

Publication 519

U.S. Tax Guide for Aliens

For use in preparing
2023 Returns

Volume 4 of 7



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Earned income credit (EIC). The EIC, or earned income tax credit (EITC), is a benefit for working people with low to moderate income. To qualify for the EIC, you must have earned income from working for someone or from running or owning a business or farm and meet basic rules. Also, you must either meet additional rules for workers without a qualifying child or have a child who meets all the qualifying child rules. The EIC reduces the amount of tax you owe and may give you a refund. For more information, go to [IRS.gov/EIC](https://www.irs.gov/EIC).

If you (and your spouse, if filing a joint return) did not have an SSN issued on or before the due date of the 2023 return (including extensions), you cannot claim the EIC on either your original or an amended 2023 return. Also, if a child did not have an SSN issued on or before the due date of your return (including extensions), you cannot count that child as a qualifying child in

figuring the EIC on either your original or an amended 2023 return.



If a social security card has a legend that says "Not Valid for Employment" and the number was issued so that you (or your spouse or your qualifying child) could receive a federally funded benefit, you cannot claim the EIC. An example of a federally funded benefit is Medicaid. If a card has this legend and the individual's immigration status has changed so that the individual is now a U.S. citizen or lawful permanent resident, ask the SSA to issue a new social security card without the legend.

To find out if you are eligible for the EIC, go to [IRS.gov/ EITCAssistant](https://www.irs.gov/EITCAssistant).

Other information. There are other eligibility rules that are not discussed here. For more information, see [Pub. 596](#).

Nonresident Aliens

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

Credits

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

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

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

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

If you claim a foreign tax credit, you will generally have to attach to your return a Form 1116. See [Pub. 514](#) for more information.

Child and dependent care credit. You may qualify for this credit if you pay someone to care for your dependent qualifying child who is under age 13, or your disabled dependent or disabled spouse, so that you can work or look for work. For definitions of these terms, see [Pub. 503](#).

Married nonresident aliens can claim the credit only if they choose to file a joint return with a U.S. citizen or resident spouse, as discussed in [*How To Make the Choice*](#) in chapter 1, or if they qualify as certain married

individuals living apart (see *Joint Return Test* in [Pub. 503](#)).

The amount of your child and dependent care expense that qualifies for the credit in any tax year cannot be more than your earned income from the United States for that tax year. Earned income generally means wages, salaries, and professional fees for personal services performed. For more information, see [Pub. 503](#).

Education credits. If you are a nonresident alien for any part of the year, you generally cannot claim the education credits. However, you may be able to claim an education credit under the following circumstances.

1. You are married and choose to file a joint return with a U.S. citizen or resident spouse, as discussed under *Nonresident Spouse Treated as a Resident* in chapter 1.

2. You are a dual-status alien, and choose to be treated as a U.S. resident for the entire year. See *Choosing Resident Alien Status* in chapter 1.

Additional information on the American opportunity tax credit is available at [IRS.gov/AOTC](https://www.irs.gov/AOTC).

Retirement savings contributions credit.

You may qualify for this credit (also known as the saver's credit) if you made eligible contributions to an employer-sponsored retirement plan or to an IRA in 2023. You cannot claim this credit if:

- You were born after January 1, 2006;
- You were a full-time student;
- You were claimed as a dependent on someone else's 2023 tax return; or
- Your adjusted gross income is more than \$36,500.

Use Form 8880 to figure the credit. For more information, see [Pub. 590-A](#).

Child tax credit and the additional child tax credit. Only nonresident aliens who are U.S. nationals; residents of Canada, Mexico, or South Korea; or students and business apprentices from India who qualify for benefits under Article 21(2) of the income tax treaty with India can claim the child tax credit.

“Qualifying child,” for purposes of the child tax credit and the additional child tax credit, is a child who:

- Was under age 17 at the end of 2023;
- Is your son, daughter, stepchild, eligible foster child, brother, sister, stepbrother, stepsister, half brother, half sister, or a descendant of any of them (for example, your grandchild, niece, or nephew);
- Is a U.S. citizen, U.S. national, or resident alien;

- Did not provide over half of their own support for 2023;
- Lived with you more than half of 2023 (temporary absences, such as for school, vacation, or medical care, count as time lived in the home);
- Is claimed as a dependent on your return; and
- Does not file a joint return for the year (or files it only to claim a refund of withheld income tax or estimated tax paid).

An adopted child is always treated as your own child. An adopted child includes a child lawfully placed with you for legal adoption.

If you did not have an SSN (or ITIN) issued on or before the due date of your 2023 return (including extensions), you may not claim the child tax credit on either your original or an amended tax return.

If your child did not have an SSN valid for employment issued before the due date of the 2023 return (including extensions), you cannot claim the child tax credit for this child, but may be able to claim the credit for other dependents for this child. See *Credit for other dependents*, discussed below.

Use Schedule 8812 (Form 1040) and its instructions to figure the credits.

Credit for other dependents. Dependents who cannot be claimed for the child tax credit may still qualify you for the credit for other dependents. This is a nonrefundable tax credit of \$500 per qualifying person. The qualifying dependent must be a U.S. citizen, U.S. national, or U.S. resident alien. See the Instructions for Form 1040-NR. To claim the credit for other dependents, your dependent must have an SSN, ITIN, or ATIN issued on or before the due date of your 2023 return (including extensions).



Only nonresident aliens who are U.S. nationals; residents of Canada, Mexico, or South Korea; or students and business apprentices from India who qualify for benefits under Article 21(2) of the income tax treaty with India can claim the credit for other dependents.

Adoption credit. You may qualify to take a tax credit of up to \$15,950 for qualifying expenses paid to adopt an eligible child. This amount may be allowed for the adoption of a child with special needs regardless of whether you have qualifying expenses. To claim the adoption credit, file Form 8839 with your Form 1040-NR.

Married nonresident aliens can claim the credit only if they choose to file a joint return with a citizen or resident spouse, as discussed in *Nonresident Spouse Treated as a Resident* in chapter 1, or if they qualify as certain married individuals living apart (see *Married*

Persons Not Filing Jointly in the Instructions for Form 8839).

Credit for prior-year alternative minimum tax. If you paid alternative minimum tax in a prior year, use Form 8801 and its instructions to see if you qualify for this credit.

