

Nonresident Alien US Income Tax Responsibilities

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*"The hardest thing in the world to understand
is the income tax."*

-Albert Einstein, Physicist



- Tax Scams
- Residency Status
- Filing Requirements & What to File
- Consequences of Failure to File
- Tax Treaties
- Exemptions and Tax Credits (Nonresidents)
- How, When and Where to File (Nonresidents)
- Items to Check before Mail the Returns
- Where to Find Nonresident Tax Information
- How to Get Help



Tax Scams / Consumer Alerts

IRS-impersonation Telephone Scams

A sophisticated phone scam targeting taxpayers, including recent immigrants, has been making the rounds throughout the country. Callers claim to be IRS employees, using false names and bogus IRS identification badge numbers. They may know a lot about their targets, and they usually alter the caller ID to make it look like the IRS is calling.

Victims are told they owe money to the IRS and it must be paid promptly through a gift card or wire transfer. Victims may be threatened with arrest, deportation or suspension of a business or driver's license. In many cases, the caller becomes hostile and insulting. Victims may be told they have a refund due to try to trick them into sharing private information. If the phone isn't answered, the scammers often leave an "urgent" callback request.



Tax Scams / Consumer Alerts

Limited English Proficiency victims are often approached in their native language, threatened with deportation, police arrest and license revocation, among other things. IRS urges all taxpayers caution before paying unexpected tax bills. Please see: [IRS Alerts: Taxpayers with Limited English Proficiency of Ongoing Phone Scams](#). Note that the IRS doesn't:

- Call to demand immediate payment using a specific payment method such as a prepaid debit card, gift card or wire transfer. Generally, the IRS will first mail you a bill if you owe any taxes.
- Threaten to bring in local police or other law-enforcement groups to have you arrested for not paying.
- Demand payment without giving you the opportunity to question or appeal the amount they say you owe.
- Ask for credit or debit card numbers over the phone.



Tax Scams

- NEW DELHI (abc news) – Indian police have arrested 70 people and are questioning hundreds more after uncovering a massive scam to cheat thousands of Americans out of millions of dollars by posing as U.S. tax authorities and demanding unpaid taxes



Residency Status

- Resident Alien
- Nonresident Alien
- Dual Status

Residency Status

- Resident Alien
Resident Aliens are taxed on worldwide income like U.S. citizens
- Nonresident Alien
Nonresident aliens are taxed only on U.S. source income

Residency Status

- Substantial Presence Test
Determining Residency Status – Decision Tree
- Exempt Individual
Are you an exempt individual? – Decision Tree

How to Count Years of Exemption for Substantial Presence Test?

- Kevin came to the U.S. in Dec. 2016 to teach for two years. How does the treaty affect his tax in 2016, 2017 and 2018?
–He is a Nonresident alien for 2016 and 2017 because he is exempted from substantial presence test for two years. He files 1040NR/EZ.
–Resident alien for 2018. Resident alien is taxed like U.S. citizens. He files 1040/EZ.

How to Count Years of Exemption for Substantial Presence Test? (Continued)

- Presence in the U.S. for **any** part of a calendar year counts as a full year's presence.
- Kevin even was in U.S. less a month in 2016. It counts as a full year presence.

Residency Status

The following are examples of the application of the tax residency rules to various situations involving nonresident alien visitors to the United States and alien taxpayers present in the United States as residents, business visitors, students, researchers, exchange visitors, and other exchange visitors.

Example 1
Mr. Wu was a citizen and resident of the People's Republic of China immediately prior to his entry into the United States. He is temporarily present in the United States as a resident alien, as a student or dependent on an F-1 visa obtained with the approval of the United States Citizenship and Immigration Services (USCIS). Assume that Mr. Wu has not changed his immigration status since his arrival in the United States. Determine his residency starting date.

Example 2
Mr. Wu was a citizen and resident of the People's Republic of China immediately prior to his entry into the United States. He is temporarily present in the United States as a resident alien, as a student or dependent on an F-1 visa obtained with the approval of the United States Citizenship and Immigration Services (USCIS). The resident alien dependent on an F-1 visa is not exempt from the substantial presence test. Assume that Mr. Wu has not changed his immigration status since his arrival in the United States. Determine his residency starting date.

