



# MANUAL TRANSMITTAL

Department of the Treasury  
Internal Revenue Service

3.38.147

NOVEMBER 27, 2024

## EFFECTIVE DATE

(01-01-2025)

## PURPOSE

- (1) This transmits revised IRM 3.38.147, IMF International Tax Returns and Documents - International Notices.

## MATERIAL CHANGES

- (1) IRM 3.38.147 - Update organizational title Wage and Investment (W&I) to Taxpayer Services (TS) throughout the IRM.
- (2) IRM 3.38.147.1.1(2) - Updated the Taxpayer Advocate Service language.
- (3) IRM 3.38.147.1.2(1) - Added after amended, and supplemented or extended.
- (4) IRM 3.38.147.1.2(2) - Changed seventh bullet from U.S. Possessions to U.S. Territories.
- (5) IRM 3.38.147.1.5(1) - Deleted Virgin Islands (VI) from table.
- (6) IRM 3.38.147.1.6(1) - Added IRM 3.21.3, International Returns and Documents Analysis Individual Income Tax Returns to bullet list.
- (7) IRM 3.38.147.1.7(1) - Updated new IRM Deviation procedures.
- (8) IRM 3.38.147.1.7(2) - Deleted procedures for prior IRM Deviation.
- (9) IRM 3.38.147.2(1) - Deleted Form 390 and Form 482.0, and corrected title of Form 8898 - Statement for Individuals Who Begin or End Bona Fide Residence in a U.S. Territory.
- (10) IRM 3.38.147.2(5) - Updated second bullet to Form 1040-SS (SP) in Spanish (or Form 1040 (PR) for 2022 and prior years).
- (11) IRM 3.38.147.3.1(11) - Revised first sentence for Nonresident Alien.
- (12) IRM 3.38.147.3.1(13) - Updated second and third sentences for Physical Presence Test.
- (13) IRM 3.38.147.3.1(15) - Added who makes the first-year election under IRC 7701(b)(4).
- (14) IRM 3.38.147.3.1(19)(21) - Replaced that allows to requires after Internal Revenue Code.
- (15) IRM 3.38.147.3.1(22) - Updated the last sentence for Substantial Presence Test.
- (16) IRM 3.38.147.3.2(2) - Added after calendar year, makes the first-year election to first sentence.
- (17) IRM 3.38.147.3.7(3) - Updated IRSN description. Added unique in the second and third sentence. Deleted the sentence for other campuses.
- (18) IRM 3.38.147.3.8(1) - Added TPNC 452.
- (19) IRM 3.38.147.3.10 - Updated date in first sentence.
- (20) IRM 3.38.147.3.11(1) - Added in the first bullet resident alien at the end of the sentence and nonresident alien at the end of the second bullet.

- (21) IRM 3.38.147.3.12(3)(4)(5)(6) - Updated paragraphs (3)-(6) for Tax treaties and renumbered the section after (6).
- (22) IRM 3.38.147.3.13(2) - Deleted Note.
- (23) IRM 3.38.147.5(5)(b) - Update sentence to the tax return should be used to verify the FIRPTA credit.
- (24) IRM 3.38.147.5(5)(d)(e) - Deleted ERS and Code & Edit and replaced with work leader.
- (25) IRM 3.38.147.6(6)(b) - Added 2020 to end of the sentence.
- (26) IRM 3.38.147.6(7) - Updated tax years in both examples.
- (27) IRM 3.38.147.6(9) - Removed the reminder for total of income from Form 2555 and bullet list.
- (28) IRM 3.38.147.6(12) - Added new amounts for tax year 2024.
- (29) IRM 3.38.147.6.1(3) - Updated line numbers for first and second bullets.
- (30) IRM 3.38.147.6.1(4)(a) - Added in the Note after Form 1040-SR, ensure the exclusion is entered as an increase to income (AGI) and on the fourth bullet added of Form 1040.
- (31) IRM 3.38.147.6.1(6) - First paragraph added and/or housing exclusion amount. Second paragraph added amount after deduction and on the bullet list after Line 36 added of Form 1040.
- (32) IRM 3.38.147.7.1(1) - Deleted chart and added new Note for the foreign tax deduction.
- (33) IRM 3.38.147.8.1(4)(5)(6)(7)(8) - Updated sentences in (4) and (5) for treaty benefit and ECI on Form 1042-S and renumbered the remainder of the section.
- (34) IRM 3.38.147.8.2(1)(a) - Changed possession to U.S. territory on the second Note.
- (35) IRM 3.38.147.8.3.3(1) - Replaced credit with deduction.
- (36) IRM 3.38.147.8.5(3) - Added Chile to the bullet list and a new Caution for Chile, Hungary, and Russia.
- (37) IRM 3.38.147.8.6(6) - Updated sentence for all or part of scholarship/fellowship grant. Changed the order of the notes and updated the format to remove the description note .
- (38) IRM 3.38.147.10.1(1)(a) - Deleted row in table for 2014 and prior.
- (39) IRM 3.38.147.10.1(4) - Added 2024 and corrected the other dates to align in order.
- (40) IRM 3.38.147.10.3(2) - Updated Form changes, deleted two bullets. and Form 1040-SS(sp).
- (41) IRM 3.38.147.10.3(3) - Added new sentence for 2023 and later and renumbered paragraphs.
- (42) IRM 3.38.147.10.3(6)( - Added new amounts for tax year 2024.
- (43) IRM 3.38.147.10.5(3) - Added new amounts for tax year 2024.
- (44) IRM 3.38.147.10.9 - Deleted Section for First Time Homebuyers.
- (45) IRM 3.38.147.11.1(4) - Deleted and income earned while temporarily abroad.
- (46) IRM 3.38.147.11.1(5) - Added alien after nonresident in the first sentence.
- (47) IRM 3.38.147.13(4) - Added to the fourth bullet and were present for more days in the relevant territory than in the U.S. during the tax year at the end of sentence.

- (48) IRM 3.38.147.13(8) - Deleted Form 1040A for 2017 and prior.
- (49) IRM 3.38.147.13.1(1) - Updated first bullet to include any credit for overpayment of income tax paid to either the USVI or the U.S. and pay any balance of tax due with the tax return.
- (50) IRM 3.38.147.13.1.2(3) - Added new sentence for 2024 and later for Form 8689.
- (51) IRM 3.38.147.13.3.2(1) - Updated first bullet to include any credit for overpayment of income tax paid to Guam. Added new second bullet.
- (52) IRM 3.38.147.13.4(1) - Updated first bullet to include any credit for overpayment of income tax paid to either the CNMI or the U.S. and pay any balance of tax due with the tax return. Added new second bullet.
- (53) IRM 3.38.147.13.4(5) - Replaced national with citizen.
- (54) IRM 3.38.147.13.5(2) - Added additional Form 1040 (PR) and prior year information to sentence and updated last sentence to, For tax years 2023 and later, taxpayers may choose to file Form 1040-SS (sp) (Spanish version), to pay self-employment tax.
- (55) IRM 3.38.147.13.5.1(1) - Added additional Form 1040 (PR) and prior year information to sentence.
- (56) IRM 3.38.147.13.5.3(1)(6) - Added additional Form 1040 (PR) and prior year information to sentences.
- (57) IRM 3.38.147.13.5.4(2) - Reorganized first sentence.
- (58) IRM 3.38.147.13.5.4(4) - Added additional Form 1040 (PR) and prior year information to sentence.
- (59) IRM 3.38.147.14(1) - Added additional Form 1040 (PR) and prior year information to sentence.
- (60) IRM 3.38.147.14(2) Added new amounts for tax year 2024 in the chart and prior year information to sentence .
- (61) IRM 3.38.147.15(1)(2)- Added additional Form 1040 (PR) and prior year information to sentences.
- (62) IRM 3.38.147.15.1 - Updated title to Form 1040 (PR).
- (63) IRM 3.38.147.15.1(1) - Updated first sentence with corrected year and added Additional Child Tax Credit information. Deleted Note.
- (64) IRM 3.38.147.15.1(4) - Added years after prior and deleted for 2020 and prior at the end of the sentence.
- (65) IRM 3.38.147.15.2(1) - Updated first sentence with corrected year and deleted for tax year 2023 at the end of the sentence.
- (66) IRM 3.38.147.16(4) - Removed Code and Edit or ERS in the second sentence and in the Caution.
- (67) IRM 3.38.147.21.1(2) - Updated the Exception for Switzerland benefits.
- (68) IRM 3.38.147.21.3(4) - Added new Caution for U.S. Hungary and Russia income tax treaty.
- (69) IRM 3.38.147.21.3(5) - Added Chile to the table and new Caution for U.S. Chile income tax treaty.
- (70) IRM 3.38.147.22(7) - Added For 2022 and prior years and deleted through 19 and 42 in the first sentence. Deleted Note, If a copy of Form 1042-S is not attached, look for a copy of a Competent Authority letter signed by a United States Competent Authority.

(71) Editorial changes have been made throughout the IRM and include:

- Correcting spelling and grammatical errors
- Adding or correcting references and citations and adding more links to the forms that are currently in the IRM
- Updated Note types to either Caution, Reminder, and Note.

#### **EFFECT ON OTHER DOCUMENTS**

IRM 3.38.147 dated November 07, 2023 (effective January 1, 2024) is superseded.

#### **AUDIENCE**

Individual Master File (IMF) Submission Processing and Notice Review tax examiners

Signed by  
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Director, Submission Processing  
Taxpayer Services Division

3.38.147

International Notices

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3.38.147.1  
(01-01-2025)  
**Program Scope and Objectives**

- (1) This section provides instructions to the Notice Review function for reviewing Individual Master File (IMF) International Returns, Integrated Data Retrieval System (IDRS), and Computer Paragraph (CP) notices.

**Note:** Notices may also be mandated for review by Treasury Inspector General for Tax Administration (TIGTA), management, policy statements, etc.

- a. IRM 3.14.1, IMF Notice Review, **must be used** when specific instructions are not outlined in IRM 3.38.147.

**Note:** The CP Notice Inventory is found in the Online Notice Review (OLNR) system.

- (2) **Purpose:** This section provides IMF Notice Review personnel with instructions for reviewing CP notices that have been selected by the Notice Review Processing System (NRPS). Reviews are conducted with the goal of improving both the accuracy and quality of information the IRS send to taxpayers. The Notice Review process helps to ensure the information received by taxpayers is complete and correct and taxpayers do not receive an erroneous refund or erroneous balance due notice.

**Note:** Notices are subject to change for various reasons, including notice clarity studies and legislative changes.

- (3) **Audience:** These procedures apply to Taxpayer Services (TS) Submission Processing Individual Master File (IMF) Notice Review personnel, located in Austin:

- Supervisory Tax Examining Technician
- Lead Tax Examining Technician
- Tax Examining Technician
- Supervisory Clerk
- Lead Clerk
- Clerk

- (4) **Policy Owner:** Director, Submission Processing

- (5) **Primary Stakeholders:** Other areas that may be affected by these procedures include (but are not limited to):

- AM- Accounts Management
- CC- Chief Counsel
- CO- Compliance
- Information Technology (IT) Programmers
- Large Business and International (LB&I)
- Submission Processing (SP)
- Tax Exempt and Government Entities (TEGE)

3.38.147.1.1  
(01-01-2025)  
**Background**

- (1) The purpose of Notice Review (NR) is to review Individual Master File (IMF) Computer Paragraph (CP) notices to verify the accuracy of notices selected for review before mailing. This will ensure the information received by taxpayers are completed and accurate. Notice Review employees use the Notice Review Processing System (NRPS) package, Control D, and or Integrated Data Retrieval System (IDRS), Integrated Automation Technologies (IAT) Tool, and

Account Management Services (AMS) to ensure the information for each notice is processed correctly. Any changes to the notices are made using the Online Notice Review (OLNR) system.

- (2) Under the Taxpayer Bill of Rights (TBOR) *Taxpayer Bill of Rights* taxpayers have rights that apply throughout their dealings with the IRS. The right to be informed means taxpayers are entitled to clear explanation of laws and IRS procedures in all tax forms, instructions, publications, notices, and correspondence. Thus, notices should be reviewed to ensure they are written in plain language, provide clear explanations of any IRS decisions about a taxpayer's account, and provide clear instructions for what a taxpayer needs to do.

The Taxpayer Advocate Service is an independent organization within the Internal Revenue Service (IRS), led by the National Taxpayer Advocate, that helps taxpayers and protects taxpayer rights. TAS offers free help to taxpayers when a tax problem is causing a financial difficulty, when they've tried and been unable to resolve their issue with the IRS, or when they believe an IRS system, process, or procedure just isn't working as it should. TAS strives to ensure that every taxpayer is treated fairly and knows and understands their rights under the Taxpayer Bill of Rights. TAS has at least one taxpayer advocate office located in every state, the District of Columbia, and Puerto Rico.

3.38.147.1.2  
(01-01-2025)

#### Authority

- (1) Title 26 of the United States Code (USC) or more commonly known as the Internal Revenue Code (IRC) has been amended and supplemented or extended by acts, public laws, rules and regulations, such as the following:

- Omnibus Budget Reconciliation Act (OBRA) of 1993
- Internal Revenue Service Restructuring and Reform Act of 1998 (RRA 98)
- American Taxpayer Relief Act (ACTA) of 2012
- Surface Transportation and Veterans Health Care Choice Improvement Act of 2015
- Consolidated Appropriations Act of 2016
- Hiring incentives to Restore Employment (HIRE) Act
- Foreign Account Tax Compliance Act (FATCA)
- The Protecting Americans from Tax Hikes Act of 2015 (PATH)
- Tax Cuts and Jobs Act of 2017, Pub. L. 115-97
- Coronavirus Aid, Relief, and Economic Security Act of 2020 (CARES Act)
- Families First Coronavirus Response Act
- American Rescue Plan Act
- Inflation Reduction Act (IRA) of 2022

**Note:** The above list may not be all inclusive of the various updates to the IRC.

- (2) Publications relating to International issues can be used as technical reference material. The following is a list of the most common Publications used:

- Publication 3, Armed Forces Tax Guide
- Publication 54, Tax guide for U.S. Citizens and Resident Aliens Abroad
- Publication 80, (Circular SS), Federal Tax Guide for Employers in the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands
- Publication 514, Foreign Tax Credit for Individuals

- Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities
- Publication 519, U.S. Tax Guide for Aliens
- Publication 570, Tax Guide for individuals with Income from U.S. Territories
- Publication 597, Information on the United-States-Canada Income Tax Treaty
- Publication 850 (EN-SP), English-Spanish Glossary of Tax Words and Phrases used in Publications by the IRS
- Publication 901, U.S. Tax Treaties
- Publication 915, Social Security Benefits and Equivalent Railroad Benefits
- Publication 970, Tax Benefits for Education,
- Publication 1321, Special Instructions for Bona Fide Residents of Puerto Rico Who must file a U.S. Individual Tax Return (Form 1040 or 1040-SR)

(3) The following manuals can provide additional information on International returns:

- IRM 3.17.79, Accounting and Data Control-Accounting Refund Transactions
- IRM 3.21.3, International Returns and Documents Analysis -Individual Income Tax Returns
- IRM 3.22.3, International Error Resolution- Individual Income Tax Returns
- IRM 21.8.1, International- IMF International Adjustments

3.38.147.1.3  
(01-01-2025)  
**Responsibilities**

- (1) International IMF related documents are processed exclusively in the Austin Submission Processing Campus (AUSPC), which has the responsibility for reviewing notices and transcripts.
- (2) IRS officials and management must communicate security standards contained in the Managers Security Handbook to subordinate employees and establish methods to enforce them.
- (3) The Campus Director is responsible for monitoring operational performance for the Submission Processing campus.
- (4) The Operation Manager is responsible for monitoring operational performance for their operation.
- (5) The Team Manager and Lead are responsible for performance monitoring and ensuring employees have the tools to perform their duties.
- (6) The team employees are responsible to follow the instructions contained in this IRM and maintain updated IRM procedures.

3.38.147.1.4  
(11-19-2019)  
**Program Management and Review**

- (1) **Program Goals:** Review Computer Paragraph (CP) notices to generate to notify the taxpayer of any change to a specific module from the taxpayer's original return and to verify the accuracy of the information and ensure the notice received by the taxpayer is complete and correct.

- (2) **Program Reports:** After NRPS completes the selection process, it combines all the selection information into NRPS batches. NRPS produces various reports from the output files.
- NRPS Document Charge-out (NRPS 6120)-** provides information needed by the Files Function to pull documents for use in reviewing notices.
  - NRPS Selection Report (NRPS 6130)-** contains notice/transcript input and selected for review counts, sorted by selection key and by Taxpayer Notice Code (TPNC), with year-to-date totals for notices selected in the current cycle.
  - Notice Retype Error Report (NRPS 8240)-** shows the previous four weeks selection percentages and the current cycle's selection percentage, based on the automated selection process.
- (3) **Program Effectiveness:** The program goals are measured by using the following tools:
- Embedded Quality Submission Processing (EQSP)
  - Balance Measures
  - Managerial Reviews
- (4) **Annual Review:** The processes outlined in this IRM should be reviewed annually to ensure accuracy and promote consistent tax administration.

3.38.147.1.5  
(01-01-2025)

**Acronyms/  
Abbreviations/  
Definitions**

- (1) This table list Acronyms, Abbreviations, and Definitions

Acronyms and Abbreviations	Definition
ABI	Age-Blind Indicator
ACTC	Additional Child Tax Credit
AMS	Account Management Services
APO	Army Post Office
AS	American Samoa
ATIN	Adoption Taxpayer Identification Number
ATRA	American Taxpayer Relief Act
CAF	Centralized Authorization File
CC	Command Code
CFR	Code of Federal Regulations
CM	CAF Mismatch
CNMI	Commonwealth of the Mariana Islands
CP	Computer Paragraph
CRN	Credit Reference Number
D.C.	District of Columbia

Acronyms and Abbreviations	Definition
DFAS	Defense Finance & Accounting Services
DLN	Document Locator Number
DPO	Diplomatic Post Office
ECI	Effectively Connected Income
EITC	Earned Income Tax Credit
EPE	Elective Payment Election
EQSP	Embedded Quality Submission
EUP	Employee User Portal
FATCA	Foreign Account Tax Compliance Act
FDAP	Fixed Determinable, Annual, or Periodical Income
FIRPTA	Foreign Investment in Real Property Tax Act
FPO	Fleet Post office
FS	Filing Status
FSM	Federated States of Micronesia
FTHBC	First Time Home Buyer Credit
IAT	Integrated Automation Technologies
IDRS	Integrated Data Retrieval System
IMF	Individual Master File
IRC	Internal Revenue Code
IRM	Internal Revenue Manual
IRSN	Internal Revenue Service Number
ITIN	Individual Taxpayer Identification Number
MAGI	Modified Adjusted Gross Income
MeF	Modernized Electronic Filing
MFT	Master File Tax
NIIT	Net Investment Income Tax
NOL	Net Operating Loss
NRPS	Notice Review Processing System

Acronyms and Abbreviations	Definition
OBRA	Omnibus Budget Reconciliation Act
ODC	Credit for Other Dependents
OFAC	Office of Foreign Assets Control
OLNR	Online Notice Review
PATH	Protecting Americans from Tax Hikes
RDD	Return Due Date
RMI	Republic of the Marshall Islands
RRB	Railroad Retirement Benefits
RRTA	Railroad Retirement Tax Act
RTR	Remittance Transaction Research System
SSN	Social Security Number
TC	Transaction Code
TEGE	Tax Exempt and Government Entities
TIN	Taxpayer Identification Number
TPNC	Taxpayer Notice Code
TXI	Taxable Income
USVI	United States Virgin Islands

- (2) For a comprehensive listing of IRS acronyms, please refer to the *Acronym Database*.

3.38.147.1.6  
(01-01-2025)

#### Related Resources

- (1) The following resources may assist in performing the work as outlined in this IRM:
- Account Management System (AMS)
  - Integrated Automation Technologies (IAT)
  - Integrated Data Retrieval System (IDRS)
  - Notice Review Processing System (NRPS)
  - Online Notice Review (OLNR)
  - Servicewide Electronic Research Program (SERP)
  - Employee User Portal (EUP)
  - Remittance Transaction Research (RTR) System
  - Control D
  - IRM 3.14.1, IMF Notice Review
  - IRM 3.21.3, International Returns and Documents Analysis Individual Income Tax Returns
  - IRM 3.22.3, International Error Resolution Individual Income Tax Returns

3.38.147.1.7  
(01-01-2025)  
**IRM Deviations**

- (1) Submit IRM deviations in writing following instructions from IRM 1.11.2.2.3, when Procedures Deviate from the IRM, and elevate through proper channels for executive approval.

3.38.147.2  
(01-01-2025)  
**IMF International Tax Returns and Forms**

- (1) International Individual Income Tax Returns are identified by the presence of one of the following:
- An address outside the 50 United States and Washington D.C. (This does not include Army Post Office (APO), Fleet Post Office (FPO), and Diplomatic Post Office (DPO) addresses.)
  - Form 1040CM , CNMI Territorial Individual Income Tax Return
  - Form 1040, Guam Individual Income Tax Return
  - Form W-2AS, American Samoa Wage and Tax Statement
  - Form W-2CM, Commonwealth of the Northern Mariana Islands Wage and Tax Statement
  - Form W-2GU, Guam Wage and Tax Statement
  - Form W-2VI, U.S. Virgin Islands Wage and Tax Statement
  - Form 499R-2/W-2PR (Puerto Rico Withholding Statement)
  - Form 1040-NR, U.S. Nonresident Alien Income Tax Return
  - Form 1040-NR-EZ, U.S. Income Tax Returns for Certain Nonresident Aliens With No Dependents (for 2019 and prior years)
  - Form 1040 (PR), U.S. Self-Employment Tax Return (Including the Additional Child Tax Credit for Bona Fide Residents of Puerto Rico) (Puerto Rico Version)
  - Form 1040-SS, U.S. Self-Employment Tax Return (Including the Additional Child Tax Credit for Bona Fide Residents of Puerto Rico)
  - Form 1040-SS (sp), U.S. Self-Employment Tax Return (Including the Refundable Child Tax Credit for Bona Fide Residents of Puerto Rico) (Spanish Version)
  - Form 1042-S, Foreign Person's U.S. Source Income Subject to Withholding
  - Form SSA-1042S, Social Security Benefit Statement
  - Form RRB-1042S, Payments by the Railroad Retirement Board
  - Form 2555, Foreign Earned Income
  - Form 2555- EZ, Foreign Earned Income Exclusion (for 2018 and prior years)
  - Form 4563, Exclusion of Income for Bona Fide Residents of American Samoa
  - Form 5074, Allocation of Individual Income Tax to Guam or the Commonwealth of Northern Mariana Islands
  - Form 8804, Annual Return for Partnership Withholding Tax (Section 1446)
  - Form 8805, Foreign Partner's Information Statement of Section 1446 Withholding Tax
  - Form 8288, U.S. Withholding Tax Return for Certain Dispositions by Foreign Persons
  - Form 8288- A, Statement of Withholding on Certain Dispositions by Foreign Persons
  - Form 8689, Allocation of Individual Income Tax to the U.S. Virgin Islands
  - Form 8813, Partnership Withholding Tax Payment Voucher (Section 1446)
  - Form 8833, Treaty-Based Return Position Disclosure Under Section 6114 or 7701 (b)
  - Form 8854, Initial and Annual Expatriation Information Statement



- Form 8891, U.S. Information Return for Beneficiaries of Certain Canadian Registered Retirement Plans
- Form 8898, Statement for Individuals Who Begin or End Bona Fide Residence in a U.S. Territory
- Form 1040, U.S. Individual Income Tax Return
- Form 1040, SR U.S. Tax Return for Seniors
- Dual - Status - Form 1040, U.S. Individual Income Tax Return, and Form 1040-NR, U.S. Nonresident Alien Income Tax Return (or Form 1040-NR-EZ for 2019 and prior years), filed together for the same tax year; "Dual-Status" or "D/S" indicated on the return. Always leave Form 1040 and Form 1040-NR (or Form 1040-NR-EZ) for the same taxpayer together.
- Nonresident Alien (NRA), primary or both taxpayers are NRA

**Exception:** Primary taxpayer is an NRA without an SSN or ITIN: however, the secondary taxpayer has an SSN or ITIN and is reporting income

- International Tax Treaty- Taxpayer indicating exemption or exclusion of tax and/or income due
- Treaty Trader
- Fulbright Grantee
- IRC 871, IRC 893, IRC 911, IRC 931, IRC 932, IRC 933, or IRC 934 notated anywhere on the return

**Note:** American Indian Treaty- Returns are not considered International returns. These must be renumbered as a domestic return.

- (2) Returns showing Army Post Office (APO), Fleet Post Office (FPO), and Diplomatic Post Office (DPO) addresses are considered domestic returns and will reflect the appropriate DLN.
- (3) International returns are assigned specific Document Locator Numbers (DLN) beginning with 20 or 21.
- (4) Returns assigned DLN beginning with 20 are:
  - Form 1040 and Form 1040-SR (or Form 1040A for 2017 and prior years) with a foreign address
  - Form 1040 and Form 1040-SR with Form 2555 (or Form 2555-EZ for 2018 and prior years) regardless of address
  - Form 1040-NR (or 1040-NR-EZ for 2019 and prior years)
- (5) Returns assigned DLN beginning with 21 are:
  - Form 1040 and Form 1040-SR (or Form 1040A for 2017 and prior years) with U.S. territory address
  - Form 1040-SS (SP) (in Spanish) (or Form 1040 (PR) for 2022 and prior years)
  - Form 1040-SS
  - Form 1040 or Form 1040-SR with Form 5074 or Form 4563
  - Form 1040 or Form 1040-SR with Form 8689
- (6) Foreign returns received at other offices (campus, territory, etc.) are trans-shipped.
- (7) All remittances are processed in the office or campus where received.



3.38.147.3  
(01-01-2023)  
**General Information**

- (8) All transshipped returns reflect an original received date.
- (1) Basic review of international returns varies slightly from domestic. Documents are compared to the computer-generated documents, computer paragraph notice and information contained on the Integrated Data Retrieval System (IDRS) and/or the Online Notice Review (OLNR) system or the Account Management Services (AMS) system for the Priority Refund Transcripts.
- (2) Compare the Document Locator Number (DLN) on the return with the DLN on the NRPS package.
- (3) Compare the name and address on the tax return to the name and address on the notice or entity portion of the (MeF filed) refund transcript.
- (4) Verify the signature on Form 1040-NR (or Form 1040-NR-EZ for 2019 and prior years). Only one signature is required. There is no box for a spouse's signature. A notation of "Attorney-in-Fact" in the signature area is an acceptable substitute for the taxpayer's signature.

**Caution:** Do not correspond for the taxpayer's signature if the "Attorney-in-Fact" notation is on the return.

- (5) Facsimile signatures are acceptable.

3.38.147.3.1  
(01-01-2025)  
**Definitions**

- (1) Alien - Any person who is not a U.S. citizen or U.S. National. For income tax purposes, aliens are classified as Resident or Nonresident.
- (2) Abode - A place where one lives: variously defined as one's home, habitation, residence, domicile or place of dwelling.
- (3) Bona Fide Residence - A residence established in a foreign country or countries for an uninterrupted period which includes an entire taxable year and includes part or all of the tax year of the return.
- (4) Domicile - A fixed or permanent place of living for an indefinite length of time. A domicile can be different from the taxpayer's residence.
- (5) Dual-Status -Refers to aliens who are both resident aliens and nonresident aliens of the U.S. within the same tax year.
- (6) Effectively Connected Income - All income, gain, or loss that is derived in connection with the conduct of a trade or business within the United States. This generally includes compensation received for personal services performed in the U.S. by a nonresident alien.
- (7) Excludable Income - Any income that can be omitted from taxable income such as, Form 4563 exclusions, exclusions due to applicable tax treaty provisions and other exclusions provided by the Internal Revenue Code.
- (8) Foreign Tax Treaties - bilateral treaties entered into by the United States and a foreign country generally with the purpose of avoiding double taxation and preventing tax evasion.
- (9) Fulbright Grant - A grant under the Mutual Educational and Cultural Exchange Act of 1961. It can be received for teaching, research duties, and/or exercising talents abroad by U.S. students and foreign students.

- (10) Green Card Test - One of the tests for determining whether an alien is a resident alien. A lawful permanent resident of the U.S. (Green Card Holder) at any time during the calendar year, is a resident alien for Federal income tax purposes. A taxpayer is a lawful permanent resident if that individual has been granted the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws. Resident status is deemed to continue unless it is rescinded or administratively or judicially determined to have been abandoned .
- (11) Nonresident Alien - An individual who is neither a citizen nor a resident of the United States, including an alien who is temporarily residing in the U.S., a resident alien who has abandoned permanent residence in the U.S. or an alien who has never been in the U.S.
- (12) Non-Effectively Connected Income - Income which is not effectively connected with a U.S. trade or business.
- (13) Physical Presence Test - A test to determine if a taxpayer qualifies for the foreign earned income exclusion. Generally, the taxpayer must be physically present in a foreign country or countries for a minimum of 330 days during any period of 12 consecutive months. Any period of 12 consecutive months during which the individual was physically present in a foreign country or countries constitutes a **qualifying period**. Days during the current tax year that fall within one or more qualifying periods are **qualifying days**.
- (14) Principal Residence - Usually the home in which a taxpayer resides for the majority of the tax year.
- (15) Resident Alien - An alien individual who is either a lawful permanent resident (i.e., meets the "Green Card Test") or who meets the substantial presence test for the calendar year, who makes the first-year election under IRC 7701(b)(4).
- (16) *Schedule NEC* , Tax on Income Not Effectively Connected With a U.S. Trade or Business (page 4 of Form 1040-NR for 2019 and prior years).
- (17) *Schedule OI*, Other Information (page 5 of Form 1040-NR or page 2 of Form 1040-NR-EZ, for 2019 and prior years).
- (18) IRC 911, Section of the Internal Revenue Code that allows U.S. citizens and resident aliens to claim an exclusion for income earned in a foreign country or countries and certain housing costs. Taxpayers use Form 2555 (or Form 2555-EZ for 2018 and prior years) to claim this exclusion.
- (19) IRC 931, Section of the Internal Revenue Code requires bona fide residents of American Samoa to exclude income using Form 4563, Exclusion of Income for Bona Fide Residents of American Samoa.
- (20) IRC 932, Section of the Internal Revenue Code that coordinates the U.S. and U.S. Virgin Islands income tax systems
- (21) IRC 933, Section of the Internal Revenue Code requires U.S. citizens who are bona fide residents of Puerto Rico to exempt income from sources within Puerto Rico .
- (22) Substantial Presence Test - A test applied in determining if an alien is a U.S. resident alien for tax purposes. Generally, an individual meets the substantial presence test if the individual was in the United States for at least 31 days

during the current calendar year and was present in the United States for at least 183 days during the current year and the two preceding calendar years, calculated by counting all the days on which the individual was present in the United States during the current year, 1/3 of the days present in the United States during the first preceding year, and 1/6 of the days present in the United States during the second preceding year.

**Note:** For purposes of the substantial presence test, individuals under F, J, M, and Q visas are treated as “exempt individuals” and they do not count days of temporary presence in the United States. However, there are limitations on the length of time that an individual will be an “exempt individual” for purposes of the substantial presence test.

