

# Publication 519

## U.S. Tax Guide for Aliens

For use in preparing  
**2023** Returns

Volume 3 of 7



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***Publicly traded exception.*** A U.S. real property interest does not include a class of stock of a corporation that is regularly traded on an established securities market, unless you hold more than 5% of the fair market value of that class of stock (or more than 10% of that stock in the case of real estate investment trusts (REITs)). An interest in a foreign corporation owning U.S. real property is generally not a U.S. real property interest unless the corporation chooses to be treated as a domestic corporation.

**Qualified investment entities (QIEs).**

Special rules apply to QIEs. A QIE is any REIT or any RIC that is treated as a U.S. real property holding corporation (after applying certain rules in section 897(h)(4)(A)(ii)). See *U.S. Real Property Interest* in [Pub. 515](#) for more information.

***Look-through rule for QIEs.*** In most cases, any distribution from a QIE to a nonresident alien, foreign corporation, or other QIE that is

attributable to the QIE's gain from the sale or exchange of a U.S. real property interest is treated as gain recognized by the nonresident alien, foreign corporation, or other QIE from the sale or exchange of a U.S. real property interest.

Certain exceptions apply to the look-through rule for distributions by QIEs. A distribution by a QIE with respect to stock regularly traded on an established securities market in the United States is not treated as gain from the sale or exchange of a U.S. real property interest if the shareholder owns 5% or less of that stock (or 10% or less of that stock in the case of a REIT) at any time during the 1-year period ending on the date of the distribution.

A distribution made by a REIT is generally not treated as gain from the sale or exchange of a U.S. real property interest if the shareholder is a qualified shareholder (as described in section 897(k)(3)).

A distribution that you do not treat as gain from the sale or exchange of a U.S. real property interest may be included in your gross income as a regular dividend.

***Disposition of REIT stock.*** Dispositions of stock in a REIT that is held directly (or indirectly through one or more partnerships) by a qualified shareholder will not be treated as a U.S. real property interest. See sections 897(k)(2) through (4) for more information.

***Domestically controlled QIE.*** The sale of an interest in a domestically controlled QIE is not the sale of a U.S. real property interest. The entity is domestically controlled if at all times during the testing period less than 50% in value of its stock was held, directly or indirectly, by foreign persons. The testing period is the shorter of the:

- 5-year period ending on the date of disposition, or

- Period during which the entity was in existence.

For the purpose of determining whether a QIE is domestically controlled, the following rules apply.

1. A person holding less than 5% of any class of stock of the QIE, which is regularly traded on an established securities market in the United States at all times during the testing period, would be treated as a U.S. person unless the QIE has actual knowledge that such person is not a U.S. person.
2. Any stock in a QIE that is held by another QIE will be treated as held by a foreign person if:
  - a. Any class of stock of such other QIE is regularly traded on an established securities market, or

- b. Such other QIE is a RIC that issues certain redeemable securities.

Notwithstanding the above, the stock of the QIE will be treated as held by a U.S. person if such other QIE is domestically controlled.

3. Stock in a QIE held by any other QIE not described above will be treated as held by a U.S. person in proportion to the stock of such other QIE that is (or is treated as) held by a U.S. person.

***Wash sale.*** If you dispose of an interest in a domestically controlled QIE in an applicable wash sale transaction, special rules apply. An applicable wash sale transaction is one in which you:

1. Dispose of an interest in the domestically controlled QIE during the 30-day period before the ex-dividend date of a distribution that you would (but for the disposition)

have treated as gain from the sale or exchange of a U.S. real property interest; and

2. Acquire, or enter into a contract or option to acquire, a substantially identical interest in that entity during the 61-day period that began on the first day of the 30-day period.

If this occurs, you are treated as having a gain from the sale or exchange of a U.S. real property interest in an amount equal to the distribution that would have been treated as such gain. This also applies to any substitute dividend payment.

A transaction is not treated as an applicable wash sale transaction if:

- You actually receive the distribution from the domestically controlled QIE related to the interest disposed of, or acquired, in the transaction; or



- You dispose of any class of stock in a QIE that is regularly traded on an established securities market in the United States but only if you did not own more than 5% of that class of stock at any time during the 1-year period ending on the date of the distribution.

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

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

## **Gain or Loss of Foreign Persons 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, then the gain or loss from the disposition of that partnership interest may affect your federal tax liability. Under section 864(c)(8), your gain or loss from the sale, exchange, or other disposition of that partnership interest is treated as effectively connected with the conduct of a trade or business within the United States (“effectively connected gain” or “effectively connected loss”). However, the amount of effectively connected gain or effectively connected loss is limited to the portion of what your distributive share of effectively connected gain or loss would have been had the partnership sold all of its assets at fair market value as of the date of the disposition.

Section 864(c)(8) applies to sales, exchanges, or other dispositions occurring on or after November 27, 2017. On November 6,

2020, final regulations under section 864(c)(8) were issued applicable to transfers occurring on or after December 26, 2018. See Regulations section 1.864(c)(8)-1(j).

## **Foreign Income**

You must treat three kinds of foreign source income as effectively connected with a trade or business in the United States if:

- You have an office or other fixed place of business in the United States to which the income can be attributed,
- That office or place of business is a material factor in producing the income, and
- The income is produced in the ordinary course of the trade or business carried on through that office or other fixed place of business.

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

The three kinds of foreign source income are listed below.

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

guarantee of indebtedness issued after September 27, 2010, from the active conduct of a banking, financing, or similar business in the United States. A substitute dividend or interest payment received under a securities lending transaction or a sale-repurchase transaction is treated the same as the amounts received on the transferred security.

