Share key components of L<:

Link & Learn Taxes, IRS-SPEC's e-learning application available 24/7 on www.irs.gov is the key to the future of volunteer return preparation training.

It can be used for independent study and certification or as part of a pre- or post- classroom training strategy.



Introduction

Revisions to Internal Revenue Code 6109 created the process for issuing an IRS Individual Taxpayer Identification Number to individuals who require a Taxpayer Identification Number for federal tax purposes, but who do not qualify for a Social Security Number.



Objectives

- Define an ITIN and explain its purpose
- Determine who needs an ITIN
- Identify and explain the special rules that apply to dependents and spouses
- Distinguish an Acceptance Agent (AA) from a Certifying Acceptance Agent (CAA)



Objectives (continued)

- Determine where to submit **Form W-7/W-7(EN/SP)**
- Determine what documentation needs to be attached to the ITIN application
- Determine how a tax return should be prepared when the taxpayer has an ITIN/SSN mismatch using TaxSlayer software
- Identify resources for more information



What is an ITIN?

An ITIN is:

- A tax processing number, issued by the IRS, for certain resident and non-resident aliens, their spouses, and dependents
- All valid ITINs are nine-digit numbers in the same format as the SSN (9XX-8X-XXXX), beginning with a “9” and the 4th and 5th digits ranging from 50 to 65, 70 to 88, 90 to 92, and 94 to 99.
- Individual Taxpayer Identification Numbers (ITINs) that haven’t been included on a U.S. federal tax return at least once in the last three consecutive tax years will expire.

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In 1996, the US Department of the Treasury issued regulations that introduced the ITIN and required foreign persons to use an ITIN as their unique identification number on returns.

An ITIN is a unique nine-digit number formatted like a SSN that begins with “9” and the 4th and 5th digits range from 50 to 65, 70 to 88, 90 to 92, and 94 to 99.

Note: Under the Protecting Americans from Tax Hikes (PATH) Act, ITINs that have not been used on a federal tax return at least once in the last three consecutive tax years will expire Dec. 31, of the third consecutive tax year, and must be renewed before being used again on a U.S. federal tax return. Additionally, ITINs assigned before 2013 have expired. These affected taxpayers who expect to file a tax return this year must submit a renewal application. If a renewal application was previously submitted and approved, the applicant does not need to renew again.



Purpose of ITINs

- ITINs are IRS assigned numbers issued only for federal tax purposes. An ITIN doesn't entitle you to social security benefits and doesn't change your immigration status or your right to work in the United States.
- ITINs provide a means to efficiently process and account for tax returns and payments for those not eligible for Social Security Numbers.
- ITINs assist the IRS with collection of taxes from foreign nationals, nonresident aliens and others who have filing or payment obligations under U.S. tax law.



Purpose of ITINs, Cont... ITINS do NOT

- Entitle the recipient to social security benefits or replace a SSN
- Qualify an applicant for ALL credits
- Change the individual's immigration status
- Give the individual the right to work in the U.S.
- Serve as identification outside the federal tax system

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Note: The PATH Act prohibits the filing of an amended return to claim an Earned Income Tax Credit because a SSN was later obtained for a person who originally filed with an ITIN. The Tax Cuts and Jobs Act also requires that a qualifying child for the Child Tax Credit or Additional Child Tax Credit has a SSN before the due date of the return including extensions.



Who Needs an ITIN?

Any individual who is not eligible for a SSN, but who must furnish a taxpayer identification number for U.S. tax purposes or to file a U.S. federal tax return



Who Needs an ITIN? (continued)

Examples

- A nonresident alien individual claiming reduced withholding under an applicable income tax treaty for which an ITIN is required
- A nonresident alien individual not eligible for a SSN who is required to file a U.S. federal tax return or who is filing a U.S. federal tax return only to claim a refund
- A nonresident alien individual not eligible for a SSN who elects to file a joint U.S. federal tax return with a spouse who is a U.S. citizen or resident alien



Who Needs an ITIN? (continued)

Examples (continued)

- A nonresident alien student, professor, or researcher who is required to file a U.S. federal tax return but who isn't eligible for a SSN, or who is claiming an exception to the tax return filing requirement
- An alien spouse or dependent claimed as an exemption on a U.S. federal tax return who isn't eligible to get a SSN
- A U.S. resident alien who files a U.S. federal tax return but who isn't eligible for a SSN



Who Needs an ITIN? (continued)

Examples (continued)

- A dependent/spouse of a nonresident alien U.S. visa holder, who isn't eligible for a SSN

Note: The Tax Cuts & Jobs Act suspended deductions for personal exemptions through 2025. For tax years after December 31, 2017, spouses or dependents are not eligible for an ITIN unless they qualify for an allowable tax benefit or are filing their own tax return. The individual must be listed on an attached U.S. federal tax return with the schedule or form that applies to the allowable tax benefit.

