

Publication 519

U.S. Tax Guide for Aliens

For use in preparing
2023 Returns

Volume 1 of 7



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Contents	Regular Page	Large Print Page
Introduction	1	5
What's New	3	10
Reminder	3	11
Chapter 1. Nonresident Alien or Resident Alien?	4	18
Chapter 2. Source of Income	15	91
Chapter 3. Exclusions From Gross Income	21	133
Chapter 4. How Income of Aliens Is Taxed	25	159
Chapter 5. Figuring Your Tax	36	230
Chapter 6. Dual-Status Tax Year	46	297

Chapter 7. Filing Information	50	319
Chapter 8. Paying Tax Through Withholding or Estimated Tax	55	353
Chapter 9. Tax Treaty Benefits	67	429
Chapter 10. Employees of Foreign Governments and International Organizations	71	455
Chapter 11. Departing Aliens and the Sailing or Departure Permit	73	471
Chapter 12. How To Get Tax Help	76	491
Taxpayer Assistance Inside the United States	76	491

Appendix A—Tax Treaty Exemption Procedure for Students	84	531
Appendix B—Tax Treaty Exemption Procedure for Teachers and Researchers	89	569
Index	96	617

Future Developments

For the latest information about developments related to Pub. 519, such as legislation enacted after it was published, go to [IRS.gov/Pub519](https://www.irs.gov/pub519).

Introduction

For tax purposes, an alien is an individual who is not a U.S. citizen. Aliens are classified as nonresident aliens and resident aliens. This publication will help you determine your status and give you information you will need

to file your U.S. tax return. Resident aliens are generally taxed on their worldwide income, the same as U.S. citizens.

Nonresident aliens are taxed only on their income from sources within the United States and on certain income connected with the conduct of a trade or business in the United States.

The information in this publication is not as comprehensive for resident aliens as it is for nonresident aliens. Resident aliens are generally treated the same as U.S. citizens and can find more information in other IRS publications at [IRS.gov/Forms](https://www.irs.gov/forms).

Table A provides a list of questions and the chapter or chapters in this publication where you will find the related discussion.

Answers to frequently asked questions are presented in the back of the publication.

Table A. Where To Find What You Need To Know About U.S. Taxes

Commonly Asked Questions	Where To Find the Answer
Am I a nonresident alien or resident alien?	See chapter 1 .
Can I be a nonresident alien and a resident alien in the same year?	<ul style="list-style-type: none"> • See Dual-Status Aliens in chapter 1. • See chapter 6.
I am a resident alien and my spouse is a nonresident alien. Are there special rules for us?	<ul style="list-style-type: none"> • See Nonresident Spouse Treated as a Resident in chapter 1. • See Community Income in chapter 2.
Is all my income subject to U.S. tax?	<ul style="list-style-type: none"> • See chapter 2. • See chapter 3.
Is my scholarship subject to U.S. tax?	<ul style="list-style-type: none"> • See Scholarships, Grants, Prizes, and Awards in chapter 2. • See Scholarships and Fellowship Grants in chapter 3. • See chapter 9.
Would any U.S. estate or gift taxes apply to me, my estate, or an estate for which I am an executor, trustee, or representative?	See U.S. federal estate and gift tax in <i>Reminders</i> .
What is the tax rate on my income subject to U.S. tax?	See chapter 4 .
I moved to the United States this year. Can I deduct my moving expenses on my U.S. return?	See Deductions in chapter 5.
Can I claim my spouse and/or children as dependents?	See Dependents in chapter 5.
I pay income taxes to my home country. Can I get credit for these taxes on my U.S. tax return?	See Tax Credits and Payments in chapter 5.
What forms must I file and when and where do I file them?	See chapter 7 .
How should I pay my U.S. income taxes?	See chapter 8 .
Am I eligible for any benefits under a tax treaty?	<ul style="list-style-type: none"> • See Income Entitled to Tax Treaty Benefits in chapter 8. • See chapter 9.
Are employees of foreign governments and international organizations exempt from U.S. tax?	See chapter 10 .
Is there anything special I have to do before leaving the United States?	<ul style="list-style-type: none"> • See Expatriation Tax in chapter 4. • See chapter 11.

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Comments and suggestions. We welcome your comments about this publication and suggestions for future editions.

You can send us comments through [IRS.gov/FormComments](https://www.irs.gov/FormComments). Or, you can write to the Internal Revenue Service, Tax Forms and Publications, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224.

Although we can't respond individually to each comment received, we do appreciate your feedback and will consider your comments and suggestions as we revise our tax forms, instructions, and publications.

Don't send tax questions, tax returns, or payments to the above address.

Getting answers to your tax questions. If you have a tax question not answered by this publication or the *How To Get Tax Help* section at the end of this publication, go to the IRS Interactive Tax Assistant page at [IRS.gov/ Help/ITA](https://www.irs.gov/Help/ITA) where you can find topics

by using the search feature or viewing the categories listed.

Getting tax forms, instructions, and publications. Go to [IRS.gov/Forms](https://www.irs.gov/forms) to download current and prior-year forms, instructions, and publications.

Ordering tax forms, instructions, and publications. Go to [IRS.gov/OrderForms](https://www.irs.gov/orderforms) to order current forms, instructions, and publications; call 800-829-3676 to order prior-year forms and instructions. The IRS will process your order for forms and publications as soon as possible. **Don't** resubmit requests you've already sent us. You can get forms and publications faster online.

What's New

Termination of 1979 Tax Convention with Hungary. On July 15, 2022, the U.S. Treasury Department (Treasury) announced that Hungary was notified on July 8, 2022, that the United States would terminate its tax

treaty with Hungary. In accordance with the treaty's provisions on termination, termination is effective on January 8, 2023. With respect to taxes withheld at source, the treaty ceases to have effect on January 1, 2024. In respect of other taxes, the treaty ceases to have effect with respect to taxable periods beginning on or after January 1, 2024.