- (23) Tax Home - A taxpayer's principal place of business, employment, station or post of duty, regardless of where the taxpayer maintains their residence.
- (24) Treaty Trader - Alien who has entered the U.S. on an “E-1” visa.
- (25) U.S. National - Persons born in American Samoa are considered U.S. Nationals, for tax purposes.
- (26) Visa - An endorsement written or stamped on a passport indicating that the holder is allowed to enter, leave, or stay for a specific period of time in a country.
- (27) Withholding Agent - Any person (e.g., individual, trust, partnership, estate, corporation, government agency, non-profit organization or private organization), whether foreign or domestic, required to withhold income tax on U.S. source income received by a nonresident alien, foreign partnership corporation, and various other organizations. A withholding agent is responsible for submitting the withholding information on Form 1042 and providing the income recipient information on Form 1042-S.

3.38.147.3.2  
(01-01-2025)  
**Background**

- (1) U.S. citizens living or traveling outside the United States are generally required to file U.S. income tax returns and report worldwide income.
- (2) An alien individual is a resident alien if the individual meets the green card test or the substantial presence test for the calendar year, makes the first-year election or makes the election to be taxed as a resident alien under IRC 6013(g) or (h). Resident aliens are generally required to file U.S. income tax returns and pay U.S. tax on worldwide income.
- (3) If an alien individual does not meet either of these tests (and does not make an election), the individual is a nonresident alien. A nonresident alien must file Form 1040-NR, U.S. Nonresident Alien Income Tax Return, (or Form 1040-NR-EZ, U.S. Income Tax Return for Certain Nonresident Aliens With No Dependents, for 2019 and prior years) to report and pay U.S. tax on certain types of income. An individual who is classified as a resident alien under the green card test or substantial presence test and is also a resident in another country that has an income tax treaty with the United States, may be treated as a nonresident alien under the residency rules of the applicable income tax treaty if such individual timely files a Form 1040-NR (or Form 1040-NR-EZ for 2019 and prior years) with a Form 8833, Treaty Based Return Position Disclosure Under Section 6114 or 7701(b), attached claiming to be a resident of the other country.

**Note:** However, a nonresident alien may be treated as a resident alien for all or part of the year under certain circumstances including a “first-year election”. Nonresident alien students from Barbados, Hungary, and Jamaica, as well as trainees from Jamaica, may qualify for an election to be treated as a resident alien for U.S. tax purposes under the U.S. income tax treaties with those countries. See Publication 901 for additional information.

- (4) The United States may tax the income of a nonresident alien individual (who is neither a U.S. citizen nor resident alien) in one or both of the following ways:
- Fixed Determinable, Annual or Periodical Income (FDAP)** - If the nonresident alien earns U.S. source FDAP that is not Effectively Connected Income (ECI), the U.S. may impose a statutory 30 percent gross basis tax (unless the item of income is exempt or subject to reduced rate of withholding pursuant to an IRC Section or applicable income tax treaty).
  - Effectively Connected Income (ECI)** - If a nonresident alien conducts a U.S. trade or business, then the U.S. may tax the person’s income as effectively connected with the U.S. trade or business. ECI is taxed at the same graduated tax rates that apply to U.S. taxpayers. However, some types of ECI may be exempt (in the whole or in part) from tax under an applicable income tax treaty.

3.38.147.3.3  
(01-01-2024)  
**Filing Status**

- (1) Resident aliens can use the same filing status available to U.S. citizens.
- (2) For tax years 2018 through 2025, the Tax Cuts and Jobs Act (TCJA) (Pub. L. 115-97) set the exemption amount at zero, changing the number of filing statuses from six to three that a nonresident alien can claim on Form 1040-NR.

For TY 2018 and later, nonresident aliens may use the following Filing Statuses:

Form 1040-NR Filing Status checked by Taxpayer	Filing Status Codes allowed by Code and Edit
Single Box - 2020 and later Box 2 - 2018 and 2019	1
Married Filing Separately (MFS) Box - 2020 and later Box 5 - 2018 and 2019	3
Qualifying Surviving Spouse (QSS) Box - 2022 and later Qualifying Widow(er) (QW) Box - 2020 and 2021 Box 6 - 2018 and 2019	1 or 5

- (3) For TY 2017 and prior years, nonresident aliens may use the following Filing Statuses as listed by country:

Nonresident Aliens	Form 1040-NR Filing Status checked by Taxpayer	Allowable Filing Status
Canada	1, 3 or 6	1, 3, 5 or 6
Mexico	1, 3 or 6	1, 3, 5 or 6
South Korea	2, 4 or 6	1, 3, 5 or 6
U.S. National	1, 3 or 6	1, 3, 5 or 6
India	2 or 5	1, 3 or 6
All other countries	2 or 5	1 or 3

- (4) **Married Filing Jointly for Nonresident Aliens** - A nonresident alien married to a U.S. citizen or resident alien is taxed on worldwide income at the graduated tax rates same as a U.S. citizen or resident alien, if that person makes an election to be treated as a U.S. resident, files married filing jointly and discloses all worldwide income on the return. This includes situations where one spouse begins the year as a nonresident alien and ends the year as a resident alien, and the other spouse ends the year in nonresident status. Both taxpayers must have a valid SSN or ITIN [See IRC 6013(g) or (h)].
- (5) **Special Provisions-** Married residents living in Canada, Mexico, South Korea, and U.S. Nationals who are living apart from their spouses may file as single if they meet certain requirements.

**Note:** This provision sometimes referred to as the “abandoned spouse” provision, also applies to U.S. citizens. Aliens who qualify for this provision must be listed in the specific categories of the instructions for Form 1040-NR. These are the only aliens who may claim the Child Tax Credit and Other Dependent Credit (For tax year (TY) 2017 and prior, aliens are allowed to claim an exemption amount) for their children. All other married nonresident aliens must file as married filing separately (For TY 2017 and prior, nonresident aliens filed as other married nonresident alien [box 5]) and are taxed under the married filing separate rates.

- (6) **Qualifying Widow(er) for Nonresident Aliens** - A nonresident alien can claim this filing status only if they are a U.S. National or a resident of Canada, Mexico, or South Korea and the spouse’s date of death was no more than two years prior to the tax year. The taxpayer must also have a dependent child with a valid SSN or ITIN to qualify.

3.38.147.3.4  
(01-01-2020)  
**Exemptions**  
**TY 2018 and Later Years**

- (1) For 2018 through TY 2025, taxpayers filing as a U.S. citizen, resident alien, nonresident alien or U.S. National cannot claim an exemption (the amount is \$0) for self, spouse, children or dependents on Form 1040, Form 1040-SR or Form 1040-NR.

3.38.147.3.5  
(11-19-2019)  
**Exemptions**  
**TY 2017 and Prior Years**

- (1) For tax year (TY) 2017 and prior years, resident aliens may claim personal exemptions and exemptions for dependents in the same way as U.S. citizens.

- (2) Exemptions under Article 4 (7) of the U.S. tax treaty with South Korea allow for a prorated exemption for a taxpayer's spouse and children. The spouse and children claimed must live with the nonresident alien in the United States at some time during the tax year. Exemptions are based on the ratio of U.S. source income effectively connected to total gross income for the entire year. Use the following formula to determine the prorated exemption amount:

- $(\text{U.S. Income} \div \text{Worldwide Income}) \times \text{exemption amount} = \text{Prorated exemption amount}$

**Example:**  $(9,000 \div 12,000) \times 12,150 = 9,113$

- (3) For TY 2017 and prior years, nonresident aliens from Canada, nonresident aliens from Mexico and U.S. nationals are allowed to claim their spouse, children and other dependents as exemptions. The spouse must not have gross income for U.S. tax purposes and must not be claimed as a dependent on another U.S. taxpayer's return. Nonresident aliens from Japan may claim exemptions for spouse, children and other dependents for Tax Year 2005 and prior.
- (4) For TY 2017 and prior years, nonresident aliens from all other countries may claim only one exemption for self.
- (5) Residents of India who entered the U.S. as students or business apprentices and who are eligible for the benefits of Article 21(2) of the United States-India Income Tax Treaty may be able to claim exemptions for their spouse and dependents.
- a. An Indian resident may claim the exemption for the spouse only if that spouse had no gross income during the tax year and is not the dependent of another taxpayer.
  - b. The taxpayer may claim exemptions for each dependent not admitted to the United States if the dependent meets the same rules that apply to U.S. citizens.
  - c. Exemptions can only reduce income that is effectively connected with a U.S. trade or business. Exemptions do not reduce any income which is subject to the 30 percent gross basis FDAP tax.
- (6) For more information on exemptions refer to IRM 21.8.1.12.6.3, Nonresident Aliens and Self-Employment Tax.

3.38.147.3.6  
(01-01-2020)  
**Deductions**

- (1) Resident aliens filing Form 1040 or Form 1040-SR may claim the:
- Same itemized deductions as U.S. citizens using *Schedule A* of Form 1040 or Form 1040-SR.
  - Standard deduction for their filing status if they do not itemize.
- (2) Nonresident aliens filing Form 1040-NR must itemize deductions.

**Exception:** Students and business apprentices who are residents of India may claim a standard deduction in lieu of itemized deductions.

- (3) Taxpayers excluding income under IRC 933 (Puerto Rico) or IRC 931 (Form 4563, Exclusion of Income for Bona Fide Residents of American Samoa) may prorate their itemized deductions or standard deduction.



3.38.147.3.7  
(01-01-2025)  
**Taxpayer Identification  
Number**

- (1) **Social Security Number (SSN)** - Generally signifies the filer is a U.S. citizen or resident alien and taxed on worldwide income. Compare the SSN on the notice with the SSN on the return.
- (2) **Individual Taxpayer Identification Number (ITIN)** - Beginning on January 1, 1997, taxpayers can apply for an ITIN when they are not eligible to obtain an SSN. As of January 2004, taxpayers must file an income tax return with their ITIN application. For the exceptions to the requirement to file a tax return, see the instructions to Form W-7, Application for IRS Individual Taxpayer Identification Number. An ITIN starts with "9" with fourth and fifth digits in the range of:
  - 50-65
  - 70-88
  - 90-92
  - 94-99

**Note:** Generally, these taxpayers are nonresident aliens (NRA) who are taxed at a flat statutory rate or reduced treaty rate.

- (3) **Internal Revenue Service Number (IRSN)** - An IRSN is used only as an internal identifying number or until the taxpayer is assigned an SSN or ITIN, or until their SSN or ITIN is located.  
An IRSN starts with "9" and has a unique fourth and fifth digit as "18" is the unique number for the Austin campus. Example of an IRSN format: 9XX-18-XXXX. See IRM 3.11.3.9.2.1(3), Taxpayer Identification Number (TIN) for a list of other IRSN fourth and fifth digits. An IRSN is always invalid.
- (4) **ITIN and Adoption of Foreign Child** - A taxpayer who adopts a foreign child can use a valid SSN or an ITIN to claim a credit or exemption. Upon entry into the United States of the foreign child, the adopting taxpayer should apply to the Social Security Administration (SSA) for a valid SSN for the child. If SSA rejects the application, the taxpayer may apply to the IRS for an ITIN for the child using Form W-7.
- (5) **Adoption Taxpayer Identification Number (ATIN)** - May be used to claim a credit or exemption for an adopted child when the child cannot obtain an SSN. The ATIN, which may be applied for using IRS Form W-7A, Application for Taxpayer Identification Number for Pending U.S. Adoptions may **ONLY** be used to claim a credit or exemption for a child who was a U.S. citizen, resident, or national when the adoption process commenced and who was adopted domestically through an authorized adoption agency/agent. An ATIN starts with 9 and the fourth and fifth digit will be 93. Example of an ATIN format: 9XX-93-XXXX.

3.38.147.3.8  
(01-01-2016)  
**IMF International Key  
Codes**

- (1) During the selection process, the first selection criterion is named the Primary Selection Key. If a second criterion is selected, it is named the Secondary Selection Key.
- (2) After a Secondary Selection Key, the selection process is terminated for any remaining selection criteria both within the category and in remaining categories.
- (3) International key codes are valid for Austin Submission Processing Campus (AUSPC) only.

3.38.147.3.8.1  
(01-01-2025)

(1) Listed are the International Selection Keys used:

**Notice Review  
Processing System  
(NRPS) International  
Selection Keys**

***NRPS Selection Key Table***

KEYS	LITERAL
300	Disallowed Foreign Earned Income Exclusion/Deduction - Incomplete/Missing Form 2555.
302	Tax Computed Incorrectly per Form 2555 -EZ Worksheet.
303	Changed return for incorrectly compute foreign income.
304	Changed foreign earned income exclusion (Form 2555-EZ) - Exclusion limitation is incorrect.
305	Error figuring foreign earned income/housing exclusion/deduction Form 2555.
306	We didn't allow the amount you claimed for Additional Child Tax Credit on your Form 1040 You're not eligible to claim the credit because you excluded foreign earned income with Form 2555 or Form 2555-EZ.
307	Credit for the Elderly or Disabled not allowed for nonresident aliens.
308	Changed foreign income exclusion.
309	We didn't allow your exclusion on Form 2555 or Form 2555-EZ, Foreign Earned Income, because you didn't live in a foreign country or because you didn't meet the tax home test and either the bona fide residence or the physical presence test. We changed your return accordingly.
310	Disallowed foreign earned income exclusion - resident of U.S. Possession.
311	Transferred information from Form 1040/Form 1040-NR-EZ to Form 1040-NR.
312	Changed foreign tax credit - Credit computed on income excluded on Form 2555-EZ.
313	We changed the tax amount on your Form 1040-NR because you miscalculated the tax on the hypothetical married filing jointly statement you attached to your return. Form 1040-NR
314	Disallowed Foreign Earned Income Exclusion - Income earned in Cuba Iraq or Libya.
315	We didn't allow your deduction for a U.S. government cost of living allowance. We adjusted your tax return accordingly. Form 1040
316	You can't claim income exempt under a tax treaty as a miscellaneous itemized deduction on <i>Schedule A</i> . We adjusted your return accordingly. Form 1040-NR
317	Each exemption on your tax return must have an active (ITIN) or other valid (TIN). One or more of your dependents has an active (ITIN). As a result, we didn't allow those exemptions on your tax return. This change may affect your taxable income, tax, or any of the following credits: Credit for child and dependent care, Child tax credit, and Additional child tax credit.
318	Expired Taxpayer ITIN-Dependents Credits disallowed.



KEYS	LITERAL
319	Expired Taxpayer/Spouse ITIN-As a result, we disallowed the amount you claimed as refundable Child Tax Credit or additional Child Tax Credit on your tax return. Spanish TPNC
320	Expired Taxpayer/Spouse ITIN-As a result, we disallowed the amount you claimed as refundable Child Tax Credit or additional Child Tax Credit on your tax return.
321	Changed dual status return - joint tax return not allowed.
322	ITIN Expired for one more of your dependents - Disallowed certain credits.
323	ITIN has Expired-Disallowed certain credits.
324	Disallowed the Standard Deduction - dual status return.
325	Recomputed tax - income from dual status statement combined incorrectly on return.
326	Changed tax due.
327	We changed the amount shown on your tax return as repayment of advance Child Tax Credit because of an error in figuring the repayment in one of the following: <ul style="list-style-type: none"> <li>• The computation of the credit</li> <li>• You received advance Child Tax Credit payments but did not reconcile them or you reconciled them incorrectly.</li> <li>• The amount was not transferred correctly to your tax return.</li> </ul>
328	Changed dual status return using Form 1040-NR - no response to request for dates in U.S.
329	Recompute total tax on Form 1040-SS - addition error.
330	Dual-status taxpayers can't file married filing jointly or head of household. Based on information on your return, we recomputed your taxes using either single tax rates or married filing separate tax rates. As a dual-status taxpayer, you can claim your own exemption. The amount you claim for your spouse and dependents is limited to your taxable income for the part of the year that you were a resident alien. We adjusted your return accordingly. Form 1040
331	Changed amount of excess social security tax withheld.
332	Disallowed additional child credit on Form 1040-SS - missing Form 499R-2, Form W-2 PR or other supporting documentation.
333	We changed the amount claimed as child tax credit and credit for other dependents on your tax return. You can't claim the credit for other dependents for your spouse. Form 1040-NR
334	We adjusted your tax return, allowing only the income and withholding for the taxpayer filing the tax return. The other persons must file their own tax return to report their income and withholding. Form 1040, Form 1040-NR, Form 1040 (PR)
335	We didn't allow the amount claimed as foreign tax credit because the foreign taxes were paid or accrued to a country for which special rules under section 901(j) apply. See Revenue Rulings 2005-3 and 2016-8 for more information. Form 1040 Form 1040-NR
337	We didn't allow all or part of your tax treaty exclusion on your return. You can exclude only income related to teaching, studying, or training. Article 19 of the China Treaty allows the exemption for only three years. We adjusted your return accordingly. Form 1040

KEYS	LITERAL
339	We didn't allow part or all of your refundable child tax credit or additional child tax credit on page 1 of your tax return. One or more of your children exceeds the age limitation. Form 1040-SS
340	We changed the amount claimed on your tax return as refundable Child Tax Credit because there was an error on Part II Form 1040 (PR) in one of the following: <ul style="list-style-type: none"> <li>• The computation of the credit</li> <li>• You received advance Child Tax Credit payments but did not reconcile them or you reconciled them incorrectly.</li> </ul>
341	Changed return for Form 8689 error.
343	Earned Income credit not allowed.
344	We didn't allow your foreign earned income exclusion. You and your spouse must each file separate Forms 2555/2555-EZ to exclude your foreign earned income on your joint return. We adjusted your return accordingly. Form 1040
345	Excess social security tax not allowed - missing forms.
346	Recompute total payments on Form 1040-SS - addition error.
347	We changed the total income on your tax return to include your U.S. source income. You can't exclude U.S. source income reported to you on Form W-2 under Internal Revenue Code 931 or 933 or Form 4563. Form 1040
348	Installment payment for First-Time Home buyer credit added to return.
349	You're not eligible for the earned income credit because you were a nonresident of the U.S. for part of the tax year for which you filed your U.S. income tax return. Form 1040 Form 1040-NR
350	We didn't allow the amount claimed as a deductible part of self-employment tax on your Form 1040. Information on your return indicates this amount relates to the self-employment income you excluded under Internal Revenue Code Sections 931 or 933. Form 1040
352	Amount changed for additional Medicare tax/error computing Form 8959.
353	Amount changed for additional Medicare tax/error computing Form 8959. Error computing Part II, line 13.
354	Amount changed for additional Medicare tax/error computing Form 8959. Error computing Part II, line 17.
355	We changed the amount reported as Additional Medicare Tax on line 5 of your Form 1040-SS, U.S. Self-Employment Tax Return. There was an error computing Part V, line 24, on Form 8959, Additional Medicare Tax.
356	Error in transfer of the amount from line 18 of your Form 8959.
357	Additional Medicare Tax amount changed due to error.
358	You must express the amounts you report on your U.S. tax return in U.S. dollars. We used the exchange rates found at fiscal treasury. to convert the amounts reported in foreign currency on your return to U.S. dollars. Form 1040
359	Recompute total tax on Form 1040 (PR) addition error.

KEYS	LITERAL
360	We didn't allow your deduction for foreign taxes paid on Form 1040, <i>Schedule A</i> , because you already claimed those taxes as a foreign tax credit on Form 1116. Form 1040
361	Recompute excess social security tax or tier 1 RRTA withheld on Form 1040 (PR) computation error.
362	Disallowed additional child credit on Form 1040 (PR) missing form.
364	You made an error transferring the amount of payments made to the U.S. Virgin Islands. We adjusted your return accordingly. Form 1040
366	We changed the amount of household employment taxes on line 4 of your Form 1040 (PR). There was an error in the computation of one or more of the following taxes or the totaling of these amounts on: <i>Schedule H</i> , Household Employment Taxes: <ul style="list-style-type: none"> <li>• Social Security</li> <li>• Medicare</li> <li>• Federal Income Taxes</li> </ul>
367	Recompute household employment taxes on Form 1040 (PR) - insufficient income on <i>Schedule H</i> .
368	Recompute household employment taxes on Form 1040 (PR) - error on <i>Schedule H</i> tax computation or transfer.
369	Disallowed additional child credit or refundable child tax credit on Form 1040 (PR) - Child exceeds age limit.
370	We didn't allow the expenses you reported on your <i>Schedule C</i> . You can only deduct expenses that relate to income effectively connected with a trade or business in the U.S. 1040/1040-NR.
371	We didn't allow the expenses you reported on your <i>Schedule C</i> . You can only deduct expenses that relate to income effectively connected with a trade or business in the U.S. 1040/1040-NR.
374	Refund or amount owed changed based on correspondence response.
375	Recompute excess social security tax or tier 1 Railroad Retirement Tax Act (RRTA) withheld on Form 1040 (PR) Form W-2 missing.
376	Recompute total payment on Form 1040 (PR) - addition error.
377	Ineligible to claim health coverage tax credit.
378	For tax year 2014, you must submit Form 8885, Health Coverage Tax Credit, by amending your Form 1040-SS. We removed Form 8885 and the amount from your return.
383	You incorrectly figured your refundable child tax credit or Additional Child Tax Credit. We have adjusted your return accordingly. Form 1040-NR and Form 1040-SS.
384	Earn income inclusion Form 2555 cannot exceed foreign earned income. Form 1040
385	Recompute total income to include foreign earned income. Form 1040
386	Disallowed Form 2555, Form 2555-EZ Foreign Earned Income because Form 1040-NR filed.

KEYS	LITERAL
387	We didn't allow your Form 2555 or Form 2555-EZ, Foreign Earned Income Exclusion, because you filed a dual-status tax return and are claiming an exclusion of income associated with the Form 1040-NR portion of your return. You can exclude only the income associated with the Form 1040 portion of income. We adjusted your return accordingly. Form 1040 and Form 1040-NR
393	Form 1040-NR and Form 1040-NR-EZ ineligible for recovery rebate credit. Form 1040-NR
394	We didn't allow the amount claimed as Itemized Deductions because Schedule A, Itemized Deductions, of Form <b>1040-NR</b> was incomplete or missing from your return. Form 1040-NR
395	Changed additional child tax credit computation or transfer error. Form 1040-SS
396	We changed the tax amount on your return because you didn't attach a hypothetical Form 1040 or similar statement to support your claim under Article XXV(3) of the U.S. – Canada Tax Treaty.
399	Deferral of taxes amount changed - maximum amount exceeded. Form 1040-SS
400	Disallowed adjustment for tuition and fees on Form 1040-NR.
401	Disallowed exemption(s) for other dependent(s)- nonresident alien. Form 1040-NR
402	Disallowed exemption(s) for other dependent(s) - residents of S Korea or Japan. Form 1040-NR
403	Removed U.S. Bank I interest income from taxable income Form 1040. Form 1040-NR
404	Included cap gains from Form 8288-A on Form 1040. Form 1040 and Form 1040-NR
405	Charitable Contribution amount changed - only allowed for certain India residents. Form 1040-NR
406	Disallowed Exempt for Treaty - No response to request for information. Form 1040-NR
408	We changed the amount claimed as deductions on your tax return. As a resident of India who was a student or business apprentice you may use either the standard deduction or itemized deductions; however, you cannot use both. We used the amount that resulted in a lower taxable income. Form 1040
409	Disallowed Tax Treaty Exemption - invalid tax treaty claimed. Form 1040-NR
410	We changed the amount claimed on your tax return because there was an error in the subtraction of your deductions from your adjusted gross income. Form 1040-NR
411	We changed the amount of taxable income on your return because you incorrectly subtracted your itemized deductions from your adjusted gross income. Form 1040-NR
412	Your country disallows dependent exemptions - Disallow certain credits. Form 1040-NR
413	Incorrectly transferred amount of tax from Form 1040-NR.
414	Changed Itemized Deductions - State and local taxes exceeds Filing Status. Form 1040-NR
415	Disallowed scholarship or fellowship exclusion - supporting statement missing. Form 1040-NR

KEYS	LITERAL
416	Changed scholarship or fellowship exclusion - exclusion cannot exceed amt received. Form 1040-NR
418	You aren't entitled to the standard deduction when you file Form 1040-NR. We changed your return accordingly.
421	SSN missing or ITIN was missing or last name was not provided-Disallow certain credits. Form 1040-NR
422	Each dependent listed must have a valid SSN or ITIN-Disallow certain credits. Form 1040-NR
423	Child Tax Credit not allowed due to country of residence. Form 1040-NR
424	Disallowed education credit - no resident alien. Form 1040-NR
425	Each dependent claimed must have a valid SSN issued-Disallow part or all of the Child Tax Credit or refundable Child Tax Credit. Form 1040-NR
426	Changed tax on income not effectively connected Form 1040-NR - computation error.
427	Changed tax on income not effectively connected Form 1040-NR Page 2 - transferred from Page 4 error.
428	Recomputed tax using correct tax treaty rate. Form 1040-NR
429	Recomputed tax using 30 percent (or lower treaty) rate. Form 1040-NR
430	Disallowed tax withheld - supporting docs <i>Form W-2</i> , Form 1042-S, Form 1099 missing. Form 1040-NR
431	We didn't allow the amount claimed as additional Medicare tax withholding because you didn't attach Forms 499R-2, W-2PR or other supporting documents to your tax return. Form 1040 (PR) and Form 1040-SS
432	Disallowed income tax withheld at source Form 1042-S missing. Form 1040-NR
433	Disallowed partnership under S1446 with holding - Form 8805 and/or Form 1042-S missing. Form 1040-NR
434	Disallowed Form 8288-A credit IRS has no record of payment. Form 1040 and Form 1040-NR
435	Disallowed U.S. tax withheld on dispositions of U.S. real prop INT Form 8288-A and/or Form 1042-S missing. Form 1040-NR
436	Changed Form 8288-A credit on return amount does not match. Form 1040 and Form 1040-NR
437	We didn't allow you to exempt the income you received from services performed as an employee of the U.S. government or one of its agencies. This income is taxable. We adjusted your return accordingly. Form 1040
438	Disallowed foreign withholding claimed on return. Form 1040 and Form 1040-NR
440	Disallowed Health Insurance credit - no response to info request. Form 1040
441	Disallowed Form 8805 or Form 1042-S credit SSN on Form 1040-NR and credit Doc mismatch. Form 1040-NR
442	Changed return copy of green card and signed declaration not received. Form 1040

KEYS	LITERAL
443	Disallowed refund of tax withheld on Social Security benefits 30 percent or tax treaty rate. Form 1040-NR
446	You transferred your tax due incorrectly from your Form 1040 to your Form 1040-NR. We changed your tax return accordingly. Form 1040-NR
447	Changed tax on gambling winnings 30 percent rate applies. Form 1040-NR
448	Changed tax on gambling winnings exempt under tax treaty. Form 1040-NR
449	Adjusted taxable income on Form 1040-NR exemption amount figured incorrectly. Form 1040-NR
452	<p>Your Social Security number (SSN) or Individual Taxpayer Identification Number (ITIN) was missing or the last name provided doesn't match our records or the records provided by the Social Security Administration. As a result, we disallowed certain credits on your return claimed for one or more of your dependents. This change may affect your taxable income, tax, or any of the following credits:</p> <ul style="list-style-type: none"> <li>• Child Tax Credit</li> <li>• Additional Child Tax Credit</li> </ul> <p>Form 1040-NR</p>
453	Disallowed Additional Child Tax Credit or refundable Child Tax Credit-Primary/Spouse SSN/ITIN missing - Invalid-Spanish.
454	Disallowed Additional Child Tax Credit or refundable Child Tax Credit-Primary/Spouse SSN/ITIN missing Invalid.
455	We changed the amount of taxable income because we didn't allow the amount claimed as an exemption. We allow exemption deductions only for estates and trusts. Form 1040-NR
457	Adjusted return total exemption amount computed incorrectly on Form 1040-NR-EZ.
458	Adjusted return personal exemption allowed on Form 1040-NR-EZ.
460	We didn't allow all or part of the amount your claimed as additional child tax credit on your Form 1040-SS because the required Social Security number (SSN) is missing for one or more of the dependents you listed on the return.
461	We didn't allow the amount of additional or refundable child tax credit claimed on your tax return. Information on your return indicates you don't qualify for this credit. Form 1040
463	You figured your tax incorrectly using the 30 percent (or lower treaty) rate from Form 1040-NR, <i>Schedule NEC</i> . We refigured your tax on page 2, Form 1040-NR, using the tax tables. We changed your tax return accordingly. 1040-NR
464	We didn't allow some or all of the amount you claimed as additional child tax credit on line 9 of your Form 1040-SS because the (ITIN) for one or more the qualifying persons is inactive.
465	Disallowed amount claimed as child tax credit and or additional child tax credit. Form 1040-NR



KEYS	LITERAL
470	We didn't allow the amount claimed as Additional Child Tax Credit or refundable Child Tax Credit on your tax return. We have no record of receiving Form 8862, Information to Claim Certain Credits After Disallowance. You must submit a completed Form 8862 to recertify your eligibility for any of the credits claimed. Form 1040-SS
472	Removed Self-Employment Tax SE Income Limit \$434. Form 1040-SS
473	Changed SE Tax Form 1040-SS computation error.
474	Changed SE Tax Form 1040-SS refund/amt you owe computation error.
475	Changed additional child tax credit or refundable Child Tax Credit- dependent TIN(s) missing. Form 1040-SS
476	Changed additional child tax credit or refundable Child Tax Credit- dependent name(s) or TIN(S) invalid. Form 1040-SS
477	We didn't allow the refundable or additional child tax credit you claimed. You didn't have qualifying children to claim the credit or didn't have enough qualifying children for the credit you claimed. We adjusted your return accordingly. Form 1040-SS
478	We didn't allow the amount claimed for the American Opportunity Tax Credit on your Form 1040 (PR) . We're returning any supporting documentation you submitted. Bona fide residents of Puerto Rico receive the refundable part of this credit from the Puerto Rico Treasury Department by filing a return with the Departamento de Hacienda, PO Box 9022501, San Juan, PR 00902-2501.
483	We didn't allow the amount you claimed for Recovery Rebate Credit. Dual-status taxpayers aren't eligible for this credit. We adjusted your return accordingly.
484	We didn't allow the credit on your Form 1040 for tax paid to the U.S. Virgin Islands. You didn't attach Form 8689, Allocation of Individual Income Tax to the U.S. Virgin Islands, to support the amount claimed. We adjusted your return accordingly.
485	Changed SE Tax not qualified to use OPT method d on Form 1040-SS
486	You didn't multiply your self-employment earnings by .9235, as shown on Form 1040-SS. We changed your self-employment tax accordingly.
487	Removed Self-Employment Tax - Self Employed Income limit \$434. Form 1040-SS
488	Social Security Self-Employment Tax Changed - Error on Form 1040 (PR)
489	Self-Employment tax changed - Error on Form 1040 (PR)
490	Changed additional child tax credit or refundable Child Tax Credit dependent TIN(S) missing. Form 1040-SS
491	Changed additional child tax credit or refundable Child Tax Credit dependent name(s) and/or TIN(s) invalid. Form 1040-SS
492	We didn't allow the refundable or additional child tax credit you claimed. You didn't have qualifying children to claim the credit or didn't have enough qualifying children for the credit you claimed. We adjusted your return accordingly. Form 1040-SS
493	We reduced or didn't allow your refundable child tax credit or additional child tax credit because one or more of the children listed was born after the current tax period; therefore, they can't be claimed for this credit. We adjusted your return accordingly. Form 1040-SS