3. Income, gain, or loss from the sale outside the United States, through the U.S. office or other fixed place of business, of:
  - a. Stock in trade,
  - b. Property that would be included in inventory if on hand at the end of the tax year, or
  - c. Property held primarily for sale to customers in the ordinary course of business.

Item (3) will not apply if you sold the property for use, consumption, or disposition outside the United States and an office or other fixed place of business in a foreign country was a material factor in the sale.

Any foreign source income that is equivalent to any item of income described above is treated as effectively connected with a U.S. trade or business. For example, foreign source interest and dividend equivalents are treated as U.S. effectively connected income if the income is derived by a foreign person in the active conduct of a banking, financing, or similar business within the United States.

### **Tax on Effectively Connected Income**

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

Generally, you can receive effectively connected income only if you are a nonresident alien engaged in a trade or business in the United States during the tax year. However, if you receive payments from the sale or exchange of property, the performance of services, or any other transaction during a tax year in which you are not engaged in a U.S. trade or business, but such payments would have been treated as effectively connected income in the year the transaction took place or you performed the services, then they are treated as effectively connected income in the tax year you received them.

***Example.*** Ted Richards entered the United States in August 2022 to perform personal services in the U.S. office of an overseas employer. Ted worked in the U.S. office until December 25, 2022, but did not leave this country until January 11, 2023. On January 8, 2023, Ted received the final paycheck for

services performed in the United States during 2022. All of Ted's income during Ted's stay here is U.S. source income.

During 2022, Ted was engaged in the trade or business of performing personal services in the United States. Therefore, all amounts paid to him in 2022 for services performed in the United States during 2022 are effectively connected with that trade or business during 2022.

The salary payment Ted received in January 2023 is U.S. source income to Ted in 2023. It is effectively connected income because Ted performed the services that earned the income in the United States in 2022 and, therefore, Ted would have been treated as engaged in a trade or business in the United States during 2022.

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



## **The 30% Tax**

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

### **Fixed or Determinable Income**

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

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

Items specifically included as fixed or determinable income are interest (other than OID), dividends, dividend equivalent payments (defined in chapter 2), rents, premiums, annuities, salaries, wages, and other compensation. A substitute dividend or interest payment received under a securities lending transaction or a sale-repurchase transaction is treated the same as the amounts received on the transferred security. Other items of income, such as royalties, may also be subject to the 30% tax.



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

**Original issue discount (OID).** If you sold, exchanged, or received a payment on a bond or other debt instrument that was issued at a discount, all or part of the OID (other than portfolio interest) may be subject to the 30% tax. The amount of OID is the difference

between the stated redemption price at maturity and the issue price of the debt instrument. The 30% tax applies in the following circumstances.

1. You received a payment on a debt instrument. In this case, the amount of OID subject to tax is the OID that accrued while you held the debt instrument minus the OID previously taken into account. But the tax on the OID cannot be more than the payment minus the tax on the interest payment on the debt instrument.
2. You sold or exchanged the debt instrument. The amount of OID subject to tax is the OID that accrued while you held the debt instrument minus the amount already taxed in (1) above.

Report on your return the amount of OID shown on Form 1042-S if you bought the debt instrument at original issue. However, you

must recompute your proper share of OID shown on Form 1042-S if any of the following apply.

- You bought the debt instrument at a premium or paid an acquisition premium.
- The debt instrument is a stripped bond or a stripped coupon (including zero coupon instruments backed by U.S. Treasury securities).
- The debt instrument is a contingent payment or inflation-indexed debt instrument.

For the definition of premium and acquisition premium and instructions on how to recompute OID, see [\*Pub. 1212\*](#).

## **Gambling Winnings**

In general, nonresident aliens are subject to the 30% tax on the gross proceeds from gambling won in the United States if that income is not effectively connected with a

U.S. trade or business and is not exempted by treaty. However, no tax is imposed on nonbusiness gambling income a nonresident alien wins playing blackjack, baccarat, craps, roulette, or big-6 wheel in the United States.

Nonresident aliens are taxed at graduated rates on net gambling income won in the United States that is effectively connected with a U.S. trade or business.

## **Social Security Benefits**

A nonresident alien must include 85% of any U.S. social security benefit (and the social security equivalent part of a tier 1 railroad retirement benefit) in U.S. source FDAP income. Social security benefits include monthly retirement, survivor, and disability benefits. This income is exempt under some tax treaties. See Table 1 in the Tax Treaty Tables, available at [IRS.gov/TreatyTables](https://www.irs.gov/TreatyTables) for a list of tax treaties that exempt U.S. social security benefits from U.S. tax. For more information, see [Pub. 915](#).

## **Sales or Exchanges of Capital Assets**

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

A capital asset is everything you own except:

- Inventory;
- Business accounts or notes receivable;
- Depreciable property used in a trade or business;
- Real property used in a trade or business;

- Supplies regularly used in a trade or business;
- Certain copyrights, literary or musical or artistic compositions, letters or memoranda, or similar property;
- Certain U.S. Government publications;
- Certain commodities derivative financial instruments held by a commodities derivatives dealer; or
- Hedging transactions.

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

If the sale is in foreign currency, for the purpose of determining gain, the cost and selling price of the property should be expressed in U.S. currency at the rate of exchange prevailing as of the date of the purchase and date of the sale, respectively.

You can use [Pub. 544](#) to determine what is a sale or exchange of a capital asset, or what is treated as such. Specific tax treatment that applies to U.S. citizens or residents generally does not apply to you.

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

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



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

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

To determine your net gain, consider the amount of your gains and losses that would be recognized and taken into account only if, and to the extent that, they would be recognized and taken into account if you were in a U.S. trade or business during the year

and the gains and losses were effectively connected with that trade or business during the tax year.

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

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

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

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

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

(Form 1040) or Form 4797, or both. Attach them to Form 1040-NR.