Qualified disability trusts. The exemption amount for a qualified disability is \$4,700 for 2023.

Reminders

Filing status name changed to qualifying surviving spouse. The filing status qualifying widow(er) is now called qualifying surviving spouse. The rules for the filing status have not changed. The same rules that applied for qualifying widow(er) apply to qualifying surviving spouse. See *Qualifying surviving spouse* in the Instructions for Form

1040 for details on the qualifying surviving spouse filing status.

New lines 1a through 1z on Form 1040-NR. In 2022, line 1 was expanded with new lines 1a through 1z. Some amounts that in prior years were reported on Form 1040-NR are reported on Schedule 1 (Form 1040).

- Scholarships and fellowship grants not reported on Form W-2 are reported on Schedule 1 (Form 1040), line 8r.
- Pension or annuity from a nonqualified deferred compensation plan or a nongovernmental section 457 plan are reported on Schedule 1 (Form 1040), line 8t.
- Wages earned while incarcerated are reported on Schedule 1 (Form 1040), line 8u.

Credit for child and dependent care expenses. The changes to the credit for child and dependent care expenses implemented

by the American Rescue Plan Act of 2021 (ARP) were not extended. The credit for the child and dependent care expenses is nonrefundable. The dollar limit on qualifying expenses is \$3,000 for one qualifying person and \$6,000 for two or more qualifying persons. The maximum credit amount allowed is 35% of your employment-related expenses. For more information, see the Instructions for Form 2441 and Pub. 503.

Recovery rebate credit is not available.

Aliens could claim the recovery rebate credit for 2020 and 2021 if they were a resident alien for the entire year, were married and chose to file a joint return with a U.S. citizen or resident spouse, or were a dual-status alien and chose to be treated as a U.S. resident for the entire year. The credit is not available after 2021.

Disaster tax relief. Disaster tax relief is available for those impacted by certain Presidentially declared disasters (see

[IRS.gov/DisasterTaxRelief](https://www.irs.gov/DisasterTaxRelief)). Aliens who are required to file a U.S. income tax return may be affected. For more information, see the Instructions for Form 1040, or the Instructions for Form 1040-NR.

Premium tax credit. You may be eligible to claim the premium tax credit if you, your spouse, or a dependent enrolled in health insurance through the Health Insurance Marketplace (Marketplace). See Form 8962 and its instructions for more information.

Advance payments of the premium tax credit. Advance payments of the premium tax credit may have been made to the health insurer to help pay for the insurance coverage of you, your spouse, or your dependent. If advance payments of the premium tax credit were made, you must file a 2023 tax return and Form 8962. If you enrolled someone who is not claimed as a dependent on your tax return, or for more information, see the Instructions for Form 8962.

Form 1095-A. If you, your spouse, or a dependent enrolled in health insurance through the Marketplace, you should have received a Form 1095-A. If you receive a Form 1095-A, save it. It will help you figure your premium tax credit. If you did not receive a Form 1095-A, contact the Marketplace.

U.S. federal estate and gift tax. An individual (or deceased person) who is (or was) a nonresident noncitizen of the United States for estate and gift tax purposes may still have U.S. estate and gift tax filing and payment obligations. The determination of whether an individual is a nonresident noncitizen for U.S. estate and gift tax purposes is different than the determination of whether an individual is a nonresident alien for U.S. federal income tax purposes. Estate and gift tax considerations are outside of the scope of this publication, but information is available on IRS.gov to determine whether

any U.S. estate or gift tax considerations may apply to your situation. Further information on U.S. federal estate tax considerations for nonresident noncitizens is available at [*Estate Tax for Nonresidents not Citizens of the United States*](#) and [*Frequently Asked Questions on Estate Taxes for Nonresidents not Citizens of the United States*](#). Further information on U.S. federal gift tax considerations for nonresidents noncitizens of the United States is available at [*Gift Tax for Nonresidents not Citizens of the United States*](#) and [*Frequently Asked Questions on Gift Taxes for Nonresidents not Citizens of the United States*](#).

Digital assets. If, in 2023, you engaged in a transaction involving digital assets, you may need to answer "Yes" to the question on page 1 of Form 1040-NR. See *Digital Assets* in the Instructions for Form 1040 for information on transactions involving digital assets. Do not leave this field blank. The question must be

answered by all taxpayers, not just taxpayers who engaged in a transaction involving digital assets.

Third-party designee. You can check the “Yes” box in the “Third-Party Designee” area of your return to authorize the IRS to discuss your return with a friend, a family member, or any other person you choose. This allows the IRS to call the person you identified as your designee to answer any questions that may arise during the processing

of your return. It also allows your designee to perform certain actions such as asking the IRS for copies of notices or

transcripts related to your return. Also, the authorization can be revoked. See your income tax return instructions for details.

Change of address. If you change your mailing address, be sure to notify the IRS using Form 8822.

Photographs of missing children. The IRS is a proud partner with the [National Center for Missing & Exploited Children® \(NCMEC\)](#). Photographs of missing children selected by the Center may appear in this publication on pages that would otherwise be blank. You can help bring these children home by looking at the photographs and calling 1-800-THE-LOST (1-800-843-5678) if you recognize a child.

1.

Nonresident Alien or Resident Alien?

Introduction

You should first determine whether, for income tax purposes, you are a nonresident alien or a resident alien.

If you are both a nonresident and resident in the same year, you have a dual status. See [Dual-Status Aliens](#), later. Also see

Nonresident Spouse Treated as a Resident
and some other special situations explained
later in the chapter.

Topics

This chapter discusses:

- How to determine if you are a nonresident, resident, or dual-status alien; and
- How to treat a nonresident spouse as a resident alien.