KEYS	LITERAL
494	We disallowed part of the tax treaty exemption on your return because you claimed more than the maximum amount. We have adjusted your return accordingly. Form 1040-NR
495	Amount you claimed as child tax credit, additional child tax credit, or refundable Child Tax Credit on your tax return because you, your spouse, or one or more of your dependents claimed for the credit did not have a TIN assigned by the due date of the tax return.
496	We didn't allow the amount you claimed as child tax credit or additional child tax credit on your tax return because you, your spouse, or one or more of your dependents claimed for the credit did not have a taxpayer identification number assigned by the due date of the tax return. Form 1040 (PR)
497	One or more Dependents didn't have an assigned TIN by due date of the return-Disallowed certain credits.
498	We disallowed the amount claimed as Additional Child Tax Credit or refundable Child Tax Credit on your tax return. Our records indicate that we've banned you from claiming Child Tax Credit for this tax year. Form 1040-SS
499	We disallowed the amount claimed as Additional Child Tax Credit or refundable Child Tax Credit on your tax return. Our records indicate that we've banned you from claiming Child Tax Credit for two tax years. Form 1040-SS
500	We disallowed the amount claimed as Additional Child Tax Credit on your tax return. Our records indicate that we've banned you from claiming Additional Child Tax Credit for ten tax years. Form 1040-SS
825	Our records show that a dependent you claimed on your Form 2441, Child and Dependent Care Expenses, was born after the tax period of the return. As a result of this child is not being allowed and may also affect other credits this child has been claimed on as well. Form 1040 and Form 1040-NR
826	You made an error in the calculation of your Form 5695, Residential Energy Credits. In Part I, Residential Clean Energy Credit, you calculated incorrectly or indicated you were ineligible for a credit. Form 1040 and Form 1040-NR
827	You made an error in the calculation of your Form 5695, Residential Energy Credits. In Part II, Energy Efficient Home Improvement Credit, you calculated incorrectly or indicated you were ineligible for a credit. Form 1040 and Form 1040-NR
828	There was error in adding or transferring of your Elective Payment Election credits from Form 3800, Part III, Column i. We adjusted your tax return. Form 1040 and Form 1040-NR
829	We changed the amount claimed as Residential Energy Credit on your tax return because there was an error on Form 5695, Residential Energy Credits. The error was in the computation of the credit or in the transferring of the amount to your tax return. Form 1040 and Form 1040-NR
830	We didn't allow the amount claimed as Residential Energy Credits on your tax return because Form 5695, Residential Energy Credits, was incomplete or not attached to your tax return. Form 1040 and Form 1040-NR



KEYS	LITERAL
<b>831</b>	We didn't allow all or part of the amount claimed as Residential Energy Credits, Form 5695, on your return because the credit is limited to the total amount of your tentative tax liability. Form 1040 and Form 1040-NR
<b>832</b>	We didn't allow all or part of the amount claimed as Clean Vehicle Credits, Form 8936, on your return because the credit is limited to the total amount of your tentative tax liability. Form 1040 and Form 1040-NR
<b>833</b>	We didn't allow all or part of the credit claimed as Clean Vehicle Credit on your return because one or more of the Vehicle Identification Number(s) (VIN) reported on Form 8936, Schedule A, Clean Vehicle Credit Amount, did not match our records. Form 1040 and Form 1040-NR
<b>834</b>	We didn't allow the amount claimed as Clean Vehicle Credits on your tax return because Form 8936 was incomplete or not attached to your tax return. Form 1040 and Form 1040-NR
<b>835</b>	We didn't allow the amount claimed as Clean Vehicle Credits Amount on your tax return because Form 8936, Schedule A, was incomplete or not attached to your tax return. Form 1040 and Form 1040-NR
<b>836</b>	We changed the amount claimed as Clean Vehicle Credit, Form 8936, on your tax return. The error was in the computation of the credit or in the transferring of the amount to your tax return. Form 1040 and Form 1040-NR
<b>837</b>	We changed the amount claimed as Clean Vehicle Credit Amount Form 8936, Schedule A, on your tax return. The error in Part II, Credit Amount for Business/Investment Use Part of New Clean Vehicle, was in the computation of the credit or in the transferring of the amount. Form 1040 and Form 1040-NR
<b>838</b>	We changed the amount claimed as Clean Vehicle Credit Amount Form 8936, Schedule A, on your tax return. The error in Part III, Credit Amount for Personal Use Part of New Clean Vehicle, was in the computation of the credit or in the transferring of the amount. Form 1040 and Form 1040-NR
<b>839</b>	We changed the amount claimed as Clean Vehicle Credit Amount Form 8936, Schedule A, on your tax return. The error in Part IV, Credit Amount for Previously Owned Clean Vehicle, was in the computation of the credit or in the transferring of the amount. Form 1040 and Form 1040-NR
<b>840</b>	We changed the amount claimed as Clean Vehicle Credit Amount Form 8936, Schedule A, on your tax return. The error in Part V, Credit Amount for Qualified Commercial Clean Vehicle, was in the computation of the credit or in the transferring of the amount. Form 1040 and Form 1040-NR
<b>841</b>	We changed the amount claimed as Clean Vehicle Credit Amount Form 8936, Schedule A, on your return. The Placed in Service Date is not during the tax year of the return. Form 1040 and Form 1040-NR
<b>842</b>	We changed the amount claimed as Clean Vehicle Credit Amount Form 8936, Schedule A, on your tax return. The error on Form 8936, Schedule A, is due to the computation of the credit exceeding the maximum vehicle credit amount allowed. Form 1040 and Form 1040-NR

KEYS	LITERAL
<b>843</b>	We changed the amount claimed as Clean Vehicle Credit. You figured or transferred your Form 8936, Clean Vehicle Credits, amount incorrectly to Form 3800. Form 1040 and Form 1040-NR
<b>844</b>	We didn't allow your Form 8910, Alternative Motor Vehicle Credit on your return. This deduction is not allowed for the tax year claimed. Form 1040 and Form 1040-NR

- (2) For information on Selection Keys not shown in the above chart, refer to IRM 3.14.1.3.1, Notice Selection Process.

3.38.147.3.9  
(01-01-2017)

#### Classification of Income

- (1) Earned income is payment for personal services performed. It includes salaries, wages, commissions, bonuses, professional fees, tips, etc.
- (2) Unearned income includes the following: dividends, interest, capital gains, gambling winnings, alimony, social security benefits, pensions, annuities, etc.
- (3) Some types of income fall into more than one category: business profits, royalties, rents, net operating loss (NOL), etc.

3.38.147.3.10  
(01-01-2025)

#### Prior Year Returns

- (1) Use the prior year tax forms, tax tables and tax rate schedules to verify amounts for the tax computation method most beneficial to the taxpayer.
- (2) Returns for December 31, 2017 and prior require manual computation of exemption, standard deduction, itemized deductions and most credits.
- (3) Tax treaties can vary year to year. For prior tax years, make sure to check treaty validity using prior year Publications. Refer to IRM 3.38.147.3.12, Tax Treaty - General Information.

3.38.147.3.11  
(01-01-2025)

#### Types of Visas

- (1) There are two types of U.S. visas: immigrant or non-immigrant.
  - Immigrant visas are issued to aliens who intend to live permanently in the United States (resident alien).
  - Non-immigrant visas are for foreign nationals wishing to enter the United States on a temporary basis (nonresident alien).

There are several categories of immigrant visas. The category of visa generally depends on the purpose of the individual's travel to the United States.
- (2) The manner in which the income of an alien individual is taxed depends upon whether the individual is classified as a resident alien or a nonresident alien.
- (3) If an individual is determined to be a nonresident alien, the taxpayer is generally taxed on all U.S. source income and on all income that is effectively connected with the conduct of a trade or business in the U.S. Non-effectively connected foreign source income is not taxed. Resident aliens are taxed the same way as U.S. citizens.
- (4) The following are descriptions of different categories of visas that the IRS frequently sees. Refer to the *IMF Notice Review International Job Aid 2510-001* or the *U.S. Citizenship and Immigration Services (USCIS) website* for a complete list of visas:

- a. **CW Visa** Only Transitional Worker (CW) classification visa applies to the U.S. territory of the Commonwealth of the Northern Mariana Islands. It is issued to temporary workers in the CNMI who are ineligible for other employment-based non-immigrant U.S. visas. For additional information, see IRM 4.23.5.11, FICA Tax on Wages Paid To Residents of the Philippines for Services Performed in the Commonwealth of the Mariana Islands (CNMI).
- b. **F Visa** The “F” Visa is issued only to alien students who have already been accepted as registered students by an accredited educational institution approved by the United States Immigration and Customs Enforcement.
- c. **H-1B** The “H-1B” visa is issued to temporary workers in a professional specialty occupation.
- d. **J Visa** The “J” Visa, commonly called Exchange Visitor Visa, is a non-immigrant visa for individuals approved to participate in exchange visitor programs in the United States.
- e. **L-1B** The “L-1B” Visa is issued to temporary workers with specialized knowledge of an industry.
- f. **M Visa** The “M” Visa is issued only to alien students who have already been accepted as registered students by an established vocational or other recognized nonacademic institution, other than in language training programs.
- g. **Q Visa** The “Q” Visa is issued to alien students whose employment or training affords the opportunity for cultural sharing with the American public. They are allowed to work in the United States for a specific employer in an approved cultural exchange program. The employer must be the petitioner through whom the alien obtained the “Q” Visa.
- h. **TN Visa** A product of the previous North American Free Trade Agreement (NAFTA), which was replaced by the United States-Mexico-Canada Agreement (USMCA) of 2020, the “TN” Visa allows the temporary entry into the United States of Canadian and Mexican citizens who are professional businesspersons to render service for wages. While non-immigrant visas, prior petition by employer and labor certification are required for Mexican citizens, they are not required for Canadian citizens. All applicants must show proof of citizenship and professional engagement in one of the occupations listed in the qualifying occupation schedule.
- i. **TD Visa (NAFTA/USMCA)** The “TD” Visa allows the temporary entry into the United States of the dependents of “TN” Visa holders. These dependents must be either the spouses or minor children of the certified “TN” Visa holders. Unlike other dependent visas, “TD” visa holders are not allowed to accept employment in the U.S. They are eligible to enroll in any U.S. educational institution without a “F-” visa if under the age of 21 years.

**Note:** You can find more information about U.S. Visas at the *U.S. Department of State* website.

3.38.147.3.12  
(01-01-2025)  
**Tax Treaty - General  
Information**

- (1) The United States has income tax treaties with a number of countries. Under these treaties, residents of foreign countries are (if eligible) taxed at a reduced rate or are exempt from U.S. income taxes on certain items of income received from sources within the United States. These reduced rates and exempt amounts vary among countries and specific items of income. The term “resident” is generally defined under the relevant treaty to mean a resident for income tax purposes of the applicable foreign country, which may require a

physical presence within the foreign country such that citizenship or nationality alone may not establish “residency” for purposes of the treaty.

- (2) Tax treaties may reduce the U.S. taxes for residents of foreign countries. With certain exceptions, such as a dual resident (one who is a resident of the U.S. under U.S. domestic law **and** of the foreign country under the foreign country’s domestic law) who is treated as a resident of the foreign country under the Tie-breaker Rules of the applicable treaty, tax treaties do not reduce the U.S. taxes of U.S. citizens or resident aliens. U.S. citizens and resident aliens are subject to U.S. income tax on their worldwide income under the requirements set forth in the relevant treaty article and possibly under a “saving clause” provision in most treaties. The **saving clause** preserves the right of the United States to tax its citizens and residents (subject to certain exceptions) on their worldwide income, as provided under U.S. law, as if there were no treaty.

**Caution:** The People’s Republic of China, does not include Taiwan. The U.S. does not have a tax treaty with Taiwan.

- (3) Tax treaties can vary year to year. Make sure to determine that the relevant treaty is still in force using Pub 901, U.S. Tax Treaties, Pub 515, Social Security and Equivalent Railroad Retirement Benefits, Pub 515, Withholding of Tax on Nonresident Aliens and Foreign Entities, and/or the IRS web page.

**Note:** Treaty Tables 1 and 2, previously contained in Pub 515 and Pub 901 can be found at: *Tax Treaty Tables*.

- (4) Paragraph 3 of Article XXV Non-Discrimination of the United States- Canada income tax treaty allows married citizens/residents of Canada to compute the tax on their U.S. wages based upon a hypothetical Form 1040 or Form 1040-SR tax computed using married filing jointly tax rates.

1. The following are indications that a taxpayer is seeking to invoke the benefits of Article XXV, paragraph 3 of the U.S. - Canada Income Tax Treaty:

- Two names are present in the entity section of the return; or
- Form 1040, Form 1040-SR or statement is attached with a hypothetical married filing jointly tax rate computation; or
- Statement attached indicating that a special computation permitted by the United States - Canada Income Tax Treaty has been used; or
- A notation of XXV is found on the return or attachments.

**Note:** When the Article is claimed and the necessary information is not included or the taxpayer files Single or Head of Household on the Form 1040, the Form 1040-NR is to be processed using Filing Status Code 1 (FS 1) for single. The benefits of Article XXV, paragraph 3 of the U.S.-Canada income tax treaty, is only available to married persons.

2. Use the following formula to compute the tax per Article XXV, paragraph 3:  

$$(\text{Form 1040-NR TXI} \div \text{Form 1040 TXI}) \times \text{Form 1040 Tentative Tax} = \text{Article XXV Tax}$$

3. When computing the hypothetical Form 1040 or Form 1040-SR taxable income and tentative tax:

- a. Start with the adjusted gross income (AGI) reported on the Form 1040 or similar statement

**Note:** If income losses for the spouse are included in worldwide income and included in the calculation of taxable income, then recalculate the AGI and taxable income on the Form 1040 statement without the spouse's income losses. Use this amount in the tax calculation

- b. Allow deductions for which the taxpayer and spouse would qualify if they were U.S. citizens. This includes the standard deduction. Follow taxpayer intent if the taxpayer itemizes deductions on the hypothetical Form 1040 or Form 1040-SR.

For TY 2017 and prior years, allow all exemptions for which the taxpayer and spouse would qualify if they were U.S. citizens. If personal exemptions and itemized deductions are limited by AGI on Form 1040-NR, then use Form 1040 AGI and FS2 to determine the AGI limitations, if any, when calculating the exemption and deduction amounts for Form 1040. Subtract these amounts from the Form 1040 AGI to determine taxable income.

**Note:** Alternative Minimum Tax may still apply. Article XXV, paragraph 3, does not provide a basis for Canadian residents who are U.S. resident aliens to claim on their actual Form 1040-NR a standard deduction or any credits for which they are not otherwise eligible under the Internal Revenue Code.

- c. The tentative tax reported on Form 1040, Form 1040-SR, or statement is the total U.S. tax payable by the taxpayer and their spouse as if both were U.S. citizens and all of their income arose in the United States. An income deficit (or loss) of the spouse must not be considered.

**Reminder:** If there was a previous math error, the hypothetical married filing joint tax must be recomputed using correct TXI and tax from Form 1040 or Form 1040-SR and Form 1040-NR.

- (5) A dual resident (one who is resident of the U.S. under U.S. domestic law and of the foreign country under the foreign country's domestic law) may claim to be treated solely as a resident of the foreign country pursuant to the treaty Tiebreaker Rules of an applicable treaty by filing a Form 1040-NR with Form 8833 attached. The taxpayer may not claim that income is exempt under treaty solely by claiming "Tiebreaker" under Article IV (or other relevant article determining residence for purpose of a treaty). A resident article generally provides whether a taxpayer is a "resident" of a foreign country for purpose of the treaty, and it does not provide an exemption of income. If Article IV is the only treaty article provided in response to Item L on Schedule OI of Form 1040-NR, and a Form 8833 is not also attached claiming the treaty tiebreaker provision then there is no valid treaty claim to reduce or exempt income under the treaty.

**Note:** This also applies if in response to item J on page 2 of Form 1040-NR-EZ for 2019 and prior years.

- (6) Under certain circumstances, an individual may claim a benefit under an applicable tax treaty between the United States and a foreign country on Form 1040 or Form 1040-SR. For example, an individual who meets the substantial presence test and is therefore a resident alien, and is eligible to claim a benefit under the treaty, may file a Form 1040 or Form 1040-SR and claim that certain

U.S. source income is exempt from U.S. tax under an applicable income tax treaty because the income is related to teaching, studying, or training as provided in the applicable treaty article. The taxpayer must identify the foreign country involved, the tax treaty article number (paragraph is not required), the number of months the treaty benefit was claimed in prior tax years, and the amount of exempt income.

**Note:** Taxpayers usually attach a Form 8833, Treaty-Based Return Position Disclosure Under Section 6114 or 7701(b), or other supporting statement with this identifying information.

The amount must be reported on:

- Form 1040 or Form 1040-SR for 2021 and 2022 as income on line 1 and the exempt amount as a negative amount on *Schedule 1*, line 8z.
- Form 1040 or Form 1040-SR for 2019 and 2020 as income on line 1 and the exempt amount as a negative amount on *Schedule 1*, line 8.
- Form 1040 for 2018 as income on line 1 and the exempt amount as a negative amount on *Schedule 1*, line 21.
- Form 1040 for 2017 and prior years as income on line 8 and the exempt amount as a negative amount on line 21.

- (7) Tax treaties can vary year to year. Make sure to determine that the relevant treaty is still in force using Publication 901, U.S. Tax Treaties, Publication 915, Social Security and Equivalent Railroad Retirement Benefits, Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities, and/or the IRS web page.

**Note:** Beginning in 2016, Treaty Tables 1 and 2 previously contained in Publication 515 and Publication 901 have been updated and moved to *Tax Treaty Tables*.

- (8) If a taxpayer claims a treaty benefit, the taxpayer must provide, among other things, the name of the country of which they are a resident, the relevant treaty article (paragraph is not required), the number of months the treaty benefit was claimed in prior tax years, and the amount of "exempt" income during the tax year.

**Note:** Exemption Code 04 on a Form 1042-S does not count as a valid treaty exemption except when issued by a college or university with Income Code 16 and there is no withholding.

- (9) Paragraph 3 of Article XXV Non-Discrimination of the United States- Canada income tax treaty allows married citizens/residents of Canada to compute the tax on their U.S. wages based upon a hypothetical Form 1040 or Form 1040-SR tax computed using married filing jointly tax rates. The following are indications that a taxpayer is seeking to invoke the benefits of Article XXV, paragraph 3 of the U.S. - Canada Income Tax Treaty:

- Two names are present in the entity section of the return; or
- Form 1040, Form 1040-SR, or statement is attached with a hypothetical married filing jointly tax rate computation; or
- Statement attached indicating that a special computation permitted by the United States - Canada Income Tax Treaty has been used; or



- A notation of XXV is found on the return or attachments.  
**Note:** When the Article is claimed and the necessary information is not included or the taxpayer files Single or Head of Household on the Form 1040, the Form 1040-NR is to be processed using Filing Status Code 1 (FS 1) for single. The benefits of Article XXV, paragraph 3 of the U.S.-Canada income tax treaty, is only available to married persons.

- Use the following formula to compute the tax per Article XXV, paragraph 3:

$$(\text{Form 1040-NR TXI} \div \text{Form 1040 TXI}) \times \text{Form 1040 Tentative Tax} = \text{Article XXV Tax}$$

- When computing the hypothetical Form 1040 or Form 1040-SR taxable income and tentative tax:

1. Start with the adjusted gross income (AGI) reported on the Form 1040 or similar statement

**Note:** If income losses for the spouse are included in worldwide income and included in the calculation of taxable income, then recalculate the AGI and taxable income on the Form 1040 statement without the spouse's income losses. Use this amount in the tax calculation.

2. Allow deductions for which the taxpayer and spouse would qualify if they were U.S. citizens. This includes the standard deduction. Follow taxpayer intent if the taxpayer itemizes deductions on the hypothetical Form 1040 or Form 1040-SR.

For TY 2017 and prior years, allow all exemptions for which the taxpayer and spouse would qualify if they were U.S. citizens. If personal exemptions and itemized deductions are limited by AGI on Form 1040-NR, then use Form 1040 AGI and FS2 to determine the AGI limitations, if any, when calculating the exemption and deduction amounts for Form 1040. Subtract these amounts from the Form 1040 AGI to determine taxable income

**Note:** Alternative Minimum Tax may still apply. Article XXV, paragraph 3, does not provide a basis for Canadian residents who are U.S. resident aliens to claim on their actual Form 1040-NR a standard deduction or any credits for which they are not otherwise eligible under the Internal Revenue Code.

- The tentative tax reported on Form 1040, Form 1040-SR, or statement is the total U.S. tax payable by the taxpayer and their spouse as if both were U.S. citizens and all of their income arose in the United States. An income deficit (or loss) of the spouse must not be considered.

**Reminder:** If there was a previous math error, the hypothetical married filing joint tax must be recomputed using correct TXI and tax from Form 1040 or Form 1040-SR and Form 1040-NR.

- (10) A dual resident (one who is resident of the U.S. under U.S. domestic law and of the foreign country under the foreign country's domestic law) may claim to be treated solely as a resident of the foreign country pursuant to the treaty Tie-breaker Rules of an applicable treaty by filing a Form 1040-NR with Form 8833 attached. The taxpayer may not claim that income is exempt under treaty solely by claiming "Tiebreaker" under Article IV (or other relevant article deter-

mining residence for purpose of a treaty). A resident article generally provides whether a taxpayer is a “resident” of a foreign country for purpose of the treaty, and it does not provide an exemption of income. If Article IV is the only treaty article provided in response to Item L on *Schedule OI* of Form 1040-NR, and a Form 8833 is not also attached claiming the treaty tiebreaker provision then there is no valid treaty claim to reduce or exempt income under the treaty.

**Note:** This also applies if in response to item J on page 2 of Form 1040-NR-EZ for 2019 and prior years.

- (11) Under certain circumstances, an individual may claim a benefit under an applicable tax treaty between the United States and a foreign country on Form 1040 or Form 1040-SR. For example, an individual who meets the substantial presence test and is therefore a resident alien, and is eligible to claim a benefit under the treaty, may file a Form 1040 or Form 1040-SR and claim that certain U.S. source income is exempt from U.S. tax under an applicable income tax treaty because the income is related to teaching, studying, or training as provided in the applicable treaty article. The taxpayer must identify the foreign country involved, the tax treaty article number (paragraph is not required), the number of months the treaty benefit was claimed in prior tax years, and the amount of exempt income.

**Note:** Taxpayers usually attach a Form 8833, Treaty-Based Return Position Disclosure Under Section 6114 or 7701(b), or other supporting statement with this identifying information.

The amount must be reported on:

- Form 1040 or Form 1040-SR for 2021 and 2022 as income on line 1 and the exempt amount as a negative amount on *Schedule 1*, line 8z.
- Form 1040 or Form 1040-SR for 2019 and 2020 as income on line 1 and the exempt amount as a negative amount on *Schedule 1*, line 8.
- Form 1040 for 2018 as income on line 1 and the exempt amount as a negative amount on *Schedule 1*, line 21.
- Form 1040 for 2017 and prior years as income on line 8 and the exempt amount as a negative amount on line 21.

3.38.147.3.13  
(01-01-2025)  
**Return Due Dates,  
Extension of Time to  
File International  
Returns, and Disaster  
Relief**

- (1) U.S. citizens and resident aliens who file calendar year returns are required to file a tax return by April 15. However, taxpayers who are overseas on the due date receive an automatic extension of two months (until June 15 for calendar year filers).

**Caution:** Due to the COVID pandemic, the due dates for all returns for MFTs 29, 30, and 31 for tax years 2019 and 2020 were postponed.

- a. For 2019 tax returns, the due date for international tax returns Form 1040, Form 1040-SR, Form 1040-NR, Form 1040-NR-EZ, Form 1040 (PR), and Form 1040-SS, was July 15, 2020. Interest and penalties will begin to accrue on July 16, 2020.
- b. For 2020 tax returns, the due date for international tax returns Form 1040, Form 1040-SR, Form 1040-NR, Form 1040 (PR), and Form 1040-SS, was May 17, 2021. Interest and penalties will begin to accrue on May 18, 2021.



- (2) If taxpayers are unable to file their return by the due date, they can generally get an automatic six month extension of time to file using a Form 4868, Application for Automatic Extension of Time to File U.S. Individual Income Tax Return. For taxpayers who are overseas on the due date of their return, the two month period mentioned above (until June 15 for calendar year taxpayers) and the six month automatic extension period start at the same time. In other words, for taxpayers who are overseas, if they are unable to file their return within the automatic two month extension period they can generally get an additional 4 months using a Form 4868 (for a total of 6 months).
- (3) The extension of time to file only applies to the calculation of penalties. Interest accrues from the due date of the return.
- (4) If taxpayers file a Form 2350, Application for Extension of Time to File U.S. Income Tax Return For U.S. Citizens and Resident Aliens Abroad Who Expect to Qualify for Special Tax Treatment, such as the foreign earned income exclusion under IRC 911, they are generally granted an extension to a date thirty days after the date on which the taxpayer expects to meet the criteria. Taxpayers who expect to meet the requirements based on bona fide residence or physical presence in a foreign country can request an extension until they qualify.
- (5) Nonresident Aliens with wage income subject to *Form W-2*, Wage and Tax Statement, withholding have an original due date of April 15.
- (6) Nonresident Aliens without wage income subject to *Form W-2* withholding have an original due date of June 15.
- (7) Form 4868, Application for Automatic Extension of Time to File U.S. Individual Income Tax Return, provides for a six month extension.
- (8) The extension provisions apply to fiscal as well as calendar year filers.
- (9) Any extension request beyond December 15 for a calendar year filer requires approval.
- (10) In addition to the automatic extensions requested using a Form 4868, taxpayers who are overseas may request a discretionary two month additional extension of time to file their returns (to December 15 for calendar year taxpayers). Taxpayers must send the IRS a letter explaining the reasons why the additional 2 months is needed.
  - a. Nonresident Aliens required to file a Form 1040-NR for the first time or for the preceding year, must file no later than 16 months after the due date of the current year return.
  - b. Nonresident Aliens not filing for the first time and who did not file for the preceding year must file their returns no later than the date the IRS specifies or 16 months after the current year due date, whichever is earlier.
  - c. Nonresident Aliens unsure about their status may file protective claims no later than the deadline.

Taxpayers in U.S. territories with a U.S. income tax filing requirement are required to file by April 15th for calendar year filers. Taxpayers are allowed an automatic two month extension if they are U.S. citizens or resident aliens and are living outside the U.S. or Puerto Rico and the main place of business or post of duty is outside the U.S. or Puerto Rico on the due date of the return.

- They are U.S. citizens or residents in military service on duty outside the U.S. and Puerto Rico.
- Taxpayers in U.S. territories must file Form 4868 to receive the six month extension.

- (11) Failure to file timely U.S. returns could result in the loss of certain deductions and credits for taxes paid or accrued.
- (12) Tax relief is sometimes granted to taxpayers in areas affected by disaster situations. Generally, this relief will be provided systemically in the Master File and will be transparent on IDRS. CC IMFOLT screen will show MMDDYYYY as the 'DISASTER RDD' and CC INTST will be updated to reflect the extended due date. For more information on areas affected by disaster relief visit *Tax relief in disaster situations*

3.38.147.3.14  
(06-02-2020)

**Funny Box RIVO (Return Integrity and Verification Operation)**

- (1) Refer to IRM 3.14.1.6.9.5, for listing of identity theft criteria.

3.38.147.3.15  
(11-19-2019)

**IRC 965 Transition Tax**

- (1) Follow procedures in IRM 3.14.1.6.9.16, IRC 965 Transition Tax, to review IRC 965 taxes.

3.38.147.3.16  
(01-01-2024)

**Inflation Reduction Act (IRA) of 2022**

- (1) Follow procedures in IRM 3.14.1.6.9.18, Inflation Reduction Act (IRA) of 2022.

3.38.147.4  
(01-01-2024)

**Taxpayer Notices and Adjustments**

- (1) Starting in processing year 2022 taxpayers filing a Form 1040 can select their preferred communication language using a *Schedule LEP*, Request for Change in Language Preference. In processing year 2023 only Spanish language communication will be available in addition to English. Eventually notices will be translated into twenty different languages. These language choices can be viewed in IDRS on CC ENMOD. The changes will also require a notice number change. Foreign language notices will be identified with a language code after the number.

**Example:** CP 11-SP indicates a balance due math error notice that the taxpayer will receive in Spanish.

- (2) Notices, including taxpayer notice codes and labels, are printed in either English or Spanish based on document codes in the DLN. See the *IMF Notice Review International Job Aid 2510-001* and IRM 3.22.3-9 for complete listing of Taxpayer Notice Codes (TPNC).

- For tax years 2022 and prior, Form 1040 (PR), printed in Spanish, document code 27 will appear in the 4th and 5th digits of the DLN.
- For tax years 2023 and subsequent, Form 1040-SS (sp), printed in Spanish, document code 27 will appear in the 4th and 5th digits of the DLN.
- For Form 1040-SS, printed in English, document code 26 will appear in the 4th and 5th digits of the DLN.

- (3) When inputting an adjustment or credit transfer, input the appropriate International File Location Code (FLC 20 or 21) for all international returns.
- (4) For Taxpayer Correspondence/Reply Procedures, follow the procedures in IRM 3.14.1.7.4, **Taxpayer Correspondence/Reply Procedures**, with the exception of suspending your case for **60 days** instead of 45 days.

3.38.147.4.1  
(03-02-2022)

#### Math Error Notices

- (1) Use Control D, Online Notice Review (OLNR) and Integrated Data Retrieval System (IDRS) tax module data to determine disposition of notice.
- (2) Use the *IDRS Command Codes Job Aid* for assistance (e.g., Command Codes (CC) TXMOD, AMDIS, ENMOD, IMFOL, INOLE, INTST, RTVUE, NAMES) which is available on Servicewide Electronic Research Program (SERP)
- (3) Follow guidelines in IRM 3.14.1, IMF Notice Review.
- (4) Verify name, address, taxpayer identification number (TIN), tax period, and DLN as shown on the return with information contained in the notice.
  - a. If correction of return information involves reprocessing the document, see IRM 3.14.1.6.21, Reprocessing Returns.
  - b. A DLN mismatch may simply be a “wrong pull”, or it could indicate a slipped or mixed block. See IRM 3.14.1.6.9.7, Slipped Blocks and Mixed Data Blocks, for processing instructions for slipped or mixed blocks.
- (5) Math Error - Review math error explanation for accuracy and verify from the point of error including previous lines and attachments that affect the point of error or other parts of the return.
- (6) Estimated Tax (ES) Discrepancy- See IRM 3.14.1.6.13.2, Estimated Tax Discrepancy Notice Disposition, for notice disposition and case resolution.

**Note:** ES Discrepancy notices in Spanish will generate as CP 23(SP), CP 24(SP), or CP 25(SP) with or without a TPNC.

- (7) For 2019 and prior years, TPNC 311 will be assigned by ERS whenever a return is converted, during processing, from a Form 1040-NR-EZ to Form 1040-NR. TPNC 311 notifies the taxpayer that their return was converted and will cause the default TPNC literals to generate during printing. If TPNC 311 is not present on a notice for a converted return, retype the notice and add TPNC 311 as the first TPNC.

3.38.147.4.2  
(03-02-2022)

#### Notice Disposition

- (1) Follow guidelines in IRM 3.14.1.7.8., Notice Disposition, for marking notices in OLNLR.
- (2) When choosing a label as the notice disposition, the label(s) will convert to the taxpayer's preferred language on the actual notice.

3.38.147.5  
(01-01-2025)

#### Reviewing AMS Transcripts

- (1) Refer to IRM 3.14.1.6.14, *Reviewing Priority Refund Transcripts in Account Management Services (AMS)*, when working AMS transcripts.
- (2) When reviewing International (FLC 20 or 21) Other Refund-Key 050, AMS Transcripts, you must see the IMF Notice Review IRM 3.14.1.6.14.6 , **Other Refund Transcripts**, for the AMS table that defines refund transcript Key 050.