This should not impact students applying under reason "f" on Form W-7, or their spouses or dependents who also apply under reason "f" under exception criteria.

For tax years beginning January 1, 2018, spouses and dependents should not apply for an ITIN, unless they qualify for an allowable tax benefit, or if they file their own tax return. The individual must be listed on an attached U.S. federal tax return with the schedule or form that applies to the allowable tax benefit.



Allowable Tax Benefit

An allowable tax benefit includes a spouse filing a joint return, Head of Household Filing Status (HOH), Qualifying Surviving Spouse (QSS), American Opportunity Tax Credit (AOTC), Premium Tax Credit (PTC), Child and Dependent Care Credit (CDCC) or Credit for Other Dependents (ODC).

Head of Household (HOH). An ITIN applicant who is a qualifying child or qualifying relative, other than your parents, who lived with you for more than half the year and meets certain other tests, or a parent may be a qualifying person for HOH. See Publication 501, Dependents, Standard Deduction, and Filing Information, for more information.

Qualifying surviving spouse (QSS). If Form W-7 is submitted to claim the QSS filing status, then an attached tax return is required that checks the QSS filing status box and lists the applicant as a dependent. A dependent applicant must be your child or stepchild (not a foster child) and must have lived with you the entire year (including temporary absences). See Publication 501 for more information.



Allowable Tax Benefit (continued)

American Opportunity Tax Credit (AOTC). If Form W-7 is submitted to claim AOTC, then an attached tax return and Form 8863 that list the applicant are required.. See Publication 970, Tax Benefits for Education, for more information.

Premium Tax Credit (PTC). If Form W-7 is submitted to claim PTC, then an attached tax return that lists the applicant and Form 8962 are required. See Publication 974, Premium Tax Credit, for more information.



Allowable Tax Benefit (continued)

Child and Dependent Care Credit (CDCC). If Form W-7 is submitted to claim CDCC, then an attached tax return and Form 2441 that list the applicant as a qualifying person are required. See Publication 503, Child and Dependent Care Expenses, for more information.

Credit for Other dependents (ODC). If Form W-7 is submitted to claim ODC, the applicant must be listed on an attached tax return with the **"Credit for other dependents" box checked** next to their name. Dependent applicants must be your qualifying children or qualifying relatives who are U.S. residents or U.S. nationals. See Schedule 8812, Credits for Qualifying Children and Other Dependents, (Form 1040) and its instructions for more information.



Substantial Presence Test

This test determines if the individual is a resident or nonresident for tax purposes. To meet this test, you must be physically present in the United States on at least:

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



Rules For Dependents

Only residents of the following countries may be able to claim an exemption or related credit for their dependents on a U.S. federal income tax return:

- United States
- Canada
- India
- Mexico
- Republic of Korea (South Korea)

NOTE: The exemption amount for all taxpayers is ZERO through 2025. However, taxpayers with qualifying dependents who live with them in the U.S. may qualify for the Credit for Other Dependents.



Who is Not Eligible for an ITIN?

- U.S. citizens
- Nonresident aliens with visas permitting them to work in the U.S. (qualify for a SSN)
- Permanent legal resident of the U.S. (Green card holder, also known as Permanent Resident Card)
- Any individual who is eligible for or has a valid SSN
- Applicant not meeting the criteria for residency and/or ID documentation (who failed to prove identity and foreign status)



How to Apply for an ITIN?

Each person who requires an ITIN must file a separate **Form W-7/ W-7(EN/SP)** and provide supporting documentation that establishes identity and connection to a foreign country (foreign status).





How to Apply for an ITIN?

- **Form W-7/ W-7(EN/SP)** must be completed and accompanied by supporting documentation and a U.S. federal income tax return. The applicant's name must match the name as it appears on their identifying documents. This is also the name that should be used on the tax return.

NOTE: *There are exceptions to the requirement to include a U.S. federal tax return. If you claim one of these exceptions, you must also submit the required exception documentation (as listed in the instructions for Form W-7) instead of a tax return.*

- **Form W-2, Wage and Tax Statement**, must have the same name that appears on the federal tax return submitted with Form W-7.

See Instructions on Form W-7 for details on documentation required.