Useful Items

You may want to see:

Form (and Instructions)

- ☐ **1040** U.S. Individual Income Tax Return
- ☐ **1040-SR** U.S. Tax Return for Seniors
- ☐ **1040-NR** U.S. Nonresident Alien Income Tax Return

- ❑ **8833** Treaty-Based Return Position Disclosure Under Section 6114 or 7701(b)
- ❑ **8840** Closer Connection Exception Statement for Aliens
- ❑ **8843** Statement for Exempt Individuals and Individuals With a Medical Condition

See chapter 12 for information about getting these forms.

Nonresident Aliens

If you are an alien (not a U.S. citizen), you are considered a nonresident alien unless you meet one of the two tests described under *Resident Aliens* below.

Resident Aliens

You are a resident alien of the United States for tax purposes if you meet either the green card test or the substantial presence test for calendar year 2023 (January 1–December

31). Even if you do not meet either of these tests, you may be able to choose to be treated as a U.S. resident for part of the year. See First-Year Choice under *Dual-Status Aliens*, later.

Green Card Test

You are a resident for tax purposes if you are a lawful permanent resident of the United States at any time during calendar year 2023. (However, see Dual-Status Aliens, later.) This is known as the green card test. You are a lawful permanent resident of the United States at any time if you have been given the privilege, according to U.S. immigration laws, of residing permanently in the United States as an immigrant. You generally have this status if the U.S. Citizenship and Immigration Services (USCIS) (or its predecessor organization) has issued you a Form I-551, U.S. Permanent Resident Card, also known as a green card. You continue to have resident status under this test unless the status is

taken away from you or is administratively or judicially determined to have been abandoned.

Note. Even if an individual meets the green card test, if the individual claims foreign residency under a tiebreaker rule they would be treated as a nonresident for purposes of their tax liability. See section 7701(b)(6)(B).

Resident status taken away. Resident status is considered to have been taken away from you if the U.S. Government issues you a final administrative or judicial order of exclusion or deportation. A final judicial order is an order that you may no longer appeal to a higher court of competent jurisdiction.

Resident status abandoned. An administrative or judicial determination of abandonment of resident status may be initiated by you, the USCIS, or a U.S. consular officer.

If you initiate the determination, your resident status is considered to be abandoned when you file either of the following documents with your U.S. Permanent Resident Card (green card or Form I-551) attached with the USCIS or a U.S. consular officer.

- [Form I-407](#), Record of Abandonment of Lawful Permanent Resident Status.
- A letter stating your intent to abandon your resident status.

When filing by mail, you must send by certified mail, return receipt requested (or the foreign equivalent), and keep a copy and proof that it was mailed and received.



Until you have proof your letter was received, you remain a resident alien for tax purposes even if the USCIS would not recognize the validity of your green card because it is more than 10 years old or

because you have been absent from the United States for a period of time.

If the USCIS or U.S. consular officer initiates this determination, your resident status will be considered to be abandoned when the final administrative order of abandonment is issued. If you are granted an appeal to a federal court of competent jurisdiction, a final judicial order is required.

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



A long-term resident (LTR) who ceases to be a lawful permanent resident may be subject to special reporting requirements and tax provisions. See Expatriation Tax in chapter 4.

Termination of residency after June 3, 2004, and before June 17, 2008. If you terminated your residency after June 3, 2004, and before June 17, 2008, you will still be considered a U.S. resident for tax purposes until you notify the Secretary of Homeland Security and file Form 8854, Initial and Annual Expatriation Statement.

Note. Requirements for taxpayers who expatriated before June 17, 2008, are no longer discussed in the Instructions for Form 8854 or Pub. 519. For information on expatriation before June 17, 2008, see the 2018 Instructions for Form 8854, and chapter 4 of the 2018 [Pub. 519](#).

Termination of residency after June 16, 2008. For information on your residency termination date, see Former LTR under *Expatriation After June 16, 2008* in chapter 4.

Substantial Presence Test

You are a resident for tax purposes if you meet the substantial presence test for calendar year 2023. To meet this test, you must be physically present in the United States on at least:

1. 31 days during 2023; and
2. 183 days during the 3-year period that includes 2023, 2022, and 2021, counting:
 - a. All the days you were present in 2023,
 - b. $\frac{1}{3}$ of the days you were present in 2022, and
 - c. $\frac{1}{6}$ of the days you were present in 2021.

Example. You were physically present in the United States on 120 days in each of the years 2023, 2022, and 2021. To determine if you meet the substantial presence test for

2023, count the full 120 days of presence in 2023, 40 days in 2022 ($\frac{1}{3}$ of 120), and 20 days in 2021 ($\frac{1}{6}$ of 120). Because the total for the 3-year period is 180 days, you are not considered a resident under the substantial presence test for 2023.

The term “United States” includes the following areas.

- All 50 states and the District of Columbia.
- The territorial waters of the United States.
- The seabed and subsoil of those submarine areas that are adjacent to U.S. territorial waters and over which the United States has exclusive rights under international law to explore and exploit natural resources.

The term does not include U.S. territories or U.S. airspace.

Days of Presence in the United States

You are treated as present in the United States on any day you are physically present in the country at any time during the day.

However, there are exceptions to this rule. Do not count the following as days of presence in the United States for the substantial presence test.

- Days you commute to work in the United States from a residence in Canada or Mexico if you regularly commute from Canada or Mexico.
- Days you are in the United States for less than 24 hours when you are in transit between two places outside the United States.
- Days you are in the United States as a crew member of a foreign vessel.
- Days you are unable to leave the United States because of a medical condition that arose while you are in the United States.

- Days you are in the United States under a NATO visa as a member of a force or civilian component to NATO. However, this exception does not apply to an immediate family member who is present in the United States under a NATO visa. A dependent family member must count every day of presence for purposes of the substantial presence test.
- Days you are an exempt individual.

The specific rules that apply to each of these categories are discussed next.

Regular commuters from Canada or Mexico. Do not count the days on which you commute to work in the United States from your residence in Canada or Mexico if you regularly commute from Canada or Mexico. You are considered to commute regularly if you commute to work in the United States on more than 75% (0.75) of the workdays during your working period.