- (3) Use CC IRPTRL to verify the withholding (TC 806) amount claimed by the taxpayer, as seen on the IDRS account.

#  
#  
#  
#  
#

- (4) If the withholding cannot be verified using CC IRPTRL, use CC RTVUE to research the account for a Form 1040 or Form 1040-NR, *Schedule D*.
- (5) If *Schedule D* is present on CC RTVUE, use the following guidelines to calculate the amount claimed by the taxpayer:
- a. If the "Proceeds (sales price)", column (d) on *Schedule D* has any amount(s) on lines 1a through 3 in Part I or lines 8a through 10 in Part II, calculate the total of any amount(s) on those lines, then multiply by:
    - 15% for tax years 2016 and later (10% for tax years 2015 and prior), be aware that the taxpayer may have used 10% inadvertently for the current year, **or**
    - 21% for entities (taxpayers) subject to Section 1445(e) for tax years 2019 and later (35% for tax years 2018 and prior), **or**
    - 15% for the sale of a residence totaling \$1 million or more or 10% on a sale under \$1 million
  - b. If one of the resulting percentage calculations equals the TC 806 amount, the taxpayer has likely claimed a Foreign Investment in Real Property Tax Act (FIRPTA) credit on the wrong withholding line of the tax return.

**Caution:** The tax return should be used to verify the FIRPTA credit.

- c. If the tax return is:
    - MeF, use the *Employee User Portal (EUP)* to access and review the tax return.
    - paper, request the return from files using Command Code ESTAB.
- Note:** If you have to request the return from files, input TC 570 or CC NOREFP to hold the overpayment to allow time to receive the tax return.
- d. Search the tax return for Form 8288-A, *Statement of Withholding on Certain Dispositions by Foreign Persons*. If Form 8288-A is:
    - attached to the return, follow the instructions in IRM 3.38.147.16, *Forms 8288 and Form 8288-A*, to verify the credit.
    - not attached to the return, prepare a "dummy" Form 8288-A. Complete taxpayer name and address, boxes 3, 4, 5 (1445), 6 (individual), and 7. Give the "dummy" Form 8288-A to your Lead for verification.
  - e. If the work leader:
    - verifies the credit, release the overpayment and close the case.
    - is unable to verify the credit, follow the instructions in IRM 3.38.147.11.4

, **Erroneous Refunds**, to recover the overstated withholding. You will first use CC REQ77 to input transaction Code (TC) 971 with Action Code AC 264, to generate a CP 67 notice Recreate Transcript to create a notice to inform the taxpayer that withholding has been disallowed. See IRM 3.14.1.4.3.3, **Notice Recreate Transcripts (CP 67)**. When the TC 971 / AC 264 posts, a CP 67 Notice Recreate Transcript will generate in OLNLR. All CP 67 transcripts appear in the batch numbered with all zeros (000000) for any given cycle.

**Caution:** Do not input the CC REQ54 adjustment until after the TC 971 / AC 264 posts.

- Once the CP 67 generates, input the CC REQ54 adjustment using the procedures in IRM 3.14.1.6.7.2(5), **Category B ERRF Resolution**, to input an IRC 6201(a)(3) assessment to recover the overstated withholding amount **and**
  - retype the CP 67 to the appropriate notice and assign TPNC 435.
- f. If *Schedule D* is not available

- make sure the overpayment has been held with a TC 570 or CC NOREFP,
- follow the instructions in IRM 3.38.147.11.4, **Erroneous Refunds**, to recover the overstated withholding.
- Use CC REQ77 to input transaction Code (TC) 971 with Action Code AC 264, to generate a CP 67 notice Recreate Transcript to create a notice to inform the taxpayer that withholding has been disallowed. See IRM 3.14.1.4.3.3, **Notice Recreate Transcripts (CP 67)**
- Once the CP 67 generates, input the CC REQ54 adjustment using the procedures in IRM 3.14.1.6.7.2(5), **Category B ERRF Resolution**, to input an IRC 6201(a)(3) assessment to recover the overstated withholding amount **and**
- retype the CP 67 as appropriate and include TPNC 283.

3.38.147.6  
(01-01-2025)  
**Form 2555, Foreign  
Earned Income and  
Form 2555-EZ, Foreign  
Earned Income  
Exclusion**

- (1) A U.S. citizen, U.S. resident alien, or nonresident alien (filing Dual-Status return) living in a foreign country may elect to exclude foreign earned income under IRC 911.
- (2) Taxpayers who have earned income from a foreign country or countries can file Form 2555 (or Form 2555-EZ for 2018 and prior years) to elect to exclude their foreign earned income from U.S. income tax.
- (3) Form 2555 (or Form 2555-EZ for 2018 and prior years) must be completed and filed with a Form 1040 or Form 1040-SR.
- (4) A taxpayer living and working in a restricted country cannot claim the benefits under IRC 911 on Form 2555 (or Form 2555-EZ for 2018 and prior years):

**Note:** As of June 11, 2013, Cuba is the only country on the Restricted List.

Restricted Country	Beginning Date	Ending Date
Cuba <b>Exception:</b> If a nonmilitary taxpayer files a Form 1040 with a Form 2555 to exclude income earned from Guantanamo Bay, allow the exclusion.	January 1, 1987	Still in Effect

Follow the If/Then chart below:

If	Then
The income was earned in the country listed in the chart above and the income was not <b>X-ed</b> in processing	<ul style="list-style-type: none"> <li>For 2021 and later, adjust the income to remove the exempt amount on <i>Schedule 1</i>, from line 8 and 9 of Form 1040 or Form 1040-SR.</li> <li>For 2019 and 2020 adjust the income to remove the exempt amount on <i>Schedule 1</i>, line 8 of Form 1040 or Form 1040-SR.</li> <li>For 2018, adjust the income to remove the exempt amount on <i>Schedule 1</i>, line 21 of Form 1040.</li> <li>For 2017 and prior years, adjust the income to remove the exempt amount from line 21 of Form 1040.</li> </ul> Send TPNC 314

- (5) U.S. government employees may not exclude income received from the U.S. government or its agencies on Form 2555 (or Form 2555-EZ for 2018 and prior years).
- (6) Taxpayers living and working in a U.S. territory, insular area or settlement, listed below are not considered to live in a foreign country for purposes of the foreign earned income exclusion on Form 2555 (or Form 2555-EZ for 2018 and prior years).
- American Samoa
  - Antarctica
  - Baker Island
  - Commonwealth of the Northern Mariana Islands
  - Guam
  - Howland Island
  - Jarvis Island
  - Johnston Atoll
  - Kingman Reef
  - Midway Atoll
  - Palmyra Atoll
  - Puerto Rico
  - U.S. Virgin Islands



- Wake Atoll

Take the following action if not identified in processing:

- If the foreign earned income exclusion is claimed and the taxpayer's primary home is in a U.S. territory, Antarctica or international waters, disallow the exclusion
- Adjust the total income to remove the foreign earned income exclusion amount on:
  - a. *Schedule 1*, line 8d, Form 1040 or Form 1040-SR for 2021 and later
  - b. *Schedule 1*, line 8, Form 1040 or Form 1040-SR for 2019 and 2020 or
  - c. *Schedule 1*, line 21, Form 1040 for 2018 or
  - d. Line 22, Form 1040 for 2017 and prior years.

Assign TPNC 310.

**Exception:** If a return has an address in the Palau Islands, The Federated States of Micronesia (FSM) or Republic of the Marshall Islands (RMI) and Form 2555 (or Form 2555-EZ for 2018 and prior years) is attached, allow the exclusion.

- (7) U.S. citizens and resident aliens who live abroad and have earned income from a foreign country may elect to exclude income from U.S. tax if their tax home is in a foreign country and one of the following conditions apply:

- To qualify for bona fide residence, the taxpayer must reside in a foreign country for an uninterrupted period that includes an entire tax year that extends into the tax period of the return.

**Note:** An entire tax year is from January 1 through December 31 for taxpayers who file their income tax returns on a calendar year basis.

**Example:** For tax year 2024, the taxpayer enters bona fide dates of 11/01/2022 to 10/15/2024. The taxpayer completed an uninterrupted period of residence for a full tax year (2023) and therefore meets the bona fide residence test. The taxpayer would also qualify for tax year 2023.

**Example:** For tax year 2024, the taxpayer enters bona fide **residence** dates of 10/01/2023 to 11/30/2024. The taxpayer did not complete an uninterrupted period of residence for a full tax year (2023 or 2024) and therefore does not meet the bona fide residence test in either year.

- To qualify for the physical presence test, the taxpayer must be physically present in a foreign country or countries by residing in any one country or a combination of them for at least 330 full days within any consecutive 12-month period. This qualifying period **does not have to be a calendar year** but may cover part of two years. Part of the 12-month time period must be within the tax period of the return.

**Note:** The bona fide residence and physical presence minimum time requirements may be waived if the taxpayer can demonstrate that they were forced to leave the foreign country because of war, civil unrest, civil insurrection, hostile fire, etc. Refer to Publication 54 or the *IMF Notice Review International Job Aid 2510-001* for a list of qualifying countries each year.



The bona fide residence and physical presence minimum time requirements may also be waived during the COVID-19 global health emergency for tax years 2019 and 2020. See Rev. Proc. 2020-27 for more specific details.

If the taxpayer has a partial tax year that falls within the qualifying period, the exclusion must be prorated for the partial year.

- (8) For married taxpayer filing jointly with deductible or excludable income for both spouses, a separate Form 2555 (or Form 2555-EZ for 2018 and prior years) is required for each spouse. Generally, only one spouse can claim a housing exclusion or housing deduction. Treasury Reg. 1.911-5(a)(3)(ii).
- (9) For tax year 2006 and subsequent tax years when the taxpayer claims the Form 2555 exclusion amounts, the **tax must be manually figured** using the Foreign Earned Income Tax Worksheet found in the *Instructions for Form 1040*. If necessary, recompute the tax and retype the notice appropriately.

**Note:** Verify the total income exclusion amounts on line 45 and on line 50 from each Form 2555 before manually computing the tax. Special instructions apply when capital gain excess is present.

- (10) When recomputing credits, the exclusions and/or deduction amounts are often included in the Modified AGI (MAGI).
- (11) If returning back to taxpayer's figures on Form 2555 (or Form 2555-EZ for 2018 and prior years), retype, void or label the notice as appropriate.
- (12) Excludable foreign earned income cannot exceed the limit as shown below per taxpayer:

Taxable Years	Maximum Exclusion
2024	\$126,500
2023	\$120,000
2022	\$112,000
2021	\$108,700
2020	\$107,600
2019	\$105,900
2018	\$103,900
2017	\$102,100
2016	\$101,300
2015	\$100,800

- Housing Deduction if housing is paid for with an employer-provided amount (Part VI).
  - Foreign Earned Income Exclusion for foreign earned income (Part VII)
  - Housing Exclusion if housing is paid for with self-employment earnings (Part IX)
- (2) Form 2555 must be completed and filed with a Form 1040 or Form 1040-SR.
- (3) Foreign earned income shown on line 26 of Form 2555 must be shown as earned income on:
- Form 1040 or Form 1040-SR, line 1a, and *Schedule 1*, lines 3, 5, 6, or 8z for 2021 and later.
  - Form 1040 or Form 1040-SR, line 1a, and *Schedule 1*, lines 3, 5, 6, or 8 for 2019 and 2020.
  - Form 1040, line 1, and *Schedule 1*, lines 12, 17, 18, or 21 for 2018.
  - Form 1040, lines 7, 12, 17, 18, or 21 for 2017 and prior years.
- (4) If foreign earned income other than wages is excluded, then a manual computation is necessary to determine the correct exclusion amount. The taxpayer cannot claim any adjustment, deduction or expense on Form 1040 or Form 1040-SR that is definitely-related to the excluded income. The foreign earned income exclusion on Form 2555 must be reduced by the allocable amounts. ERS assigns TPNC 303. See *IMF Notice Review International Job Aid 2510-001* for instructions.
- Exception:** If all the foreign earned income credit on Form 2555 is from page 2 of *Schedule E*, follow taxpayer intent.
- a. If income is not claimed, adjust the foreign earned income exclusion.
- Note:** If a taxpayer is reporting a loss on *Schedule C*, and included the income on Form 2555(s) with Form 1040 or Form 1040-SR, ensure the exclusion is entered as an increase to income (AGI) on:
- *Schedule 1*, line 8d for 2021 and later,
  - *Schedule 1*, line 8 for 2019 and 2020,
  - *Schedule 1*, line 21 for 2018 or
  - line 21 of Form 1040 , for 2017 and prior.
- (5) For tax years 2020 and 2021 **only**, a non-itemized charitable contribution can be claimed by taxpayers living overseas.
- a. For tax year 2021, the non-itemized charitable contribution is claimed on line 12b of Form 1040-NR or Form 1040 or Form 1040-SR. The deduction is limited to \$300.00 (\$600.00 for joint filers).
- b. For tax year 2020, the non-itemized charitable contribution is claimed on line 10b of the Form 1040-NR or Form 1040 or Form 1040-SR. The deduction is limited to \$300.00.
- (6) The foreign earned income exclusion amount and/or housing exclusion amount on line 45 of Form 2555 must be included on Form 1040 or Form 1040-SR:
- Line 8d of *Schedule 1*, for 2021 and later,
  - Line 8 of *Schedule 1*, for 2019 and 2020,
  - Line 21 of *Schedule 1*, for 2018 or
  - Line 21 of Form 1040, for 2017 and prior.

The housing deduction amount on line 50 of Form 2555 is included on:

- *Schedule 1*, line 24j for 2021 and later, *Schedule 1*, line 22 for 2019 and 2020
- *Schedule 1*, line 36 for 2018 or
- Line 36 of Form 1040 , for 2017 and prior.

(7) Indications of a Form 2555 attached to Form 1040 or Form 1040-SR are:

- Annotation of "IRC section 911 exclusion" written on the front page of the tax return
- The taxpayer completes *Schedule 1*, line 8d and/or line 24j for 2021 and later
- Annotation of "Form 2555" written on *Schedule 1*, next to line 8 and line 22 for 2019 and 2020 (or line 21 and line 36 for 2018)
- Taxpayer claiming "Overseas Housing Exclusion" *Schedule 1*, line 8 for 2019 and 2020 (or line 21 for 2018)
- Taxpayer claiming "Overseas Earned Income Exclusion" *Schedule 1*, line 8 for 2019 and 2020 (or line 21 for 2018)
- Taxpayer claiming "Overseas Housing Deduction" *Schedule 1*, line 22 for 2019 and 2020 (or line 36 for 2018)

(8) A taxpayer qualifies for foreign earned income exclusion if the taxpayer:

- Has foreign earned income;
- Meets the **tax home test** and either

Is a bona fide resident for an uninterrupted period (regardless of physical presence) which includes an entire taxable year (that includes part of the tax year of the return) **or**

Has been physically present in a foreign country 330 days out of 12 consecutive months.

If a partial tax year that falls within the qualifying period, the foreign earned income exclusion must be prorated for the partial year.

3.38.147.6.2  
(01-01-2021)  
**Form 2555-EZ, Foreign  
Earned Income  
Exclusion**

- (1) Beginning in 2019, Form 2555-EZ is obsolete for 2019 and later.
- (2) For 2018 and prior years, a taxpayer may only use Form 2555-EZ if the taxpayer has foreign earned income and meets **all of the following conditions**:
  - The taxpayer is a U.S. citizen or resident alien.
  - The taxpayer has earned wages or salaries in a foreign country or countries.
  - The total foreign earned income is not greater than the allowable amount.
  - The taxpayer is not claiming a housing deduction or housing exclusion.
  - The taxpayer is filing a calendar year return that covers a 12-month period.

**Reminder:** Foreign earned income claimed on line 17 of Form 2555-EZ must be included as income on line 1 of Form 1040 for 2018 (or line 7 of Form 1040 for 2017 and prior years). The exclusion amount claimed on line

18 of Form 2555-EZ is then shown as an adjustment to income on *Schedule 1*, line 21 of Form 1040 for 2018 (or line 21 on Form 1040 for 2017 and prior years).

3.38.147.7  
(01-01-2022)  
**Foreign Tax Credit, Form 1116**

- (1) Taxpayers may take a credit for taxes paid or accrued during the tax year to a foreign country or certain U.S. territories and any political subdivision (for example, city, state, or province) of the country or territory.
- (2) Generally, taxpayers may claim credit on Form 1116, Foreign Tax Credit, or deduct foreign income taxes paid on *Schedule A*, Itemized Deductions, but not both. However, a taxpayer claiming the credit on Form 1116 for foreign income taxes may still claim a deduction for certain foreign income taxes for which a credit is not allowed.
- (3) Form 1116 is filed to claim credit for income taxes paid to another government. Send TPNC 513 for Form 1040 if Form 1116 was either incomplete or not attached.

**Note:** If Foreign Tax Credit is \$300 or less (\$600.00 or less for married filing joint), the only foreign source income is passive income (e.g., interest and dividend), and the foreign source income and taxes are reported on a qualified payee statement Form 1099-DIV, Form 1099-INT and *Schedule K-1 (Form 1041)*, or similar substitute statements, a Form 1116 is **NOT** required.

- (4) In order to qualify for a credit, the foreign tax must be either an income tax or a tax in lieu of an income tax.
- (5) For 2018 and subsequent tax years, foreign real property taxes do not qualify for a deduction. For 2017 and prior years, foreign real property taxes qualify for a deduction, but not for a credit.
- (6) Other foreign taxes such as sales, transaction, or personal property taxes do not qualify for a credit or deduction unless incurred in connection with a trade or business.
- (7) The Foreign Tax Credit is a non-refundable credit.
- (8) Excess foreign tax credits may be carried back 1 year and then carried over 10 years .

**Note:** Carryback or carry over is always applied to the earliest year the excess Foreign Tax Credit could be used. However, it can only be claimed as a Foreign Tax Credit and never claimed as a Foreign Tax Deduction.

- (9) Taxpayers have a ten-year period during which they may file for refund of U.S. income tax paid, based on their recalculation of a Form 1116, Foreign Tax Credit. This would occur, for example, in situations where a taxpayer pays or accrues more foreign tax than originally claimed as a credit. The ten-year limitation applies to a change in the amount of the credit because of:
  - Math errors made computing foreign taxes.
  - Discovery of qualified foreign taxes that were not originally reported.
  - Any other change in the size of the credit including one caused by correcting the foreign tax credit limit.

**Note:** The limitations period for refunds is not to be confused with the ten-year

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- (10) The return due date (without extensions) for the year in which the foreign taxes were paid or accrued marks the beginning of the ten-year period.
- (11) The taxpayer cannot claim a deduction or a foreign tax credit for foreign tax on income that is excluded from taxable income using Form 2555 or Form 2555-EZ, IRC 933 (Puerto Rico) or IRC 931 (Form 4563). If the amount on line 1a of Form 1116, equals the amount on line 26 of Form 2555 (line 18 of Form 2555-EZ for 2018 and prior years), and line 12 of Form 1116, is blank or zero, disallow the foreign tax credit. Send TPNC 312.

**Note:** Do not adjust Form 1116 credit when making an adjustment to the return unless the situation above applies.

- (12) The foreign tax credit is not currently available for taxes paid to the following countries.
- Iran
  - North Korea
  - Sudan
  - Syria
- (13) The foreign tax credit is not allowed for:
- taxes with respect to an international boycott,
  - withholding taxes with respect to payments on stock or other property for which the required holding period has not been met,
  - withholding taxes on income or gain with respect to which a taxpayer had to make related payments on positions in substantially similar or related property,
  - taxes paid with respect to the purchase of oil or gas, or
  - taxes paid or accrued with respect to a covered asset acquisition described in IRC Section 901(m).

3.38.147.7.1  
(01-01-2025)

**Foreign Tax Deduction,  
Schedule A**

- (1) A taxpayer may take a deduction for taxes paid or accrued during the year to:
- A foreign country or certain U.S. territories.
  - Any political subdivision, agency or instrumentality of the country or territory.

**Note:** If the foreign tax deduction is claimed for income taxes paid to a U.S. territory or a foreign country, the deduction is claimed on line 6 of *Schedule A* (or line 8 for 2017 and prior years).

**Note:** Taxpayers are not required to attach any documentation if they are claiming foreign income taxes paid on *Schedule A*.

- (2) Generally, Taxpayers may not claim both a foreign tax deduction on *Schedule A* and a credit on Form 1116 for foreign income taxes in the same year. How-

ever, a taxpayer claiming credit on Form 1116 for foreign income taxes may still claim a tax deduction for certain foreign income taxes for which a credit is disallowed.

**Note:** If the taxpayer claims a foreign income tax deduction on *Schedule A*, and claims a foreign tax credit on Form 1116, disallow the *Schedule A* foreign tax deduction if it cannot be determined that it relates to a foreign tax for which a credit is disallowed.

3.38.147.8  
(01-01-2024)  
**Form 1040-NR or Form  
1040-NR-EZ,  
Nonresident Alien  
Income Tax Return**

- (1) If a taxpayer is not a citizen of the United States, specific residency tests apply to determine if the taxpayer is a resident alien or nonresident alien for tax purposes. See Chapter 1 of Publication 519, U.S. Tax Guide for Aliens, for more information.
- (2) Beginning in 2020, Form 1040-NR-EZ is obsolete for 2020 and later.
- (3) Form 1040-NR (or Form 1040-NR-EZ for 2019 and prior years) is filed by a nonresident alien taxpayer who is engaged in a trade or business within the United States even if the taxpayer:
  - Does not have income from a trade or business within the United States.
  - Does not have U.S. source incomes; or
  - Has income that is exempt from U.S. tax under a tax treaty or any section of the Internal Revenue Code

**Note:** A Form 1040-NR-EZ for 2019 and prior years is filed by a nonresident alien only if the taxpayer's U.S. source income was from wages, salaries, tips, refunds of state and local income taxes, scholarship or fellowship grants, and nontaxable (by tax treaty or by any section of the Internal Revenue Code) interest or dividends. If the taxpayer has taxable interest or dividend income, they must use Form 1040-NR instead of Form 1040-NR-EZ for 2019 and prior years.

- (4) Form 1040-NR (or Form 1040-NR-EZ for 2019 and prior years) is filed by a nonresident alien who is engaged in a trade or business within the United States if the taxpayer:
  - Has U.S. source income; and
  - Not all of the U.S. tax owed was withheld from that income.

**Note:** If the return indicates the taxpayer was present in the U.S. for the entire year, review the complete return and attachments for additional information to determine whether the taxpayer was a resident rather than a nonresident for U.S. tax purposes.

- (5) A nonresident alien is taxed at graduated rates on taxable income effectively connected with a U.S. trade or business. Although most effectively connected income is derived from U.S. source income effectively connected income may include foreign source income in limited circumstances. See chapter 4 of Publication 519 for more information.

- (6) A nonresident alien who is married to a U.S. citizen or resident alien spouse may elect under IRC 6013(g) or (h) to be treated as a resident of the U.S. and may file a Form 1040 return jointly with a U.S. citizen or resident alien spouse. See Publication 519 .
- (7) Certain types of income are subject to special treatment and all or a portion of such types of income may be exempt from U.S. income tax including the following situations:
- a. Scholarship or fellowship income may be exempt under an applicable tax treaty or expenses excluded under IRC 117, provided that certain requirements are met. See Chapter 3 of Publication 519.
  - b. Certain community property laws must be disregarded. and income cannot be split, if:
    - Both the taxpayer and their spouse are nonresident aliens, or
    - One of the taxpayers is a nonresident alien and their spouse is a U.S. citizen or resident alien and they do not both elect to be treated as U.S. residents and file a joint return.

**Note:** In these cases, community income must be reported as described in IRC 879 and Publication 519.

- c. Nonresident aliens who work for certain international organizations or foreign governments may exempt wages earned as compensation for official services to such organizations or governments under IRC 893 - Compensation of Employees of Foreign Governments or International Organizations.
- d. Wages a nonresident alien earns from a foreign employer, not engaged in business in the U.S., for services the nonresident alien performed in the U.S. for a period not exceeding 90 days is exempt if the nonresident alien's compensation does not exceed \$3,000 aggregate. A larger exempt amount may be available under an applicable treaty.

If the taxpayer indicates wages or salary compensation is being exempted, see IRM 3.22.3.166.2.1, Employees of Foreign Governments or International Organizations, for instructions.

- e. Interest paid to nonresident aliens from a U.S. bank account, savings and loan association or similar institution is not taxable (exempt) as income if such income is not effectively connected with the conduct of a trade or business within the United States. See IRC 871(i)(2)(A). If a supporting statement indicates bank interest, delete the line 2b bank interest entry on Form 1040 and assign TPNC 403.
- (8) Nonresident aliens may be subject to additional taxes and liabilities including:
- Alternative Minimum Tax on the net gain from the disposition of U.S. real property interests
  - Tax at a 30 percent or lower tax treaty rate on certain items of gross income of gains from U.S. sources that are not effectively connected with a trade or business within the U.S.
  - Social Security and Medicare taxes on taxable wages depending on the type of visa



- Tax on distributions from an IRA or other retirement plan, and tax on contributions to, earnings from, and distributions from foreign retirement plans (unless otherwise exempt by an applicable tax treaty)
- Tax on transportation income
- Employment tax and income tax withholding for household employees

(9) Nonresident aliens who file Form 1040-NR (or Form 1040-NR-EZ for 2019 and prior years) are not entitled to the following credits:

- Earned Income Credit (*Schedule EIC*)
- Standard Deduction for Certain Filers (*Schedule L*) (Student and Business Apprentices of India can use the Publication 519 worksheet)
- Tuition and Fees (Form 8917)
- American Opportunity and Lifetime Learning Credits (Form 8863)
- First Time Home Buyer Credit (FTHBC) (Form 5405)

**Note:** Taxpayers who received the FTHBC in 2008 can claim the repayment on Form 1040-NR.

- Recovery Rebate Credit for tax years 2020 and 2021.

3.38.147.8.1  
(01-01-2025)

#### Effectively Connected Income (ECI)

(1) Effectively connected income generally includes:

- Salaries, wages, and other compensation (e.g., tips, commissions, deferred compensation, pensions, annuities) paid for services performed in the United States
- Certain winnings (including scholarships and fellowships)
- Certain **U.S. Source Fixed, Determinable, Annual, Periodical (FDAP) Type Income** as well as gain or loss from the sale or exchange of capital assets, can be treated as effectively connected income if the item meets either an asset-use test or a business activities test. For example, interest, rents and royalties may be ECI. Dividends paid to nonresident aliens will almost never meet one of these tests.

**Note:** Many categories of income subject to chapter 3 withholding, such as salaries and wages, do not need to meet one of these tests to be ECI.

- **Residual Force of Attraction Rule** - All other U.S. sourced income, even if not effectively connected to a nonresident alien's actual U.S. trade or business, is ECI (but this rule applies only to income that would not otherwise be classified as FDAP type income subject to the asset use or business activities test. This includes primarily U.S. sourced income from the sale of inventory not sold through a U.S. office. This type of income may be exempted under an income tax treaty to the extent it is not attributable to a U.S. permanent establishment of the taxpayer.
- **Foreign Sourced Income** - Certain foreign sourced income that is derived through an office or fixed place of business in the United States may be effectively connected income.

**Note:** Income earned by a nonresident alien through a partnership may be classified as effectively connected income if the partnership is engaged in a U.S. trade or business, and the income is effectively connected with its business. Foreign trusts and estates may be engaged in a U.S. trade or business, but usually only when they earn income from real estate.

- (2) Effectively Connected Income is generally not subject to withholding if the taxpayer has complied with applicable documentation requirements but is taxed on a net basis at graduated rates.

**Exception:** The following types of effectively connected income are subject to withholding.

- Wages
- A nonresident alien's partner's distributive share of the partnership's effectively connected income
- The amount realized by a nonresident alien on sale of U.S. real property (including stock in a U.S. real property holding company) and
- Disposition for gain by a nonresident alien of an interest, owned directly or indirectly, in a partnership in the conduct of a trade or business with the U.S. See IRC 864(c)(8).

Wages paid to nonresident aliens are subject to IRC 3402 withholding in generally the same way as for U.S. citizens and resident aliens if the wages are effectively connected with the conduct of a U.S. trade or business.

- (3) Effectively Connected Income is reported on page 1 of:

- Form 1040-NR, lines 1 through 7 and *Schedule 1* for 2020 and later
- Form 1040-NR, lines 8 through 22 for 2019 and prior
- Form 1040-NR-EZ, lines 3 through 5 for 2019 and prior
- All income sources are connected to U.S. trades or businesses, and all wages, compensation, interest, dividends, etc., and withholding are derived from *Form W-2*, *Form W-2G*, *Form 1042-S* (**with Exemption Code 01 in box 3a or Exemption Code 14 in Box 4a**) or *Form 1099*.

- (4) If a taxpayer claims a treaty benefit, the taxpayer must provide, among other things, the name of the country of which they are a resident, the relevant treaty article (paragraph is not required), the number of months the treaty benefit was claimed in prior tax years, and the amount of "exempt" income during the tax year.

- (5) All treaty information used to exempt effectively connected income reported on Form 1042-S, Income Codes 16 through 20, should be provided on Item L, **Schedule OI** of Form 1040-NR (Item J, **Schedule OI**, page 2 of Form 1040-NR-EZ). Taxpayers should include treaty exempt income amounts on:

- Line 1k of Form 1040-NR for 2022 and later
- Line 1c of Form 1040-NR for 2020 and 2021
- Line 22 of Form 1040-NR for 2019 and prior years or
- Line 6 of Form 1040-NR-EZ for 2019 and prior years.

Taxpayers should include the remaining portion of income already reduced by the treaty exempt amount on:

- Line 1a of Form 1040-NR for 2022 and later for Income Codes 17 through 20
- Line 8r on **Schedule 1** of Form 1040-NR for 2022 and later for Income Code 16
- Line 1a and 1b of Form 1040-NR for 2020 and 2021
- Line 8 of Form 1040-NR for 2019 and prior years or
- Line 3 of Form 1040-NR-EZ for 2019 and prior years.

**Note:** Exemption Code 04 on a Form 1042-S does not count as a valid treaty exemption except when issued by a college or university with Income Code 16 and there is no withholding.

**Note:** For 2020 and later, **Schedule A**, **Schedule NEC** and **Schedule OI** are separate schedules and should be attached to the Form 1040-NR as required. The same tax treaty information reported on the **Schedule OI** for 2019 and prior years on Form 1040-NR or Form 1040-NR-EZ must be reported on the **Schedule OI** and attached to Form 1040-NR for 2020.

(6) When a *Form W-2* and Form 1042-S are attached to a Form 1040-NR (or Form 1040-NR-EZ for 2019 and prior years), are from the same employer, and the wages are exempt by tax treaty, an employer may report the taxable portion on *Form W-2* and the tax-exempt portion on Form 1042-S. If a *Form W-2* and a Form 1042-S from the same employer are attached to the return, add the income from both forms together and then subtract the treaty exemption amount to determine if the taxpayer claimed more than the maximum amount allowed by treaty. The remainder is taxable and must be reported on:

- Line 1a of Form 1040-NR for 2020 and later
  - Line 8 of Form 1040-NR for 2019 and prior years or
  - Line 3 of Form 1040-NR-EZ for 2019 and prior years.
- The exempt amount is reported on:

- Line 1k of Form 1040-NR for 2022 and later
- Line 1c of Form 1040-NR for 2020 and 2021
- Line 22 of Form 1040-NR for 2019 and prior years or
- Line 6 of Form 1040-NR-EZ for 2019 and prior years.