ITIN Documentation

Documents substantiating proof of identity and foreign status must be:

- Original, or
- Certified* copies from the issuing agency

* Certified copies of documents submitted to prove “identity” and “foreign status” must bear an original, authentic stamp/seal placed by the issuing agency. Documents displaying a photocopied seal or stamp are not acceptable and will be returned to the applicant.



When to Attach Federal Tax Return to Form W-7/W-7(EN/SP)

All Individuals applying for an ITIN for the first time or renewing an existing ITIN must include a U.S. federal tax return unless they meet one of the 5 exceptions below.

1. Passive income - third-party withholding or tax treaty benefits
2. Other income - Can be with or without tax treaty benefits (See Publication 1915, Understanding your IRS Individual Identification Number (ITIN), for more specific information on all types of income)
3. Mortgage interest - third-party reporting



When to Attach Federal Tax Return to Form W-7/W-7(EN/SP) (continued)

4. Dispositions by a foreign person of U.S. real property - third party withholding
5. TD-9363 - Treasury Directive 9363 with Form W-7 and supplemental documentation

For additional information on exceptions, see **Publication 1915**, Understanding Your IRS Individual Taxpayer Identification Number (ITIN), or **Form W-7/ W-7(EN/SP)** instructions.



Acceptable Documentation for ITIN

There are 13 acceptable documents that can be used to obtain an ITIN.

Passport. If you submit an original valid passport or a certified copy* from the issuing agency, you don't need to submit any other documents, unless the passport is for a dependent and it doesn't include a date of entry into the United States. Otherwise, you must submit at least two types of acceptable documents that prove identity, foreign status, and meet the photograph requirement explained later.

- Certified copies of a passport must include the U.S. visa pages if reason for applying is box "f" or "g"



Acceptable Documentation for ITIN

**** Proof of U.S. residency for applicants who are dependents.**

Applicants claimed as dependents (reason d on Form W-7) need to prove U.S. residency unless they are (1) dependents of U.S. military personnel stationed overseas or (2) from Canada or Mexico and are either listed on a submitted return for tax years 2017 or earlier or are claimed for any allowable tax benefit other than the credit for other dependents (ODC). All other applicants claimed as dependents, including applicants from Canada or Mexico claimed for the ODC, are required to submit at least one of the following original documents as proof of U.S. residency unless a passport is submitted with a date of entry into the United States.



Acceptable Documentation for ITIN (cont.)

Dependents who apply under Reason "d" and are not dependents of U.S. Military personnel stationed overseas or the dependent's country of citizenship is not Canada or Mexico will be required to submit additional original documentation, beyond the supporting documentation, as proof of U.S. residency:

- ✓ **If under 6 years of age:** A valid U.S. medical record, U.S. school record, U.S. state identification card, or U.S. visa that meets all supporting documentation requirements.
- ✓ **If at least 6 but under 18 years of age:** A valid U.S. school record, U.S. state identification card, U.S. driver's license, or U.S. visa that meets all supporting documentation requirements.
- ✓ **If 18 years of age or older:** A valid U.S. school record (under age 24 only), U.S. state identification card, U.S. driver's license, or U.S. visa that meets all supporting documentation requirements; U.S. bank statement, U.S. rental statement, or U.S. utility bill from a U.S. property that lists the applicant's name and U.S. address.



Acceptable Documentation for ITIN (cont.)

- U.S. Citizenship and Immigration Services (USCIS) photo identification
- Visa issued by the U.S. Department of State
- U.S. driver's license
- U.S. military identification card
- Foreign driver's license
- Foreign military identification card
- National identification card (must contain name, photograph, address, date of birth, and expiration date)



Acceptable Documentation for ITIN (cont.)

- U.S. State identification card
- Foreign voter's registration card
- Civil birth certificate (required for dependents under age 18, unless a passport is provided)
- Medical records (valid only for dependents under age 6)
- School Records (valid only for dependents under age 24, if a student)

NOTE: See Form W-7 Instructions or IRS Publication 1915, for specific required elements for medical and school records, along with a checklist.



Acceptable Documentation for ITIN (cont.)

- At least one document must contain your photograph, unless you're a dependent under age 14 (under age 18 if a student).
- See Publication 1915, or Form W-7/W-7(EN/SP) instructions for additional information on acceptable documents.



If Documents are in a Foreign Language

IRS may request a certified translation of foreign language documents.

If requested, attach:

- Certified translation of the document, and
- The document

* Certified translations **MUST** be;

- ✓ attached to the supporting identification documentation,
- ✓ signed by the official performing the translation, and
- ✓ sealed.