## **Income From Real Property**

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

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

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

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

***Example.*** You are a nonresident alien and are not engaged in a U.S. trade or business. You own a single-family house in the United States that you rent out. Your rental income for the year is \$10,000. This is your only U.S. source income. As discussed earlier under *The 30% Tax*, the rental income is subject to a tax at a 30% (or lower treaty) rate. You received a Form 1042-S showing that your tenants properly withheld this tax from the

rental income. You do not have to file a U.S. tax return (Form 1040-NR) because your U.S. tax liability is satisfied by the withholding of tax.

If you make the choice discussed earlier, you can offset the \$10,000 income by certain rental expenses. (See [Pub. 527.](#)) Any resulting net income is taxed at graduated rates.

If you make this choice, report the rental income and expenses on Schedule E (Form 1040). Enter the net rental income or loss from Schedule E (Form 1040) on Schedule 1 (Form 1040), Part I, line 5. Attach Schedule 1 (Form 1040) and Schedule E (Form 1040) to Form 1040-NR. For the first year you make the choice, also attach the statement, discussed next.

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

- That you are making the choice.
- Whether the choice is under section 871(d) (explained earlier) or a tax treaty.
- A complete list of all your real property, or any interest in real property, located in the United States. Give the legal identification of U.S. timber, coal, or iron ore in which you have an interest.
- The extent of your ownership in the property.
- The location of the property.
- A description of any major improvements to the property.
- The dates you owned the property.
- Your income from the property.
- Details of any previous choices and revocations of the real property income choice.

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

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

**Note.** You can file your Form 1040-X electronically beginning with the 2019 tax year. For more information, see [IR-2020-107](#).

## **Transportation Tax**

A 4% tax rate applies to transportation income that is not effectively connected



because it does not meet the two conditions listed earlier under Transportation Income. If you receive transportation income subject to the 4% tax, you should figure the tax and show it on line 23c of Form 1040-NR. Attach a statement to your return that includes the following information (if applicable).

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

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

## **Interrupted Period of Residence**

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

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

2. You were a U.S. resident for at least 183 days in each of those years.
3. You ceased to be treated as a U.S. resident.
4. You then again became a U.S. resident before the end of the third calendar year after the end of the period described in (1) above.

Under this special rule, you are subject to tax on your U.S. source gross income and gains on a net basis at the graduated rates applicable to individuals (with allowable deductions) for the period you were a nonresident alien, unless you would be subject to a higher tax under section 871 (rules that normally apply to taxation of a nonresident alien's income, discussed earlier) after taking into account any applicable treaty benefit. For information on how to figure the special tax, see Expatriation Tax, later.

**Example.** John Willow, a citizen of New Zealand, entered the United States on April 1, 2018, as a lawful permanent resident. On August 1, 2020, John ceased to be a lawful permanent resident and returned to New Zealand. During John's period of residence, John was present in the United States for at least 183 days in each of 3 consecutive years (2018, 2019, and 2020). John returned to the United States on October 5, 2023, as a lawful permanent resident. John became a resident before the close of the third calendar year (2023) beginning after the end of John's first period of residence (August 1, 2020). Therefore, John is subject to tax under the special rule for the period of nonresidence (August 2, 2020, through October 4, 2023) if it is more than the tax that would normally apply to John as a nonresident alien.

**Reporting requirements.** If you are subject to this tax for any year in the period you were a nonresident alien, you must file Form 1040-

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

## **Expatriation Tax**

The expatriation tax provisions apply to U.S. citizens who have renounced their citizenship and LTRs who have ended their residency.

The following section describes the expatriation rules under section 877A, which applies to individuals who expatriated on or after June 17, 2008. See *Expatriation After June 16, 2008*, later. If you expatriated before June 17, 2008, refer to *Expatriation After June 3, 2004, and Before June 17, 2008*

in chapter 4 of the 2018 Pub. 519, and the 2018 Instructions for Form 8854.



*If you renounced your citizenship or terminated your long-term residency after June 3, 2004, and before June 17, 2008, you will still be considered a U.S. citizen or a U.S. resident for tax purposes until you notify the Department of State or Department of Homeland Security (as applicable) of your expatriation and file Form 8854 with the IRS.*

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

## **Expatriation After June 16, 2008**

**Expatriation date.** Your expatriation date is the date you relinquish U.S. citizenship (in the case of a former citizen) or terminate your long-term residency (in the case of a former U.S. resident).

***Former U.S. citizen.*** You are considered to have relinquished your U.S. citizenship on the earliest of the following dates.

1. The date you renounced U.S. citizenship before a diplomatic or consular officer of the United States (provided that the voluntary renouncement was later confirmed by the issuance of a certificate of loss of nationality).
2. The date you furnished to the State Department a signed statement of voluntary relinquishment of U.S. nationality confirming the performance of an expatriating act (provided that

the voluntary relinquishment was later confirmed by the issuance of a certificate of loss of nationality).

3. The date the State Department issued a certificate of loss of nationality.
4. The date that a U.S. court canceled your certificate of naturalization.

***Former LTR.*** You are considered to have terminated your long-term residency on the earliest of the following dates.

1. The date you voluntarily relinquished your lawful permanent resident status by filing Department of Homeland Security Form I-407 with a U.S. consular or immigration officer.
2. The date you became subject to a final administrative order that you abandoned your lawful permanent resident status (or, if such order has been appealed, the date of a final



judicial order issued in connection with such administrative order).

3. The date you became subject to a final administrative order for your removal from the United States under the Immigration and Nationality Act.
4. If you were a dual resident of the United States and a country with which the United States has an income tax treaty, the date you began to be treated as a resident of that country under the provisions of the treaty and notified the IRS of that treatment on Forms 8833 and 8854. See *Effect of Tax Treaties* in chapter 1 for more information about dual residents.