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

If you and your spouse did not have an SSN issued on or before the due date of the 2023 return (including extensions), you cannot claim the EIC on either your original or an amended 2023 return. Also, if a child did not have an SSN issued on or before the due date of your return (including extensions), you

cannot count that child as a qualifying child in figuring the EIC on either your original or an amended 2023 return.



If a social security card has a legend that says "Not Valid for Employment" and the number was issued so that you (or your spouse or your qualifying child) could receive a federally funded benefit, you cannot claim the EIC. An example of a federally funded benefit is Medicaid. If a card has this legend and the individual's immigration status has changed so that the individual is now a U.S. citizen or lawful permanent resident, ask the SSA to issue a new social security card without the legend.

See [Pub. 596](#) for more information on the credit.

Tax Withheld

You can claim the tax withheld during the year as a payment against your U.S. tax. You claim it on lines 25a through 25g of Form

1040-NR. The tax withheld reduces any tax you owe with Form 1040-NR.

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

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

Additional Medicare Tax. Your employer is responsible for withholding the 0.9% (0.009) Additional Medicare Tax on Medicare wages or Railroad Retirement Tax Act (RRTA) compensation it pays to you in excess of \$200,000 in 2023. If you do not owe Additional Medicare Tax, you can claim a credit for any withheld Additional Medicare Tax against the total tax liability shown on your tax return by filing Form 8959.

Tax paid on undistributed long-term capital gains. If

you are a shareholder in a mutual fund (or other RIC) or REIT, you can claim a credit for your share of any taxes paid by the company on its undistributed long-term capital gains. You will receive information on Form 2439, which you must attach to your return.

Tax withheld at the source. You can claim as a payment any tax withheld at the source on investment and other FDAP income paid to you. Fixed or determinable income includes

interest, dividend, rental, and royalty income that you do not claim to be effectively connected income. Wage or salary payments can be fixed or determinable income to you, but are usually subject to withholding, as discussed above. Taxes on fixed or determinable income are withheld at a 30% rate or at a lower treaty rate.

Tax withheld on partnership income. If you are a foreign partner in a partnership, the partnership will withhold tax on your share of ECTI from the partnership. The partnership will give you a statement on Form 8805 showing the tax withheld. A partnership that is publicly traded may withhold on your actual distributions of effectively connected income. In this case, the partnership will give you a statement on Form 1042-S. Claim the tax withheld as a payment on line 25e or 25g of Form 1040-NR, as appropriate.

Tax withheld on gain from the sale or exchange of certain partnership interests.

If you are a direct or indirect foreign partner in a U.S. or foreign partnership that is engaged (or is treated as engaged) in a trade or business within the United States and you directly or indirectly dispose of that interest for a gain, then for transfers occurring after 2017, the transferee will generally withhold and pay into the IRS on your behalf a tax equal to 10% of the amount realized on the sale. The rules for withholding and paying over this amount are similar to sales of U.S. real property interests. You will receive a Form 8288-A reflecting the amount withheld that you may then claim on line 25f of your Form 1040-NR as a credit against the tax you owe on the gain. You may be able to provide certain information to the transferee to reduce or eliminate withholding. For example, if a nonrecognition provision of the Internal Revenue Code applies to all of the gain realized on a transfer, the transferee

does not need to withhold if you provide a notice describing the application of a nonrecognition provision. If you are a transferee that failed to withhold, under section 1446(f)(4), the partnership may withhold on distributions to you.

T.D. 9926 (85 FR 76910), available at [IRS.gov/irb/2020-51 IRS#TD-9926](https://www.irs.gov/irb/2020-51_IRS#TD-9926), published on November 30, 2020 (as corrected at 86 FR 13191), contains final regulations (section 1446(f) regulations) relating to the withholding and reporting required under section 1446(f) on transfers of interests in certain partnership interests, which include withholding requirements that apply to brokers effecting transfers of interests in PTPs. While section 1446(f) withholding generally applies to transfers occurring on or after January 1, 2018, certain provisions of the section 1446(f) regulations apply to transfers on or after January 1, 2023. For more information, see [Pub. 515](#).

For additional guidance on certain issues related to the 1446(f) regulations, see [Notice 2023-8](#).

Tax withheld on dispositions of U.S. real property interests. You can claim as a payment any tax withheld with respect to a disposition of a U.S. real property interest (or income treated as derived from the disposition of a U.S. real property interest). See *Real Property Gain or Loss* in chapter 4. The buyer will give you a statement of the amount withheld on Form 8288-A. Claim the tax withheld as a payment on line 25f of Form 1040-NR.

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

Form number	Location of tax withheld
RRB-1042S	Box 13
SSA-1042S	Box 9
W-2	Box 2
W-2c	Box 2
1042-S	Box 10
8805	Line 10
8288-A	Box 4

Bona Fide Residents of American Samoa or Puerto Rico

If you are a nonresident alien who is a bona fide resident of American Samoa or Puerto Rico for the entire tax year, you are generally taxed the same as resident aliens. You should

file Form 1040 or 1040-SR and report all income from sources both in and outside the United States. However, you can exclude the income discussed in the following paragraphs.

For tax purposes other than reporting income, however, you will be treated as a nonresident alien. For example, you are not allowed the standard deduction, you cannot file a joint return, and you cannot claim a dependent unless that person is a citizen or national of the United States. There are also limits on what deductions and credits are allowed. See *Nonresident Aliens* under Deductions, Itemized Deductions, and Tax Credits and Payments in this chapter.

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

If you report income on a calendar year basis and you do not have wages subject to withholding for 2023, file your return and pay your tax by June 15, 2024. You must also make your first payment of estimated tax for 2024 by June 15, 2024. You cannot file a joint income tax return or make joint payments of estimated tax. However, if you are married to a U.S. citizen or resident, see *Nonresident Spouse Treated as a Resident* in chapter 1.

If you earn wages subject to withholding, your U.S. income tax return is due by April 15, 2024. You must also make your first payment of estimated tax for 2024 by April 15, 2024. For information on withholding and estimated tax, see chapter 8.

Residents of American Samoa. If you are a bona fide resident of American Samoa for the entire year, you can exclude from gross income all income from sources in American Samoa (other than amounts for services performed as an employee of the U.S.