(7) Gain or loss on the disposition of a U.S. real property interest is taxed as if the gain or loss were effectively connected with the conduct of a U.S. trade or business. Gains and losses are reported on *Schedule D*

- Form 1040 or Form 1040-SR line 7 for 2020 and later
- Form 1040 or Form 1040-SR, *Schedule 1*, line 13 for 2018
- Form 1040-NR line 7 for 2020 and later
- Form 1040-NR line 14 for 2019 and prior

**Note:** Net gains may be subject to the Form 6251, Alternative Minimum Tax. See Publication 519 for more information.

(8) If a nonresident alien disposes of U.S. real property interests at a gain, the taxpayer must make a special computation on Form 6251, Alternative Minimum Tax. The taxpayer will also enter Return Processing Instruction (RPI) on the dotted line next to line 30.

3.38.147.8.2  
(01-01-2025)  
**Fixed or Determinable  
Annual or Periodical  
(FDAP) (and other  
Non-Effectively  
Connected Income  
Subject to U.S.  
Withholding)**

(1) The following types of income are subject to U.S. withholding at 30 percent (unless reduced by an applicable treaty or other code provision) to the extent the income is (1) U.S. sourced, and (2) NOT effectively connected to a U.S. trade or business:

- interest
- dividends
- rents
- premiums

- social security benefits
- pensions and annuities
- Gambling winnings
- fellowships and scholarships
- royalties (including contingent gains from the sale of intellectual property)
- other fixed or determinable, annual or periodical income
- capital gains to the extent the nonresident alien is present in the United States for 183 days or more during the tax year.

**Note:** Portfolio interest and certain gambling winnings are exempt.

- a. Up to \$3,000 of income from the performance of personal services performed in the United States is exempt from U.S. tax if the following conditions are met.
  - Services are performed for either a foreign employer who is not engaged in a U.S. trade or business, or for a foreign office or U.S. territory of a U.S. employer and
  - The nonresident alien is temporarily present in the United States during the tax year for 90 days or less. This income is exempt from FDAP withholding because it does not constitute U.S. sourced income and is not considered effectively connected income.

**Note:** Crew members of foreign vessels engaged in transportation between the U.S. and a foreign country or U.S. territory are also treated as earning foreign source compensation income exempt from FDAP withholding.

- (2) With certain exceptions, non-effectively connected income is reported on *Schedule NEC* of Form 1040-NR. It is generally subject to U.S. withholding tax at a flat 30 percent rate (or a lower treaty rate). No deductions are allowed against such income. Form 1042-S with exemption code 00 or a blank entry in box 3a or 4a identifies the income as non-effectively connected.

3.38.147.8.3  
(01-01-2022)  
**Form 1040-NR**

- (1) Income reported on Form 1040-NR is classified as effectively connected or non-effectively connected income.
- (2) Effectively connected income is reported on page 1 of Form 1040-NR and taxed at graduated rates with exemption from withholding.
- (3) Form 1040-NR effectively connected income generally includes wages, scholarship and fellowship grants, business income, and in limited circumstances, interest, dividends, connected with a U.S. trade or business.

- a. If **wage income** is reported on line 1a for 2020 and later or line 8 for 2019 and prior, the return must be assigned Doc Code 73

**Note:** The due date of the Form 1040-NR is the fifteenth (15th) day of the fourth (4th) month (04-15-XX) following the close of the tax period.

- b. If **no wage income** is reported, the return is assigned Doc Code 72

**Note:** The due date of the Form 1040-NR is the fifteenth (15th) day of the sixth (6th) month (06-15-XX) following the close of the tax period

NOTE: Notice 2020-23 provides that the due date for filing and paying 2019 federal income taxes due on or after April 1, 2020, and before July 15, 2020, is automatically postponed to July 15, 2020.

- (4) Non-effectively connected income is reported on *Schedule NEC* of Form 1040-NR and is taxed at a flat rate of 30 percent or a lower treaty rate.

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3.38.147.8.3.1  
(01-01-2024)  
**Filing Status**

- (1) For TY 2018 and later, the following table provides the allowable filing statuses (FS) for Form 1040-NR:

Form 1040-NR Filing Status Checked by Taxpayer	Description	Code and Edit Changes Filing Status To
Single box - 2020 and later Box 2 - 2019 and 2018		1
Married box - 2020 and later Box 5 - 2019 and 2018		3
Qualifying Spouse for 2022 and later Qualifying Widow(er) box - 2020 and 2021 Box 6 - 2019 and 2018 (with dependent name)	Date of death is <b>not</b> within 2 years prior to the tax period of the return. (Example: For tax year 2022 date of death is <b>not</b> 2020 or 2021.)	1
Qualifying Spouse for 2022 and later Qualifying Widow(er) box - 2020 and 2021 Box 6 - 2019 and 2018 (with dependent name)	Date of death <b>is</b> within 2 years prior to the tax period of the return, (Example: For tax year 2022 date of death <b>is</b> 2020 or 2021.) and the taxpayer has a qualifying child, and the taxpayer <b>is a</b> U.S. National, resident of Canada, Mexico, South Korea, or <b>is a</b> student or business apprentice from India eligible for the benefits of Article 21(2) of the United States-India Income Tax Treaty.	5
Qualifying Spouse for 2022 and later Qualifying Widow(er) box - 2020 and 2021 Box 6 - 2019 and 2018 (with dependent name)	The taxpayer <b>is not a</b> U.S. National, or resident of Canada, or Mexico, or South Korea, or a student or business apprentice from India eligible for the benefits of Article 21(2) of the United States-India Income Tax Treaty. Regardless of spouse date of death or qualifying child.	1
No boxes checked	Filing Status depends on tax. Look for fiduciary notation	1 or 3

Form 1040-NR Filing Status Checked by Taxpayer	Description	Code and Edit Changes Filing Status To
Multiple or all boxes are checked	Not Applicable	Use the filing status 1, 3, or 5 which best corresponds to the taxpayer's taxable income (tax rate chart) if all criteria for that filing status is met

- (2) For TY 2017 and prior years, the following table provides the allowable filing statuses (FS):

Form 1040-NR Filing Status Box Checked by Taxpayer	Description	Code and Edit Changes Filing Status to
1	Single U.S. National or resident of Canada or Mexico	1
2	Other single nonresident alien	1
3	Married U.S. National or resident of Canada or Mexico or a student or business apprentice from India eligible for the benefits of Article 21(2) of the United States-India Income Tax Treaty and spouse's exemption is <b>not</b> claimed.	3
3	Married U.S. National or resident of Canada or Mexico or a student or business apprentice from India eligible for the benefits of Article 21(2) of the United States-India Income Tax Treaty and spouse's exemption <b>is</b> claimed.	6
4	Married resident of South Korea and spouse's exemption is <b>not</b> claimed.	3
4	Married resident of South Korea and spouse's exemption is claimed.	6
5	Other married nonresident alien.	3
5 <b>Exception:</b> Qualifying India Treaty (students and business apprentices only)	Only if the spouse is claimed and date of death <b>is</b> within 2 years prior to the tax period of the return.	6
6	Date of death is <b>not</b> within 2 years prior to the tax period of the return.	1

Form 1040-NR Filing Status Box Checked by Taxpayer	Description	Code and Edit Changes Filing Status to
6	Date of death <b>is</b> within 2 years prior to the tax period of the return, and the taxpayer has a qualifying child, and the taxpayer <b>is a</b> U.S. National, resident of Canada, Mexico, or South Korea, or a student or business apprentice from India eligible for the benefits of Article 21(2) of the United States-India Income Tax Treaty.	5
6	The taxpayer <b>is not a</b> U.S. National, or resident of Canada, or Mexico, or South Korea, or a student or business apprentice from India eligible for the benefits of Article 21(2) of the United States-India Income Tax Treaty, regardless of date of death or qualifying child.	1
No box is checked	Filing Status depends on tax. Look for fiduciary notation.	1 or 3
Multiple boxes are checked	Not Applicable	Use the filing status <b>1, 3,5, or 6</b> which best corresponds to the taxpayer's taxable income (tax rate chart) if all criteria for that status is met.

3.38.147.8.3.2  
(11-19-2019)  
**Exemptions**

- (1) For TY 2018 through TY 2025, taxpayers filing a Form 1040-NR cannot claim an exemption (the amount is \$0) for self, spouse, children, or dependents.
- (2) For TY 2017 and prior years, the following table provides the allowable exemptions for foreign taxpayers:

If the taxpayer checks	Then the taxpayer can claim an exemption(s) for:
Box 1	Self, children, and dependents
Box 2	Self only
Box 3	Self, spouse, and/or children and dependents
Box 4	Self, spouse, and dependents who lived with taxpayer
Box 5	Self only <b>Exception:</b> India(students/business apprentices) self, spouse, and/or children, and dependents



If the taxpayer checks	Then the taxpayer can claim an exemption(s) for:
Box 6	Self and Dependents

3.38.147.8.3.3  
(01-01-2025)  
**Deductions**

- (1) For 2018 and later, individual taxpayers may be entitled to claim a qualified business income deduction (QBID) on Form 1040-NR for up to 20 percent of their business income. However, the QBID is limited to 20 percent of the taxable income minus net capital gains. Depending on the taxpayer's taxable income, the deduction is subject to multiple limitations including the type of trade or business. The deduction can be taken in addition to the standard or itemized deductions. For 2019 and later, the taxpayer must complete and attach Form 8995 or Form 8995-A to the tax return to claim the deduction.
- (2) For 2020 and 2021 **only**, certain residents of India can claim a non-itemized charitable contribution.
  - a. For tax year 2021, the non-itemized charitable contribution is claimed on line 12b of Form 1040-NR Form 1040, or Form 1040-SR. The deduction is limited to \$300.00 (\$600.00 for joint filers).
  - b. For tax year 2020, the non-itemized charitable contribution is claimed on line 10b of the Form 1040-NR, Form 1040, or Form 1040-SR. The deduction is limited to \$300.00.
- (3) The taxpayer can **ONLY** itemize deductions on *Schedule A* (page 3 of Form 1040-NR) against income items on lines 1 through 8 with *Schedule 1* for 2020 and later (or lines 8 through 21 of Form 1040-NR for 2019 and prior years). Itemized deductions are not allowed on non-effectively connected income. Deductions are allowed against effectively connected income only to the extent the taxpayer timely files their return pursuant to IRC Section 874(a).
- (4) For TY 2018 and later, deductions on *Schedule A* are limited to the following:
  - Taxes Paid - Beginning in 2018, state and local income tax withheld is limited to the smaller of the amount on *Schedule A*, line 1b, Form 1040-NR or \$10,000 for filing status single (FS 1) and qualifying widower (FS 5). If filing status is married filing separately (FS 3) the amount is limited to the lesser of *Schedule A*, line 1b or \$5,000.
  - Gifts to U.S. Charities- Deductible contributions limited to U.S. religious, charitable, scientific, literary, educational and humanitarian purposes
  - Casualty or theft losses from a federally declared disaster
  - Other Miscellaneous deductions

**Note:** Unreimbursed job expenses and other certain Miscellaneous Deductions subject to the 2 percent limitation of the Adjusted Gross Income (AGI) can no longer be deducted.
- (5) For TY 2017 and prior years, deductions on *Schedule A* are limited to the following:
  - State and local income tax withheld claimed by the taxpayer and supported by attached W-2(s) is allowed on Form 1040-NR, *Schedule A*.

- Deductible contributions are limited to U.S. Religions, Charitable, Scientific, Literary, Educational and Humanitarian purposes.
  - Other deductions include casualty or theft losses, expenses and other
- #  
#  
#
- Nonresident aliens cannot offset incurred gambling losses against gross winnings (except Canada).
- (6) For TY 2017 and prior years, total itemized deductions on *Schedule A* is subject to a limitation based on adjusted gross income on line 36 of Form 1040-NR. For 2018 and later, the limitation no longer applies. *Schedule A* was not subject to the limitation in tax years 2010 to 2012.
- (7) Students and business apprentices who are residents of India may be able to claim a standard deduction.
- The return is sometimes annotated “Standard Deduction allowed under U.S.-India Income Tax Treaty” on line 12 (line 37 for 2019 and prior) of the Form 1040-NR.
  - Taxpayers may claim either the standard deduction allowance or itemized deductions but cannot claim both,
  - Taxpayers eligible for the standard deduction are also eligible for the additional standard deduction for age and blindness (ABI).
  - For TY 2008 through 2010, they may also use the worksheet in Publication 519, which includes a version of *Schedule L*.
  - For TY 2016 and later, taxpayers claiming the standard deduction on Form 1040-NR may claim the standard deduction and an additional deduction for certain disaster losses on Form 4684, Casualties and Thefts.
  - For 2018 and later years, losses must be federally declared disaster losses.

3.38.147.8.3.4  
(01-01-2024)  
**Dependents**

- (1) Taxpayers who file Form 1040-NR can claim Child Tax Credit, Additional Child Tax Credit and/or the Credit for Other Dependents (ODC) for a qualifying dependent(s). The credit is restricted based on the taxpayer’s country of residence on Form 1040-NR.
- (2) For 2021 only, the taxpayer can claim a **refundable** child tax credit. They must file a *Schedule 8812*, Credits for Qualifying Children and Other Dependents, and check the box (Line 13) to indicate they had a principal place of abode in the U.S. for more than half of the 2021 tax year.
- (3) To determine the country of permanent residence for a nonresident alien, use the taxpayer’s information from Form 1040-NR in the following order:
- *Schedule OI*, line B with Form 1040-NR or page 2 of Form 1040-NR-EZ for 2019 and prior.
  - *Schedule OI*, line A with Form 1040-NR, or page 2 Form 1040-NR-EZ for 2019 and prior
  - Address from the Entity section of Form 1040-NR or Form 1040-NR-EZ for 2019 and prior
  - Review of any attachments
- (4) Use the following table to determine the allowable dependents based on country of residence.

If...	Then...
The taxpayer is a U.S. national or a resident of : <ul style="list-style-type: none"> <li>• Canada</li> <li>• Mexico</li> <li>• India</li> </ul> And claiming a dependent	The taxpayer can claim dependents for CTC, ACTC, and ODC.
The taxpayer is a resident of South Korea.	The taxpayer can claim child(ren) who lived in the United States, but not other dependents for CTC, ACTC, and ODC.
All others or the country of residence cannot be determined.	No dependents can be claimed for CTC, ACTC, or ODC.

3.38.147.8.4  
(01-01-2023)  
**Form 1040-NR-EZ**

- (1) Form 1040-NR-EZ was obsoleted after tax year 2019.
- (2) Income reported on Form 1040-NR-EZ is classified as effectively connected income only.
  - a. **If wage income** is reported on line 3, the return must be assigned Doc Code 73

**Note:** The due date of the Form 1040-NR-EZ is the fifteenth (15th) day of the fourth (4th) month (04-15-XX) following the close of the tax period.
  - b. **If no wage income** is reported on line 3, the return is assigned Doc Code 72

**Note:** The due date of the Form 1040-NR-EZ is the fifteenth (15th) day of the sixth (6th) month (06-15-XX) following the close of the tax year.

**Note:** Notice 2020-23 provides that the due date for filing and paying 2019 federal income taxes due on or after April 1, 2020, and before July 15, 2020, is automatically postponed to July 15, 2020.

3.38.147.8.4.1  
(01-01-2021)  
**Filing Status**

- (1) For 2019 and prior years, the following table provides allowable filing status codes (FS) for Form 1040-NR-EZ:

Form 1040-NR-EZ Filing Status Box Checked by Taxpayer	Description	Code and Edit Changes Filing Status Code to
1	Single nonresident alien	1
2	Married nonresident alien	3

Form 1040-NR-EZ Filing Status Box Checked by Taxpayer	Description	Code and Edit Changes Filing Status Code to
No box is checked	Filing Status depends on tax. Look for fiduciary notation.	1
Both boxes are checked	Not Applicable	1

3.38.147.8.4.2  
(01-01-2021)  
**Exemptions**

- (1) For TY 2018 and 2019, a taxpayer filing a Form 1040-NR-EZ cannot claim an exemption (the amount is \$0) for self.
- (2) For TY 2017 and prior years, only one exemption (for self) is allowed on Form 1040-NR-EZ.

**Note:** A taxpayer filing Form 1040-NR-EZ cannot be claimed as a dependent by another taxpayer.

3.38.147.8.4.3  
(01-01-2021)  
**Deductions**

- (1) Standard deduction is not allowed on Form 1040-NR-EZ.

- Exception:** Only residents of India (students and business apprentices) are allowed to claim the standard deduction allowance for filing status single (FS 1) or married filing separately (FS 3). These taxpayers may claim either the standard deduction allowance or itemized deductions but may not claim both. Taxpayers can claim an additional standard amount for 65 and over and/or blind (ABI) and Form 4684 deduction for a federally declared disaster.
- (2) Only state and local income tax withheld claimed by the taxpayer and supported by attached Form W-2 and/or Form 1042-S is allowed on line 11 of Form 1040-NR-EZ. For TY 2018 and 2019, state and local income tax withheld is subject to the limitation same as Form 1040-NR.
  - (3) If deductions other than those listed in (2) above are included in line 11 take the following action:
    - To remove those items- Use CC REQ54, input TC 29X, Reason Code 076.
    - Send TPNC 196

3.38.147.8.5  
(01-01-2025)  
**Gambling Income**

- (1) Gambling winnings (Form 1042-S, Income Code 28) are subject to a 30 percent withholding. Lottery winnings are not exempt. Winnings subject to withholding tax are not reduced by gambling losses. Gambling winnings are non-effectively connected (Form 1040-NR, *Schedule NEC*) unless documentation is submitted to prove a nonresident alien is a professional gambler.

**Exception:** Effective January 1, 1996, residents of Canada may claim gambling losses, but only to the extent of gambling winnings. These taxpayers should report both their total gambling winnings and their total gam-

bling losses on *Schedule NEC* of Form 1040-NR, lines 10a and 10b. If they have net gambling winnings (after offsetting their total gambling losses against their total gambling winnings), this should be included in the net amount on line 15, column (d).

- (2) Taxpayers who file Form 1040 or Form 1040-SR and include gambling income from Form 1042-S (Income code 28), not reported on a *Schedule C*, must include the tax on *Schedule 2*, line 17o with the Form 1040 or Form 1040-SR. If the taxpayer enters gambling income from page 1 of Form 1040 or Form 1040-SR, and it is taxable:

- Use IRM 3.38.147.3.12, **Tax Treaty - General Information**, to verify the treaty tax rate
- Delete the income from AGI
- Adjust to include the tax on:
  - a. Line 17o of *Schedule 2* with Form 1040 or Form 1040-SR for 2021 and later,
  - b. Line 24 of Form 1040 or Form 1040-SR for 2020,
  - c. Line 15 or 16 of Form 1040 or Form 1040-SR for 2019 or 2018 or
  - d. Line 63 of Form 1040 for 2017 and prior years.
- Send TPNC 429

**Reminder:** Canadian taxpayers are allowed to claim gambling losses. Review the return for any gambling expenses reported in the Other Itemized Deductions section on *Schedule A*, Itemized Deductions. Offset any gambling income with gambling losses before applying the treaty tax rate.

- (3) Nonresident aliens with income from gambling winnings are subject to tax at a flat 30 percent rate unless covered by a treaty. This income is also subject to withholding at the source. Based on these treaties, gambling winnings are not subject to United States tax for residents of the following countries:

- Austria
- Belgium
- Bulgaria
- Chile

**Caution:** The United States-Chile tax treaty entered into force on December 19, 2023. The treaty is effective for withholding taxes on payments made on or after February 1, 2024. For all other taxes the treaty is effective for tax years beginning on or after January 1, 2024. Gambling winnings are not subject to United States tax for residents of Chile.

- Czech Republic
- Denmark
- Finland
- France
- Germany
- Hungary

**Caution:** The income tax treaty between the government of the United States and the government of the Hungarian People's Republic was terminated effective January 8, 2023. The termination of the treaty is effective for withholding taxes on payments made on or after January 1, 2024. For all

other taxes the termination of the treaty is effective for tax years beginning on or after January 1, 2024.

- Iceland
- Ireland
- Italy
- Japan
- Latvia
- Lithuania
- Luxembourg
- Netherlands
- Russia

**Caution:** On July 1, 2024, Announcement 2024-26, 2024-27 I.R.B.14, announced the suspension of paragraph 4 of Article 1, and Articles 5-21 and 23 of the income tax treaty between the United States and Russia. The suspension is effective on August 16, 2024, and will continue until otherwise decided by the two governments. Confirm the suspension of the article or articles that could cover gambling winnings.

- Slovak Republic
- Slovenia
- South Africa
- Spain
- Sweden
- Tunisia
- Turkey
- Ukraine
- United Kingdom (England, Northern Ireland, Scotland and Wales)

**Note:** Gambling income of residents of Malta is taxed at 10 percent.

**Note:** Refer to the applicable income tax treaty to verify gambling winnings are exempt from United States tax.

(4) Federal tax withheld on gambling winnings must be substantiated with Form 1042-S (Income Code 28), *Form W-2G*, or Form 1099-G.

(5) To adjust the:

- Gambling tax (*Schedule NEC* line 15) - use CC REQ54, input TC 29X, reason code 037.
- U.S. tax withheld at source (withholding, Form 1042-S, box 7) use CC REQ54, input TC 290.00, Reason Code (RC) 051, with Credit Reference Number (CRN) 330 (+/-). The adjustment will post as TC 766/767.

3.38.147.8.6  
(01-01-2025)

#### Scholarship/Fellowship Grants

- (1) Qualified scholarships are tax free. The taxpayer must be a degree candidate to qualify for a tax-free scholarship/fellowship.
- (2) A degree candidate is a full or part-time student who is pursuing a degree at a college, university (bachelor's or higher degree), or another accredited educational institution providing training in a recognized occupation.
- (3) A qualified scholarship or fellowship grant is any amount used under the terms of the grant for any of the following:

## 3.38 International Tax Returns and Documents

- Tuition and fees required to enroll in or attend, an educational institution
  - Fees, books, supplies, and equipment that are required of all students in the course of instruction
- (4) Amount(s) received for incidental expenses do not qualify as a tax-free scholarship. Incidental expenses include expenses for room, board, travel, research, and clerical help. Also included are expenses for equipment and other items that are not required for either enrollment or attendance, or in a course of instruction at the educational organization. Any portion of the grant that represents payment for teaching, research, or other services is taxable.

Payment for	Degree Candidate
Tuition	Tax free
Fees	Tax free
Books	Tax free if required of all students in the course of instruction
Supplies	Tax free if required of all students in the course of instruction
Equipment	Tax free if required of all students in the course of instruction
Room	Taxable
Board	Taxable
Travel	Taxable
Teaching	Taxable
Research	Taxable
Other Services	Taxable

- (5) Scholarship/Fellowship Grants are reported on:
- Line 1a of Form 1040-NR to report amounts earned for teaching, research, etc. reported on a Form W-2 for tax year 2022 and later.
  - Line 8r of Schedule 1 attached to Form 1040-NR to report income from Form 1042-S, Income Code 16 issued by a college or educational institution for 2022 and later.
  - Line 1b of Form 1040-NR for 2020 and 2021.
  - Line 12 of Form 1040-NR for 2019 and prior
  - Line 5 of Form 1040-NR-EZ for 2019 and prior years

**Note:** Support is not required for these entries.

- (6) All or part of scholarship/fellowship grant income may be exempt under an applicable tax treaty. Any portion of the grant that represents payment for teaching, research, or other services is generally taxable. Amount should be reported on:
- Line 1k of Form 1040-NR for 2022 and later
  - Line 1c of Form 1040-NR for 2020 and 2021
  - Line 22 of Form 1040-NR for 2019 and prior
  - Line 6 of Form 1040-NR-EZ for 2019 and prior

The remaining amount not exempted by a tax treaty should be included on:



- Line 8r, on *Schedule 1* attached to Form 1040-NR, for 2022 and later
- Line 1b of Form 1040-NR for 2020 and 2021
- Line 12 of Form 1040-NR for 2019 and prior
- Line 5 of Form 1040-NR-EZ for 2019 and prior years

**Note:** Income Code 16, Exemption Code 4, counts as a valid treaty exemption when issued by a college or university and there is no withholding.

- (7) If the scholarship/fellowship grant amount cannot be exempted by a valid tax treaty, the taxpayer may exclude items as allowed by IRC 117 (tuition, fees, books, supplies, and equipment).

**Note:** Taxpayer must provide information, such as a Form 1098-T from a qualified educational institution, receipts, or other statements supporting the excluded amount.

- (8) The amount excluded from scholarship/fellowship grant income explained above is reported as an adjustment to income on:
- Line 24z on *Schedule 1* attached to Form 1040-NR, line 10 for 2022 and later
  - Line 10c of Form 1040-NR for 2020 and 2021
  - Line 31 of Form 1040-NR for 2019 and prior
  - Line 8 of Form 1040-NR-EZ for 2019 and prior
- (9) To allow or disallow the tax treaty-exempt amount or excluded amount:
- Use CC REQ54, input TC 29X, Reason Code (RC) 083 for the treaty-exempt amount (income) or Reason Code 084 for the excluded amount (adjustment to income).
- (10) See Tax Treatment of Scholarship and Fellowship Payments in the *IMF Notice Review International Job Aid 2510-001* for line-by-line references.

3.38.147.8.7  
(01-01-2017)  
**Estates and Trusts  
(Nonresident Alien)**

- (1) Nonresident alien estate and trust tax returns are filed on Form 1040-NR and processed as Non-Master File documents.
- (2) If the return was incorrectly processed to Master File, take the following steps:
- Void the notice.
  - Input a STAUP for 8 cycles if necessary.
  - Prevent the refund from generating if necessary. Refer to IRM 3.14.1, IMF Notice Review, guidelines regarding the time lines for the TC570/NOREFP input.
  - Route document to Accounts Management, Stop 6567 AUSPC, on Form 3465, Adjustment Request.

3.38.147.9  
(11-19-2019)  
**U. S. Agency  
International  
Development Returns  
(USAID)**

- (1) If a notice shows the taxpayer is not liable, and the tax has been decreased to zero (.00) with an overpayment of tax withheld, take the following steps:
- Prevent the refund from generating.
  - Void the notice and follow guidelines regarding the timeliness for the TC570/NOREFP input.
  - Adjust the return using the figures originally reported by USAID.

3.38.147.10  
(01-01-2016)

**Credits Claimed on  
International Returns**

- (1) The following instructions will provide additional information for processing returns claiming various tax credits.

3.38.147.10.1  
(01-01-2025)

**Child Tax Credit  
Non-Refundable  
(Refundable 2021 only)  
and Additional Child Tax  
Credit**

- (1) A qualifying child for purposes of the Child Tax Credit and/or Additional Child Tax Credit is a child who:
- a. Has a valid SSN, ITIN or TIN. See the table below for specific tax year requirements.

For tax year	The qualifying child must have
2018 and later years	A valid SSN, which is valid for employment that was issued before the return due date or extended due date.
2015 - 2017	A valid SSN or ITIN that was issued on or before the return due date or extended due date. See IRM 3.14.1.6.1.1.1, Protecting Americans from Tax Hikes, for more information.

- b. Is claimed as a dependent on the front of the Form 1040-NR, Form 1040, or Form 1040-SR.

**Note:** For Form 1040-NR dependents claimed for the Child Tax Credit (CTC), Additional Child Tax Credit, or (for Tax Year 2021) Refundable Child Tax Credit, on are restricted based on the taxpayer's country of residence. For more information on Child Tax Credit, Additional Child Tax Credit, and 2021 Refundable Child Tax Credit refer to IRM 3.38.147.8.3.4, Dependents.

- c. Is under the age of 17 at the end of the tax year.

**Exception:** For tax year 2021 **only**, is under the age of 18 at the end of the tax year

- d. Is a son, daughter, stepchild, foster child, brother, sister, stepbrother, stepsister, or a descendant of any of them (for example, grandchild).

**Note:** A godchild (ahijada or ahijado) is not a qualifying descendant.

- e. Did not provide over half of their own support for the tax year.
- f. Lived with taxpayer for more than half of the tax year.

**Note:** A child is considered to have lived with you for all of tax year if the child was born or died in the tax year and your home was this child's home for the entire time they were alive. Temporary absences for special circumstances, such as for school, vacation, medical care, military service, or business, count as time lived at home.

- g. For TY 2017 and prior years, must meet the substantial presence test if assigned an ITIN.
- h. Was a U.S. citizen, a U.S. national, or a resident alien of the United States. If the child was adopted, see **adopted child** note below.

**Note:** 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 are a U.S. citizen or U.S. national and your adopted child lived with you as a member of your household all year, that child meets the condition above to be a qualifying child for the child tax credit.

- i. Is a resident alien.

**Note:** To determine residency, use test for resident alien status. Both the relationship and citizenship tests for this refundable credit are more restrictive than for the dependency tests. If the child is not the taxpayer's direct descendant or stepchild, the child must qualify under the foster child rules. Residents of Mexico and Canada do not qualify unless they are U.S. citizens.

**Caution:** After 2017, if the child claimed for the CTC does not have a valid SSN issued before the due date of the taxpayer's return (original or extended), but has a valid ITIN, and qualifies as a dependent, the CTC is disallowed and the Credit for Other Dependent (ODC) is allowed. See 3.38.147.10.2. for more information.

- (2) The credit decreases based on modified adjusted gross income (MAGI) and threshold amounts. If the taxpayer is filing Form 2555 or Form 2555-EZ, excluding income under IRC 933 (Puerto Rico), or IRC 931 (Form 4563), then:
- For tax years 2021 and later, the taxpayer must use *Schedule 8812*, to determine their MAGI and Child Tax Credit amounts.
  - For tax years 2020 and prior the taxpayer will use the Child Tax Credit worksheet in Publication 972. Refer to IRM 3.38.147.13.5.2 Puerto Rico Child Tax Credit, for specifics for Puerto Rican filers.
- (3) For TY 2018 and later, use the additional information in the following tables to determine if the taxpayer qualifies for the Child Tax Credit (CTC) or the Credit for Other Dependents (ODC). Follow the instructions in IRM 3.38.147.8.3.4 to determine the qualified dependents for CTC or ODC on Form 1040-NR.

If the taxpayer marks the	And	Then
CTC box on Form 1040 or Form 1040-NR	Has a qualifying child (with a valid SSN issued before the due date of the return and meets the age requirement) and for Form 1040-NR, valid country of residence.	Allow the CTC
ODC box on Form 1040 or Form 1040-NR	Has a Qualifying dependent (with a valid SSN or ITIN issued before the due date of the return, any age) and for Form 1040-NR, a valid country of residence.	Allow the ODC
CTC box and the ODC box on Form 1040 or Form 1040-NR	Has a qualifying child (with a valid SSN, issued before the due date of the return and meets the age requirement) and for Form 1040-NR, valid country of residence.	Allow the CTC

- (4) The maximum credit amounts for a qualifying child for CTC.

Tax Year...	Maximum Credit amount per qualifying child...
2024, 2023, and 2022	\$2,000
2021	\$3,600 (Under 6 years) \$3,000 (Aged 6 to 17)
2020, 2019, and 2018	\$2,000
2017 -1998	\$1,000

- (5) For tax year 2021, the Child Tax Credit is fully refundable if the taxpayer had a principal place of abode in one of the 50 states or the District of Columbia for more than half the year or was a bona fide resident of Puerto Rico.