**Covered expatriate.** If you expatriated after June 16, 2008, you are treated as a covered expatriate, and the expatriation rules under section 877A apply to you if you meet any of the following conditions.

1. Your average annual net income tax for the 5 years ending before the date of expatriation or termination of residency is more than the following.
  - a. \$139,000 if you expatriated or terminated residency in 2008.
  - b. \$145,000 if you expatriated or terminated residency in 2009 or 2010.
  - c. \$147,000 if you expatriated or terminated residency in 2011.
  - d. \$151,000 if you expatriated or terminated residency in 2012.
  - e. \$155,000 if you expatriated or terminated residency in 2013.
  - f. \$157,000 if you expatriated or terminated residency in 2014.
  - g. \$160,000 if you expatriated or terminated residency in 2015.

- h. \$161,000 if you expatriated or terminated residency in 2016.
  - i. \$162,000 if you expatriated or terminated residency in 2017.
  - j. \$165,000 if you expatriated or terminated residency in 2018.
  - k. \$168,000 if you expatriated or terminated residency in 2019.
  - l. \$171,000 if you expatriated or terminated residency in .
  - m. \$172,000 if you expatriated or terminated residency in 2021.
  - n. \$178,000 if you expatriated or terminated residency in 2022.
  - o. \$190,000 if you expatriated or terminated residency in 2023.
2. Your net worth is \$2 million or more on the date of your expatriation or termination of residency.

3. You fail to certify on Form 8854 that you have complied with all U.S. federal tax obligations for the 5 years preceding the date of your expatriation or termination of residency.

**Relief procedures for certain former citizens.** If you were a U.S. citizen who expatriated after March 18, 2010, you may be eligible for certain relief procedures that provide an alternative means for satisfying the tax compliance certification process. For more information, see Relief Procedures for Certain Former Citizens, available at [IRS.gov/Individuals/International-Taxpayers/ReliefProcedures-for-Certain-Former-Citizens](https://www.irs.gov/Individuals/International-Taxpayers/ReliefProcedures-for-Certain-Former-Citizens).

**Exception for dual-citizens and certain minors.** Certain dual-citizens and certain minors (defined next) are not subject to the expatriation tax even if they meet (1) or (2) above. However, they must still provide the certification required in (3) above.

***Certain dual-citizens.*** You may qualify for the exception described above if both of the following apply.

- You became at birth a U.S. citizen and a citizen of another country and, as of the expatriation date, you continue to be a citizen of, and are taxed as a resident of, that other country.
- You have been a resident of the United States for not more than 10 years during the 15-year tax period ending with the tax year during which the expatriation occurs. For the purpose of determining U.S. residency, use the substantial presence test described in chapter 1.

***Certain minors.*** You may qualify for the exception described earlier if you meet both of the following requirements.

- You expatriated before you were age 18<sup>1/2</sup>.

- You have been a resident of the United States for not more than 10 tax years before the expatriation occurs. For the purpose of determining U.S. residency, use the substantial presence test described in chapter 1.

## **How To Figure the Expatriation Tax if You Are a Covered Expatriate**

In the year you expatriate, you are subject to income tax on the net unrealized gain (or loss) in your property as if the property had been sold for its fair market value on the day before your expatriation date (“mark-to-market tax”). This applies to most types of property interests you held on the date of relinquishment of citizenship or termination of residency. But see Exceptions, later.

Gains arising from deemed sales must be taken into account for the tax year of the deemed sale without regard to other U.S. Internal Revenue laws. Losses from deemed sales must be taken into account to the

extent otherwise provided under U.S. Internal Revenue laws. However, section 1091 (relating to the disallowance of losses on wash sales of stock and securities) does not apply. The net gain that you must otherwise include in your income is reduced (but not below zero) by the following.

1. \$600,000 if you expatriated or terminated residency before January 1, 2009.
2. \$626,000 if you expatriated or terminated residency in 2009.
3. \$627,000 if you expatriated or terminated residency in 2010.
4. \$636,000 if you expatriated or terminated residency in 2011.
5. \$651,000 if you expatriated or terminated residency in 2012.
6. \$668,000 if you expatriated or terminated residency in 2013.

7. \$680,000 if you expatriated or terminated residency in 2014.
8. \$690,000 if you expatriated or terminated residency in 2015.
9. \$693,000 if you expatriated or terminated residency in 2016.
10. \$699,000 if you expatriated or terminated residency in 2017.
11. \$711,000 if you expatriated or terminated residency in 2018.
12. \$725,000 if you expatriated or terminated residency in 2019.
13. \$737,000 if you expatriated or terminated residency in .
14. \$744,000 if you expatriated or terminated residency in 2021.
15. \$767,000 if you expatriated or terminated residency in 2022.



16. \$821,000 if you expatriated or terminated residency in 2023.

**Exceptions.** The mark-to-market tax does not apply to the following.

1. Eligible deferred compensation items.
2. Ineligible deferred compensation items.
3. Interests in nongrantor trusts.
4. Specified tax deferred accounts.

Instead, items (1) and (3) may be subject to withholding at source. In the case of item (2), you are treated as receiving the present value of your accrued benefit as of the day before your expatriation date. In the case of item (4), you are treated as receiving a distribution of your entire interest in the account on the day before your expatriation date. See Notice 2009-85 and the Instructions for Form 8854 for more information.

## Expatriation Tax Return

You must file an initial Form 8854 in the year you relinquish your U.S. citizenship or terminate your long-term residency, even if you are not a covered expatriate. In addition, you must file a Form 8854 annually after you expatriate if you are a covered expatriate and you:

1. Deferred the payment of mark-to-market tax (see Deferral of payment of mark-to-market tax, later),
2. Have an item of eligible deferred compensation, or
3. Have an interest in a nongrantor trust.