Government or any of its agencies). An employee of the American Samoan Government is not considered an employee of the U.S. Government or any of its agencies for purposes of the exclusion. For more information about this exclusion, see Form 4563 and [*Pub. 570.*](#)

6.

Dual-Status Tax Year

Introduction

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

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

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

Topics

This chapter discusses:

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

Useful Items

You may want to see:

Publication

- ☐ **503** Child and Dependent Care Expenses
- ☐ **514** Foreign Tax Credit for Individuals
- ☐ **575** Pension and Annuity Income

Form (and Instructions)

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

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

Tax Year

You must file your tax return on the basis of an annual accounting period called a tax year. If you have not previously established a fiscal tax year, your tax year is the calendar year. A calendar year is 12 consecutive months ending on December 31. If you have

previously established a regular fiscal year (12 consecutive months ending on the last day of a month other than December, or a 52-53 week year) and are considered to be a U.S. resident for any calendar year, you will be treated as a U.S. resident for any part of your fiscal year that falls within that calendar year.

Income Subject to Tax

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

For the part of the year you are a nonresident alien, you are taxed on income from U.S. sources and on certain foreign source income treated as effectively connected with a U.S.

trade or business. The rules for treating foreign source income as effectively connected are discussed in chapter 4 under Foreign Income.

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

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

you were a resident alien. See chapter 9 for more information.

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

Restrictions for Dual-Status Taxpayers

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

Standard deduction. You cannot use the standard deduction allowed on Form 1040 or 1040-SR. However, you can itemize any allowable deductions.

Head of household. You cannot use the head of household Tax Table column or Tax Computation Worksheet.

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

Tax rates. If you are married and a nonresident of the United States for all or part of the tax year and you do not choose to file jointly, as discussed in chapter 1, you must use the Tax Table column or Tax Computation Worksheet for married filing separately to figure your tax on income effectively connected with a U.S. trade or business. You cannot use the Tax Table column or Tax Computation Worksheet for married filing jointly or single. However, you may be able to file as single if you lived apart from your spouse during the last 6 months of the year and you are a:

- Married resident of Canada, Mexico, or South Korea; or
- Married U.S. national.

See the Instructions for Form 1040-NR to see if you qualify.

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

Dependents

As a dual-status taxpayer, you may be able to claim a dependent on your tax return. In general, a dependent is a qualifying child or a qualifying relative. You may be entitled to claim additional deductions and credits if you have a qualifying dependent. See the Instructions for Form 1040 or the Instructions for Form 1040-NR for more information.

If you were a U.S. national or a resident of Canada or Mexico, you can claim a dependent on the same terms as U.S. citizens. If you are

a resident of South Korea or India, see chapter 5.

How To Figure Your Tax

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

Income

All income for your period of residence and all income that is effectively connected with a trade or business in the United States for your period of nonresidence, after allowable deductions, are added and taxed at the rates that apply to U.S. citizens and residents.

Income that is not connected with a trade or business in the United States for your period of nonresidence is subject to the flat 30% rate or lower treaty rate. You cannot take any deductions against this income.

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

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

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

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

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

changed during the tax year, you may receive more than one form.

Tax Credits and Payments

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

Credits

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



You cannot claim the education credits, EIC, or credit for the elderly or the disabled unless you are married and you choose to be treated as a resident for all of 2023 by filing a joint return with your spouse who is a U.S. citizen or resident, as discussed in chapter 1.

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

If you claim the foreign tax credit, you must generally file Form 1116 with your income tax return. For more information, see the Instructions for Form 1116 and [*Pub. 514*](#).

Child and dependent care credit. You may qualify for this credit if you pay someone to care for your dependent qualifying child who is under age 13, or your disabled dependent or disabled spouse, so that you can work or look for work.

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

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

For more information, see [Pub. 503](#) and Form 2441.

Retirement savings contributions credit.

You may qualify for this credit (also known as the saver's credit) if you made eligible contributions to an employer-sponsored retirement plan or to an IRA in 2023. You cannot claim this credit if:

- You were born after January 1, 2006,
- You were a full-time student,
- You were claimed as a dependent on someone else's 2023 tax return, or
- Your adjusted gross income is more than \$36,500.

Use Form 8880 to figure the credit. For more information, see [Pub. 590-A](#).

Child tax credit and the additional child tax credit. “Qualifying child,” for purposes of the child tax credit and the additional child tax credit, is a child who:

- Was under age 17 at the end of 2023;
- Is your son, daughter, stepchild, eligible foster child, brother, sister, stepbrother, stepsister, half brother, half sister, or a descendant of any of them (for example, your grandchild, niece, or nephew);
- Is a U.S. citizen, U.S. national, or resident alien;
- Did not provide over half of their own support for 2023;
- Lived with you more than half of 2023 (temporary absences, such as for school, vacation, or medical care, count as time lived in the home);
- Is claimed as a dependent on your return; and

- Does not file a joint return for the year (or files it only to claim a refund of withheld income tax or estimated tax paid).

An adopted child is always treated as your own child. An adopted child includes a child lawfully placed with you for legal adoption.

If you did not have an SSN (or ITIN) issued on or before the due date of your 2023 return (including extensions), you may not claim the child tax credit on either your original or an amended 2023 return.

If your child did not have an SSN valid for employment issued before the due date of the 2023 return (including extensions), you cannot claim the child tax credit for this child, but may be able to claim the credit for other dependents for this child. See *Credit for other dependents*, discussed below.

Use Schedule 8812 (Form 1040) and its instructions to figure the credits.

Credit for other dependents. The credit for other dependents is for people who have dependents who cannot be claimed for the child tax credit. The qualifying dependent must be a U.S. citizen, U.S. national, or U.S. resident alien and must have an SSN, ITIN, or ATIN issued on or before the due date of your 2023 return (including extensions).

Adoption credit. You may qualify to take a tax credit of up to \$15,950 for qualifying expenses paid to adopt an eligible child. This amount may be allowed for the adoption of a child with special needs regardless of whether you have qualifying expenses. To claim the adoption credit, file Form 8839 with the U.S. income tax return that you file.

Married dual-status aliens can claim the credit only if they choose the *Nonresident Spouse Treated as a Resident* status, as discussed in chapter 1, or if they qualify as certain married individuals living apart (see *Married Persons*

Not Filing Jointly in the Instructions for Form 8839).