- Taxpayers who meet the residency requirements can only claim the refundable Child Tax Credit. They cannot claim the Additional Child Tax Credit or be subject to the ACTC requirements.

**Note:** Taxpayers who don't meet the above residency tests can still claim the Additional Child Tax Credit if they meet the ACTC requirements. See IRM 3.38.147.10.3 for more information.

3.38.147.10.2  
(01-01-2023)  
**Credit for Other Dependents (ODC)**

- (1) For 2018 and later taxpayers can claim the Credit for Other Dependents (ODC) for dependents that have a valid SSN or ITIN but do not meet the qualifications for the Child Tax Credit.
- (2) If a child claimed for CTC does not have a valid SSN issued before the due date of the taxpayer's return (original or extended), but has a valid ITIN, and qualifies as a dependent, the CTC is disallowed and the Credit for Other Dependent (ODC) is allowed. Adjust the account as needed.

**Caution:** The taxpayer cannot claim the spouse as a dependent for ODC. Disallow the ODC amount if the taxpayer claims a credit for the spouse.

- (3) The maximum ODC credit amount is \$500 per eligible dependent.
- (4) See IRM 3.38.147.8.3.4 and IRM 3.38.147.10.1 for more information on Child Tax Credit versus Credit for Other Dependents.

3.38.147.10.3  
(01-01-2025)  
**Additional Child Tax Credit (ACTC) (Refundable)**

- (1) Beginning 2015, if the taxpayer files Form 2555 (or Form 2555-EZ for 2018 and prior years) to claim the foreign earned income exclusion, housing exclusion, or housing deduction, the Additional Child Tax Credit **cannot** be claimed.
- (2) Bona fide residents of Puerto Rico who file Form 1040 (PR) or Form 1040-SS or Form 1040-SS(sp) and prior years can claim the ACTC directly on the tax return by completing Parts I and II using the Worksheet in the Form 1040-SS or Form 1040 (PR) instructions. *Schedule 8812*, Credits for Qualifying Children and Other Dependents, is not required.

**Note:** For TY 2021, a Bona Fide resident of Puerto Rico may claim the full amount of CTC as a fully refundable credit on *Schedule 8812*. See Publication 17, Your Federal Income Tax (For Individuals), and Instructions for *Schedule 8812*, Credits for Qualifying Children and Other Dependents, for more information on the Additional Child Tax Credit.

- (3) For 2023 and later, a Bona Fide resident of Puerto Rico who files Form 1040-SS (SP) or Form 1040-SS can complete the Part II using the modified set of instructions similar to Schedule 8812 to claim the ACTC.
- (4) If a Bona Fide resident of Puerto Rico chooses to file Form 1040, Form 1040-SR, or (Form 1040A for 2017 and prior years) *Schedule 8812* must be attached to claim ACTC.

**Note:** For TY 2021, a Bona Fide resident of Puerto Rico may claim the full amount of CTC as a fully refundable credit on *Schedule 8812*. See Publication 17, Your Federal Income Tax (For Individuals), and *Instructions for Schedule 8812*, Credits for Qualifying Children and Other Dependents, for more information on the Additional Child Tax Credit.

- (5) Bona fide residents of U.S. territories other than Puerto Rico may not claim ACTC. See IRM 3.38.147.13.5.3, **Additional Child Tax Credit (ACTC) and 2021 Refundable Child Tax Credit - Puerto Rico**, for specific information on Puerto Rico.

**Exception:** U.S. Military personnel stationed in a U.S. territory can claim ACTC. See IRM 3.38.147.10.7, Earned Income Tax Credit (EITC), for more information.

- (6) The maximum credit amount for a qualifying child for ACTC :

Tax Year...	Maximum refundable amount per qualifying child...
2024	\$1,700
2023	\$1,600
2022	\$1,500
2018-2021	\$1,400
2017 and prior	\$1,000

- (7) If a dependent qualifies for only the Other Dependent Credit, then the Additional Child Tax Credit cannot be claimed.

3.38.147.10.4  
(11-19-2019)  
**Education Tax Credits**

- (1) Education tax credits are refundable and nonrefundable credits for qualified expenses paid to an eligible educational institution.
- (2) The education credit:
  - Can be claimed for taxpayer, spouse, or eligible dependent.
  - Is limited to one credit per student.

- Is subject to phaseout based on modified adjusted gross income (MAGI).

- (3) Form 1040-NR filers, dual-status filers, and married filing separate filers do not qualify for the education tax credit.
- (4) Taxpayer may not be eligible for education credits if taxpayer (or spouse) is a nonresident alien for any part of the tax year and did not elect to be treated as a resident alien.
- (5) If the taxpayer is filing Form 2555 (or Form 2555-EZ for 2018 and prior years), or excluding income under IRC 933 (Puerto Rico), or IRC 931 (Form 4563), the taxpayer must use worksheets 2-1 and/or 3-1 in Publication 970, Tax Benefits for Education.

3.38.147.10.5  
(01-01-2025)  
**Adoption Credit**

- (1) The Adoption credit is a nonrefundable credit for qualified expenses paid to adopt an eligible child. (The credit was a refundable credit for TY 2010 and 2011.)
- (2) Taxpayer must file Form 8839, Qualified Adoption Expenses to claim the adoption credit.
- (3) The maximum allowable credit for qualifying expenses paid to adopt a child with special needs or an eligible child for:
  - 2024 is \$16,180
  - 2023 is \$15,950
  - 2022 is \$14,890
  - 2021 is \$14,440
  - 2020 is \$14,300
  - 2019 is \$14,080
  - 2018 is \$13,810
  - 2017 is \$13,570
- (4) A married nonresident alien can only claim the credit if filing:
  - A joint return with a U.S. citizen or resident alien spouse and the couple has made an election under IRC 6013(g) or (h) to treat the nonresident alien as a resident for the taxable year.
  - A separate return while qualifying as a "certain married individual living apart." See Publication 519 and *Form 8839 instructions* for more information.
- (5) Credit is subject to phaseout based on income limits.

3.38.147.10.6  
(03-02-2022)  
**Child and Dependent Care Credit**

- (1) For tax year 2021, the American Rescue Plan Act of 2021 (ARPA), made the Child and Dependent Care Credit refundable. Taxpayers are eligible for Child and Dependent Care Credit if the taxpayer, or spouse if married filing jointly, had a principal place of abode in one of the 50 states or the District of Columbia for more than half the year. The taxpayer will verify residency by checking a check box on Form 2441, line B. If the box is not checked, the credit is nonrefundable.
- (2) Since foreign childcare providers do not have U.S. filing requirements, they are

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3.38.147.10.7  
(01-01-2024)

**Earned Income Tax  
Credit (EITC)**

- (1) If the taxpayer resides outside the U.S., they are generally not entitled to EITC. See (6) and (7) below for exceptions.
- (2) Any taxpayer who claims a foreign earned income exclusion on Form 2555 (or Form 2555-EZ for 2018 and prior years) is not entitled to EITC.
- (3) Any taxpayer who exempts income under IRC 933 (Puerto Rico) or IRC 931 (Form 4563) is not entitled to EITC.
- (4) Taxpayers who file Form 1040-NR and Form 1040-NR-EZ are not entitled to EITC.
- (5) Taxpayers who live in U.S. territories are not entitled to EITC from the IRS.

**Note:** Effective tax year 2021, U.S. territory residents may be entitled to claim EITC from their territory.

- (6) If the taxpayer claims EITC and resides outside the U.S. for part of the tax year, and it can be determined that the taxpayer moved from one of the 50 states or the District of Columbia (D.C.), allow EITC if the address on the Form W-2(s) or the *Schedule C* is one of the 50 states or D.C.
- (7) Allow EITC for U.S. territories if the taxpayer claims the credit and is in the U.S. Military stationed overseas in a U.S. territory. Search signature area, Form W-2(s) and/or attachments for any of the following indications:
  - U.S. Air Force
  - U.S. Army
  - U.S. Coast Guard
  - U.S. Marines and U.S. Navy
  - DCPS CIVPAY Directorate
  - DFAS - ATTN: Defense and Accounting Service (See *IMF Notice Review International Job Aid 2510-001* for complete list)
  - United States Armed Forces (USAF) - Active Duty, Defense Finance & Accounting Services (DFAS) - PMJFC/DE
  - Commanding Office United States Coast Guard (USCG) Human Resources Service Information campus

3.38.147.10.8  
(03-02-2022)

**Recovery Rebate Credit  
(RRC)**

- (1) The following taxpayers are not eligible for the 2020 or 2021 Recovery Rebate Credit (RRC) if the taxpayer is:
  - A non-resident alien
  - Claimed as dependent on another return
  - Filing Form 1040-NR
  - Filing Form 1040 (PR)
  - Filing Form 1040-SS
  - An estate or trust

**Note:** For more information, see IRM 3.14.1.6.12.6.10, Economic Impact Payments (EIP).



3.38.147.10.9  
(03-02-2022)

**Premium Tax Credit  
(PTC) Form 8962**

- (1) Starting in 2014, individuals and families can claim a new premium tax credit to help them afford health insurance coverage purchased through an Affordable Insurance Marketplace. Taxpayers use Form 8962, Premium Tax Credit, to compute and claim the premium tax credit on their tax return. If the taxpayers have received the benefit of advanced payments of the premium tax credit (APTC), the taxpayers must reconcile the credit with the amount of their APTC to either claim any additional credit allowed on their tax return or repay the excess benefit received from APTC paid to the insurer. See IRM 3.14.1.6.9.13 for more information.

**Exception:** The American Rescue Plan Act (ARPA) waived the repayment requirement of excess APTC for tax year 2020 only.

3.38.147.10.10  
(01-01-2023)

**Economic Income  
Payments (EIP)**

- (1) Follow procedures in IRM 3.14.1.6.12.6.10, Economic Income Payments (EIP), to review the CARES Act recovery rebate credit (referred to as Economic Impact Payments (EIP)).
- (2) The following individuals are ineligible to receive EIP:
  - A nonresident alien (including any filer of Form 1040-NR or Form 1040-NR-EZ)
  - An individual who can be claimed as a dependent on another individual's tax return
  - An estate or trust
  - A deceased individual (Date of death prior to 01/01/2020)

**Note:** Individuals who died in 2020 or 2021 may not have received Economic Impact Payments. When reviewing a 2020 return for an individual who died in 2020 or 2021, use the Recovery Rebate Credit Worksheet on the worksheets under Job Aids in the Notice Review Portal on SERP to determine whether the Recovery Rebate Credit is allowable for the decedent.

3.38.147.11  
(03-02-2022)

**Dual-Status Taxpayer -  
General Information**

- (1) A dual-status taxpayer is both a resident alien and nonresident alien during the same tax year.
- (2) A dual-status taxpayer is required to submit two separate tax forms for each tax year: a Form 1040 or Form 1040-SR with a Form 1040-NR (or Form 1040-NR-EZ for 2019 and prior years).
- (3) Where the taxpayer resides on the last day of the year determines which form the taxpayer uses as a primary form and which form is used as a statement form.
  - If they reside in the U.S. on the last day of the tax year, Form 1040 or Form 1040-SR is the return and Form 1040-NR (or Form 1040-NR-EZ for 2019 and prior years) is the statement form.
  - If they do not reside in the U.S. on the last day of the tax year, Form 1040-NR (or Form 1040-NR-EZ for 2019 and prior years) is the return and Form 1040 or Form 1040-SR is the statement form .
- (4) Form 1040 (Form 1040-SR) covers the part of the year that the taxpayer is a resident and includes worldwide income.

- (5) Form 1040-NR (or Form 1040-NR-EZ for 2019 and prior years) covers the part of the year that the taxpayer is a nonresident and includes only U.S. source income and certain foreign source income treated as effectively connected with a U.S. trade or business.
- (6) Dual-Status taxpayers cannot claim a standard deduction but may use itemized deductions.

**Exception:** Only students and business apprentices from India are eligible to claim the standard deduction under Article 21(2) of the United States - India Treaty.

- (7) For TY 2018 and later, taxpayer cannot claim an exemption for self, spouse, or dependents. For TY 2017 and prior years, Dual-Status taxpayers may claim their own exemption and are allowed exemptions for spouse and dependents for the part of the year they were a resident alien. The amount they claim for these exemptions is limited to their taxable income before exemptions for the part of the year they were resident aliens.
- (8) Dual-Status taxpayers are not eligible for Education Tax Credits (Form 8863), Earned Income Credit (*Schedule EIC*), Recovery Rebate Credit for 2020 and 2021, or the Credit for the Elderly or Disabled (*Schedule R*).
- (9) Dual-Status taxpayers cannot file as married filing jointly (FS2) or head of household (FS4).

**Exception:** Under IRC 6013(g) and (h), a nonresident alien married to a U.S. citizen or resident alien can elect to be treated as a U.S. resident and file a joint return. To make this election the taxpayers must file a joint return and attach a statement described in CFR 1.6013-6(a)(4).

**Note:** Dual-Status restrictions do not apply; process the return as a Form 1040 (Form 1040-SR).

- (10) Dual-Status taxpayers with a valid Form 2555 (or Form 2555-EZ for 2018 and prior years), Foreign Earned Income Exclusion, Housing Deduction, and/or Housing Exclusion may exclude income on Form 1040 (Form 1040-SR) whether it is the controlling document or statement. Income earned during the Form 1040-NR (or Form 1040-NR-EZ for 2019 and prior years) period may not be excluded with Form 2555 (or Form 2555-EZ for 2018 and prior years). All income should be brought forward to the controlling document and the tax figured on the Form 2555 tax worksheet, regardless if the controlling document is a Form 1040 (Form 1040-SR) or a Form 1040-NR (or Form 1040-NR-EZ for 2019 and prior years).
- (11) A Dual-status taxpayer is subject to Net Investment Income Tax only for part of the year during which taxpayer is a U.S. resident.
- (12) Tax Rates – A taxpayer who is married and a nonresident alien of the United States for all or part of the tax year and does not choose to file jointly under IRC 6013(g) or (h), must compute tax as married filing separately on income effectively connected with a U.S. trade or business.

**Note:** See Publication 519 for more information on Dual-Status returns.

3.38.147.11.1  
(01-01-2025)

**Form 1040 Dual-Status  
(D/S) Return**

- (1) Form 1040 (Form 1040-SR) Dual-Status (D/S) is required when a taxpayer is a resident of the United States on the last day of the year.
  - (2) Form 1040 (Form 1040-SR) covers the part of the year in which the taxpayer was a resident and includes worldwide income from all sources.
  - (3) Dual-Status taxpayers must attach Form 1040-NR, (or Form 1040-NR-EZ for 2019 and prior years or substitute statement) reflecting U.S. source income earned during the period of non-residency.
  - (4) Resident aliens are taxed on worldwide income. Income is reported on Form 1040 or Form 1040-SR.
  - (5) Generally, income earned as a nonresident alien is not taxable in the U.S. unless it is effectively connected with a U.S. trade or business or is U.S. source income. Annuities, dividends, interest, capital gains, rents, and royalties; that are not connected with a U.S. source trade or business are taxed at 30 percent or applicable treaty rate.
  - (6) The tax on both returns is combined on the Form 1040 D/S return.
  - (7) If the taxpayer computes tax on non-effectively connected income on *Schedule NEC*, the amount is carried over to:
    - Form 1040-NR  
line 23a for 2020 and later, and  
line 54 for 2019 and prior.
    - Form 1040 and Form 1040-SR  
*Schedule 2*, line 17o for 2021 and later,  
next to the dotted portion of line 8 for 2020 and prior,  
line 24 for 2020 and later,  
line 16 for 2019,  
line 15 for 2018, and  
line 63 for 2017 and prior.
  - (8) The combination of incomes and withholding amounts shown on both Form 1040 (Form 1040-SR) and Form 1040-NR (or Form 1040-NR-EZ for 2019 and prior years) is totaled on Form 1040 (Form 1040-SR).
  - (9) If the amounts on the Form 1040 (Form 1040-SR) and Form 1040-NR (or Form 1040-NR-EZ for 2019 and prior years) are the same, do not combine with the Form 1040 (Form 1040-SR) amounts.
- Note:** If the amounts on the Form 1040-NR (or Form 1040-NR-EZ for 2019 and prior years) have been **X**ed out and have been combined with the Form 1040 (Form 1040-SR) amounts, then return to original taxpayer figures.
- (10) If the amounts on the Form 1040 (Form 1040-SR) and Form 1040-NR (or Form 1040-NR-EZ for 2019 and prior years) are **not** the same, combine the amounts from the Form 1040-NR (or Form 1040-NR-EZ for 2019 and prior years) with Form 1040.
  - (11) Only filing status codes 1, 3, or 5 are allowed.

3.38.147.11.2  
(01-01-2024)

**Form 1040-NR or Form  
1040-NR-EZ Dual-Status  
(D/S) Return**

- (1) A Form 1040-NR (or Form 1040-NR-EZ for 2019 and prior years) Dual-Status (D/S) return is required when taxpayer is a nonresident alien of the United States on the last day of the year.
- (2) Generally, Form 1040-NR or Form 1040-NR-EZ D/S returns show a foreign address. If return shows domestic address, review to ensure dual status.
- (3) Dual-Status returns are taxed according to two separate tax periods under provisions applicable to nonresident aliens and resident aliens.
- (4) If the taxpayer computes tax on non-effectively connected income on *Schedule NEC*, the amount is carried over to:
  - Form 1040-NR  
line 23a for 2020 and later, and  
line 54 for 2019 and prior.
  - Form 1040 and Form 1040-SR  
*Schedule 2*, line 17o for 2021 and later,  
next to the dotted portion of line 8 for 2020 and prior,  
line 24 for 2020 and later,  
line 16 for 2019,  
line 15 for 2018, and  
line 63 for 2017 and prior.
- (5) Non-effectively connected income received during non-residency is taxed at 30 percent or applicable treaty rate.
- (6) A Form 1040 (Form 1040-SR) dual-status return is attached as a statement to Form 1040-NR (or Form 1040-NR-EZ for 2019 and prior years) to show U.S. source income earned during nonresidency.
- (7) When nonresident aliens give up U.S. residency and file Form 1040-NR, they are required to attach Form 1040 or Form 1040-SR as a statement to show tax on income received during residency.

**Note:** Nonresident aliens who give up U.S. residency are not allowed to file Form 1040-NR-EZ for the tax year in which they give up their U.S. residency.

- (8) The combination of incomes and withholding amounts shown on both Form 1040 (Form 1040-SR) and Form 1040-NR (or Form 1040-NR-EZ for 2019 and prior years) is totaled on Form 1040-NR (or Form 1040-NR-EZ for 2019 and prior years).
- (9) If the amounts on the Form 1040-NR (or Form 1040-NR-EZ for 2019 and prior years) and Form 1040 (Form 1040-SR) are the same, do not combine amounts to the Form 1040-NR (or Form 1040-NR-EZ for 2019 and prior years).

**Note:** If the amounts on the Form 1040 (Form 1040-SR) have been **X**ed out and have been combined with the Form 1040-NR (or Form 1040-NR-EZ for 2019 and prior years) amount, then return to original taxpayer figures.

- (10) If the amounts on the Form 1040 and Form 1040-NR (or Form 1040-NR-EZ for 2019 and prior years) are **not** the same, combine the amounts from the Form 1040 to Form 1040-NR (or Form 1040-NR-EZ for 2019 and prior years).

- (11) For TY 2017 and prior years, during the period of residency, all exemptions can be claimed just like Form 1040 filing but cannot exceed taxpayer's taxable income (computed without regard for personal exemptions).
- (12) Only filing status codes 1, or 3 are allowed.
- (13) Earned Income Tax Credit (*Schedule EIC*), Education Credits (Form 8863), Recovery Rebate Credits for tax years 2020 and 2021, and Credit for the Elderly or Disabled (*Schedule R*) cannot be claimed by a taxpayer who is filing as a nonresident alien.
- (14) Self-employment tax is paid only on income earned during residency.
- (15) Commuters from Canada and Mexico file Form 1040-NR and are not liable for self-employment tax.

3.38.147.11.3  
(01-01-2021)  
**Manual Refunds**

- (1) There are certain times when an overpayment cannot be refunded through normal procedures. Follow procedures in IRM 3.14.1.6.6, Manual Refunds.
- (2) A manual refund is required for the issuance of an overpayment in the following situations:
  - There is a different address entered on Form 1040-NR:
    - a. Line 35e for 2020 and later or
    - b. Line 73e for 2019 and prior years.
  - To avoid the payment of interest on a refund if 45-day interest free period is imminent.
  - Hardship cases.
  - A deceased taxpayer's spouse (resident alien) claiming a refund for incorrectly withheld taxes on Social Security Benefits.

3.38.147.11.4  
(03-02-2022)  
**Erroneous Refunds**

- (1) The IRS occasionally issues a refund to a taxpayer who is not entitled to the money. When this occurs, the refund is known as an erroneous refund. The reason for the erroneous refund may be an error by the IRS or an error or intentional misstatement by the taxpayer. Follow instructions in IRM 3.14.1.6.7, Erroneous Refunds.
- (2) **Definition of Erroneous Refund** - Any receipt of money from the IRS to which the recipient is not entitled. This definition is intended to be very broad and includes all erroneous payments even if the:
  - Erroneous refund involves returning the taxpayer's money and
  - Non-entitlement could not have been known at the time of the refund.
- (3) A taxpayer who receives an erroneous refund has a legal obligation to repay the money to the IRS.
- (4) For all categories of erroneous refunds follow procedures in IRM 3.14.1.6.7, Erroneous Refunds. The work lead will route the erroneous refund package to the appropriate area.

3.38.147.12  
(01-01-2017)

### Foreign Address Review

- (1) Foreign addresses will contain one name line and three lines for address/location.
- (2) City/State line will only show name of the country.
- (3) City/State/Province are edited to the third entity line.
- (4) When correcting an address, and the first name line, second name lines, and/or address lines, the lines are limited to 35 characters and the city and state line has a limit of 24 characters.
- (5) All foreign country names must be spelled out (no abbreviations are allowed except when noted in the *IMF Notice Review International Job Aid 2510-001*).

**Note:** Use caution when deleting what appears to be repetition in the address. Many countries have a capital city with the same name as the country. Sometimes the city is distinguished by adding the word "City". See *IMF Notice Review International Job Aid 2510-001* for a list of the cities with names similar or the same as the country.

- (6) Always use the following abbreviations for U.S. territories:

#### Address Abbreviations for U.S. Territories

U.S. Territory	Abbreviation
Puerto Rico	PR
U.S. Virgin Islands	VI
Guam	GU
Commonwealth of the Northern Mariana Islands	MP
American Samoa	AS
Palau Islands	PW
Marshall Islands	MH
Federated States of Micronesia	FM

See the *IMF Notice Review International Job Aid 2510-001*.

- (7) Always use "United Kingdom" when England, Northern Ireland, Scotland, or Wales is listed on the return.

3.38.147.12.1  
(01-01-2023)

### Centralized Authorization File (CAF) Mismatch

- (1) The Centralized Authorization File (CAF) contains information regarding authorizations that taxpayers have given third parties (Representatives) for various tax matters within their accounts. Occasionally the computer will identify a CAF Mismatch on accounts where there is a missing address for the Representative. This appears on the marking screen of Online Notice Review (OLNR) as a CM. To obtain this information for the International Account, use CC CFINK, in the following format beginning on CC TXMOD.

- CFINK XXX-XX-XXXX (TIN)

- 30 YYYYMM (MM= last month of the filing year. Calendar year returns are 12)
- (2) Use the MFT and year of the return. Then do CFINK XXXX-XXXXXR for the Representative number authorized to receive notices. This will be the Representative designated by the taxpayer.
- a. If an “N” is not present for notice allowed, select the “E” Entity. Mark the box on the CAF entity tab to void the CAF notice.
  - b. If the “N” is present notice allowed, for one or more Representatives, select the disposition “E” and edit the CAF information.
  - c. If the CAF Representative has a foreign address, only use the most pertinent information when shortening the address.
  - d. If the “Rep-action” line shows either Undeliverable, Disbarred, Suspended, or Deceased, select the “E” disposition and mark the box on the CAF entity tab to void the CAF notice.

3.38.147.13  
(01-01-2025)

#### United States Territories

- (1) Five U.S. territories have independent tax administrations. The territories are:
- U.S. Virgin Islands (USVI)
  - American Samoa (AS)
  - Guam (GU)
  - Commonwealth of the Northern Mariana Islands (CNMI)
  - Commonwealth of Puerto Rico (PR)
- (2) Taxpayer with income from a U.S. territory may be required to file:
- a. A U.S. income tax return
  - b. A tax return with that territory, or
  - c. Both
- (3) Filing requirements are determined by a person’s residency status (bona fide resident or non bona fide resident). A bona fide resident pursuant to IRC Section 937 and the accompanying regulations:
- a. Meets the presence test for a taxable year, and
  - b. Does not have a tax home outside the relevant territory, and
  - c. Does not have closer connection to the United States or a foreign country
- (4) Presence test is satisfied if the U.S. citizen or resident alien:
- Was present in the relevant territory at least 183 days in the year, or
  - Was present in the territory at least 549 days during a consecutive three year period consisting of the tax year and the 2 immediately preceding years (individual must also have been in the territory at least 60 days during each taxable year of the period), or
  - Was present in the U.S. no more than 90 days during the tax year, or
  - Had less than \$3,000 in U.S. earned income (wages, salaries, or professional fees for personal services performed), and were present for more days in the relevant territory than in the U.S. during the tax year, or
  - Had no significant connection to the U.S. during the tax year [see CFR 1.937-1(c)].

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- (5) A tax home refers to a regular or main place of business, employment, or post of duty, regardless of the location of the taxpayer's family home.
- (6) A closer connection to the territory is likely if the person maintains more significant contacts with the territory than with the U.S. or a foreign country.
- (7) If withholding from any of the Forms W-2, listed below, is claimed on line 25 (a, b, or c) of Form 1040 for 2020 and later, line 17 of Form 1040 for 2019, line 16 of Form 1040 for 2018, or line 64 of Form 1040 for 2017 and prior years, delete the withholding and assign TPNC 438.
  - Form W-2 AS
  - Form W-2 CM\*
  - Form W-2 GU\*
  - Form 499R-2/W-2PR
  - Form W-2 VI

\*See the individual sections for CNMI IRM 3.38.147.13.4 and Guam IRM 3.38.147.13.3.1 for exceptions to the above.

- (8) The Child Tax Credit, Refundable Child Tax Credit (for 2021), and Additional Child Tax Credit may be claimed by qualifying residents of Puerto Rico using Form 1040 or Form 1040-SR with *Schedule 8812*. Only bona fide residents of Puerto Rico who meet certain requirements may claim ACTC or Refundable CTC (for 2021) on Form 1040 (PR) and Form 1040-SS. See IRM 3.38.147.13.5.3, Puerto Rico Additional Child Tax Credit (ACTC), for more details. Taxpayers in other U.S. territories generally do not file ACTC claims with the IRS but instead claim a refundable credit with the respective territory tax administration where they are required to file income tax returns.
- (9) Taxpayers who live in U.S. territories are not entitled to the EITC on a return filed with the IRS. See (10) and (11) for exceptions.
- (10) If the taxpayer claims EITC and resides outside the U.S. for part of the tax year, and it can be determined that the taxpayer moved from one of the 50 states or the District of Columbia (D.C.), allow EITC if the address on W-2(s) or the *Schedule C* is one of the 50 states or D.C.
- (11) Allow EITC for U.S. territories if the taxpayer claims the credit and is in the U.S. Military stationed overseas in a U.S. territory. Search signature area, W-2(s) and/or attachments for any of the following indications:
  - U.S. Air Force
  - U.S. Army
  - U.S. Coast Guard
  - U.S. Marines and U.S. Navy
  - DCPS CIVPAY Directorate
  - DFAS - ATTN: Defense and Accounting Service (See *IMF Notice Review International Job Aid 2510-001* for the complete list)
  - USAF - Active Duty, DFAS - PMJFC/DE
  - Commanding Office USCG Human Resources Service Information campus

- (12) Taxpayers living in U.S. territories who have wages, RRTA compensation, and self-employment income that are subject to Medicare tax may also be subject to the 0.9 percent Additional Medicare Tax (Form 8959) if wages or compensation exceed the applicable threshold.
- (13) The Net Investment Income Tax (NIIT) (Form 8960) imposes a 3.8 percent tax on the lesser of an individual's net investment income or the excess of the individual's modified adjusted gross income (MAGI). Bona fide residents of Puerto Rico and American Samoa who may have a Federal Filing obligation may be liable for the NIIT if the taxpayer's modified adjusted gross income (MAGI) from non-territory sources exceeds a specified threshold amount. The NIIT does not apply to a taxpayer who is a nonresident alien. Bona fide residents of the Commonwealth of the Northern Mariana Islands, Guam, and the U.S. Virgin Islands will generally not be liable to the IRS for the NIIT over the threshold amount.
- (14) A U.S. citizen or resident alien residing in a U.S. territory (except Puerto Rico) on the day their return is due (for the calendar year) is allowed an automatic two-month extension to June 15.

3.38.147.13.1  
(01-01-2025)  
**U.S. Virgin Islands  
Residents**

- (1) A U.S. citizen, resident alien or nonresident alien who is a bona fide resident of the U.S. Virgin Islands (USVI) for the tax year is required to file a tax return with the USVI.
  - Taxpayers must report income from worldwide sources including all tax withheld by either USVI or the U.S., any payments of estimated tax including any credit for overpayment of income tax paid to either USVI or the U.S. and pays any balance of tax due with the tax return.
  - Generally, does not have a U.S. filing requirement if they report and pay tax on income from all sources to the USVI and identify the source of the income on the return.
- (2) U.S. citizens and resident aliens with income from sources within the U.S. Virgin Islands (USVI) or with income effectively connected with a trade or business in the U.S. Virgin Islands, who are not bona fide residents of the U.S. Virgin Islands are required to:
  - a. File an income tax return with the IRS, including Form 8689, Allocation of Individual Income Tax to the U.S. Virgin Islands, and any other necessary attachments and schedules.
  - b. File an exact duplicate income tax return including Form 8689 and any other attachments and schedules with the VI Bureau of Internal Revenue.
  - c. Pay any income tax due the U.S. Virgin Islands when filing the duplicate return there.
- (3) A nonresident alien of the U.S. who is not bona fide residents of the USVI for the entire tax year must file:
  - A USVI tax return reporting only income from sources within the USVI. In this situation, wages for services performed in the USVI, whether for a private employer, the U.S. government or otherwise, is income from sources within the USVI.
  - A U.S. tax return (Form 1040-NR) reporting U.S. source income according to the rules for a nonresident alien.

- (4) If the taxpayer files a joint tax return, the taxpayer files the return with the jurisdiction where the spouse who has the greater Adjusted Gross Income (AGI) would have to file if that person was to file separately. If the spouse with the greater AGI:
- Is a bona fide resident for the entire tax year, the joint return is filed with the U.S. Virgin Islands.
  - Is a U.S. citizen or resident alien but not a bona fide resident of the U.S. Virgin Islands for the entire tax year, the joint return is filed with the U.S.
- (5) Allow only withholding taxes paid to the U.S. Government on an attached Form W-2. Do not allow withholding paid on a Form W-2VI. The taxpayer may be able to claim a foreign tax credit for any income tax paid to the USVI on the same income reported on a U.S. income tax return. Assign TPNC 438.