For this purpose, “commute” means to travel to work and return to your residence within a 24-hour period. “Workdays” are the days on which you work in the United States or Canada or Mexico. “Working period” means the period beginning with the first day in the current year on which you are physically present in the United States to work and ending on the last day in the current year on which you are physically present in the United States to work. If your work requires you to be present in the United States only on a seasonal or cyclical basis, your working period begins on the first day of the season or cycle on which you are present in the United States to work and ends on the last day of the season or cycle on which you are present in the United States to work. You can have more than one working period in a calendar year, and your working period can begin in one calendar year and end in the following calendar year.

Example. Maria Perez lives in Mexico and works for Compañía ABC in its office in Mexico but was temporarily assigned to the firm's office in the United States from February 1 through June 1. On June 2, Maria resumed employment in Mexico. For 69 workdays, Maria commuted each morning from home in Mexico to work in Compañía ABC's U.S. office and returned home in Mexico on each of those evenings. For 7 workdays, Maria worked in Maria's firm's Mexico office. For purposes of the substantial presence test, Maria does not count the days commuting to work in the United States because those days equal more than 75% (0.75) of the workdays during the working period (69 workdays in the United States divided by 76 workdays in the working period equals 90.8%).

Days in transit. Do not count the days you are in the United States for less than 24 hours and you are in transit between two places outside the United States. You are

considered to be in transit if you engage in activities that are substantially related to completing travel to your foreign destination. For example, if you travel between airports in the United States to change planes en route to your foreign destination, you are considered to be in transit. However, you are not considered to be in transit if you attend a business meeting while in the United States. This is true even if the meeting is held at the airport.

Crew members. Do not count the days you are temporarily present in the United States as a regular crew member of a foreign vessel (boat or ship) engaged in transportation between the United States and a foreign country or a U.S. territory. However, this exception does not apply if you otherwise engage in any trade or business in the United States on those days.

Medical condition. Do not count the days you intended to leave, but could not leave, the United States because of a medical condition or problem that arose while you were in the United States. Whether you intended to leave the United States on a particular day is determined based on all the facts and circumstances. For example, you may be able to establish that you intended to leave if your purpose for visiting the United States could be accomplished during a period that is not long enough to qualify you for the substantial presence test. However, if you need an extended period of time to accomplish the purpose of your visit and that period would qualify you for the substantial presence test, you would not be able to establish an intent to leave the United States before the end of that extended period.

In the case of an individual who is judged mentally incompetent, proof of intent to leave the United States can be determined by

analyzing the individual's pattern of behavior before they were judged mentally incompetent.

If you qualify to exclude days of presence because of a medical condition, you must file a fully completed Form 8843 with the IRS. See Form 8843, later.

You cannot exclude any days of presence in the United States under the following circumstances.

- You were initially prevented from leaving, were then able to leave, but remained in the United States beyond a reasonable period for making arrangements to leave.
- You returned to the United States for treatment of a medical condition that arose during a prior stay.
- The condition existed before your arrival in the United States and you were aware of the condition. It does not matter whether you needed treatment for the

condition when you entered the United States.

Exempt individual. Do not count days for which you are an exempt individual. The term “exempt individual” does not refer to someone exempt from U.S. tax, but instead refers to anyone in the following categories.

- An individual temporarily present in the United States as a foreign government-related individual under an “A” or “G” visa other than individuals holding “A-3” or “G-5” class visas.
- A teacher or trainee temporarily present in the United States under a “J” or “Q” visa who substantially complies with the requirements of the visa.
- A student temporarily present in the United States under an “F,” “J,” “M,” or “Q” visa who substantially complies with the requirements of the visa.

- A professional athlete temporarily present in the United States to compete in a charitable sports event.

The specific rules for each of these four categories (including any rules on the length of time you will be an exempt individual) are discussed next.

Foreign government-related individuals.

A foreign government-related individual is an individual (or a member of the individual's immediate family) who is temporarily present in the United States:

- As a full-time employee of an international organization,
- By reason of diplomatic status, or
- By reason of a visa (other than a visa that grants lawful permanent residence) that the Secretary of the Treasury determines represents full-time diplomatic or consular status.

Note. You are considered temporarily present in the United States regardless of the actual amount of time you are present in the United States.

An international organization is any public international organization that the President of the United States has designated by Executive Order as being entitled to the privileges, exemptions, and immunities provided for in the International Organizations Act. An individual is a full-time employee if their work schedule meets the organization's standard full-time work schedule.

An individual is considered to have full-time diplomatic or consular status if they:

- Have been accredited by a foreign government that is recognized by the United States;

- Intend to engage primarily in official activities for that foreign government while in the United States; and
- Have been recognized by the President, Secretary of State, or a consular officer as being entitled to that status.

Members of the immediate family include the individual's spouse and unmarried children (whether by blood or adoption) but only if the spouse's or unmarried children's visa statuses are derived from, and dependent on, the exempt individual's visa classification.

Unmarried children are included only if they:

- Are under 21 years of age,
- Reside regularly in the exempt individual's household, and
- Are not members of another household.

Note. Generally, if you are present in the United States under an "A" or "G" class visa, you are considered a foreign government-

related individual (with full-time diplomatic or consular status). None of your days count for purposes of the substantial presence test.

Household staff exception. If you are present in the United States under an “A-3” or “G-5” class visa as a personal employee, attendant, or domestic worker for either a foreign government or international organization official, you are not considered a foreign government-related individual and must count all your days of presence in the United States for purposes of the substantial presence test.

Teachers and trainees. A teacher or trainee is an individual, other than a student, who is temporarily in the United States under a “J” or “Q” visa and substantially complies with the requirements of that visa. You are considered to have substantially complied with the visa requirements if you have not engaged in activities that are prohibited by

U.S. immigration laws and could result in the loss of your visa status.