Payments

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

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

Forms To File

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

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

Nonresident at end of year. You must file Form 1040-NR if you are a dual-status taxpayer who gives up residence in the United States during the year and who is not a U.S. resident on the last day of the tax year. Enter "Dual-Status Return" across the top of the

return. Attach a statement to your return to show the income for the part of the year you are a resident. You can use Form 1040 or 1040-SR as the statement, but be sure to enter “Dual-Status Statement” across the top.

If you expatriated or terminated your residency in 2023, you may be required to file an expatriation statement (Form 8854) with your tax return. For more information, see *Expatriation Tax* in chapter 4.

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

When and Where To File

If you are a resident alien on the last day of your tax year and report your income on a calendar year basis, you must file no later than April 15 of the year following the close of

your tax year (but see the TIP, later). If you report your income on other than a calendar year basis, file your return no later than the 15th day of the 4th month following

the close of your tax year. In either case, file your return with the address for dual-status aliens shown on the back of the Instructions for Form 1040.

If you are a nonresident alien on the last day of your tax year and you report your income on a calendar year basis, you must file no later than April 15 of the year following the close of your tax year if you receive wages subject to withholding. If you report your income on other than a calendar year basis, file your return no later than the 15th day of the 4th month following the close of your tax year. If you did not receive wages subject to withholding and you report your income on a calendar year basis, you must file no later than June 15 of the year following the close of your tax year. If you report your income on

other than a calendar year basis, file your return no later than the 15th day of the 6th month following the close of your tax year. In any case, mail your return to:

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

If enclosing a payment, mail your return to:

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



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

7.

Filing Information

Introduction

This chapter provides the basic filing information that you may need.

Topics

This chapter discusses:

- Forms aliens must file,
- When and where to file,
- Penalties, and
- Amended returns and claims for refund.

Useful Items

You may want to see:

Forms (and Instructions)

- ☐ **1040** U.S. Individual Income Tax Return

- ❑ **1040-SR** U.S. Tax Return for Seniors
- ❑ **1040-NR** U.S. Nonresident Alien
Income Tax Return See chapter 12 for
information about getting these forms.

What, When, and Where To File

What return you must file, as well as when and where you file that return, depend on your status at the end of the tax year as a resident or a nonresident alien.

Resident Aliens

Resident aliens should file Form 1040 or 1040-SR at the address shown in the Instructions for Form 1040. The due date for filing your return and paying any tax due is April 15 of the year following the year for which you are filing a return (but see the TIP, earlier).

Under U.S. immigration law, a lawful permanent resident who is required to file a tax return as a resident and fails to do so may

be regarded as having abandoned status and may lose permanent resident status.

Extensions of time to file. You can get an automatic 6-month extension (October 15 for calendar year taxpayers) if, no later than the date your return is due, you file Form 4868. For more information, see Form 4868.



An automatic 6-month extension to file does not extend the time to pay your tax. If you do not pay your tax by the original due date of your return, you will owe interest on the unpaid tax and may owe penalties.

You are allowed an automatic extension to file until June 15 if your main place of business and the home you live in are outside the United States and Puerto Rico on

April 15. If you need more time by the end of the 2-month period, you can get an additional 4 months until October 15 if, no later than June 15, you file Form 4868.

In addition to the 6-month extension, taxpayers who are out of the country (as defined in the Instructions for Form 4868) can request a discretionary 2-month additional extension of time to file their returns (December 15 for calendar year taxpayers). To request this extension, you must send the IRS a letter explaining the reasons why you need the additional 2 months. Send the letter by the extended due date (October 15 for calendar year taxpayers) to the following address.

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

You will not receive any notification from the IRS unless your request is denied for being untimely.

The discretionary 2-month additional extension is not available to taxpayers who have an approved extension of time to file on Form 2350 (for U.S. citizens and resident

aliens abroad who expect to qualify for special tax treatment).

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



You may be able to file your return electronically. Go to [IRS.gov/efile](https://www.irs.gov/efile) for more

Nonresident Aliens

Nonresident aliens who are required to file an income tax return should use Form 1040-NR.

If you are any of the following, you must file a return.

1. A nonresident alien individual engaged or considered to be engaged in a trade or business in the United States during 2023. (But see Exceptions, later.) You must file even if:

- a. Your income did not come from a trade or business conducted in the United States,
 - b. You have no income from U.S. sources, or
 - c. Your income is exempt from income tax.
- 2. A nonresident alien individual not engaged in a trade or business in the United States with U.S. income on which the tax liability was not satisfied by the withholding of tax at the source.
- 3. A representative or agent responsible for filing the return of an individual described in (1) or (2).
- 4. A fiduciary for a nonresident alien estate or trust.

You must also file if you want to:

- Claim a refund of overwithheld or overpaid tax, or
- Claim the benefit of any deductions or credits. For example, if you have no U.S. business activities but have income from real property that you choose to treat as effectively connected income (discussed in chapter 4), you must timely file a true and accurate return to take any allowable deductions against that income. For information on what is timely, see When to file for deductions and credits under *When To File*, later.

Exceptions. You do not need to file Form 1040-NR if you meet any of the following conditions.



The exception that previously allowed nonresident aliens whose only U.S. trade or business was the performance of personal services and whose wage income did not exceed the personal exemption amount to not file a Form 1040-NR is no

longer available. You must meet (1), (2), or (3) below to be exempt from filing a 2023 Form 1040-NR.

1. You were a nonresident alien student, teacher, or trainee who was temporarily present in the United States under an "F," "J," "M," or "Q" visa, and you have no income that is subject to tax, such as wages, tips, scholarship and fellowship grants, dividends, etc.
2. You were a student or business apprentice who was eligible for the benefits of Article 21(2) of the United States-India Income Tax Treaty, you are single or a qualifying surviving spouse, and your gross income for 2023 was less than or equal to \$13,850 if single (\$27,700 if a qualifying surviving spouse).
3. You were a partner in a U.S. partnership that was not engaged in a

trade or business in the United States during 2023 and your Schedule K-1 (Form 1065) includes only income from U.S. sources that is not effectively connected with a U.S. trade or business.



Even if you have left the United States and filed a Form 1040-C on departure, you must still file an annual U.S.

income tax return. If you are married and both you and your spouse are required to file, you must each file a separate return.