3.38.147.13.1.1  
(01-01-2024)

**Processing Form 1040  
or Form 1040-SR with  
Income and Address  
from U.S. Virgin Islands**

- (1) If the only source of income was derived from USVI and the taxpayer has USVI address (does not have a United States income tax filing obligation), prevent the refund from generating, void the notice, and take the following action. Refer to IRM 3.14.1.7.1.1, Refund Intercepts, guidelines regarding the timeliness for TC570/NOREFP input:
- a. Zero out the module. Use Blocking Series 00 (line through the DLN), Source Code 4, Reason Code 099, Hold Code 4, FLC 21, Source Document Y. In Remarks, state "return transshipped to USVI." Attach the ADJ 54 print to a copy of the tax return (remember to write "copy" on the document). Give the original document to the work leader.
  - b. Input Letter 86C, Referring Taxpayer Inquiry/Forms to Another Office, to inform taxpayer that the return has been transshipped to the Virgin Islands Bureau of Internal Revenue for processing. Use paragraphs A, E, R, f, and u.
  - c. For fill-in "f" enter: **Information on your return indicates the only source of income was derived from USVI and it appears you do not have a United States income tax filing obligation for the year indicated on your return. If you have questions, you may write to that office at the address we have provided in this letter.**
  - d. Use the following address for fill-in "u":  
  
USVI Bureau of Internal Revenue  
6115 Estate Smith Bay  
Suite 225  
St. Thomas, VI 00802
- (2) Work Leader will transship the return to Virgin Islands.
- (3) If Form 8689, Allocation of Individual Income Tax to the U.S. Virgin Islands, is attached or there is an indication on the dotted portion of line 19 that the taxpayer is reporting taxes paid to the USVI, or the taxpayer is filing in compliance with Notice 2007-19 (Indicated by zero return, taxpayer's name, address, TIN and signature), **do not send these returns to the USVI.**

3.38.147.13.1.2  
(01-01-2025)  
U.S. Virgin Islands  
Income and Taxation

- (1) In general, bona fide residents of the USVI file returns with, and pay taxes to, only the USVI. U.S. citizens and resident aliens, who are not USVI bona fide residents, file returns with and pay taxes to only the U.S., unless they have USVI source income. If U.S. citizens and resident aliens have USVI source income, they pay a portion of tax to the United States and to the USVI.
- (2) For taxable years ending on or after December 31, 2006 (see Notice 2007-31)

a. U.S. citizens and resident aliens who are bona fide residents of the USVI must file with the USVI and report worldwide income. No U.S. return is required

b. U.S. citizens and resident aliens who are not USVI bona fide residents must file identical tax returns with the IRS and the USVI if they have income from sources in the USVI or income that is effectively connected with the conduct of a trade or business in the USVI.

**Note:** The taxpayer will complete and attach Form 8689 to both returns to determine how much tax to pay to the U.S. and to the USVI.

- (3) Form 8689, Allocation of Individual Income Tax to the U.S Virgin Islands, is used to figure the amount of United States tax allocable to the USVI.

a. Form 8689 must be attached to Form 1040 or Form 1040-SR to take the credit for United States tax allocated to the USVI.

b. The taxpayer should add lines 40 and 44 of Form 8689, include that amount in the total payments, and notate "Form 8689" on the total payments line dotted line:

• Line 33 of the Form 1040 or Form 1040-SR for 2020 and later.

• Line 19 of Form 1040 or Form 1040-SR for 2019

• Line 18 of Form 1040 for 2018 or

• Line 74 of Form 1040 for 2017 and prior years

c. The credit claimed cannot exceed the amount of total tax on:

• Line 24 of the Form 1040 or Form 1040-SR for 2020 and later

• Line 16 of Form 1040 or Form 1040-SR for 2019

• Line 15 of Form 1040 for 2018 or

• Line 63 of Form 1040 for 2017 and prior years.

For 2024 and later, the amounts on Form 8689 lines 40 and 44, should be included on Schedule 3, line 13z. The total amount of the credits (Schedule 3, line 15) is included on Form 1040, Form 1040-SR, or Form 1040-NR, line 31. The amount reported on Schedule 3, line 13z, for Form 8689 should not exceed the amount of total tax on line of the Form 1040.

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- (5) The credit for taxes paid to the U.S. Virgin Islands is nonrefundable. Use CC REQ54, input TC 290 .00 with Reason Code 063 (U.S. Virgin Islands Credit on Form 8689) and 766 (+/-) when adjusting the credit.

- (6) If the return includes both Notice 2007-19 and Form 8689, process as Form 1040 with Form 8689.
- (7) A bona fide resident of the USVI will file a USVI Form 1040 INFO with the USVI if they have non-USVI income.
- (8) U.S. citizens and resident aliens who are bona fide residents of the USVI with effectively connected income of more than \$400 from the conduct of a trade or business and no U.S. filing requirement are required to file Form 1040-SS, U.S. Self-Employment Tax Return, with the Internal Revenue Service to report income and, if necessary, pay self-employment tax.

**Note:** This separate filing is in addition to the income tax return filed with the Government of the U.S. Virgin Islands.

3.38.147.13.1.3  
(01-01-2023)  
**U.S. Virgin Islands  
Cover Over**

- (1) A Cover Over is the transfer of income tax withholding.
- (2) USVI Cover Over can be recognized by the DLN of the copy of the territory income tax return filed with the USVI and provided to IRS for cover over purposes only and the category code shown on the IDRS case control:

**Note:** What the USVI provides to the IRS is a copy of the USVI return that the taxpayer files with the USVI to satisfy USVI income tax requirements. The USVI provides the copy of the return to the IRS only for purposes of cover over.

- DLN identified by 21211 or 21221
- Category Code is ISPJ (International Special Project)
- There is a TC 150 for .00 on the module
- “Dummy” territory income tax returns filed with USVI copy of which is provided to IRS for cover over purposes are processed to complete the cover over process
- If a U.S. Virgin Islands Cover Over return has a TPNC 100 attached stating “VI Cover Over return-- Void notice”, then select “Void” on OLNR Notice Disposition.
- **Do not take any actions on these accounts.** Refer case to work leader.

3.38.147.13.2  
(01-01-2023)  
**American Samoa  
Residents**

- (1) A U.S. citizen, resident alien, or nonresident alien who is a bona fide resident of American Samoa (AS) for entire tax year must file:
  - An American Samoa tax return reporting gross income from worldwide sources.
  - A U.S. tax return reporting income from worldwide sources, but excluding income from sources within AS. To exclude the income, attach Form 4563, Exclusion of Income for Bona Fide Residents of American Samoa, to the U.S. tax return.

**Note:** Nonresident aliens file Form 1040 or Form 1040-SR but are still subject to the rules for nonresident aliens. Therefore, they cannot take a standard deduction, file Married Filing Jointly, or claim a deduction for a dependent unless that person is a U.S. citizen or national.

- (2) A U.S. citizen or resident alien who is not a bona fide resident of American Samoa for entire year must file:
  - An American Samoa tax return reporting only income from sources within American Samoa.
  - U.S. tax return Form 1040 reporting income from worldwide sources including American Samoa. Taxpayers can claim the Foreign Tax Credit against their liability for income taxes paid to American Samoa reported on U.S. return.
- (3) A nonresident alien must file:
  - An American Samoa tax return reporting only income from sources within American Samoa.
  - U.S. tax return (Form 1040-NR) reporting U.S. source income according to the rules for nonresident aliens.
- (4) U.S. Nationals who are living apart from their spouses may file as single if they meet certain requirements. This provision is sometimes referred to as the “abandoned spouse” provision. This provision may be applicable to American Samoa married residents.
- (5) U.S. Government employees living in American Samoa, whether bona fide residents or non bona fide residents, can claim a credit against tax on their U.S. tax return for income taxes paid or accrued to American Samoa. To claim the credit, the taxpayer must figure the credit on Form 1116, Foreign Tax Credit, and attach it to the U.S. tax return.
- (6) Bona fide residents of American Samoa with earned income from American Samoa must claim the IRC 931 exclusion using Form 4563.
- (7) Allow only withholding taxes paid to the U.S. Government on an attached Form W-2. Do not allow withholding paid on a Form W-2AS. For American Samoa withholding taxes paid on a Form W-2AS, the taxpayer may be able to claim a foreign tax credit for those taxes on the same income reported on a U.S. income tax return. Adjust the account if necessary and assign TPNC 438.
- (8) U.S. citizens and resident aliens who are bona fide residents of American Samoa with effectively connected income of more than \$400 from the conduct of a trade or business and no U.S. filing requirement are required to file Form 1040-SS, U.S. Self-Employment Tax Return, with the Internal Revenue Service to report net earnings from self-employment and, if necessary, pay self-employment tax.

3.38.147.13.3  
(01-01-2025)  
**Guam Residents**

- (1) A U.S. citizen, resident alien, or nonresident alien who is a bona fide resident of Guam (GU) for the entire tax year files with the Guam government (Under IRC 935).
  - Taxpayers must report income from worldwide sources including all tax withheld by either Guam or the U.S., any payments of estimated tax including any credit for overpayment of income tax paid to Guam or the U.S. and pay any balance of tax due with the tax return.
  - Generally, if the taxpayer properly files their return with, and fully pay their income tax to Guam, they are not liable for filing a tax return or paying tax to the U.S.



- (2) A U.S. citizen or resident alien who is not a bona fide resident of Guam for the entire tax year files a tax return (Form 1040 or Form 1040-SR) with the United States.

- Taxpayer must report income from worldwide sources including income and withholding from Guam. Allow all Form W-2GU income and withholding. Tax and withholding due to the Guam government will be allocated by the IRS via Form 5074, Allocation of Individual Income Tax to Guam or the Commonwealth of the Northern Mariana Islands.

**Note:** If a Form 5074 is present, the taxpayer is indicating they are not a bona fide resident of Guam.

- (3) If the taxpayer files a joint tax return, the taxpayer files the return with the jurisdiction where the spouse who has the greater AGI would have to file if that person was to file separately. If the spouse with the greater AGI:

- Is a bona fide resident of Guam for the entire tax year, the joint return is filed with Guam.
- Is a U.S. citizen or resident alien but not a bona fide resident of Guam the entire tax year, the joint return is filed with the U.S.

- (4) A nonresident alien of the U.S. who is not a bona fide resident of Guam for the entire year must file:

- A Guam tax return reporting only income from sources with the GU. In this situation, wages for services performed in the GU, whether for a private employer, the U.S. government or otherwise, is income from sources with/in Guam.
- A U.S. tax return (Form 1040-NR) reporting U.S. source income according to the rules for a nonresident alien. Allow only U.S. source income according to the rules for a nonresident alien. Do not allow income or withholding from a Form W-2GU.

- (5) If copy (c) of a Form W-2GU is attached to the return, route a copy of the return to the following address using Form 3499, Informational Transmittal. Annotate "Guam W-2, Copy (c), Adjustment needed" on a Form 3465, Adjustment Request, included with the copy of the return.

Accounts Management  
International Unit  
ATTN: North Building HUB International  
Philadelphia, PA 19255

- (6) U.S. citizens and resident aliens who are bona fide residents of Guam with effectively connected income of more than \$400 from the conduct of a trade or business and no U.S. filing requirement are required to file Form 1040-SS, U.S. Self-Employment Tax Return, with the IRS to report income and, if necessary, pay self-employment tax.



3.38.147.13.3.1  
(01-01-2024)

**Processing Form 1040  
or Form 1040-SR with  
Income and Address  
From Guam**

- (1) If the only source of income was derived from Guam and the taxpayer has a Guam address (does not have a United States income tax filing obligation), prevent the refund from generating, void the notice, and take the following action. Refer to IRM 3.14.1.7.1.1, Refund Intercepts, guidelines regarding the timeliness for TC570/NOREFP input:
  - a. Zero out the module. Use Blocking Series 00 (line through the DLN), Source Code 4, Reason Code 099, Hold Code 4, FLC 21, Source Document Y. In Remarks, state "return transshipped to Guam." Attach the ADJ 54 print to a copy of the tax return (remember to write "copy" on the document). Give the original document to the work leader.
  - b. Input Letter 86C to inform taxpayer that the return has been transshipped to Guam for processing. Use paragraphs A, E, R, f, and u.
  - c. For fill-in "f" enter: **Information on your return indicates the only source of income was derived from Guam and it appears you do not have a United States income tax filing obligation for the year indicated on your return. If you have questions, you may write to that office at the address we have provided in this letter.**
  - d. Use the following address for fill-in "u".

Department of Revenue and Taxation  
Taxpayers Services Division  
PO Box 23607  
GMF, Guam 96921

- (2) Work Leader will transship return to Guam.
- (3) If income is reported from Form W-2 (U.S. source) and Form W-2GU and the taxpayer is not a bona fide resident of Guam, process the return.

3.38.147.13.4  
(01-01-2025)

**Commonwealth of  
Northern Mariana  
Islands Residents  
(CNMI)**

- (1) A U.S. citizen, resident alien, or nonresident alien who is a bona fide resident of the Commonwealth of the Northern Mariana Islands (CNMI) for the entire tax year files with the CNMI government:
  - Taxpayers must report income from worldwide sources including all tax withheld by either Commonwealth of the Northern Mariana Islands (CNMI) or the U.S., any payments of estimated tax including any credit for overpayment of income tax paid to (CNMI) or the U.S. and pay any balance of tax due with the tax return.
  - Generally, if the taxpayer properly files their return with, and fully pays their income tax to Guam, they are not liable for filing a tax return or paying tax to the U.S.
- (2) A U.S. citizen or resident alien who is not a bona fide resident of CNMI for the entire tax year and files a tax return (Form 1040 or Form 1040-SR) with the United States.
  - Taxpayer must report income from worldwide sources including income and withholding from CNMI. Allow all W-2CM income and withholding. Tax and withholding due to the CNMI government will be allocated by the IRS via Form 5074, Allocation of Individual Income Tax to Guam or the Commonwealth of the Northern Mariana Islands.

**Note:** If a Form 5074 is present, the taxpayer is indicating they are not a bona fide resident of CNMI.

- (3) If the taxpayer files a joint tax return, the taxpayer files the return with the jurisdiction where the spouse who has the greater AGI would have to file if that person was to file separately.

If the spouse with greater AGI:

- Is a bona fide resident of Commonwealth of the Northern Mariana Islands the entire tax year, the joint return is filed with CNMI.
  - Is a U.S. citizen or resident alien but not a bona fide resident of Commonwealth of the Northern Mariana Islands for the entire tax year, the joint return is filed with the U.S.
- (4) A nonresident alien of the U.S. who is not a bona fide resident of CNMI for the entire tax year must file:
- A CNMI tax return reporting only income from sources within the CNMI. In this situation, wages for services performed in the CNMI, whether for a private employer, the U.S. government or otherwise, is income from sources within the CNMI.
  - A U.S. tax return (Form 1040-NR) reporting U.S. source income according to the rules for a nonresident alien. Allow only U.S. source income according to the rules for a nonresident alien. Do not allow income or withholding from a Form W-2CM.
- (5) U.S. citizens who are living apart from their spouses may file as single if they meet certain requirements. This provision is sometimes referred to as the “abandoned spouse” provision. This provision may be applicable to CNMI married residents.
- (6) U.S. citizens and resident aliens who are bona fide residents of the Commonwealth of Northern Mariana Islands with effectively connected income of more than \$400 from the conduct of a trade or business and no U.S. filing requirement are required to file Form 1040-SS, U.S. Self-Employment Tax Return, with the IRS to report income and, if necessary, pay self-employment tax.

3.38.147.13.4.1  
(01-01-2024)

**Processing Form 1040  
or Form 1040-SR with  
Income and Address  
from CNMI**

- (1) If the only source of income was derived from CNMI and the taxpayer has a CNMI address (does not have a United States income tax filing obligation), prevent the refund from generating, void the notice, and take the following action. Refer to IRM 3.14.1.7.1.1, Refund Intercepts guidelines regarding the timeliness for TC570/NOREFP input:
- a. Zero out the module. Use Blocking Series 00 (line through the DLN), Source Code 4, Reason Code 099, Hold Code 4, FLC 21, Source Document Y. In Remarks, state “return transshipped to CNMI”. Attach the ADJ 54 print to a copy of the tax return (remember to write “copy” on the document). Give the original document to the work leader.
  - b. Input Letter 86C to inform taxpayer that the return has been transshipped to CNMI for processing. Use paragraphs A, E, R, f, and u.
  - c. For fill-in “f” enter: **Information on your return indicates the only source of income was derived from CNMI and it appears you do not have a United States income tax filing obligation for the year indicated on your return. If you have questions, you may write to that office at the address we have provided in this letter.**
  - d. Use the following address for fill-in “u”.

Commonwealth of Northern Mariana Islands  
 Division of Revenue and Taxation  
 P.O. Box 5234, CHRB  
 Dandan Commercial Center  
 Saipan, MP 96950

- (2) Work Leader will transship the return to Commonwealth of the Northern Mariana Islands.
- (3) If income is reported from a U.S. source (Form W-2) and CNMI (W-2CM) and the taxpayer is not a bona fide resident of Commonwealth of the Northern Mariana Islands, process the return.

3.38.147.13.5  
 (01-01-2025)

**Puerto Rico Residents**

- (1) A U.S. citizen, resident alien, or nonresident alien who is a bona fide resident of Puerto Rico (PR) for the entire tax year files an income tax return with Puerto Rico. If all the taxpayer's income is from Puerto Rico sources, a U.S. tax return is NOT required. A U.S. income tax return is required if the taxpayer has income from non-Puerto Rico sources.
- (2) Taxpayers who have effectively connected net business income of more than \$400 from a trade or business in PR and no U.S. filing requirement must file a Form 1040-SS or Form 1040-SS (sp) (or Form 1040 (PR), for tax year 2022 and prior years), with the IRS to report net earnings from self-employment and, if necessary, pay self-employment tax. For tax years 2023 and later, taxpayers may choose to file Form 1040-SS (sp) (Spanish version), to pay self-employment tax.

**Note:** Income received for services performed as an employee of the U.S. government or any of its agencies is subject to U.S. tax and therefore cannot be excluded from the U.S. income tax return. If U.S. government wages are reported on both the IRS and Puerto Rican tax returns, Form 1116 can be attached to the IRS tax return to claim a credit for income taxes paid to Puerto Rico.

3.38.147.13.5.1  
 (01-01-2025)

**Notices with a Puerto Rico Address**

- (1) If a taxpayer files a Form 1040 with a Puerto Rico address, allow only withholding taxes paid to the U.S. Government supported by an attached Form W-2. Do not allow withholding paid on a Form 499R-2/W-2PR. If all income is solely from Puerto Rico (Form 499R-2/W-2PR), it should be exempt. If either is on the return, disallow income and/or withholding. Assign TPNC's 141 and/or 438.

**Reminder:** Puerto Rico taxpayers will sometimes pay SE tax on Form 1040 instead of Form 1040-SS or Form 1040-SS(sp) (or Form 1040 (PR) for 2022 and prior years). Allow SE tax in this instance.

- (2) FICA taxes paid to Puerto Rico can be allowed as excess FICA and must be verified by attached Form 499R-2/W-2PR or CC IRPTL.
- (3) If Puerto Rico is in the address and the income is from Puerto Rico, disallow EITC.
- (4) If a taxpayer claims an ES credit with a payment DLN of 21227, secure documents and forward to Stop 6567 AUSPC, Attn: Accounts Management, International Unit with Form 6567 annotated "Duplicate Filing".

- (5) Any U.S. citizen who is required to report Puerto Rico income on their U.S. tax return may claim a credit to the extent computed on Form 1116, Foreign Tax Credit . When computing the foreign tax credit, taxpayers who have both excludable and non-excludable income from Puerto Rico sources must reduce the foreign taxes paid amount by the taxes allocated to exempt income. Use the following formula to determine the reduction in foreign taxes:

- $$(\text{Income from P.R. Sources not subject to U.S. Tax} - \text{deductible expenses allocated to that income} \div \text{Total Income subject to P.R. tax less deductible}) \times \text{Tax paid or accrued to P.R.} = \text{Reduction in Foreign Taxes.}$$

3.38.147.13.5.2  
(01-01-2023)

**Child Tax Credit (CTC) -  
Puerto Rico**

- (1) Bona fide residents of Puerto Rico may claim Child Tax Credit if they report income on Form 1040 (Form 1040-SR).
- a. For U.S. Government employees (example: U.S. Postal Employee) and others in Puerto Rico, CTC, and ACTC rules are identical to those for U.S. citizens.
  - b. If income is excluded under IRC 933 (Puerto Rico), the taxpayer must complete *Schedule 8812* (for 2021 and later) or the Child Tax Credit worksheet in Publication 972 (for 2020 and prior).
- (2) For tax year 2021 see 3.38.147.13.5.3
- (3) Child Tax Credit may be limited by the modified adjust gross income (MAGI) and filing status for higher income taxpayers. The Credit is subject to phase out. See *Schedule 8812*, Credits for Qualifying Children and Other Dependents for more information.

3.38.147.13.5.3  
(01-01-2025)

**Additional Child Tax  
Credit (ACTC) and 2021  
Refundable Child Tax  
Credit - Puerto Rico**

- (1) Bona fide residents of Puerto Rico without a US Form 1040 filing requirement can claim the credits directly on Form 1040-SS or Form 1040-SS(sp) (or Form 1040 (PR) for 2022 and prior years) by completing Parts I and II and do not need to complete *Schedule 8812*.
- (2) For tax year 2023, ACTC is limited to:
- those taxpayers with 1 or more qualifying children,
  - no more than \$1,600 per qualified child, and,
  - the total of withheld Social Security Tax, Medicare Tax, and Self-Employment Tax Deduction.
- (3) For tax year 2022, ACTC is limited to:
- those taxpayers with 1 or more qualifying children,
  - no more than \$1,500 per qualified child, and,
  - the total of withheld Social Security Tax, Medicare Tax, and Self-Employment Tax Deduction.
- (4) For tax year 2021 **only**, refundable CTC guidelines:
- bona fide residents of Puerto Rico may claim the refundable child tax credit for one or more qualifying children on Form 1040 (PR), Form 1040-SS, Form 1040, or Form 1040-SR.
  - the amount is limited to \$3,000 per qualifying child (\$3,600 per qualifying child under the age 6 at the end of 2021), and,

- the amount is fully refundable and is NOT limited to the taxpayer's Social Security Tax, Medicare Tax, and Self-Employment Tax Deduction.

**Note:** Taxpayers who are bona fide residents of Puerto Rico for the entire year were not eligible for advance payments of the TY 2021 Child Tax Credit. The TY 2021 Child Tax Credit was only paid in advance to taxpayers with a principal place of abode in one of the 50 states or the District of Columbia for more than half the year. The advance credit is 50 percent of the CTC estimated by the IRS for tax year 2021 based on information shown on the taxpayer's 2020 return (or 2019 return if a 2020 return was not filed).

- For 2021, if the CTC credit amount is reduced below what would have otherwise been applicable based on prior legislation, then the rules for tax years 2018-2020 and 2022-2025 apply (as shown below)

**Example:** A married filing jointly filer, 3 children ages 1, 3, and 7, with a MAGI of \$250,000. Tentative CTC is \$10,200.  
 $\$250,000 - \$150,000 \text{ income threshold} = \$100,000$   
 $\$100,000 \times 5 \text{ percent phaseout } (\$50 \text{ for each } \$1,000) = \$5,000$   
 $\$10,200 \text{ (tentative credit)} - \$5,000 = \$5,200$   
 The increased credit amount is less than the credit allowed following prior year rules (\$2,000 per child), therefore, total allowable CTC is \$6,000.

If...	Then...
The taxpayer checked at least one box on line 13 of <i>Schedule 8812</i> , Credits for Qualifying Children and Other Dependents.	The taxpayer can claim dependents for CTC, and ODC. <b>Note:</b> In this instance, CTC is fully refundable.
The taxpayer did not check a box on line 13 of <i>Schedule 8812</i> , Credits for Qualifying Children and Other Dependents.	The taxpayer can claim dependents for CTC, ACTC, and ODC. <b>Note:</b> In this instance, CTC is not refundable and ACTC is limited to \$1,400 per qualifying child.

(5) For tax year 2020 and prior, ACTC is limited to:

- those taxpayers with 3 or more qualifying children,
- no more than \$1400 per qualified child, and,
- the total of withheld Social Security Tax, Medicare Tax, and Self-Employment Tax Deduction

(6) Bona fide residents of Puerto Rico may choose to file Form 1040 or Form 1040-SR instead of Form 1040-SS or Form 1040-SS(sp) (or Form 1040 (PR) for 2022 and prior years). If the taxpayer is filing a Form 1040 or Form 1040-

SR, with a Puerto Rico address, for ACTC, *Schedule 8812* must be attached to the tax return. ACTC is calculated as if the taxpayer had filed Form 1040-SS/ Form 1040-SS(sp) (or Form 1040 (PR) for 2022 and prior years). For tax years 2020 and prior, the taxpayer must have three or more children and cannot exceed total of withheld Social Security tax, Medicare tax, and Self-Employment Tax Deduction.

- (7) U.S. Government employees (example: U.S. Postal Employee) and others in Puerto Rico may file *Schedule 8812* with Form 1040 or Form 1040-SR to claim ACTC . They follow the same rules as domestic filers of ACTC.
- (8) For the 2017 Form 1040 from Puerto Rico, taxpayers in Hurricane Maria or Irma may use Prior Year Earned Income (PYEI) to calculate Additional Child Tax Credit (ACTC), and Prior Year (PY) Social Security/Medicare tax on *Schedule 8812*. No support for these PY amounts is required. Taxpayer will write PYEI on line 67, and the PY Social Security/Medicare will be used on *Schedule 8812* without any special notation. If \$.00 PYEI, then TP is claiming 3 or more children for ACTC based on Social Security/Medicare.

3.38.147.13.5.3.1  
(01-01-2023)

**Puerto Rico Additional Child Tax Credit (ACTC) for Tax Year 2017 Prior Year (PY) option for Social Security, Medicare, and Additional Medicare Taxes**

- (1) For tax year 2017, Form 1040 (PR) and Form 1040-SS, bona fide residents of Puerto Rico may elect to use their 2016 Social Security, Medicare, and additional Medicare taxes to calculate Additional Child Tax Credit (ACTC). The taxpayer decides whether using 2016 or 2017 amounts is more beneficial.
- (2) If using tax year 2016, the taxpayer will write Prior Year Employment Tax (PYET) and the 2016 amounts withheld on the dotted line next to line 2, Part II. No documentation to support the 2016 write-in amount is required. (The taxpayer will also enter the amount from all 2017 Forms 499R-2/W-2PR directly on line 2).
- (3) If using tax year 2017 for the ACTC calculation, then the write-in on line 2 won't be present.
- (4) If using tax year 2016 Self-Employment (SE) Tax to figure ACTC, the taxpayer will write Prior Year Self-Employment Tax (PYSET) and an amount on the dotted line of line 3, Part II for 1/2 of their tax year 2016 SE Tax. No support is required. The taxpayer may use Prior Year (PY) amounts for both line 2 and 3 if applicable.
- (5) The taxpayer may also calculate ACTC using prior year: excess Social Security Tax, tax from Form 4137, and Additional Medicare tax from Form 8959. These amounts won't be displayed on Form 1040 (PR). The taxpayer computes the amount on a worksheet from Publication 972. The taxpayer is not required to attach the worksheet to the return.

3.38.147.13.5.4  
(01-01-2025)

**Notices Excluding Income from Puerto Rico**

- (1) A U.S. citizen or resident alien (but not a U.S. Government employee) who is a bona fide resident of Puerto Rico and has no income derived from sources outside of Puerto Rico must exclude all their income under IRC 933. If the only source of income is from a Form 499R-2/W-2PR **AND** there is an indication that the taxpayer is a bona fide resident of Puerto Rico (the only address on the return or attachments is PR), prevent the refund from generating, void the notice, and take the following action. Refer to IRM 3.14.1.7.1.1, Refund Intercepts guidelines regarding the timeliness for TC 570/NOREFP input:



- a. Zero out the module. Use Blocking Series 00 (line through the DLN), Source Code 4, Reason Code 099, Hold Code 4, FLC 21, Source Document Y. In remarks, state "return sent to TP to file with PR." Attach the ADJ 54 print to a copy of the tax return (remember to write "copy" on the document).
  - b. Prepare Form 9143, Request for Missing Information or Papers to Complete Return (International Returns) to send the return to the taxpayer.
  - c. Use the following fill-in: "You do not have a U.S. filing obligation, since all of your income is derived from Puerto Rico sources."
- (2) If the taxpayer is a bona fide resident and has income derived from sources outside Puerto Rico, they generally will have a federal income tax filing obligation and may claim an allocated and/or prorated standard deduction or itemized deductions on a federal return. Accept taxpayers prorated itemized deductions or standard deduction but verify the taxable income. For AGI changes, use the following formula to determine the allowable portion of the deductions. If the income and withholding is from Form 499R-2/ Form W-2PR, adjust the AGI and withholding to disallow:
- $$\text{(Gross Income subject to U.S. Tax} \div \text{Gross Income from all sources)} \times \text{Deductions} = \text{Allowable portion of the deduction}$$
- (3) If the return includes *Schedule C* annotated "Income exclude per IRC Section 933" or "Income excluded per IRC Section 933 but included for FICA tax purpose only"; this is for self-employment tax. Since the taxpayer will pay the appropriate tax to Puerto Rico, the income should **not** be reported on:
- *Schedule 1*, line 3 of Form 1040 or Form 1040-SR for 2019 and later
  - *Schedule 1*, line 12 of Form 1040 for 2018
  - Line 12 of Form 1040 for 2017 and prior
- Caution:** If a bona fide resident of a U.S. territory excludes all their self-employment income from gross income, the taxpayer cannot take the one-half self-employment deduction on:
- *Schedule 1*, line 15 of Form 1040 for 2021 and later.
  - *Schedule 1*, line 14 of Form 1040 for 2019 and 2020.
  - *Schedule 1*, line 27 of Form 1040 for 2018.
  - Line 27 for 2017 and prior years.
- (4) A bona fide resident of Puerto Rico earning income from a trade or business must file Form 1040-SS or Form 1040-SS(sp) (or Form 1040 (PR) for 2022 and prior years) with the IRS to report self-employment income and, if necessary, pay self-employment tax to the United States.
- (5) A taxpayer who is a bona fide resident of Puerto Rico for an entire taxable year must claim an exclusion from U.S. income tax on income from Puerto Rico sources. A bona fide resident of Puerto Rico may claim the income exclusion in the year the taxpayer moves to Puerto Rico if they satisfy IRC 937 and the rules found in Treasury Reg. 1.937-1(f)(1).
- (6) A U.S. citizen must exclude income from Puerto Rico sources in the year the taxpayer ceases Puerto Rico residency provided the taxpayer was a bona fide resident of Puerto Rico for at least 2 full years prior to changing residence and the income is attributable to the taxpayer's Puerto Rico residency.



- (7) A taxpayer employed by the U.S. Government cannot exclude amounts received for services performed as an employee of the United States or any agency thereof.
- (8) In tax years 2022 and prior, *Schedule H-PR* (ANEXO H-PR), Household Employment Tax (Puerto Rican Version), may be attached to a Form 1040 (PR) return, or is sometimes filed as a standalone form. See *IMF Notice Review International Job Aid 2510-001* for additional information.