Also included are immediate family members of exempt teachers and trainees. See the definition of “immediate family,” earlier, under *Foreign government-related individuals*.

You will not be an exempt individual as a teacher or trainee in 2023 if you were exempt as a teacher, trainee, or student for any part of 2 of the 6 preceding calendar years.

However, you will be an exempt individual if all of the following conditions are met.

- You were exempt as a teacher, trainee, or student for any part of 3 (or fewer) of the 6 preceding calendar years.
- A foreign employer paid all of your compensation during 2023.

- You were present in the United States as a teacher or trainee in any of the 6 prior years.
- A foreign employer paid all of your compensation during each of the preceding 6 years you were present in the United States as a teacher or trainee.

A foreign employer includes an office or place of business of an American entity in a foreign country or a U.S. territory.

If you qualify to exclude days of presence as a teacher or trainee, you must file a fully completed Form 8843 with the IRS. See Form 8843, later.

Example. Carla was temporarily in the United States during the year as a teacher on a “J” visa. Carla’s compensation for the year was paid by a foreign employer. Carla was treated as an exempt teacher for the previous 2 years, but compensation was not paid by a foreign employer. Carla will not be considered

an exempt individual for the current year because of being exempt as a teacher for at least 2 of the past 6 years.

If Carla's compensation for the past 2 years had been paid by a foreign employer, Carla would be an exempt individual for the current year.

Students. A student is any individual who is temporarily in the United States on an "F," "J," "M," or "Q" visa and who substantially complies with the requirements of that visa. You are considered to have substantially complied with the visa requirements if you have not engaged in activities that are prohibited by U.S. immigration laws and could result in the loss of your visa status.

Also included are immediate family members of exempt students. See the definition of "immediate family," earlier, under *Foreign government-related individuals*.

You will not be an exempt individual as a student in 2023 if you have been exempt as a teacher, trainee, or student for any part of more than 5 calendar years unless you meet both of the following requirements.

- You establish that you do not intend to reside permanently in the United States.
- You have substantially complied with the requirements of your visa.

The facts and circumstances to be considered in determining if you have demonstrated an intent to reside permanently in the United States include, but are not limited to, the following.

- Whether you have maintained a closer connection to a foreign country (discussed later).
- Whether you have taken affirmative steps to change your status from nonimmigrant to lawful permanent resident, as discussed

later under *Closer Connection to a Foreign Country*.

If you qualify to exclude days of presence as a student, you must file a fully completed Form 8843 with the IRS. See *Form 8843*, later.

Professional athletes. A professional athlete who is temporarily in the United States to compete in a charitable sports event is an exempt individual. A charitable sports event is one that meets the following conditions.

- The main purpose is to benefit a qualified charitable organization.
- The entire net proceeds go to charity.
- Volunteers perform substantially all the work.

In figuring the days of presence in the United States, you can exclude only the days on which you actually competed in a sports

event. You cannot exclude the days on which you were in the United States to practice for the event, to perform promotional or other activities related to the event, or to travel between events.

If you qualify to exclude days of presence as a professional athlete, you must file a fully completed Form 8843 with the IRS. See Form 8843 next.

Form 8843. If you exclude days of presence in the United States because you fall into any of the following categories, you must file a fully completed Form 8843. • You were unable to leave the United States as planned because of a medical condition or problem.

- You were temporarily in the United States as a teacher or trainee on a “J” or “Q” visa.
- You were temporarily in the United States as a student on an “F,” “J,” “M,” or “Q” visa.

- You were a professional athlete competing in a charitable sports event.

Attach Form 8843 to your 2023 income tax return. If you do not have to file a return, send Form 8843 to the following address.

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

You must file Form 8843 by the due date for filing Form 1040-NR. The due date for filing is discussed in chapter 7. If you are required to file Form 8843 and you do not timely file Form 8843, you cannot exclude the days you were present in the United States as a professional athlete or because of a medical condition that arose while you were in the United States. This does not apply if you can show by clear and convincing evidence that you took reasonable actions to become aware of the filing requirements and significant steps to comply with those requirements.

Closer Connection to a Foreign Country

Even if you meet the substantial presence test, you can be treated as a nonresident alien if you:

- Are present in the United States for less than 183 days during the year,
- Maintain a tax home in a foreign country during the year, and
- Have a closer connection during the year to one foreign country in which you have a tax home than to the United States (unless you have a closer connection to two foreign countries, discussed next).

Closer connection to two foreign

countries. You can demonstrate that you have a closer connection to two foreign countries (but not more than two) if you meet all of the following conditions.

- You maintained a tax home beginning on the first day of the year in one foreign country.
- You changed your tax home during the year to a second foreign country.
- You continued to maintain your tax home in the second foreign country for the rest of the year.
- You had a closer connection to each foreign country than to the United States for the period during which you maintained a tax home in that foreign country.
- You are subject to tax as a resident under the tax laws of either foreign country for the entire year or subject to tax as a resident in both foreign countries for the period during which you maintained a tax home in each foreign country.

Tax home. Your tax home is the general area of your main place of business, employment, or post of duty, regardless of where you maintain your family home. Your tax home is the place where you permanently or indefinitely work as an employee or a self-employed individual. If you do not have a regular or main place of business because of the nature of your work, then your tax home is the place where you regularly live. If you do not fit either of these categories, you are considered an itinerant and your tax home is wherever you work.

For determining whether you have a closer connection to a foreign country, your tax home must also be in existence for the entire current year and must be located in the same foreign country to which you are claiming to have a closer connection.

Foreign country. In determining whether you have a closer connection to a foreign country, the term “foreign country” means:

- Any territory under the sovereignty of the United Nations or a government other than that of the United States,
- The territorial waters of the foreign country (determined under U.S. law),
- The seabed and subsoil of those submarine areas that are adjacent to the territorial waters of the foreign country and over which the foreign country has exclusive rights under international law to explore and exploit natural resources, and
- Territories of the United States.