Examples of Foreign Documents

The following two slides are examples of foreign documents (birth certificates) you might see.



ESTADOS UNIDOS MEXICANOS
EN NOMBRE DEL ESTADO LIBRE Y SOBERANO DE OAXACA
Y COMO OFICIAL DEL REGISTRO CIVIL
CERTIFICO Y HAGO SABER QUE A LA FOJA NÚMERO 905 DEL
LIBRO NÚMERO DE NACIMIENTOS DEL REGISTRO CIVIL
A MI CARGO SE ENCUENTRAN ASENTADOS LOS DATOS SIGUIENTES:

OFICIALIA: 01 No. DE ACTA: 892 221ASA01019165
FECHA DE REGISTRO: 22/08/1975 VEINTE DOS DE AGOSTO DE MIL NOVECIENTOS SETENTA Y CINCO
LUGAR DE REGISTRO: CAMALOTAL, SAN JUAN BAUTISTA TUXTEPEC, OAXACA

REGISTRADO
NOMBRE: MARICELA CLARITA JAGUAR
FECHA DE NACIMIENTO: 15/08/1975 QUINCE DE AGOSTO DE MIL NOVECIENTOS SETENTA Y CINCO HORA:
LUGAR DE NACIMIENTO: 1800 CAMALOTAL, SAN JUAN BAUTISTA TUXTEPEC, OAXACA
PRESENTADO: SEXO: FEMENINO COMPARECIO: MAMA
PADRES
NOMBRE: EDAD: AÑOS
NACIONALIDAD: MARIA JOSEFINA JAGUAR EDAD: 23 AÑOS
NACIONALIDAD: MEXICANA EDAD: 23 AÑOS
PERSONA DISTINTA DE LOS PADRES QUE PRESENTA AL REGISTRADO
NOMBRE: PARENTESCO: EDAD: AÑOS.
EL ORIGINAL DE LA PRESENTE CERTIFICACION TIENE AL MARGEN LAS SIGUIENTES ANOTACIONES:
— SIN ANOTACION MARGINAL —
Se extiende esta certificación en cumplimiento del artículo 52 del Código Civil vigente en el Estado
OAX.
A 20 DE MAYO DEL 2018
C. OFICIAL JORGE JIMENEZ MARTEN DEL REGISTRO CIVIL, DOY FE.
0071 LOS DATOS ASENTADOS EN LA PRESENTE ACTA FUERON INTERPRETADOS DEL LIBRO DEL ARCHIVO CENTRAL 0013027



0085905

Registro Nacional de las Personas
República de Guatemala
El Asintal, Retalhuleu
Registro Civil de las Personas
Certificado de Nacimiento

El Infrascrito Registrador Civil del Registro Nacional de las Personas de El Asintal
CERTIFICA
que con fecha veintinueve de noviembre de mil novecientos noventa y nueve en la partida
17 , del folio 17 y libro 70 , fue inscrito el nacimiento de:

Datos del inscrito

Luna Buffalo Elk
Nombres y apellidos del inscrito

Cinco de Noviembre dos mil
Fecha de nacimiento

El Asintal Retalhuleu
Lugar de nacimiento

Datos de la madre

Delfina Luz Elk
Nombres y apellidos de la madre

El Retalhuleu
Lugar de origen

Datos del padre

Marco Antonio Buffalo
Nombres y apellidos del padre

Jilotepeque
Lugar de origen

1 de 2

Trabajando con la población para garantizar su identidad www.renap.gov.gt



How to Submit a NEW ITIN Application

Include the following with your application package:

1. Your completed **Form W-7**
2. Your original tax return(s) for which the ITIN is needed. Attach **Form W-7** to the front of your tax return. If you're applying for more than one ITIN for the same tax return (such as for a spouse or dependent(s)), attach all **Forms W-7** to the same tax return.
3. Original documents, or certified copies of these documents from the issuing agency, required to support the information provided on **Form W-7**. The required supporting documentation must be consistent with the applicant's Form W-7 information.

* Refer to **Form W-7** Instructions for information on renewing an ITIN



Where to Submit a NEW ITIN Application:

By Mail: Internal Revenue Service
ITIN Operation
P.O. Box 149342
Austin, TX 78714-9342

By Private Delivery:
Internal Revenue Service
ITIN Operation
Mail STOP 6090-AUSC
3651 S. Interregional, Hwy 35
Austin, TX 78741-0000



Where to Submit a NEW ITIN Application:

In Person

Designated IRS Taxpayer Assistance Centers (TACs) can:

- Authenticate original and certified copies of documents from the issuing agency for primary/secondary ITIN applicants
- Authenticate passports, national identification cards, and birth certificates for dependents. These documents will be returned to you immediately.
- Requires an appointment. Call 1-844-545-5640 to schedule.