3.38.147.14  
(01-01-2025)

**Form 1040-SS and Form 1040-SS(sp) (Form 1040 (PR) 2022 and prior) Social Security Tax Withheld**

- (1) Excess social security tax withheld can be claimed on Form 1040-SS and Form 1040-SS(sp) (or Form 1040 (PR) for 2022 and prior years) by taxpayers residing in the U.S. territories. It is calculated the same as on domestic returns. The taxpayer must have more than one employer and the combined amount of social security tax withholding must exceed the maximum social security amount for that tax year. Verify the entry by combining all Form W-2, Form W-2AS, Form W-2CM, Form W-2GU, Form W-2VI or Form 499R-2/W-2PR, use CC IRPTRL to verify if paper documents are unavailable.  
**Caution:** If married filing joint, compute excess social security tax withheld for primary and secondary taxpayers separately.
- (2) The maximum amount of social security tax that an employer may withhold for an employee is shown below:

Tax Year	Maximum amount
2024	\$10,453.20
2023	\$9,932.40
2022	\$9,114.00
2021	\$8,853.60
2020	\$8,537.40
2019	\$8,239.80
2018	\$7,960.80
2017	\$7,886.40

**Note:** Form 8959 requires the Additional Medicare Tax withholding be reported on Form 1040-SS and Form 1040-SS(sp) (or Form 1040 (PR) for 2022 and prior years) total payments and credits line.

3.38.147.15  
(01-01-2025)

**Form 1040-SS and Form 1040-SS(sp) (Form 1040 (PR) 2022 and prior) Self-Employment Tax**

- (1) Self-employed persons residing in American Samoa, Guam, Northern Mariana Islands, Puerto Rico or the U.S. Virgin Islands file Form 1040-SS/Form 1040-SS (sp) or Form 1040 (PR), (for 2022 and prior years) to pay their FICA Tax with the U.S. government.

**Note:** The taxpayer cannot claim the self-employment tax deduction for FICA tax purposes. The self-employment tax deduction only applies for U.S. Income Tax purposes (Form 1040 filed with *Schedule SE*).

- (2) Form 1040-SS/Form 1040-SS (sp) (or Form 1040 (PR) for 2022 and prior years) include business information.

- (3) For 2020 only, a taxpayer filing Form 1040-SS or Form 1040 (PR) will use Part VII of the form to compute a deferral of self-employment tax payment (not self-employment tax). The deferral amount is computed on line 9 in Part VII, and included on line 11 in Part I. This amount was a deferral of the payment only. 50 percent of the deferred self-employment taxes were due on or before December 31, 2021. The remaining deferred amount is due on or before December 31, 2022.

- The unpaid deferral will post as a TC 766 Credit Reference Number (CRN) 280. CRN 280 acts as a false credit and will be reversed with TC 767 CRN 280 as payments are applied.
- Deferral amounts can also be viewed using CC IMFOLM.

3.38.147.15.1  
(01-01-2025)  
**Form 1040 (PR)**

- (1) For 2023 and later, taxpayers who are bona fide residents of Puerto Rico must file Form 1040-SS (English version) or Form 1040-SS (sp) (Spanish version) to pay self-employment taxes. Part II of the Form 1040-SS (sp), contains a modified *Schedule 8812*, Additional Child Tax Credit, used to compute the credit.
- (2) For 2021 only, taxpayers who are bona fide residents of Puerto Rico may file Form 1040 or Form 1040-SR instead of Form 1040 (PR) or Form 1040-SS to pay self-employment tax **and** claim 2021 refundable Child Tax Credit.
- (3) For 2020 and prior years, taxpayers who are bona fide residents of Puerto Rico must file Form 1040 (PR) or Form 1040-SS, to pay self-employment tax **and** to claim Additional Child Tax Credit.
- (4) All tax returns are due by the fifteenth day of the fourth month following the end of the tax year.

3.38.147.15.2  
(01-01-2025)  
**Form 1040-SS or Form 1040-SS (sp) (Spanish version)**

- (1) Taxpayers residing in other territories file Form 1040-SS to pay self-employment tax. For 2023 and later, taxpayers may choose to file Form 1040-SS (sp) (Spanish version), to pay self-employment tax .
- (2) Returns are due by the fifteenth day of the fourth month following the end of the tax period.
- (3) Taxpayers residing in a U.S. territory (except Puerto Rico) have an automatic extension of time to file their returns until June 15th.

3.38.147.16  
(01-01-2025)  
**Forms 8288 and Form 8288-A**

- (1) Nonresident aliens or foreign corporation are subject to tax on:
- Foreign Investment in Real Property Tax Act (FIRPTA) transactions under section 897.
  - Gain or loss, on the disposition of an interest in a partnership that is engaged in trade or business within the United States, subject to certain limitations, as provided under section 864 (c)(8).
- (2) The withholding agent must use:
- Form 8288, U.S. Withholding Tax Return for Certain Dispositions by Foreign Persons, to report to the IRS the amount subject to withholding and the amount withheld.

- Form 8288-A, Statement of Withholding on Certain Dispositions by Foreign Persons, to show the amount of withholding tax withheld for the taxpayer to file with their tax return.

- (3) The amount of withholding credit claimed from Form 8288-A on Form 1040-NR cannot exceed the amount in Box 2 of Form 8288-A. Also, verify Form 8288-A copy B, is attached to the return and, Box 1, Date of Transfer, is within the tax period of the return.
- (4) When the credit is verified by Code and Edit or ERS, the information is transferred to Form 13698, International Credit(s) Verification Slip. Allow only the amount on the Total Credit line. If the Form 13698 is missing or the Total Credit line is blank, take the case (include original or copy of the tax return and Form 8288-A) to the Work Leader for verification on the FIRPTA database.

**Caution:** Do not use IDRS CC IRPTL to verify the Form 8288-A. The case must be given to the Work Leader for credit verification.

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- (6) If Code and Edit or ERS disallows the credit or the taxpayer claims a duplicate credit in error, to adjust the withholding use CC REQ54, input TC 290.00, Reason Code 069 and CRN 332(+/-). The credit post as a TC766/767.

3.38.147.17  
(01-01-2016)  
**Community Property**

- (1) Community Property laws apply to a U.S. citizen married to a nonresident alien spouse domiciled in a community property state, Guam and Puerto Rico, or a foreign country.

3.38.147.17.1  
(01-01-2016)  
**Community Property  
Taxpayer - IRC 879**

- (1) Nonresident aliens can claim community property if domiciled in a community property country.
- (2) Income earned by either spouse through wages, business, or partnership is treated as income of the spouse who earned it regardless of community property laws.
- (3) Per IRC 879, income and withholding cannot be split between nonresident alien spouses.
- (4) A person is not a self-employed person unless they have income from a trade or business including a partnership.
- (5) If any of the income from a business is community income under state community property laws, all the gross income and related deductions are generally treated as gross income and deductions of the spouse who earned it.
- (6) If the other spouse exercises substantially all management and control over the business, all the gross income and related deductions are treated as income and deductions of that spouse.
- (7) If a taxpayer with a nonresident alien spouse elects to treat the spouse as a U.S. resident for tax purposes, the taxpayer will use the community property rules where they reside. See Pub 519, U.S. Tax guide for Aliens, for more information.
- (8) Community Property States, Countries and Territories:

States
Arizona
California
Idaho
Louisiana
Nevada
New Mexico
Texas
Washington
Wisconsin

Countries
Belgium
Brazil
Colombia
Dominican Republic
France
Guatemala
Mexico
Montenegro
Netherlands
Philippines
Portugal
Spain
Sweden
Venezuela

Territories
Guam
Puerto Rico

3.38.147.17.2  
(01-01-2024)

**Community Property of  
Nonresident Aliens - IRC  
879**

- (1) Based on attachments such as name and TIN on Form W-2, Form 1099-MISC, etc., determine the true recipient of the income.
- (2) Based on combined income and withholding for each recipient, adjust amount to each separate return. If Form 1099 is not attached, adjust all interest, dividend, and capital gain income on the spouses' return who has all or most of the income. Determine the true recipient of the income based on name and TIN on attached Form W-2, Form 1099-MISC., etc.

**Example:** If the NRA spouse has all wages per Form W-2, adjust all interest income to the NRA spouse.

If	Then
Form 1040 and Form 1040-NR are filed and the actual recipient of the income is the spouse who is a U.S. citizen or resident alien	Adjust the income and withholding to the Form 1040 and eliminate income on Form 1040-NR and attach as information
Actual recipient of income is a nonresident alien spouse	Adjust all the income and withholding to NRA return
For 2017 and prior years, U.S. citizen or resident alien claimed FS 4	Allow exemption for the NRA spouse and adjust the spousal exemption to FS 5
For 2017 and prior years, income shown on NRA spouse's return and FS 3, 4 or 5 is checked	Do not allow an exemption for U.S. spouse if a return is filed
Form 1040 and Form 1040-NR are filed and both spouses and only the NRA spouse is recipient of the income	Adjust each recipient's respective income to separate returns
If two Form 1040-NR s are filed and actual recipient is NRA	Adjust income and withholding to NRA spouse's Form 1040-NR and eliminate income and withholding from other spouse's information. Adjust filing status and exemption and allow an exemption for the other spouse only if box 3 or 4 checked (FS 3 or 6) and no return is filed
Two Form 1040-NR are filed and both NRA spouses are recipients of the income	Adjust each recipient's respective income and withholding to the separate returns

3.38.147.18  
(11-19-2019)

**Self-Employment Tax**

- (1) Missionaries claiming physical presence must pay self-employment tax on net earnings without regard to any exemptions.
- (2) A foreign agricultural worker temporarily admitted into the United States on a **H-2A visa** is exempt from Self-Employment tax, whether a resident alien filing a Form 1040 or a nonresident alien. These wages are typically reported by the employer on a Form W-2 the wages may be reported on a Form 1099-MISC. A notation of Qualified Joint Venture, "QJV", is an indication that there is no Self-Employment liability. The income is subject to regular tax and is not exempt by treaty.

3.38.147.19  
(01-01-2021)  
**Totalization Agreement  
(Self-Employment Tax)**

- (1) The totalization agreement between the United States government and the countries listed below generally provide that self- employed individuals are covered by social security system and liable for contributions to the social security system only in the country where they reside. If self-employment tax is not clearly indicated on a Form 1040 or Form 1040-NR and a *Schedule SE* is not attached, no self-employment tax is due if taxpayer resides in:

Totalization Agreement Table				
Australia	Austria	Belgium	Brazil	Canada
Chile	Czech Republic	Denmark	Finland	France
Germany	Greece	Hungary	Iceland	Ireland
Italy	Japan	Luxembourg	Netherlands	Norway
Poland	Portugal	Slovak Republic	Slovenia	South Korea
Spain	Sweden	Switzerland	United Kingdom	Uruguay

**Note:** Some treaties contain time limits on the exclusion. Typically, the time limit is from 2 to 5 years, depending on the Totalization Agreement.

3.38.147.20  
(01-01-2023)  
**Withholding Tax on  
Foreign Partners (Form  
8805)**

- (1) Form 8804, Form 8805, and Form 8813 are filed by non-publicly traded partnerships to report and pay withholding tax under section 1446(a) based on effectively connected taxable income allocated to foreign partners without regard to whether such income is actually distributed. See 3.38.147.22 for forms filed for withholding under section 1446(a) by publicly traded partnerships.
- Form 8804, Annual Return for Partnership Withholding Tax (Section 1446) , shows the total withholding tax liability of the partnership.
  - Form 8813, Partnership Withholding Tax Payment Voucher (Section 1446), is used to transmit withholding tax payments from partnerships. See *IMF Notice Review International Job Aid 2510-001*.
- (2) Form 8805 Foreign Partner’s Information Statement of Section 1446 Withholding Tax, shows the amount of effectively connected taxable income and withholding tax allocatable to each foreign partner.
- (3) Form 8805 must be attached to each foreign partner’s tax return for proper credit.

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- (4) Review TC 766 credit allowance and if necessary, make the appropriate adjustment. To adjust the credit, Use CC REQ54, input TC 290.00, Reason Code (RC) 069 and Credit Reference Number (CRN) 331 (+/-).
- (5) Any U.S. person erroneously subjected to the withholding tax would also receive Form 8805 from a partnership and should attach it to Form 1040 for credit substantiation.

3.38.147.20.1  
(01-01-2021)#  
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- (2) If supporting documents for withholding are not attached, verify the withholding displayed on CC IRPTR, not to exceed the amount claimed by the taxpayer. Send appropriate TPNC.

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- (4) Withholding from Form 1042-S should be reported on Form 1040-NR:
  - Line 25g for 2020 and later
  - Line 62d for 2019 and prior years or
  - Line 18b of Form 1040-NR-EZ for 2019 and prior years.If the withholding is present on Form 1042-S, but was not claimed on the tax return, follow taxpayer intent and adjust the account to allow the withholding.
  - If Form 1042-S withholding has no supporting Form 1042-S attached, disallow and send TPNC 432
  - If the TIN on Form 1042-S does not match the TIN in the entity area, disallow and send TPNC 441

3.38.147.21  
(01-01-2021)  
**Social Security  
Benefits/Pensions and  
Annuities**

- (1) Social Security benefits, pensions and annuities paid to residents or citizens of certain countries are not taxable under tax treaties signed between the U.S. and those countries.
- (2) If pension or annuity income is reported on Form 1099-R, it is considered effectively connected income. If it is reported on Form 1042-S, it is considered non-effectively connected income and taxed according to the tax treaty.
- (3) U.S. citizens residing abroad are subject to normal tax rates on social security benefits unless otherwise provided by a tax treaty with the country where the U.S. citizen resides.
- (4) Nonresident aliens who reside in countries who do not receive benefits under a tax treaty are subject to 30 percent tax rate on 85 percent of their social security benefits (Form SSA-1042S) and Tier 1 railroad retirement benefits (Form RRB-1042S).
- (5) If the taxpayer has wage income and claims a deduction as a negative amount on line 21 for contributions made to a Canadian Retirement or Pension Plan



(e.g., “RPP”, “RPPS”, Canada Article XVIII - usually reported on the Form 8833 or a supporting statement), allow the deduction if the taxpayer meets the requirements of the treaty.

3.38.147.21.1

(01-01-2025)

**Social Security/Railroad Retirement Benefits (Form SSA-1099 or Form SSA-1042S)**

- (1) Social security payments on international tax returns fall into three categories depending on if the taxpayer is a U.S. citizen residing abroad, a nonresident alien, or a lawful permanent resident alien of the U.S.
- (2) Social security benefits (Form SSA-1042S) paid to nonresident aliens who are not residents of treaty exempt countries are subject to 30 percent tax rate on 85 percent of their benefits. This income is considered non-effectively connected and is reported on Form 1040-NR, *Schedule NEC*, line 8.

**Note:** The 30 percent tax must be computed on 85 percent of the social security benefits (i.e., If the taxpayer has \$3,000 of SSA/RRB income, they must pay tax on it. Multiply \$3,000 x 85 percent = \$2,550. The tax on \$2,550 x 30 percent = \$765.

**Exception:** Switzerland benefits paid to individuals who are both residents and a national of Switzerland and do not have permanent residency status in the United States are taxed at 15 percent of 85 percent of U.S. Social Security benefits.

- (3) U.S. citizens residing abroad and nonresident aliens who are residents of the following countries are exempt from U.S. tax on their benefits. Disallow if claimed by the taxpayer on Form 1040 or Form 1040-SR:
  - Line 6b for 2020 and later
  - Line 5b for 2018 and 2019
  - Line 20b for 2017 and prior years.

Assign TPNC 131.

- a. Canada
- b. Egypt
- c. Germany
- d. India (only if paid with respect to services for the government and if the recipient is both a resident and a national of India who does not have a lawful permanent residence in the United States)
- e. Ireland
- f. Israel
- g. Italy (must also be a citizen of Italy for the exemption to apply)
- h. Japan (only applies to nonresident aliens)
- i. Romania
- j. United Kingdom

- (4) The SSA will not withhold U.S. tax from a taxpayer's benefits if they are a U.S. citizen and reside in one of these countries.

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**Note:** ERS will enter .01 in the social security field if the above condition occurs and should appear as a “1” on the CC RTVUE screen.

- (6) If the taxpayer excludes income using Form 2555, exempts income under IRC 933 (Puerto Rico) or IRC 931 (Form 4563), then accept taxpayer's amount of taxable social security.
- (7) Under income tax treaties with Canada and Germany, social security benefits paid by those countries to U.S. residents are treated for U.S. income tax purposes as if they were paid under the social security legislation of the United States. If the taxpayer receives social security benefits from Canada or Germany, they should include them on line 1 of the Social Security Benefits Worksheet.
- (8) The RRB will withhold U.S. tax from a taxpayer's benefits unless they file Form RRB-1001, **Nonresident Questionnaire**, with the RRB to provide citizenship and residency information. If they do not file Form RRB-1001, the RRB will consider them a nonresident alien and withhold tax from their railroad retirement benefits at a 30 percent rate on Form RRB-1042S.

3.38.147.21.2  
(01-01-2017)  
**SSA/RRB-Form 1042S**  
**(Green Card)**

- (1) For U.S. income tax purposes, lawful permanent residents (green card holders) are considered resident aliens until that status under the immigration laws is either taken away or is administratively or judicially determined to have been abandoned. Social security benefits paid to a green card holder are not subject to 30 percent withholding. If a green card holder's tax on social security benefits was withheld in error because they have a foreign address, the withholding tax is refundable by the Social Security Administration (SSA) or the IRS. To receive a refund of the tax withheld in error, the taxpayer must file either Form 1040 or Form 1040A with the following attached:
  - a. A copy of the Form SSA-1042S, Social Security Benefit Statement
  - b. A copy of the "green card"
  - c. A signed declaration that includes the following statement:

"The SSA should not have withheld federal income tax from my social security benefits because I am a U.S. lawful permanent resident. and my green card has been neither revoked nor administratively or judicially determined to have been abandoned. I am filing a U.S. income tax return for the tax year as a resident alien reporting all my worldwide income. I have not claimed benefits for the tax year under an income tax treaty as a nonresident alien."

**Note:** Claims are being filed on behalf of Philippine widows who have had the mandatory 30 percent withheld on 85 percent of the SSA/RRB income. Do not allow these refunds unless they reside in the United States.

- (2) Taxpayers are sending in series 1040 returns using their firm address, which usually is in the United States or a U.S. territory. Processing will correspond for the three (3) items listed above and when the taxpayer is unable to provide the required information, the claim is disallowed. Notice Review will generally see this condition generate a CP 13 with TPNC 442.
  - a. To adjust the withholding amount, use CC REQ54 input TC 290.00, Reason Code (RC) 061, Credit Reference Number (CRN) 330 (+/-). This will generate a TC 766 or TC 767 on CC TXMOD.

3.38.147.21.3  
(01-01-2025)

**Pensions and Annuities  
with Income Code 15**

- (1) Disability pensions shown on Form 1042-S with Income Code 15 will be reported on Form 1040-NR, line 1a for 2020 and later (or line 8 for 2019 and prior years), if the taxpayer has not reached the minimum retirement age set by the employer. Disability pensions received after the minimum retirement age has been reached will be reported on Form 1040-NR, lines 5a/5b for 2020 and later or lines 17a/b for 2019 and prior years.
- (2) Nonresident aliens with pension income supported by Form 1042-S with Income Code 15 without an Exemption code or Exemption Code 00 must report such income as non-effectively connected income on *Schedule NEC*, line 7, and tax on 23a of Form 1040-NR. If pension income from Form 1042-S is reported on Form 1040 or Form 1040-SR, the amount should be removed from line 5b and included on *Schedule 2*, line 17o at the tax treaty tax rate and included in total tax of Form 1040 or Form 1040-SR, line 24 for 2020 and later, line 15/16 for 2018 or 2019 or line 63 for 2017 and prior.
  - a. If the taxpayer has not reported Form 1042-S pension income, and it is taxable:
    - Use website at *Tax Treaty Table*, Table 1, to verify the tax rate.
    - Adjust to include the tax, if applicable, on Form 1040-NR, line 23a for 2020 and later (or line 54 of Form 1040-NR for 2019 and prior years) in Total Tax.
    - Send TPNC 429.
  - b. If the taxpayer enters pension income from Form 1042-S on page 1 of Form 1040-NR, and it is taxable:
    - Use website at *Tax Treaty Table*, Table 1, to verify the tax rate.
    - Delete the income from AGI.
    - Adjust to include the tax, if applicable, on Form 1040-NR, line 23a for 2020 and later (or line 54 of Form 1040-NR for 2019 and prior years) in Total Tax.
    - Send TPNC 429.
  - c. If the taxpayer enters pension income from Form 1042-S on page 1 of Form 1040 or Form 1040-SR, and it is taxable:
    - Use website at *Tax Treaty Table*, Table 1, to verify the tax rate.
    - Delete the income from AGI.
    - Adjust to include the tax on Form 1040 or Form 1040-SR, *Schedule 2*, line 17o and 24 for 2020 and later, line 16 for 2019, line 15 for 2018, and line 63 for 2017 and prior.
    - Send TPNC 429.
- (3) A member of the U.S. military reaching retirement age may elect to receive, during their lifetime, a reduced U.S. military pension in order that the taxpayer's surviving spouse may continue to draw a U.S. military pension after their death. After the death of the U.S. military retiree, the pension which is paid to the retiree's surviving spouse is called a "Survivor Benefit Annuity" (SBA) or a "Survivor Benefit Plan" (SBP).

**Note:** Form 1042-S with Income Code 15 from Office of Personnel Management, U.S. tax law holds that these benefits represent U.S. - sourced, taxable

income unless U.S. tax law is overridden by a tax treaty between the U.S. and the country in which the NRA recipient is a resident.

- (4) SBAs/SBPs paid to nonresident aliens who reside in the following countries **are not** subject to U.S. tax under current treaties, provided they are citizens(\*) and/or a national of the country in which they reside.

<b>Nonresident Alien countries not subject to US Tax</b>	
Australia	Lithuania*
Austria	Luxembourg*
Bangladesh*	Malta*
Barbados	Mexico*
Belgium*	Morocco*
Bulgaria*	Netherlands*
China*	New Zealand (must also be a citizen of New Zealand)
Cyprus*	Norway
Czech Republic (decendent must have been a resident of Czech Republic)	Pakistan
Egypt	Portugal*
Estonia*	Romania
Finland*	Slovak Republic (decendent must have been a resident of Slovak Republic)
Germany*	Russia (must also be a citizen of Russia)
Hungary*	Slovenia*
Iceland*	South Africa*
India*	Spain*
Ireland*	Sri Lanka
Israel	Sweden (must also be a citizen of Sweden)
Italy*	Switzerland*
Jamaica* (decendent must have been a national of Jamaica at the time the services were rendered)	Thailand*
Japan*	Tunisia

<b>Nonresident Alien countries not subject to US Tax</b>	
Kazakhstan (must also be a citizen of Kazakhstan)	Turkey*
South Korea	United Kingdom*
Latvia*	Venezuela*

**Caution: U.S.-Hungary income tax treaty.** The income tax treaty between the government of the United States and the government of the Hungarian People's Republic was terminated effective January 8, 2023. The termination of the treaty is effective for withholding taxes on payments made on or after January 1, 2024. For all other taxes the termination of the treaty is effective for tax years beginning on or after January 1, 2024.

**U.S.-Russia income tax treaty.** On July 1, 2024, Announcement 2024-26, 2024-27 I.R.B.14, announced the suspension of paragraph 4 of Article 1, and Articles 5-21 and 23 of the income tax treaty between the United States and Russia. The suspension is effective on August 16, 2024, and will continue until otherwise decided by the two governments. Confirm the suspension of the article or articles that could cover pensions and annuities.

**Note:** The above table is not all inclusive. See Table 2 at *Tax Treaty Tables* for the complete list.

- (5) SBAs/SBPs paid to residents and citizens of the following countries are taxable in the U.S. at the following tax rates under current tax treaties (or in the absence of a treaty):

<b>Residents and citizens of the following countries</b>	<b>Tax rates under current tax treaties (or in the absence of a treaty)</b>
Greece, Trinidad, Tobago, Ukraine	0 percent
Indonesia, South Africa, Canada, Chile <b>Caution:</b> The United States-Chile tax treaty entered into force on December 19, 2023. The treaty is effective for withholding taxes on payments made on or after February 1, 2024. For all other taxes the treaty is effective for tax years beginning on or after January 1, 2024.	15 percent
All other countries (no tax treaty)	30 percent

3.38.147.22  
(01-01-2025)  
**Form 1042 and Form 1042-S**

- (1) Form 1042 and Form 1042-S are used by withholding agents to report tax withheld at source on certain fixed or determinable annual or periodical income paid to nonresident alien individuals, foreign partnerships, or corporations in the U.S. In addition, these forms are used to report withholding of distributions made by publicly traded partnerships of effectively connected taxable income subject to 1446(a) withholding. As of 2014, these Forms are also used to report payments under Internal Revenue Code (IRC) chapter 4 pursuant to the Foreign Account Tax Compliance Act (FATCA). An individual may be subject to a 30 percent withholding rate when the individual is an account holder of a foreign financial institution (FFI) and the FFI classifies the individual as a recalcitrant account holder.
- (2) Form 1042-S is an information return that identifies, by type, income that is subject to U.S. withholding tax and which is paid to foreign persons (including nonresident aliens) by a U.S. withholding agent. Form 1042-S is also used to report tax withheld on withholdable payments under IRC chapter 4. See IRM 3.22.111 and Pub 515 for more information.

**Note:** Under the Foreign Account Tax Compliance Act (FATCA), certain Income Codes on Form 1042-S changed in 2015. The income codes that changed are shown below.

- a. Pension and Annuities Income Code 14 (2014 and prior years) changed to 15.
- b. Personal Services Income Codes 15 through 19 (2014 and prior years) changed to 16 through 20.
- c. Other Income Code 51 (2014 and prior years) changed to 23 for 2017 and later.
  - Alimony is not-effectively connected income and is reported on *Schedule NEC*, line 12, Other, using the applicable treaty tax rate for pensions and annuities (Income Code 15).
  - An award or prize is non-effectively connected income and is reported on *Schedule NEC*, line 12, Other, and is taxed at a rate of 30 percent for all countries of residence.
- (3) Box 1, Income Code: A two-digit income code is used to determine the type of income reported in Box 2 of Form 1042-S (see Publication 515 for more information on individual codes). Effectively connected income (identified by Exemption code 01 in Box 3a or Exemption code 14 in Box 4a) is reported on:
  - Lines 1a through 9 of Form 1040-NR for 2020 and later,
  - Lines 8 through 21 of Form 1040-NR for 2019 and prior years, or
  - Line 3f of Form 1040-NR-EZ for 2019 and prior years.

Non-effectively connected income is reported on *Schedule NEC*, of Form 1040-NR. See *IMF Notice Review International Job Aid 2510-001* for a list of specific Income Codes.
- (4) Gambling winnings, Income Code 28, is always non-effectively connected income unless documentation is submitted to prove a nonresident alien is a professional gambler.
- (5) Income Codes 16 through 20 and 42 is effectively connected (personal service) income reported on page 1 of Form 1040-NR, (or Form 1040-NR-EZ for 2019 and prior years). This income is usually exempt from tax by a tax treaty. Verify the tax treaty using Table 2.

**Note:** If Income Code 16 and Exemption Code 04 are present and the Form 1042-S was issued by a college or university and the Form 1042-S has no withholding, accept the entry.

- (6) Taxpayers who file a *Schedule C* for business expenses against income that has been reported on a Form 1042-S are permitted to do so when Box 1 on the Form 1042-S contains one of the following Income Codes: 16, 18, 42, or 51 (16, 18, 35, or 51 for 2014 and prior years). If one of these codes is not present, check for the presence of a Form 1099 and/or for an indication that the *Schedule C* is being claimed against other income. If none of the above conditions are present, disallow the *Schedule C* expenses and assign the appropriate TPNC.
- (7) Box 5, Withholding Allowances: For 2022 and prior years, this box should only be completed if the Income Code is 16. The taxpayer will subtract the Box 5 amount from the Box 2 amount and enter it in Box 6. The amount on line 10b of Form 1040-NR for 2020 and later (or line 31 of Form 1040-NR for 2019 and prior years) cannot exceed the amount on Form 1042-S, Box 5 ( and/or statements).
  - If the amount on line 10b (line 31 for prior years) is less than or equal to the amount on line 12, allow the amount in Box 5, or from the statement for school related expenses.
  - If the amount on line 10b (line 31 for prior years) is greater than the amount on line 12, allow the amount on line 12.
- (8) The rate of withholding in Box 5 applies to the income in Box 2 or Box 6. The Income Code in Box 1 determines the correct rate of withholding regardless of the entry in Box 3b (tax rate). Most non-effectively connected income is taxed at the 30 percent rate unless a treaty applies.
- (9) Foreign nationals with J-1 Visas are temporarily in the U.S. as part of the Exchange Visitor Program. Participants in the Camp Counselor and Summer Work Travel Program are foreign students who are in the U.S. to work temporary, seasonal type jobs during school vacation.

J-1 Visa holders are not entitled to claim a treaty exemption if they:

- Identify themselves as a service provider or cultural exchange participant, or
- Have wages for summer type seasonal work (e.g., retail, casinos, resorts, or (restaurants)
- Are present in the U.S. for 4 months or less.

Disallow the treaty exemption and verify that the income is reported on the appropriate line of the Form 1040-NR (or 1040-NR-EZ for 2019 and prior years).

3.38.147.22.1  
(01-01-2023)

**Form 1042 and Form  
1042-S Exemption  
Codes**

- (1) An Exemption Code identifies which type of exemption from withholding the recipient claimed.
- (2) The most common Chapter 3 or 4 Exemption Codes are identified below:
  - Exempt Code 00 - Box 3b is blank; no exemption from withholding claimed.



- Exempt Code 01 or 14 - Income effectively connected with a U.S. trade or business.
- Exempt Code 02 - exempt under an Internal Revenue Code (IRC Section) (income other than portfolio interest.) See table below.

If	Then
Taxpayer has not entered income or exempt amount on Form 1040-NR and Form 1040-NR-EZ for 2019 and prior	Accept taxpayer's figures
Taxpayer shows the amount as exemption income and exempt amount or as a tax treaty on page 1	Adjust to disallow income and amount
Taxpayer reported gross income (box 2, Form 1042-S) and exempt withholding allowance (box 5, Form 1042-S)	Adjust to disallow those amounts and accept the net income (box 6, Form 1042-S)
Taxpayer reports all or part of net income (box 6, Form 1042-S) as taxable income	Accept taxpayer's figures
Form 1040-NR prepared by USAID	Accept the return as filed

- Exempt Code 04 - exempt under a tax treaty. See table below.

If	Then
Taxpayer has entered a valid treaty article on <i>Schedule OI</i> , and reported the exempt income on Form 1040-NR: <ul style="list-style-type: none"> <li>• line 1k for 2022 and later</li> <li>• line 1c for 2020 and later</li> <li>• line 22 for 2019 and prior years or</li> <li>• line 6 for 1040-NR-EZ for 2019 and prior years</li> </ul>	Accept taxpayer's figures
Taxpayer has included the exempt amount as taxable income (i.e., line 1a, wages) and has not exempted or deducted it elsewhere on page 1 of the Form 1040-NR	Adjust to exempt the exempt income
Taxpayer has entered the: <ul style="list-style-type: none"> <li>• exempt amount on line 1b and deducted the amount on line 10b on Form 1040-NR for 2021</li> <li>• exempt amount on line 1b and deducted the amount on line 10c on Form 1040-NR for 2020</li> <li>• exempt amount on line 12 and deducted the amount on line 31 on Form 1040-NR for 2019 and prior</li> <li>• exempt amount on line 5 and deducted the amount on line 8 on Form 1040-NR-EZ for 2019 and prior</li> </ul>	Adjust to disallow both amounts
Taxpayer did not identify a valid article number	

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