Establishing a closer connection. You will be considered to have a closer connection to a foreign country than the United States if you or the IRS establishes that you have maintained more significant contacts with the foreign country than with the United States. In determining whether you have maintained more significant contacts with the foreign country than with the United States, the facts

and circumstances to be considered include, but are not limited to, the following.

1. The country of residence you designate on forms and documents.
2. The types of official forms and documents you file, such as Form W-9, Form W-8BEN, or Form W-8ECI.
3. The location of:
 - Your permanent home;
 - Your family;
 - Your personal belongings, such as cars, furniture, clothing, and jewelry;
 - Your current social, political, cultural, professional, or religious affiliations;
 - Your business activities (other than those that constitute your tax home);
 - The jurisdiction in which you hold a driver's license;

- The jurisdiction in which you vote;
and
- Charitable organizations to which
you contribute.

It does not matter whether your permanent home is a house, an apartment, or a furnished room. It also does not matter whether you rent or own it. It is important, however, that your home be available at all times, continuously, and not solely for short stays.

When you cannot have a closer connection. You cannot claim you have a closer connection to a foreign country if either of the following applies.

- You personally applied, or took other steps during the year, to change your status to that of a permanent resident.
- You had an application pending for adjustment of status during the current year.

Steps to change your status to that of a permanent resident include, but are not limited to, the filing of the following forms.

- Form I-508, Request for Waiver of Certain Rights, Privileges, Exemptions, and Immunities.
- Form I-485, Application to Register Permanent Residence or Adjust Status.
- Form I-130, Petition for Alien Relative.
- Form I-140, Immigrant Petition for Alien Workers.
- Form ETA-9089, Application for Permanent Employment Certification.
- Form ETA-9089, Appendix A.
- Form DS-230, Application for Immigrant Visa and Alien Registration.

Form 8840. You must attach a fully completed Form 8840 to your income tax return to claim you have a closer connection to a foreign country or countries.

If you do not have to file a return, send the form to:

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

You must file Form 8840 by the due date for filing Form 1040-NR. The due date for filing is discussed later in chapter 7.

If you do not timely file Form 8840, you cannot claim a closer connection to a foreign country or countries. This does not apply if you can show by clear and convincing evidence that you took reasonable actions to become aware of the filing requirements and significant steps to comply with those requirements.

Effect of Tax Treaties

Dual residents. The rules given here to determine if you are a U.S. resident do not override tax treaty definitions of residency. If you are a dual-resident taxpayer, you can still claim the benefits under an income tax treaty. A dual-resident taxpayer is one who is a resident of both the United States and another country under each country's tax laws. The income tax treaty between the two countries must contain a provision that provides for resolution of conflicting claims of residence (tiebreaker rule). If you are treated as a resident of a foreign country under a tax treaty, you are treated as a nonresident alien in figuring your U.S. income tax. For purposes other than figuring your tax, you will be treated as a U.S. resident. For example, the rules discussed here do not affect your residency time periods, as discussed under Dual-Status Aliens, later.

Note. In certain instances when an individual is treated as a nonresident alien pursuant to a tiebreaker rule in a relevant tax treaty, it can trigger section 877A expatriation tax. See *Expatriation Tax*, later.

Information to be reported. If you are a dual-resident taxpayer and you claim treaty benefits, you must file a return using Form 1040-NR with Form 8833 attached, and compute your tax as a nonresident alien. A dual-resident taxpayer may also be eligible for U.S. competent authority assistance. See Revenue Procedure 2015-40, 2015-35 I.R.B. 236, available at [IRS.gov/irb/2015-35_IRB#RP-2015-40](https://www.irs.gov/irb/2015-35_IRB#RP-2015-40), or its successor.

See *Reporting Treaty Benefits Claimed* in chapter 9 for more information on reporting treaty benefits.

Certain students and trainees from Barbados, Hungary, and Jamaica.

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 [Pub. 901](#) for additional information. If you qualify for this election, you can make it by filing a Form 1040 and attaching a signed election statement to your return. The rules about resident aliens described in this publication apply to you. Once made, the election applies as long as you remain eligible, and you must obtain permission from the U.S. competent authority in order to terminate the election.

Note. As of January 8, 2023, the tax treaty between the United States and Hungary was terminated in accordance with the treaty's provision on termination. As a result, for tax years beginning January 1, 2024, this election will no longer be available for students and trainees from Hungary. See [Termination of 1979 Tax Convention with Hungary](#) under *What's New*, earlier.

Dual-Status Aliens

You can be both a nonresident alien and a resident alien during the same tax year. This usually occurs in the year you arrive in, or depart from, the United States. Aliens who have dual status should see chapter 6 for information on filing a return for a dual-status tax year.

First Year of Residency

If you are a U.S. resident for the calendar year, but you were not a U.S. resident at any time during the preceding calendar year, you are a U.S. resident only for the part of the calendar year that begins on the residency starting date. You are a nonresident alien for the part of the year before that date.

Residency starting date under substantial presence test. If you meet the substantial presence test for a calendar year, your residency starting date is generally the first day you are present in the United States

during that calendar year. However, you do not have to count up to 10 days of actual presence in the United States if on those days you establish that:

- You had a closer connection to a foreign country than to the United States, and
- Your tax home was in that foreign country.

See *Closer Connection to a Foreign Country*, earlier.

In determining whether you can exclude up to 10 days, the following rules apply.

- You can exclude days from more than one period of presence as long as the total days in all periods are not more than 10.
- You cannot exclude any days in a period of consecutive days of presence if all the days in that period cannot be excluded.
- Although you can exclude up to 10 days of presence in determining your residency

starting date, you must include those days when determining whether you meet the substantial presence test.

