Taxpayer Services

STAKEHOLDER PARTNERSHIPS, EDUCATION & COMMUNICATION

Foreign Student and Scholar Volunteer Tax Return Preparation

Publication 4756 (Rev. 6-2026) Catalog Number 53052M Department of the Treasury **Internal Revenue Service** www.irs.gov

e-learning Options

VITA/TCE Central

Fact-Gathering Process

Effective Interviewing

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

Standards of Conduct

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

Privacy and Confidentiality Guide

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

Volunteer Testing and Certification

Assist only with:

- Returns,
- Forms, and
- Supporting schedules

…for which you are trained and certified

RESIDENCY STATUS FOR FEDERAL TAX PURPOSES

Determination of Residency Status

Do not confuse residency for federal tax purposes with:

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

Resident or Nonresident

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

Substantial Presence Test

- 31 days during the current tax year

AND

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

* 183 days or more being calculated as follows:

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

Exempt Individuals

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

Exempt Student (F, J or M Visa)

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

Closer Connection Election for Students

(OUT-OF-SCOPE)

If the student meets these four requirements:

1) does not intend to reside permanently in the United States;

2) has substantially complied with the immigration laws and requirements relating to his student nonimmigrant status;

3) has not taken any steps to change his nonimmigrant status in the United States toward becoming a permanent resident of the United States; **and**

4) has a closer connection to a foreign country than to the United States as evidenced by the factors listed in Treasury Regulation 301.7701(b)-2(d)(1).

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

Closer Connection Election for Students (cont.)

To claim this election, the student must also:

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

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

Establishing a Closer Connection

(OUT-OF-SCOPE)

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

Exempt Teacher/Trainee

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

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

Green Card Test

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

Residency Starting Date

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

Residency through Marriage

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

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

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

FILING REQUIREMENTS & WHAT TO FILE

Who Must File?

In the United States,

it is the individual's responsibility

to know what tax forms must be filed with the government.

Resident Aliens

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

Dual Status Aliens

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

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

How Nonresident is Different

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

How Nonresident is Different (cont.)

- Standard deduction not allowed

(except as allowed by treaty for students from India)

Nonresident Itemized Deductions

Itemized deductions limited to:

- State and local taxes withheld
- Contributions to U.S. charities

Nonresident Alien (NRA) Filing Requirements

Who?

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

Nonresident Alien (NRA) Filing Requirements (cont.)

What to File

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

Nonresident Alien (NRA) Filing Requirements (cont.)

When to File

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

- Form 8843 only by June 15th of the year following the close of the tax year.

Nonresident Alien (NRA) Filing Requirements (cont.)

Where to File

If you are not enclosing a payment:

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

If you are enclosing a payment:

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

Consequences of Failure to File

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

THE EFFECT OF TAX TREATIES

Treaty Overview

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

Points to Consider

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

Form 1042-S
Common Income Codes

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

Unique Treaty Provisions

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

FAMILY ISSUES

Family Issues

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

Filing Status & Marital Status

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

Filing Status & Dependents

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

Spouse, Children, and Other Accompanying Family Members

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

TAXATION OF NONRESIDENTS

Taxation of Nonresidents

- Source of Income
- Type of Income

Interest Income

- Is usually excluded from income

Qualified Scholarships/Fellowships

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

Other Income

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

FORM 8843 FILING REQUIREMENT

Form 8843

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

Form 8843 (cont.)

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

FINISHING THE RETURN

Finishing the Return

FIRST, Cover with the taxpayer,

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

- ***THEN***,
- Taxpayer signs the form(s)

Finishing the Return (cont.)

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

SOCIAL SECURITY TAX MATTERS

Social Security Tax

- Exemption from FICA (Federal Insurance Contributions Act, i.e. Social Security and Medicare Taxes)
- If resident for tax purposes, usually subject to FICA taxes

Social Security Tax (cont.)

- Individuals in F-2 or J-2 immigration status are **never** exempt from FICA

FICA Refunds

When withheld in error:

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

STATE INCOME TAX ISSUES

State Income Tax Issues

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

Questions?

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

THANK YOU

FOR AGREEING TO HELP OTHERS WITH THEIR TAX RETURNS.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

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