Foreign-owned domestic disregarded entities. If a foreign person wholly owns a domestic disregarded entity (DE), the domestic DE is treated as a domestic corporation separate from its owner (the foreign person) for the limited purposes of the requirements under section 6038A that apply to 25% foreign-owned domestic corporations. The foreign-owned domestic DE must file a pro forma Form 1120 with Form 5472

attached by the due date (including extensions) of the return. The only information required to be completed on Form 1120 is the name and address of the foreign-owned domestic DE and items B and E on the first part. A foreign-owned domestic DE may have had a reporting requirement before 2017 if it had a U.S. trade or business or other activity that otherwise required reporting. See the Instructions for Form 5472 for additional information and coordination with Form 5472 filing by the domestic DE. Also note that because the domestic DE is generally a transparent entity, the foreign person will include (or continue to include) on Form 1040-NR any of the domestic DE's tax items that are subject to reporting. A DE (foreign or domestic) may also have a separate reporting requirement related to employment or excise taxes. See Regulations sections 301.7701-2(c)(2)(iv) and (v).

When To File

If you are an employee and you receive wages subject to U.S. income tax withholding, you will generally file by the 15th day of the 4th month after your tax year ends. For the 2023 calendar year, file your return by April 15, 2024.

If you are not an employee who receives wages subject to U.S. income tax withholding, you must file by the 15th day of the 6th month after your tax year ends. For the 2023 calendar year, file your return by June 17, 2024.

Extensions of time to file. If you cannot file your return by the due date, file Form 4868 or use one of the electronic filing options explained in the Instructions for Form 4868. For the 2023 calendar year, this will extend the due date to October 15, 2024. If your regular due date is June 17, 2024, this will extend the due date to December 15, 2024.

You must file the extension by the regular due date of your return.



An automatic 6-month extension to file does not extend the time to pay your tax. If you do not pay your tax by the original due date of your return, you will owe interest on the unpaid tax and may owe penalties. See Form 4868.

When to file for deductions and credits.

To get the benefit of any allowable deductions or credits, you must timely file a true and accurate return. For this purpose, a return is timely if it is filed within 16 months of the due date just discussed. However, if you did not file a 2022 tax return and 2023 is not the first year for which you are required to file one, your 2023 return is timely for this purpose if it is filed by the earlier of:

- The date that is 16 months after the due date for filing your 2023 return, or

- The date the IRS notifies you that your 2023 return has not been filed and that you cannot claim certain deductions and credits.

The allowance of the following credits is not affected by this time requirement.

- Credit for withheld taxes.
- Credit for excise tax on certain uses of gasoline and special fuels.
- Credit for tax paid by a mutual fund (or other RIC) or a REIT on undistributed long-term capital gains.

Protective return. If your activities in the United States were limited and you do not believe that you had any gross income effectively connected with a U.S. trade or business during the year, you can file a protective return (Form 1040-NR) by the deadline explained above. By filing a protective return, you protect your right to receive the benefit of deductions and credits

in the event it is later determined that some or all of your income is effectively connected. You are not required to report any effectively connected income or any deductions on the protective return, but you must give the reason the return is being filed.

If you believe some of your activities resulted in effectively connected income, file your return reporting that income and related deductions by the regular due date. To protect your right to claim deductions or credits resulting from other activities, attach a statement to that return explaining that you wish to protect your right to claim deductions and credits if it is later determined that the other activities produced effectively connected income.

You can follow the same procedure if you believe you have no U.S. tax liability because of a U.S. tax treaty. Be sure to also complete item L on Schedule OI (Form 1040-NR).

Waiver of filing deadline. The IRS may waive the filing deadline if you establish that, based on the facts and circumstances, you acted reasonably and in good faith in failing to file a U.S. income tax return (including a protective return) and you cooperate with the IRS in determining your U.S. income tax liability for the tax year for which you did not file a return.

Where To File

If you are not enclosing a payment, file Form 1040-NR at the following address.

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

If enclosing a payment, mail your return to:

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

Aliens from the U.S. Virgin Islands.

Report all income from U.S. sources, as well as income from other sources, on your return. For information on filing U.S. Virgin Islands returns, contact the U.S. Virgin Islands Bureau of Internal Revenue.



If you are a bona fide resident of the U.S. Virgin Islands during your entire tax year and work temporarily in the United States, you must pay your income taxes to the U.S. Virgin Islands and file your income tax returns at the following address.

Virgin Islands Bureau of Internal Revenue
6115 Estate Smith Bay
Suite 225
St. Thomas, VI 00802

Chapter 8 discusses withholding from U.S. wages of residents of the U.S. Virgin Islands.

Aliens from Guam or the Commonwealth of the Northern Mariana Islands (CNMI).

If you are a bona fide resident of Guam or the

CNMI during your entire tax year, you must file your return with, and pay any tax due to, Guam or the CNMI. Report all income, including income from U.S. sources, on your return. It is not necessary to file a separate U.S. income tax return.

Bona fide residents of Guam should file their Guam returns at the following address.

Department of Revenue and Taxation
Government of Guam
P.O. Box 23607
Barrigada, GU 96921



Bona fide residents of the CNMI should file their CNMI income tax returns at the following address.

Department of Finance
Division of Revenue and Taxation
Commonwealth of the Northern Mariana Islands
P.O. Box 5234 CHRB
Saipan, MP 96950

If you are not a bona fide resident of Guam or the CNMI, see [Pub. 570](#) for information on where to file your return.

Amended Returns and Claims for Refund

If you find changes in your income, deductions, or credits after you mail your return, file Form 1040-X. Also use Form 1040-X if you should have filed Form 1040 or 1040-SR instead of Form 1040-NR, or vice versa.

If you amend Form 1040-NR or file the correct return, enter "Amended" across the top, and attach the corrected return (Form 1040, 1040-SR, or 1040-NR) to Form 1040-X. Ordinarily, an amended return claiming a refund must be filed within 3 years from the date your return was filed or within 2 years from the time the tax was paid, whichever is later. A return filed before the final due date is considered to have been filed on the due date.

Note. You can now file Form 1040-X electronically with tax filing software to amend 2019 or later Forms 1040 and 1040-SR, and 2021 or later Forms 1040-NR. For more information, go to [IRS.gov/Form1040X](https://www.irs.gov/Form1040X).