An Acceptance Agent (AA) can assist with the completion of the Form W-7.

- Certifying Acceptance Agents (CAA) can also authenticate original and certified copies of documents from the issuing agency (except for foreign military identification cards) for primary/secondary ITIN applicants.
- CAAs can only authenticate passports and birth certificates for dependents. To get a list of agents, visit [IRS.gov](https://www.irs.gov).



Where to Submit a NEW ITIN Application (cont.)

Student and Exchange Visitor Program (SEVP)*

- SEVP participants, spouses and dependents (F, J, or M Visa who receive taxable scholarship, fellowship or grants reportable by the school on Form W-2 OR 1042-S) may apply using a streamlined process, through SEVP approved institutions, which include many universities and colleges.
- A certification letter, in lieu of submitting original or certified documents, must be prepared by the SEVP institution and must meet specifications.
- The Form W-7 application must be submitted to the Austin ITIN Operation by a SEVIS official (i.e., DSO, RO, etc.) with the certification letter, copy of identity and foreign status documents, copy of DS-2019 - *Certificate of Eligibility for Exchange Visitor Status (J-1 Status)*, copy of I-20 - *Certificate of Eligibility for Nonimmigrant Status*.

* The SEVP Streamlined Process is subject to change.



Additional Information

- **Extension Request/Estimated Tax Payment** - If you're filing an application for an extension of time to file using Form 4868 or making an estimated tax payment using Form 1040-ES or Form 1040-ES (NR), don't file Form W-7 with those forms. Mail payments to the IRS with an estimated tax payment voucher or Form 4868 and complete all required information on the voucher except enter "ITIN TO BE REQUESTED" wherever your social security number or ITIN is requested. Don't file Form W-7 with the forms or voucher. An ITIN will be issued only after you file a tax return and meet all other requirements.



Additional Information

- **Address change for ITIN taxpayer** - Advise taxpayer to complete **Form 8822**, the ITIN notice they received or a letter with the previous and new addresses and mail to Austin ITIN Operations. It's important that IRS is aware of your current mailing address. This address is used to mail notices about your Form W-7, including notification of your assigned ITIN, and return your original supporting documentation. If you move before you get your ITIN, notify us of your current mailing address immediately, so we may update our records.



Processing the NEW ITIN Application

- IRS ITIN Operations will record the newly assigned ITIN/s on the return(s), forward the return(s) for processing, and send an ITIN Assignment Notice (CP-565) to the applicant and a copy to the Certifying Acceptance Agent, if applicable.
- ITIN cards have not been issued since January 2004, but many taxpayers have them and they are still considered valid.



Processing the NEW ITIN Application (cont.)

- Allow 7 weeks for the IRS to notify you of your ITIN application status.
- Allow 9 to 11 weeks if you submit the application during peak processing periods (January 15 through April 30) or if you're filing from overseas.
- If you haven't received your ITIN or correspondence at the end of that time, you can call the IRS toll free at 800-829-1040 to find out the status of your application.



Acceptance Agents

- **Acceptance Agents (AA)** are persons (individuals or entities: colleges, financial institutions, accounting firms, etc.) who have entered into formal agreements with the IRS permitting them to assist applicants in obtaining ITINs.
- **Certifying Acceptance Agents (CAAs)** are individuals or entities who assume a greater responsibility in facilitating the ITIN application process.

* Some of the responsibilities and benefits of a CAA include:

- ✓ Authenticate original documentation and certified copies of the documentation from the issuing agency for primary and secondary applicants and their dependents, except for foreign military identification cards. For dependents, CAAs can only authenticate passports and birth certificates,
- ✓ 3-year retention requirement for W-7 application packages, subject to Compliance Reviews,
- ✓ Receive copy of all IRS Correspondence pertaining to submitted W-7 applications etc.

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Review [Publication 1915](#) to define “greater responsibility”.



Acceptance Agents (cont.)

- Individuals or entities acting as an AA/CAA may charge a fee for their services.
 - ✓ IRS does not charge a fee for services.
 - ✓ CAAs approved under the SPEC CAA Program are prohibited from charging a fee for their services.
- Revenue Procedure 2006-10 provides guidelines for the IRS Acceptance Agent program.