Do I Need to File? (Federal)

- Ian, F-1 student, has wages of \$3,021 from job on campus with \$12 withheld on Federal income tax.

The Tax Reform Act of 2017 has reduced the exemption deduction to zero. The filing requirements for Forms 1040NR and 1040NR-EZ have also been affected. Any taxable income will cause a filing requirement.

Do I Need to File? (Federal)

- Generally, nonresident alien Students are required to file, if
 - Receive any US source income that is taxable under the Internal Revenue Code
 - Income partially or totally exempt from tax under a tax treaty

Do I Need to File? (Massachusetts)

- Massachusetts source income received by a nonresident is excluded for Massachusetts purposes if:
 - The nonresident is a citizen of a foreign country; and
 - The income is excluded from federal gross income under an income tax treaty.

Do I Need to File? (Massachusetts)

- Require to file, if income exceeds >\$8,000 MA filing threshold
- File form 1NR/PY or form 1
- Massachusetts honors federal treaty benefits.
- The income is included in the employee's Massachusetts gross income and reported as "wages." The treaty exempt amount is then claimed as a schedule Y deduction.

Do I Need to File? (Massachusetts)



Learn about legal and residency status in Massachusetts

Your legal and residency status in Massachusetts affects how you file your taxes. Find out what you should file and how to report your income.

Do I Need to File? (Massachusetts)

Income excluded due to tax treaties

1. Include it in your Massachusetts gross income.
2. Report the amount of income subject to Massachusetts tax on MA Form 1 (Line 3) or Form 1-NR/PY (Line 5) as wages.
3. Exclude the income on Schedule Y, Line 4. Claim it as a deduction by filling in the appropriate oval. This deduction affects calculating No Tax Status and the Limited Income Credit, as it is treated as an adjustment to Massachusetts adjusted gross income on the Massachusetts AGI Worksheet and Schedule NTS-L-NR/PY.
4. Attach a copy of U.S. Form 1042-S - Foreign Person's U.S. Source Income Subject to Withholding, relative to any tax treaty provision (if applicable).
5. Include your country of origin, income code number, and/or treaty article citation from U.S. Publication 901.

Do I Need to File?

- Li is a nonresident J-1 student from China. His only income is from Chinese Government. Does he need to file 1040NR/1040NR EZ?

Do I Need to file?

- No need to file 1040NR/1040NR-EZ
- However, still must file Form 8843.
- A nonresident alien usually is subject to U.S. income tax only on U.S. source income. (Publication 519)
- A resident alien's income is generally subject to tax in the same manner as a U.S. citizen. Must report all income whether from sources within or outside the U.S.

1040NR or 1040NR-EZ?

- Linda is a F-1 student. She has deduction of \$59 for the state income tax and \$262 for contributions to her church. Can she file 1040NR-EZ?
 –To claim a deduction for her contributions to church, she should file 1040NR instead of 1040NR-EZ.

1040NR or 1040NR-EZ? (Continued)

- Use form 1040NR instead of 1040NR-EZ if
- Claim itemized deduction other than state income tax, such as contributions; OR
 - The sources of income are not only from wages, salaries, tips, taxable refunds of state income taxes, and scholarship or fellowship; OR
 - Claim an exemption for spouse or dependents.

Consequences of Failure to File?

- If NO tax liability, NO penalty from IRS
- However, still must file Form 8843.
- If choose to apply for green card at a later date, proof of tax compliance will be asked to submit.
- Therefore, file a tax return, even you are not interest in or eligible for a refund.

Which Country's Treaty to use?

- Mark, a citizen of Thailand, moved to Canada with his parents at the age of 4. On June 30, 2018, at age 18, Mark entered the U.S. on an F-1 visa, to attend university. Which country's treaty would be used for his tax return?

Which Country's Treaty to use? (Continued)

- Canada's treaty applies to Mark's tax return because he was a resident of Canada just before he entered the U.S.
- A student or scholar must have been a resident of the treaty country prior to entering the U.S. for the provisions of that treaty to apply. The key factor is the residency and **NOT** citizenship of the individual.