Other Forms You May Have To File

You may be required to file information returns to report certain foreign income or assets, or monetary transactions.

FinCEN Form 105, Report of International Transportation of Currency or Monetary Instruments (CMIR)

FinCEN Form 105 is required by 31 U.S.C. 5316 and Treasury Department regulations (31 CFR, chapter X).

The following persons must file FinCEN Form 105.

1. Each person who physically transports, mails, or ships, or causes to be physically transported, mailed, or

shipped, currency or other monetary instruments totaling more than \$10,000 at one time from the United States to any place outside the United States or into the United States from any place outside the United States.

2. Each person who receives in the United States currency or other monetary instruments totaling more than \$10,000 at one time from any place outside the United States.

A transfer of funds through normal banking procedures, which does not involve the physical transportation of currency or monetary instruments, is not required to be reported.

Penalties. Civil and criminal penalties are provided for failing to file a report, filing a report containing material omissions or misstatements, or filing a false or fraudulent report. Also, the entire amount of the

currency or monetary instrument may be subject to seizure and forfeiture.

More information. The form is available at [FINCEN.gov/ resources/filing-information](https://fincen.gov/resources/filing-information). For more information about BSA E-Filing, see the E-Filing Section at BSAefiling.fincen.treas.gov/main.html.

Form 8938

You may have to file Form 8938 to report the ownership of a specified foreign financial asset(s) if you are one of the following individuals.

- A resident alien of the United States for any part of the tax year.
- A nonresident alien who makes an election to be treated as a resident for purposes of filing a joint income tax return. See chapter 1 for information about this election.

- A nonresident alien who is a bona fide resident of American Samoa or Puerto Rico. See [Pub. 570](#) for a definition of bona fide resident.

You must file Form 8938 if the total value of those assets exceeds an applicable threshold (the “reporting threshold”). The reporting threshold varies depending on whether you live in the United States, are married, or file a joint income tax return with your spouse.

Specified foreign financial assets include any financial account maintained by a foreign financial institution and, to the extent held for investment, any stock, securities, or any other interest in a foreign entity and any financial instrument or contract with an issuer or counterparty that is not a U.S. person.

You may have to pay penalties if you are required to file Form 8938 and fail to do so, or if you have an understatement of tax due to any transaction involving an undisclosed foreign financial asset.

More information about filing Form 8938 can be found in the Instructions for Form 8938.

Penalties

The law provides penalties for failure to file returns or pay taxes as required.

Civil Penalties

If you do not file your return and pay your tax by the due date, you may have to pay a penalty. You may also have to pay a penalty if you substantially understate your tax, file a frivolous tax submission, or fail to supply your TIN. If you provide fraudulent information on your return, you may have to pay a civil fraud penalty.

Filing late. If you do not file your return by the due date (including extensions), you may have to pay a failure-to-file penalty. The penalty is based on the tax not paid by the due date (without regard to extensions). The penalty is usually 5% for each month or part

of a month that a return is late, but not more than 25%.

Fraud. If your failure to file is due to fraud, the penalty is 15% for each month or part of a month that your return is late, up to a maximum of 75%.

Return over 60 days late. If you file your return more than 60 days after the due date or extended due date, the minimum penalty is the smaller of \$485 or 100% of the unpaid tax.

Exception. You will not have to pay the penalty if you show that you failed to file on time because of reasonable cause and not because of willful neglect.

Paying tax late. You will have to pay a failure-to-pay penalty of $\frac{1}{2}$ of 1% (0.005) of your unpaid taxes for each month, or part of a month, after the due date that the tax is not paid. This penalty does not apply during the automatic 6-month extension of time to

file period if you paid at least 90% of your actual tax liability on or before the due date of your return and pay the balance when you file the return.

The monthly rate of the failure-to-pay penalty is half the usual rate, $\frac{1}{4}\%$ (0.0025 instead of $\frac{1}{2}\%$ (0.005)), if an installment agreement is in effect for that month. You must have filed your return by the due date (including extensions) to qualify for this reduced penalty.

If a notice of intent to levy is issued, the rate will increase to 1% at the start of the first month beginning at least 10 days after the day that the notice is issued. If a notice and demand for immediate payment is issued, the rate will increase to 1% at the start of the first month beginning after the day that the notice and demand is issued.

This penalty cannot be more than 25% of your unpaid tax. You will not have to pay the penalty if you can show that you had a good reason for not paying your tax on time.

Combined penalties. If both the failure-to-file penalty and the failure-to-pay penalty (discussed earlier) apply in any month, the 5% (or 15%) failure-to-file penalty is reduced by the failure-to-pay penalty. However, if you file your return more than 60 days after the due date or extended due date, the minimum penalty is the smaller of \$485 or 100% of the unpaid tax.

Accuracy-related penalty. You may have to pay an accuracy-related penalty if you underpay your tax because:

- You show negligence or disregard of rules or regulations,
- You substantially understate your income tax,

- You claim tax benefits for a transaction that lacks economic substance, or
- You fail to disclose a foreign financial asset.

The penalty is equal to 20% of the underpayment. The penalty is 40% of any portion of the underpayment that is attributable to an undisclosed noneconomic substance transaction or an undisclosed foreign financial asset transaction. The penalty will not be figured on any part of an underpayment on which the fraud penalty, discussed later, is charged.

Negligence or disregard. The term “negligence” includes a failure to make a reasonable attempt to comply with the tax law or to exercise ordinary and reasonable care in preparing a return. Negligence also includes failure to keep adequate books and records. You will not have to pay a negligence penalty if you have a reasonable basis for a

position you took, or if you can show a reasonable cause and acted in good faith.

The term “disregard” includes any careless, reckless, or intentional disregard.

Adequate disclosure. You can avoid the penalty for disregard of rules or regulations if you adequately disclose on your return a position that has at least a reasonable basis. See *Disclosure statement*, later.

This exception will not apply to an item that is attributable to a tax shelter. In addition, it will not apply if you fail to keep adequate books and records or to substantiate items properly.

Substantial understatement of income tax. You understate your tax if the tax shown on your return is less than the correct tax. The understatement is substantial if it is more than the larger of 10% of the correct tax or \$5,000. However, the amount of the understatement is reduced to the extent the understatement is due to:

1. Substantial authority,
2. Adequate disclosure and a reasonable basis, or
3. Reasonable cause and good faith.

If an item on your return is attributable to a tax shelter, there is no reduction for an adequate disclosure. However, there is a reduction for a position with substantial authority, but only if you reasonably believed that your tax treatment was more likely than not the proper treatment.