**Deferral of payment of mark-to-market tax.** You can make an irrevocable election to defer payment of the mark-to-market tax imposed on the deemed sale of property. If you make this election, the following rules apply.

1. You can make the election on a property-by-property basis.
2. The deferred tax attributable to a particular property is due on the return for the tax year in which you dispose of the property.
3. Interest is charged for the period the tax is deferred.
4. The due date for the payment of the deferred tax cannot be extended beyond the earlier of the following dates.
  - a. The due date of the return required for the year of death.
  - b. The time that the security provided for the property fails to be adequate. See item (6) below.
5. You make the election on Form 8854.
6. You must provide adequate security (such as a bond).

7. You must make an irrevocable waiver of any right under any treaty of the United States that would preclude assessment or collection of the mark-to-market tax.

For more information about the deferral of payment, see the [\*Instructions for Form 8854\*](#).

## **5.**

# **Figuring Your Tax**

## **Introduction**

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

returns for resident aliens is generally the same as for U.S. citizens.

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

## **Topics**

This chapter discusses:

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

## Useful Items

You may want to see:

### Publication

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

### Form (and Instructions)

- ☐ **W-7** Application for IRS Individual Taxpayer Identification Number
- ☐ **1040** U.S. Individual Income Tax Return
- ☐ **1040-SR** U.S. Tax Return For Seniors
- ☐ **1040-NR** U.S. Nonresident Alien Income Tax Return
- ☐ **2106** Employee Business Expenses
- ☐ **3903** Moving Expenses

- ❑ **4563** Exclusion of Income for Bona Fide Residents of American Samoa
- ❑ **8959** Additional Medicare Tax
- ❑ **8990** Limitation on Business Interest Expense Under Section 163(j)

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

## **Tax Year**

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

## Identification Number

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

You must furnish a TIN if you are:

- An alien who has income effectively connected with the conduct of a U.S. trade or business at any time during the year;
- An alien who has a U.S. office or place of business at any time during the year;
- A nonresident spouse treated as a resident, as discussed in chapter 1; or



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

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

To apply for a new SSN, you must submit Form SS-5, Application for a Social Security Card, and the required documents in person at your local Social Security Administration (SSA) office. To get Form SS-5, you can download it at [SSA.gov/forms](https://ssa.gov/forms), call the SSA at 800-772-1213, or go to your local SSA office. For more information, go to [Social Security Number and Card](#).

**International students.** If you have an F-1, M-1, or J-1 visa, see SSA Pub. 05-10181, available at [SSA.gov/ Pubs/10181.html](https://ssa.gov/Pubs/10181.html), for more information about the documents you must provide to prove your immigrant status.

## **Individual taxpayer identification**

**number (ITIN).** If you already have an ITIN, enter it wherever an SSN is required on your tax return. If you do not have an ITIN and are not eligible to get an SSN, you must apply for an ITIN. For details on how to do so, see [Form W-7](#) and its instructions.

If you qualify for an ITIN and your application is complete, you will receive a letter from the IRS assigning your tax identification number, usually within 7 weeks. If you have not received your ITIN or other correspondence 7 weeks after applying, call the IRS toll-free number at 800-829-1040 to request the status of your application if you are in the United States. If you are outside the United States, call 267-941-1000 (not a toll-free number).

An ITIN is for tax use only. It does not entitle you to social security benefits or change your employment or immigration status under U.S. law.

In addition to those aliens who are required to furnish a TIN and are not eligible for an SSN, a Form W-7 must be filed for alien spouses or dependents who qualify for an allowable tax benefit and are not eligible for an SSN.

Additional information on obtaining an ITIN is available in the Instructions for Form W-7 and at [IRS.gov/ITIN](https://www.irs.gov/ITIN).

***Expired ITIN.*** Some ITINs must be renewed. If you haven't used your ITIN on a federal tax return at least once for tax year 2020, 2021, or 2022, it will expire on December 31, 2023, and must be renewed if you need to file a federal tax return for tax year 2023. You do not need to renew your ITIN if you do not need to file a federal tax return. To renew your ITIN, see Form W-7 and its instructions at [IRS.gov/FormW7](https://www.irs.gov/FormW7). For more information, go to [IRS.gov/ ITIN](https://www.irs.gov/ITIN).



*ITINs assigned before 2013 have expired and must be renewed if you need to file a tax return for tax year 2023. If you previously submitted a renewal application and it was approved, you do not need to renew again unless you haven't used your ITIN on a federal tax return at least once for tax year 2020, 2021, or 2022.*

**Employer identification number (EIN).** An individual may use an SSN (or ITIN) for individual taxes and an EIN for business taxes. To apply for an EIN, file [Form SS-4](#) with the IRS.

## **Filing Status**

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

## Resident Aliens

Resident aliens can use the same filing statuses available to U.S. citizens. See your form instructions or [Pub. 501](#) for more information on filing status.

**Married filing jointly.** Generally, you can file as married filing jointly only if both you and your spouse were U.S. citizens or resident aliens for the entire tax year, or if you choose to be a nonresident spouse treated as a resident, as discussed in chapter 1.

**Qualifying surviving spouse.** If your spouse died in 2021 or 2022 and you did not remarry before the end of 2023, you may qualify to file as a qualifying surviving spouse and use the joint return tax rates. This applies only if you could have filed a joint return with your spouse for the year your spouse died.

For more information on the qualifying surviving spouse filing status, see *Qualifying Surviving Spouse* under *Filing Status* in the 2023 Instructions for Form 1040.

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

You are considered unmarried for this purpose if your spouse was a nonresident alien at any time during the year and your spouse doesn't choose to be treated as a resident, as discussed in chapter 1 under *Nonresident Spouse Treated as a Resident*.