Can a Student from China Claim Tax Treaty Benefit at OPT with F1 Visa?

- In general, a resident alien loses the ability to claim tax treaty benefits to reduce taxes.
- However there are exceptions. "Exception to the saving clause"
- Under article 20: Chinese students can continue to claim tax treaty for an unlimited period, even lost nonresident status (5 years in F1 visa) and is a resident alien.

Can I Claim Exemptions for Dependents?

- Mary, a F-1 student. She came to U.S. in 2017 with her husband Ken. Her son Miguel was born in the U.S. during 2018 and is therefore a U.S. citizen. Can she claim Miguel as a dependent?

Can I Claim Exemptions for Dependents? (Continued)

- Most nonresidents cannot claim exemptions for their dependents **even** if the dependents are U.S. citizens.
- The personal and/or dependency exemption deduction for 2018 is \$0.

Can Nonresident Aliens Claim Tax Credits?

- Generally, Nonresident aliens will **not** qualify for tax credits, such as Earned Income Credit, Dependent Care Credit, and Child Tax Credit.
- However, persons from Canada, Mexico, Republic of Korea and India may have exceptions.

How to File Form 1040NR/EZ?

- Currently, 1040NR/EZ form must be printed out and mailed to the Internal Revenue Service. The form can not be faxed or electronically filed.

What are the Due Dates?

- Federal
 - Form 1040NR, 1040NR-EZ
Due by April 15th, 2019
 - Form 8843 **only**
Due by June 15th, 2019
- Massachusetts
 - Form 1: due by April 17th, 2019
- Extension: 6 Months (Form 4868)

Where To File?(Federal)

1040NR, 1040NR-EZ:

Department of the Treasury
Internal Revenue Service
Austin, TX 73301-0215
U.S.A.

If Balance Due:

Internal Revenue Service
P.O. Box 1303
Charlotte, NC 28201-1303
U.S.A.

Where To File? (Massachusetts)

- **MA Form 1-NR/PY**
 - **If Refund:**
Massachusetts Department of Revenue
PO Box 7000
Boston, MA 02204-7000
 - **If Balance Due:**
Massachusetts Department of Revenue
PO Box 7003
Boston, MA 02204-7003

Items to Check Before Mail the Return

- Check **Name, Social Security Number** and Address
- **Bank** Routing Number and Bank Account Number
- Income: Form W-2, Form 1042-S
- Withholding: on Forms W-2, 1042-S,
- Check your math
- Is the return **signed**?
- **Attachment** to the return: W-2 and 1042-S
- Mail Form 8843 and Tax Return together

Items to Check Before Mail the Return

Routing number is 250250025
Account number is 20202086
Check number is 1234 (do not include the check number)

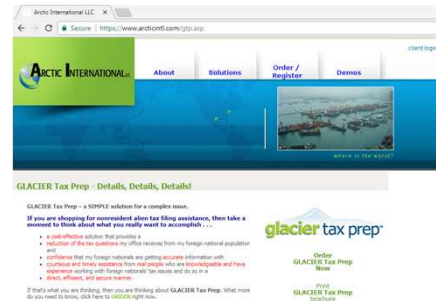
Where Can I Find Nonresident Tax Information?

- Federal
 - Form 1040NR/EZ Instruction
 - IRS Publication 519, U.S. Tax Guide for Aliens
 - IRS Publication 901, U.S. Tax Treaties
 - Search “Tax Treaty” at www.IRS.Gov
- Massachusetts
 - Form 1/NRPY Instruction
 - www.Mass.Gov/Dor Individuals or Forms

How to Get Help?

- IRS local Taxpayer Assistance Center
 - Address: 75 Perseverance Way, Hyannis, MA 02601
 - Phone: (508) 775-0029
- IRS Tax Help Toll-Free Line
 - 1-800-829-1040
- Massachusetts Department of Revenue
 - 1-800-392-6089 (toll-free in Massachusetts)
- AARP and VITA Tax Aid Sites
- Private Tax Preparer

Nonresident Alien Tax Prep Software



Thank You!