Substantial authority. Whether there is or was substantial authority for the tax treatment of an item depends on the facts and circumstances. Consideration will be given to court opinions, Treasury regulations, revenue rulings, revenue procedures, and notices and announcements issued by the IRS and published in the Internal Revenue Bulletin that involve the same or similar circumstances as yours.

Disclosure statement. To adequately disclose the relevant facts about your tax treatment of an item, use Form 8275, Disclosure Statement. You must also have a reasonable basis for treating the item the way you did.

In cases of substantial understatement, only items that meet the requirements of Revenue Procedure 2023-40, available at [IRS.gov/irb/2023-51 IRB#REVPROC-2023-40](https://www.irs.gov/irb/2023-51_IRB#REVPROC-2023-40) (or its successor) are considered adequately disclosed on your return.

Revenue Procedure 2023-40 does not take into account the effect of tax law changes effective for tax years beginning after December 31, 2023. If a line referenced in this revenue procedure is affected by such a change and requires additional reporting, a taxpayer may have to file Form 8275; or Form 8275-R, Regulation Disclosure Statement, until regulations or other guidance

has been issued to comply with the requirement.

A complete and accurate disclosure of a tax position on the appropriate year's Schedule UTP (Form 1120), Uncertain Tax Position Statement, will be treated as if the corporation filed a Form 8275 or Form 8275-R regarding the tax position. The filing of a Form 8275 or Form 8275-R, however, will not be treated as if the corporation filed a Schedule UTP (Form 1120).

Use Form 8275-R to disclose items or positions contrary to regulations.

Transaction lacking economic substance.

For more information on economic substance, see section 7701(o).

Foreign financial asset. For more information on undisclosed foreign financial assets, see section 6662(j) or the Instructions for Form 8938.

Reasonable cause. You will not have to pay a penalty if you show a good reason (reasonable cause) for the way you treated an item. You must also show that you acted in good faith. This does not apply to a transaction that lacks economic substance.

Filing erroneous claim for refund or credit. You may have to pay a penalty if you file an erroneous claim for refund or credit. The penalty is equal to 20% of the disallowed amount of the claim, unless you can show that you had reasonable cause for filing your claim. However, any disallowed amount due to a transaction that lacks eco-

nomic substance will not be treated as due to reasonable cause. The penalty will not be figured on any part of the disallowed amount of the claim that is subject to accuracy-related or fraud penalties.

Frivolous tax submission. You may have to pay a penalty of \$5,000 if you file a frivolous tax return or other frivolous submissions. A

frivolous tax return is one that does not include enough information to figure the correct tax or that contains information clearly showing that the tax you reported is substantially incorrect. For more information on frivolous returns, frivolous submissions, and a list of positions that are identified as frivolous, see [IRS.gov/irb/ 2010-17 IRB#NOT-2010-33](https://www.irs.gov/irb/2010-17_IRB#NOT-2010-33) (or its successor).

You will have to pay the penalty if you filed this kind of return or submission based on a frivolous position or a desire to delay or interfere with the administration of federal tax laws. This includes altering or striking out the preprinted language above the space provided for your signature.

This penalty is added to any other penalty provided by law.

Fraud. If there is any underpayment of tax on your return due to fraud, a penalty of 75% of the underpayment due to fraud will be added to your tax.

Failure to supply TIN. If you do not include your SSN or ITIN or the SSN or ITIN of another person where required on a return, statement, or other document, you may be subject to a penalty of \$50 for each failure. You may also be subject to a penalty of \$50 if you do not give your SSN or ITIN to another person when it is required on a return, statement, or other document.

For example, if you have a bank account that earns interest, you must give your SSN or ITIN to the bank. The number must be shown on the Form 1099-INT or other statement the bank sends you. If you do not give the bank your SSN or ITIN, you will be subject to the \$50 penalty. (You may also be subject to backup withholding of income tax.)

You will not have to pay the penalty if you are able to show that the failure was due to reasonable cause and not willful neglect.

Criminal Penalties

You may be subject to criminal prosecution (brought to trial) for actions such as:

1. Tax evasion;
2. Willful failure to file a return, supply information, or pay any tax due;
3. Fraud and false statements; or
4. Preparing and filing a fraudulent return.

8.

Paying Tax Through Withholding or Estimated Tax

Introduction

This chapter discusses how to pay your U.S. income tax as you earn or receive income during the year. In general, the federal income tax is a pay-as-you-go tax. There are two ways to pay as you go.

1. **Withholding.** If you are an employee, your employer probably withholds income tax from your pay. Tax may also be withheld from certain other income—including pensions, bonuses, commissions, and gambling winnings. In each case, the amount withheld is paid to the U.S. Treasury in your name.
2. **Estimated tax.** If you do not pay your tax through withholding, or do not pay enough tax that way, you might have to pay estimated tax. People who are in business for themselves will generally have to pay their tax this way. You may have to pay estimated tax if you receive income such as dividends, interest, rent, and royalties. Estimated tax is used to pay not only income tax, but self-employment tax and alternative minimum tax as well.
- 3.

Topics

This chapter discusses:

- How to notify your employer of your alien status,
- Income subject to withholding of income tax,
- Exemptions from withholding,
- Social security and Medicare taxes, and
- Estimated tax rules.

Useful Items

You may want to see:

Publication

- ☐ **515** Withholding of Tax on Nonresident Aliens and Foreign Entities
- ☐ **901** U.S. Tax Treaties

Form (and Instructions)

- ☐ **W-4** Employee's Withholding Certificate
- ☐ **Notice 1392** Supplemental Form W-4 Instructions for Nonresident Aliens
- ☐ **W-8BEN** Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding and Reporting (Individuals)
- ☐ **W-8ECI** Certificate of Foreign Person's Claim That Income Is Effectively Connected With the Conduct of a Trade or Business in the United States
- ☐ **W-9** Request for Taxpayer Identification Number and Certification
- ☐ **1040-ES (NR)** U.S. Estimated Tax for Nonresident Alien Individuals
- ☐ **8233** Exemption From Withholding on Compensation for Independent (and Certain Dependent) Personal Services of a Nonresident Alien Individual

- **8288-B** Application for Withholding Certificate for Dispositions by Foreign Persons of U.S. Real Property Interests
- **13930** Application for Central Withholding Agreement

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

Notification of Alien Status

You must let your employer know whether you are a resident or a nonresident alien so your employer can withhold the correct amount of tax from your wages.