**Note.** Even if you are considered unmarried for head of household purposes because you are married to a nonresident alien, you may still be considered married for purposes of the earned income credit (EIC). In that case, you

will need to meet the special rule for separated spouses to claim the credit. See [Pub. 596](#) for more information.

## **Nonresident Aliens**

If you are a nonresident alien filing Form 1040-NR, you may be able to use one of the filing statuses discussed later.

**Married nonresident alien.** Married nonresident aliens who are not married to U.S. citizens or residents must generally use the Tax Table column or the Tax Computation Worksheet for married filing separate returns when determining the tax on income effectively connected with a U.S. trade or business.

***Exceptions.*** Married nonresident aliens normally cannot use the Tax Table column or the Tax Computation Worksheet for single individuals. 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 are a married U.S. national. See the Instructions for Form 1040-NR to see if you qualify. "U.S. national" is defined later in this section.

A nonresident alien generally cannot file as married filing jointly. However, a nonresident alien who is married to a U.S. citizen or resident can choose to be treated as a resident and file a joint return on Form 1040 or 1040-SR. For information on these choices, see chapter 1. If you do not make the choice to file jointly, file Form 1040-NR and use the Tax Table column or the Tax Computation Worksheet for married individuals filing separately.

***U.S. national.*** An individual who, although not a U.S. citizen, owes their allegiance to the United States is considered a U.S. national. Also, U.S. nationals include American Samoans and Northern Mariana Islanders who



choose to become U.S. nationals instead of U.S. citizens.

**Qualifying surviving spouse.** If your spouse died in 2021 or 2022 and you did not remarry before the end of 2023, you may be eligible to file as a qualifying surviving spouse and use the joint return tax rates.

For more information on the qualifying surviving spouse filing status, see *Qualifying Surviving Spouse* under *Filing Status* in the 2023 Instructions for Form 1040-NR.

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

- Your spouse is a resident alien or U.S. citizen for the entire tax year;
- You do not choose to be treated as a resident alien; and

- Your spouse meets the other requirements for this filing status, as discussed earlier under *Resident Aliens*.

**Note.** Even if your spouse is considered unmarried for head of household purposes because you are a nonresident alien, your spouse may still be considered married for purposes of the EIC. In that case, your spouse will not be entitled to the credit unless they meet the special rule for separated spouses to claim the credit. See [\*Pub. 596\*](#) for more information.

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

**Special rules for aliens from certain U.S. territories.** A nonresident alien who is a bona fide resident of American Samoa or Puerto Rico for the entire tax year and who is

temporarily working in the United States should see *Bona Fide Residents of American Samoa or Puerto Rico* at the end of this chapter for information about special rules.

## **Reporting Your Income**

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

## **Deductions**

Resident and nonresident aliens can claim similar deductions on their U.S. tax returns. However, nonresident aliens can generally claim only deductions related to income that

is effectively connected with their U.S. trade or business.

## **Resident Aliens**

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

## **Nonresident Aliens**

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

connected with your effectively connected income.

**Ordinary and necessary business**

**expenses.** You can deduct all ordinary and necessary expenses in the operation of your U.S. trade or business to the extent they relate to income effectively connected with that trade or business. For information about other business expenses, see *Guide to Business Expense Resources* at [IRS.gov/Pub535](https://www.irs.gov/pub/irs-soi/13br535.pdf).

**Qualified business income deduction.** If you have income effectively connected with a U.S. trade or business, you may be able to deduct up to 20% of your qualified business income from your qualified trade or business, plus 20% of your qualified REIT dividends and qualified publicly traded partnership (PTP) income. For more information, see *Line 13a* in the Instructions for Form 1040-NR.

For more information on the qualified business income deduction, see Form 8995, Form 8995-A and its schedules, and the related instructions for the forms and schedules.

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

**Note.** Beginning in 2021, and before 2026, you may not deduct excess business losses. For 2023, an excess business loss is the amount of losses from trades or businesses of a noncorporate taxpayer that is more than the threshold amount of \$289,000 (\$578,000 for married taxpayers filing a joint return).

**Educator expenses.** If you were an eligible educator in 2023, you can deduct as an adjustment to income up to \$300 in unreimbursed qualified expenses you paid or

incurred during 2023 for certain professional development courses, and for books, supplies (other than nonathletic supplies for courses of instruction in health or physical education), computer equipment (including related software and services), and other supplementary equipment and materials you use in the classroom. For more information, see your tax form instructions.



*Qualified expenses include amounts paid or incurred in 2023 for personal protective equipment, disinfectant, and other supplies used for the prevention of the spread of coronavirus.*

## **Individual retirement arrangement**

**(IRA).** If you made contributions to a traditional IRA for 2023, you may be able to take an IRA deduction. But you must have taxable compensation effectively connected with a U.S. trade or business to do so. A Form 5498 should be sent to you by May 31, 2024, that shows all contributions to your traditional

IRA for 2023. If you were covered by a retirement plan (qualified pension, profit-sharing (including 401(k)), annuity, SEP, SIMPLE, etc.) at work or through self-employment, your IRA deduction may be reduced or eliminated. But you can still make contributions to a traditional IRA even if you cannot deduct them. If you made nondeductible contributions to a traditional IRA for 2023, you must report them on Form 8606.

For more information, see [Pub. 590-A](#).

**Moving expenses.** The deduction for moving expenses is only available if you are a member of the U.S. Armed Forces on active duty and, due to a military order, you move because of a permanent change of station. For more information, see [Pub. 3](#). If you qualify, use Form 3903 to figure the amount to deduct.