Example. Ivan Ivanovich is a citizen of Russia. Ivan came to the United States for the first time on January 6, 2023, to attend a business meeting and returned to Russia on January 10, 2023. Ivan's tax home remained in Russia. On March 1, 2023, Ivan moved to the United States and resided here for the rest of the year. Ivan is able to establish a closer connection to Russia for the period January 6–10, 2023. Thus, Ivan's residency starting date is March 1, 2023.

Statement required to exclude up to 10 days of presence. You must file a statement with the IRS if you are excluding up to 10 days of presence in the United States for purposes of your residency starting date. You must sign and date this statement and include a declaration that it is made under penalties of perjury. The statement must

contain the following information (as applicable).

- Your name, address, U.S. taxpayer identification number (TIN) (if any), and U.S. visa number (if any).
- Your passport number and the name of the country that issued your passport.
- The tax year for which the statement applies.
- The first day that you were present in the United States during the year.
- The dates of the days you are excluding in figuring your first day of residency.
- Sufficient facts to establish that you have maintained your tax home in, and a closer connection to, a foreign country during the period you are excluding.

Attach the required statement to your income tax return. If you are not required to file a

return, send the statement to the following address.

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

You must submit the statement on or before the due date for filing Form 1040-NR. The due date for filing is discussed in chapter 7.

If you do not file the required statement as explained above, you cannot claim that you have a closer connection to a foreign country or countries. Therefore, your first day of residency will be the first day you are present in the United States. This does not apply if you can show by clear and convincing evidence that you took reasonable actions to become aware of the requirements for filing the statement and significant steps to comply with those requirements.

Residency starting date under green card test. If you meet the green card test at any time during a calendar year, but do not meet the substantial presence test for that year, your residency starting date is the first day in the calendar year on which you are present in the United States as a lawful permanent resident.

If you meet both the substantial presence test and the green card test, your residency starting date is the earlier of the first day during the year you are present in the United States under the substantial presence test or as a lawful permanent resident.

Residency during the preceding year. If you were a U.S. resident during any part of the preceding calendar year and you are a U.S. resident for any part of the current year, you will be considered a U.S. resident at the beginning of the current year. This applies whether you are a resident under the substantial presence test or green card test.

Example. Robert Bach is a citizen of Switzerland. Robert came to the United States as a U.S. resident for the first time on May 1, 2022, and remained until November 5, 2022, when Robert returned to Switzerland. Robert came back to the United States on March 5, 2023, as a lawful permanent resident and still resides here. In calendar year 2023, Robert's U.S. residency is deemed to begin on January 1, 2023, because Robert qualified as a resident in calendar year 2022.

First-Year Choice

If you do not meet either the green card test or the substantial presence test for 2022 or 2023 and you did not choose to be treated as a resident for part of 2022, but you meet the substantial presence test for 2024, you can choose to be treated as a U.S. resident for part of 2023. To make this choice, you must:

1. Be present in the United States for at least 31 days in a row in 2023, and

2. Be present in the United States for at least 75% of the number of days beginning with the first day of the 31-day period and ending with the last day of 2023. For purposes of this 75% requirement, you can treat up to 5 days of absence from the United States as days of presence in the United States.

When counting the days of presence in (1) and (2) above, do not count the days you were in the United States under any of the exceptions discussed earlier under *Days of Presence in the United States*.

If you make the first-year choice, your residency starting date for 2023 is the first day of the earliest 31-day period (described in (1) above) that you use to qualify for the choice. You are treated as a U.S. resident for the rest of the year. If you are present for more than one 31-day period and you satisfy condition (2) above for each of those periods,

your residency starting date is the first day of the first 31-day period. If you are present for more than one 31-day period but you satisfy condition (2) above only for a later 31-day period, your residency starting date is the first day of the later 31-day period.

Note. You do not have to be married to make this choice.

Example 1. Juan DaSilva is a citizen of the Philippines. Juan came to the United States for the first time on November 1, 2023, and was here on 31 consecutive days (from November 1 through December 1, 2023). Juan returned to the Philippines on December 1 and came back to the United States on December 17, 2023. Juan stayed in the United States for the rest of the year. During 2024, Juan is a resident of the United States under the substantial presence test. Juan can make the first-year choice for 2023 because Juan was in the United States in 2023 for a period of 31 days in a row (November 1

through December 1) and for at least 75% (0.75) of the days following (and including) the first day of Juan's 31-day period (46 total days of presence in the United States divided by 61 days in the period from November 1 through December 31 equals 75.4% (0.754)). If Juan makes the first-year choice, Juan's residency starting date will be November 1, 2023.

Example 2. The facts are the same as in *Example 1*, except that Juan was also absent from the United States on December 24, 25, 29, 30, and 31. Juan can make the first-year choice for 2023 because up to 5 days of absence are considered days of presence for purposes of the 75% (0.75) requirement.

Statement required to make the first-year choice for 2023. You must attach a statement to Form 1040 or 1040-SR to make the first-year choice for 2023. The statement must contain your name and address and specify the following.

- That you are making the first-year choice for 2023.
- That you were not a resident in 2022.
- That you are a resident under the substantial presence test in 2024.
- The number of days of presence in the United States during 2024.
- The date or dates of your 31-day period of presence and the period of continuous presence in the United States during 2023.
- The date or dates of absence from the United States during 2023 that you are treating as days of presence.

You cannot file Form 1040 or 1040-SR or the statement until you meet the substantial presence test for 2024. If you have not met the test for 2024 as of April 15, 2024, you can request an extension of time for filing your 2023 Form 1040 or 1040-SR until a

reasonable period after you have met that test. To request an extension to file until October 15, 2024, use Form 4868. You can file the paper form or use one of the electronic filing options explained in the Form 4868 instructions. You should pay with this extension the amount of tax you expect to owe for 2023 figured as if you were a nonresident alien the entire year. You can use Form 1040-NR to figure the tax. Enter the tax on Form 4868. If you do not pay the tax due, you will be charged interest on any tax not paid by the regular due date of your return, and you may be charged a penalty on the late payment.

Once you make the first-year choice, you may not revoke it without the approval of the IRS.