If you are a resident alien under the rules discussed in chapter 1, you must file Form W-9 or a similar statement with your employer. If you are a nonresident alien under those rules, you must furnish to your employer Form 8233 or Form W-8BEN, establishing that you are a foreign person, or Form W-4, establishing that your compensation is

subject to graduated withholding at the same rates as resident aliens or U.S. citizens.

If you are a resident alien and you receive income other than wages (such as dividends and royalties) from sources within the United States, file Form W-9 or similar statement with the withholding agent (generally, the payer of the income) so the agent will not withhold tax on the income at the 30% (or lower treaty) rate. If you receive this type of income as a nonresident alien, file Form W-8BEN with the withholding agent so that the agent will withhold tax at the 30% (or lower treaty) rate. However, if the income is effectively connected with a U.S. trade or business, file Form W-8ECI instead.

Withholding From Compensation

The following discussion generally applies only to nonresident aliens. Tax is withheld from resident aliens in the same manner as U.S. citizens.

Wages and other compensation paid to a nonresident alien for services performed as an employee are usually subject to graduated withholding at the same rates as resident aliens and U.S. citizens. Therefore, your compensation, unless it is specifically excluded from the term “wages” by law, or is exempt from tax by treaty, is subject to graduated withholding.

Withholding on Wages

If you are an employee and you receive wages subject to graduated withholding, you will be required to fill out a Form W-4. Also fill out Form W-4 for a scholarship or fellowship grant to the extent it represents payment for past, present, or future services and for which you are not claiming a tax treaty withholding exemption on Form 8233 (discussed later under *Income Entitled to Tax Treaty Benefits*). These are services you are required to perform as an employee and as a condition

of receiving the scholarship or fellowship (or tuition reduction).

Nonresident aliens must follow the special instructions in [Notice 1392](#) when completing Form W-4 for compensation paid as employees performing dependent personal services in the United States. Compensation for dependent personal services includes amounts paid as wages, salaries, fees, bonuses, commissions, compensatory scholarships, fellowship income, and similar designations for amounts paid to an employee.

To see if you need to have your withholding increased or decreased, use the IRS [Tax Withholding Estimator](#).

See *Withholding on Scholarships and Fellowship Grants*, later, for how to fill out Form W-4 if you receive a U.S. source scholarship or fellowship grant that is not a payment for services.

Students and business apprentices from India. If you are eligible for the benefits of Article 21(2) of the United States-India Income Tax Treaty, you may claim an additional withholding allowance for the standard deduction.

Household employees. If you work as a household employee, your employer does not have to withhold income tax. However, you may agree to voluntarily withhold income tax by filing a Form W-4 with your employer. The agreement goes into effect when your employer accepts the agreement by beginning the withholding. You or your employer may end the agreement by letting the other know in writing.

Agricultural workers. If you are an agricultural worker on an H-2A visa, your employer does not have to withhold income tax. However, your employer will withhold income tax only if you and your employer agree to withhold. In that case, you must

provide your employer with a properly completed Form W-4. You can find more information about not having tax withheld at [IRS.gov/ForeignAgriculturalWorkers](https://www.irs.gov/ForeignAgriculturalWorkers).

Wages Exempt From Withholding

Wages that are exempt from U.S. income tax under an income tax treaty are generally exempt from withholding. For information on how to claim this exemption from withholding, see *Income Entitled to Tax Treaty Benefits*, later.

Wages paid to aliens who are residents of American Samoa, Canada, Mexico, Puerto Rico, or the U.S. Virgin Islands may be exempt from withholding. The following paragraphs explain these exemptions.

Residents of Canada or Mexico engaged in transportation-related employment.

Certain residents of Canada or Mexico who enter or leave the United States at frequent

intervals are not subject to withholding on their wages. These persons either:

- Perform duties in transportation service between the United States and Canada or Mexico; or
- Perform duties connected to the construction, maintenance, or operation of a waterway, viaduct, dam, or bridge crossed by, or crossing, the boundary between the United States and Canada or the boundary between the United States and Mexico.



This employment is subject to withholding of social security and Medicare taxes unless the services are performed for a railroad.

To qualify for the exemption from withholding during a tax year, a Canadian or Mexican resident must give the employer a statement in duplicate with name, address, and TIN, certifying that the resident:

- Is not a U.S. citizen or resident;
- Is a resident of Canada or Mexico, whichever applies; and
- Expects to perform duties previously described during the tax year in question.

The statement can be in any form, but it must be dated and signed by the employee and must include a written declaration that it is made under penalties of perjury.

Residents of American Samoa and Puerto Rico. If you are a nonresident alien employee who is a resident of American Samoa or Puerto Rico, wages for services performed in American Samoa or Puerto Rico are generally not subject to withholding unless you are an employee of the United States or any of its agencies in American Samoa or Puerto Rico.

Residents of the U.S. Virgin Islands.

Nonresident aliens who are bona fide residents of the U.S. Virgin Islands are not subject to withholding of U.S. tax on income

earned while temporarily employed in the United States. This is because those persons pay their income tax to the U.S. Virgin Islands. To avoid having tax withheld on income earned in the United States, bona fide residents of the U.S. Virgin Islands should write a letter, in duplicate, to their employers, stating that they are bona fide residents of the U.S. Virgin Islands and expect to pay tax on all income to the U.S. Virgin Islands.

Withholding on Pensions

If you receive a pension distribution from the United States, the payment is generally subject to the 30% (or lower treaty) rate of withholding. You may, however, have tax withheld at graduated rates on the portion of the pension that arises from the performance of services in the United States after 1986. You must fill out Form W-8BEN or Form 8233 and give it to the withholding agent or payer before the income is paid or credited to you.

Withholding on Tip Income

Tips you receive during the year for services performed in the United States are subject to U.S. income tax. Include them in taxable income. In addition, tips received while working for one employer, amounting to \$20 or more in a month, are subject to graduated withholding.