**Services or reimbursements provided by government to members of the U.S.**

**Armed Forces.** Do not include in income the value of moving and storage services provided by the government because of a move pursuant to a military order incident to a permanent change of station. Similarly, do not include in income amounts received as a dislocation allowance, temporary lodging expense, temporary lodging allowance, or move-in housing allowance. For more information, see [Pub. 3](#).

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

effectively connected with your U.S. trade or business.

See [Pub. 560](#) for further information.

### **Penalty on early withdrawal of savings.**

You must include in income all effectively connected interest income you receive or that is credited to your account during the year. Do not reduce it by any penalty you must pay on an early withdrawal from a time savings account. However, if the interest income is effectively connected with your U.S. trade or business during the year, you can deduct on line 18 of Schedule 1 (Form 1040) the amount of the early withdrawal penalty that the banking institution charged. Attach Schedule 1 (Form 1040) to your Form 1040-NR.

**Student loan interest deduction.** If you paid interest in 2023 on a qualified student loan, you may be able to deduct up to \$2,500 of the interest you paid. Generally, you can

claim the deduction if all the requirements are met.

The deduction is taken on line 21 of Schedule 1 (Form 1040). Attach Schedule 1 (Form 1040) to your Form 1040-NR.

To figure the deduction, see the Instructions for Form 1040-NR. For more information, see [Pub. 970](#).

## **Dependents**

Resident aliens can claim their dependents in the same way as U.S. citizens. However, only nonresident aliens who are U.S. nationals; residents of Canada, Mexico, and South Korea; or residents of India who were students or business apprentices can have a qualifying dependent. See [\*Nonresident Aliens\*](#), later.

In general, a dependent is a **qualifying child** or a **qualifying relative**. However, the following exceptions apply.

1. An individual who is a dependent of a taxpayer is treated as having no dependents.
2. An individual who is married at the end of the year can't be claimed as a dependent if the individual files a joint return, unless the joint return is filed only to claim a refund of withheld income taxes or estimated tax paid.
3. An individual claimed as a dependent must be a citizen, national, or resident of the United States, or a resident of Canada or Mexico.



*If you do not show the dependent's SSN, ITIN, or adoption taxpayer identification number (ATIN) in the Dependents section of your tax return, or if you show an incorrect number, certain tax*

*benefits may be disallowed. See Identification Number, earlier.*

## **Resident Aliens**

If you are a resident alien, a qualifying dependent includes your qualifying child or qualifying relative. Five tests must be met for a child to be your qualifying child. Four tests must be met for a person to be your qualifying relative. For more information, see the Instructions for Form 1040.



*If you do not show the dependent's SSN, ITIN, or ATIN in the Dependents section of your tax return, or if you show an incorrect number, certain tax benefits may be disallowed. See Identification Number, earlier.*

## **Nonresident Aliens**

See [Pub. 501](#) for more information.

**Residents of Mexico or Canada, or U.S. nationals.** If you are a resident of Mexico or Canada, or a national of the United States, you can claim each of your dependents who meets certain tests. Residents of Mexico or Canada, or nationals of the United States, must use the same rules as U.S. citizens to determine who is a dependent. See [Pub. 501](#) for these rules.

**Residents of South Korea.** A nonresident alien who is a resident of South Korea (other than an employee of the South Korean government) may be able to claim their child as a qualifying dependent. In addition to using the same rules as U.S. citizens to determine who is a dependent, under the income tax treaty with South Korea, the child must have lived with the nonresident alien in the United States at some time during the tax year.

**Students and business apprentices from India.** Students and business apprentices who are eligible for the benefits of Article 21(2) of the United States-India Income Tax Treaty can claim their dependents if they meet the same rules that apply to U.S. citizens.

## **Itemized Deductions**

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

There may be limitations that impact the amount of itemized deductions you can claim on Schedule A. See the Instructions for Schedule A (Form 1040) or *Instructions for Schedule A (Form 1040-NR)—Itemized Deductions* in the Instructions for Form 1040-NR.

## **Resident Aliens**

You can claim the same itemized deductions as U.S. citizens using Schedule A (Form 1040). See the Instructions for Schedule A (Form 1040) for more information.

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

## **Nonresident Aliens**

You can deduct certain itemized deductions if you receive income effectively connected with your U.S. trade or business. You can generally only include deductions and losses that are properly allocated and apportioned to income effectively connected with a U.S. trade or business. You cannot include deductions and/or losses that relate to exempt income or to income that is not effectively connected with a U.S. trade or



business. However, you can deduct certain charitable contributions and casualty and theft losses even if they do not relate to your effectively connected income. Use Schedule A (Form 1040-NR) to claim itemized deductions. See the Instructions for Form 1040-NR for more information.

**Standard deduction.** Nonresident aliens cannot claim the standard deduction. However, there is a special rule, described next, for certain nonresident aliens from India.

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

Use Worksheet 5-1 to figure your standard deduction for 2023. If you are married and your spouse files a return and itemizes deductions, you cannot take the standard deduction.

***Disaster tax relief.*** If you are a student or business apprentice eligible for the benefits of Article 21(2) of the United States-India Income Tax Treaty who was affected by certain major federally declared disasters in 2023 (see [IRS.gov/DisasterTaxRelief](https://www.irs.gov/DisasterTaxRelief) and [FEMA.gov/Disasters](https://www.fema.gov/disasters)), you may be able to elect to increase your standard deduction by any qualified disaster-related personal casualty losses on your 2023 tax return. Use Worksheet 5-1 to calculate your standard deduction for 2023. See the 2023 Form 4684 and its instructions for more information on the tax benefits for qualified disaster-related personal casualty losses.