How to Apply to Become a Certifying Acceptance Agent

1. Complete the mandatory ITIN Acceptance Agent training at IRS.gov before submitting the application. The training is available at <https://www.irs.gov/aapc>. Click on the link entitled ITIN Acceptance Agent Training. Everyone who is listed as a Responsible Party on the Acceptance Agent application must complete the training.
2. Complete Forensic Document Identification Training (CAAs only). For more information, see <https://www.irs.gov/forensic>. Everyone who is listed as a Responsible Party on the Acceptance Agent application must complete the training.



How to Apply to Become a Certifying Acceptance Agent (cont.)

3. Complete the electronic IRS Acceptance Agent Application. Applicants must have an IRS e-Services account before initiating and submitting an application. Applicants can visit <https://www.irs.gov/e-services> for more information. After you log into e-Services, for guidance on how to complete the application, click the online tutorials tab at the top of the page to access our Acceptance Agent Application tutorial. Key Individuals within your organization (i.e., Principal Partner/Owner, Principal Consent, Responsible Party(s)) who are listed on the application must complete applicable fields and sign the respective training certificates and jurats. Submit your application to participate in the IRS Acceptance Agent Program.



How to Apply to Become a Certifying Acceptance Agent (cont.)

Do not upload your Acceptance Agent application through the CAA Document Upload Tool. Allow 24 hours after submitting your application before accessing the CAA Document Upload Tool.

4. Access the Document Upload Tool at [IRS.gov/caaReply](https://irs.gov/caaReply) to upload any required documentation (i.e., Forensic Training Certificates, Professional Credentials, Citizenship documents, Exempt Status letter).



How to Apply to Become a SPEC Certifying Acceptance Agent

AFTER completing all required training:

- Notify your Relationship Manager
- The ITIN Program Office will be advised when you have completed the Forensic Training.

** Contact your Relationship Manager for additional requirements for remaining in the program.*

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Note:

- Applications received without the required certification form(s) will not be processed.
- Annual production and quality requirements can be explained further by your Relationship Manager.



Processing Time for the Acceptance Agent Application

- It may take up to 60 days to process provided that all required information was submitted and there are no discrepancies that must be resolved.
- After allowing the 60-day processing time, applicants may inquire about the status of the application.
- The ITIN Program Office can be contacted by e-mail at: ITINProgramOffice@irs.gov



ITIN/SSN Mismatch

What is an ITIN/ SSN mismatch?

- ITIN holders frequently file tax returns under their ITIN with attached Forms W-2 showing erroneous or questionable Social Security Numbers or Names. This creates an ITIN/SSN mismatch.
- These taxpayers are not eligible for EITC, CTC, or ACTC.
- Returns prepared with an ITIN/SSN mismatch can be filed electronically*.

* ITIN must already be assigned



Summary

- **Form W-7/ W-7(EN/SP)** is used to apply for an IRS Individual Taxpayer Identification Number.
- The ITIN will be in the format of the Social Security Number (SSN) and begin with the number “9”. The 4th and 5th numbers will range from 50 to 65, 70 to 88, 90 to 92 and 94 to 99.



Summary (continued)

- The ITIN is issued only for federal tax purposes.
- Any resident or nonresident alien, who is required to file a U.S. federal tax return or can be claimed as a dependent on a tax return, and who does not qualify for a SSN, must apply for an ITIN.
- Only residents of the U.S., Canada, India, Mexico or South Korea may claim an exemption for their spouses and their dependents. The amount for the exemption deduction is **zero** through tax year 2025.
- An ITIN does not alter an individual's immigration status.
- An ITIN does not authorize an individual to legally work in the U.S.



Summary (cont.)

- An ITIN does not entitle the applicant to social security benefits.
- An individual with an ITIN does not qualify for EITC.
- Children with an ITIN do not qualify for the EITC, nor the Child Tax Credit or Additional Child Tax Credit; however, they may qualify for other allowable tax benefits.



IRS Reference Materials

- **Form W-7**, *Application for IRS Individual Taxpayer Identification Number*
- **W-7(SP)**, *Solicitud de Numero de Identificacion Personal del Contribuyente del Servicio de Impuestos Internos*
- **Publication 1915**, *Understanding Your IRS Individual Taxpayer Identification Number (ITIN)*
- **Publication 1915(SP)**, *Entendiendo Su IRS Numero de Identificacion Personal del Contribuyente*
- **Publication 519**, *U.S. Tax Guide for Aliens*