**State and local income taxes.** You can deduct state and local income taxes you paid on income that is effectively connected with a trade or business in the United States. Your deduction is limited to a combined total deduction of \$10,000 (\$5,000 if married filing separately). If you received a refund or rebate in 2023 of taxes you paid in an earlier year, do not reduce your deduction by that amount. Instead, you must include the refund or rebate in income if you deducted the taxes in the earlier year and the deduction reduced your tax. See *Recoveries* in [Pub. 525](#) for details on how to figure the amount to include in income.

**Charitable contributions.** You can deduct your charitable contributions or gifts to qualified organizations subject to certain limits. Qualified organizations include organizations that are religious, charitable, educational, scientific, or literary in nature, or that work to prevent cruelty to children or

animals. Certain organizations that promote national or international amateur sports competition are also qualified organizations.

For more information on deducting charitable contributions, see *Gifts to U.S. Charities* under *Instructions for Schedule A (Form 1040-NR)—Itemized Deductions* in the Instructions for Form 1040-NR.

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

Under a limited number of income tax treaties, you may be eligible to deduct contributions to a charitable foreign organization. See [Pub. 526](#) for details.

**Casualty and theft losses.** You may be able to deduct casualty and theft losses on your tax return.



*You can only deduct a nonbusiness casualty or theft loss if it is attributable to a federally declared disaster.*

If your casualty or theft loss is attributable to a federally declared disaster, you can deduct your loss even though your property is not connected with a U.S. trade or business. The property can be personal-use property or income-producing property not connected with a U.S. trade or business. The property must be located in the United States at the time of the casualty or theft. You can deduct theft losses only in the year in which you discover the loss. Use Form 4684 and its instructions to figure your deductible casualty and theft losses. For more information, see [Pub. 547.](#)

**Other itemized deductions.** You may be allowed to deduct some other itemized deductions not discussed earlier. These include the following.

- Net qualified disaster losses.
- Casualty and theft losses of income-producing property.
- Deduction for repayment of amounts under a claim of right if over \$3,000. See [\*Pub. 525\*](#) for details.
- Certain unrecovered investment in a pension.
- Impairment-related work expenses of a disabled person.

For more information, see the instructions for line 7 under *Instructions for Schedule A (Form 1040-NR)—Itemized Deductions* in the Instructions for Form 1040-NR. Also see [\*Pub. 529\*](#).

Worksheet 5-1. **2023 Standard Deduction Worksheet for Students and Business Apprentices From India**

Keep for Your Records 

**Caution.** If you are married filing a separate return and your spouse itemizes deductions, do not complete this worksheet. You cannot take the standard deduction even if you were born before January 2, 1958, or are blind.

1. Enter the amount shown below for your filing status.
  - Single or married filing separately—\$13,850
  - Qualifying surviving spouse—\$27,700

1. \_\_\_\_\_
2. Can you be claimed as a dependent on someone else's U.S. income tax return?

☐ **No.** Enter the amount from line 1 on line 4. Skip line 3 and go to line 5.

☐ **Yes.** Go to line 3.
3. Is your **earned income**\* more than \$750?

☐ **Yes.** Add \$400 to your earned income. Enter the total.

☐ **No.** Enter \$1,250

3. \_\_\_\_\_
4. Enter the **smaller** of line 1 or line 3

4. \_\_\_\_\_
5. If born before January 2, 1959, OR blind, enter \$1,500 (\$1,850 if single). If born before January 2, 1959, AND blind, enter \$3,000 (\$3,700 if single). Otherwise, enter -0-

5. \_\_\_\_\_
6. Enter any net disaster loss from the 2023 Form 4684, line 15

6. \_\_\_\_\_
7. Add lines 4, 5, and 6. Enter the total here and on Form 1040-NR, line 12. Enter “Standard Deduction Allowed Under U.S.-India Income Tax Treaty” in the space to the left of the line. **This is your standard deduction for 2023**

7. \_\_\_\_\_

\* **Earned income** includes wages, salaries, tips, professional fees, and other compensation received for personal services you performed. It also includes any amount received as a scholarship that you must include in your income. Generally, your earned income is the total of the amount(s) you reported on Form 1040-NR, line 1z, plus Schedule 1 (Form 1040), lines 3, 6, and 8r, minus Schedule 1 (Form 1040), line 15.

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***Net qualified disaster losses.*** See the Instructions for Form 4684 for more information on net qualified disaster losses. To determine if you were affected by a major federally declared disaster, go to [IRS.gov/DisasterTaxRelief](https://www.irs.gov/DisasterTaxRelief).

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

## **Tax Credits and Payments**

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

### **Resident Aliens**

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

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

**Foreign tax credit.** You can claim a credit, subject to certain limits, for income tax you paid or accrued to a foreign country on foreign source income. You cannot claim a credit for taxes paid or accrued on excluded foreign earned income. To claim a credit for income taxes paid or accrued to a foreign country, you will generally file Form 1116 with your Form 1040 or 1040-SR. For more information, see [\*Pub. 514\*](#).

**Child and dependent care credit.** You may be able to take 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 more information, see Form 2441 and [\*Pub. 503\*](#).

**Credit for the elderly or the disabled.** You may qualify for this credit if you are age 65 or older or if you retired on permanent and total disability. For more information on this credit, see [Pub. 524](#) and Schedule R (Form 1040).

**Education credits.** You may qualify for these credits if you paid qualified education expenses for yourself, your spouse, or your dependent. There are two education credits: the American opportunity credit and the lifetime learning credit. You cannot claim these credits if you are married filing separately. Use Form 8863 to figure the credit. For more information, see [Pub. 970](#).

Nonresident aliens, see *Education credits* under *Nonresident Aliens*, later.

**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. Use Form 8880 and its instructions to figure the

credit. For more information about the requirements to claim the credit, see [Pub. 590A.](#)

## **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 cannot 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). See Schedule 8812 (Form 1040) and its instructions for more information.

**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 or 1040-SR.