If you do not follow the procedures discussed here for making the first-year choice, you will be treated as a nonresident alien for all of 2023. However, this does not apply if you can show by clear and convincing evidence that

you took reasonable actions to become aware of the filing procedures and significant steps to comply with the procedures.

Choosing Resident Alien Status

If you are a dual-status alien, you can choose to be treated as a U.S. resident for the entire year if all of the following apply.

- You were a nonresident alien at the beginning of the year.
- You are a resident alien or U.S. citizen at the end of the year.
- You are married to a U.S. citizen or resident alien at the end of the year.
- Your spouse joins you in making the choice.

This includes situations in which both you and your spouse were nonresident aliens at the beginning of the tax year and both of you are resident aliens at the end of the tax year.

Note. If you are single at the end of the year, you cannot make this choice.

If you make this choice, the following rules apply.

- You and your spouse are treated as U.S. residents for the entire year for income tax purposes.
- You and your spouse are taxed on worldwide income.
- You and your spouse must file a joint return for the year of the choice.
- Neither you nor your spouse can make this choice for any later tax year, even if you are separated, divorced, or remarried.
- The special instructions and restrictions for dual-status taxpayers in chapter 6 do not apply to you.

Note. A similar choice is available if, at the end of the tax year, one spouse is a nonresident alien and the other spouse is a

U.S. citizen or resident. See *Nonresident Spouse Treated as a Resident*, later. If you previously made that choice and it is still in effect, you do not need to make the choice explained here.

Making the choice. You should attach a statement signed by both spouses to your joint return for the year of the choice. The statement must contain the following information.

- A declaration that you both qualify to make the choice and that you choose to be treated as U.S. residents for the entire tax year.
- The name, address, and TIN (social security number (SSN) or individual taxpayer identification number (ITIN)) of each spouse. (If one spouse died, include the name and address of the person who makes the choice for the deceased spouse.)

You generally make this choice when you file your joint return. However, you can also make the choice by filing Form 1040-X, Amended U.S. Individual Income Tax Return. Attach Form 1040 or 1040-SR and enter "Amended" across the top of the corrected return. If you make the choice with an amended return, you and your spouse must also amend any returns that you may have filed after the year for which you made the choice.

You must generally file the amended joint return within 3 years from the date you filed your original U.S. income tax return or 2 years from the date you paid your income tax for that year, whichever is later.

Last Year of Residency

If you were a U.S. resident in 2023 but are not a U.S. resident during any part of 2024, you cease to be a U.S. resident on your residency termination date. Your residency termination date is December 31, 2023,

unless you qualify for an earlier date, as discussed later.

Earlier residency termination date. You may qualify for a residency termination date that is earlier than December 31. This date is:

1. The last day in 2023 that you are physically present in the United States, if you met the substantial presence test;
2. The first day in 2023 that you are no longer a lawful permanent resident of the United States, if you met the green card test; or
3. The later of (1) or (2), if you met both tests.

Note. Claiming residency status under an applicable treaty tiebreaker provision in another country may also lead to a residency termination date that is earlier than December 31.

You can use this date only if, for the remainder of 2023, your tax home was in a foreign country and you had a closer connection to that foreign country. See *Closer Connection to a Foreign Country*, earlier.



An LTR who ceases to be a lawful permanent resident may be subject to special reporting requirements and tax provisions. See Expatriation Tax in chapter 4.

Termination of residency. For information on your residency termination date, see *Former LTR* under *Expatriation After June 16, 2008* in chapter 4.

De minimis presence. If you are a U.S. resident because of the substantial presence test and you qualify to use the earlier residency termination date, you can exclude up to 10 days of actual presence in the United States in determining your residency termination date. In determining whether you can exclude up to 10 days, the following rules apply.

- You can exclude days from more than one period of presence as long as the total days in all periods are not more than 10.
- You cannot exclude any days in a period of consecutive days of presence if all the days in that period cannot be excluded.
- Although you can exclude up to 10 days of presence in determining your residency termination date, you must include those days when determining whether you meet the substantial presence test.

Example. Lola Bovary is a citizen of Malta. Lola came to the United States for the first time on March 1, 2023, and resided here until August 25, 2023. On December 12, 2023, Lola came to the United States for vacation and returned to Malta on December 16, 2023. Lola is able to establish a closer connection to Malta for the rest of 2023 beginning August 25, 2023, when she leaves the United States. Lola is a resident under the substantial presence test because Lola was present in the

United States for 183 days (178 days for the period March 1 to August 25 plus 5 days in December). However, Lola is able to exclude her visit to the United States in December in determining her residency termination date and therefore Lola's residency termination date is August 25, 2023.

Residency during the next year. If you are a U.S. resident during any part of 2024 and you are a resident during any part of 2023, you will be treated as a resident through the end of 2023. This applies whether you have a closer connection to a foreign country than the United States during 2023, and whether you are a resident under the substantial presence test or green card test.

Statement required to establish your residency termination date. You must file a statement with the IRS to establish your residency termination date. You must sign and date this statement and include a declaration that it is made under penalties of

perjury. The statement must contain the following information (as applicable).

- Your name, address, U.S. TIN (if any), and U.S. visa number (if any).
- Your passport number and the name of the country that issued your passport.
- The tax year for which the statement applies.
- The last day that you were present in the United States during the year.
- Sufficient facts to establish that you have maintained your tax home in, and that you have a closer connection to, a foreign country following your last day of presence in the United States during the year or following the abandonment or rescission of your status as a lawful permanent resident during the year.

- The date that your status as a lawful permanent resident was abandoned or rescinded.
- Sufficient facts (including copies of relevant documents) to establish that your status as a lawful permanent resident has been abandoned or rescinded.
- If you can exclude days, as discussed earlier under *De minimis presence*, include the dates of the days you are excluding and sufficient facts to establish that you have maintained your tax home in, and that you have a closer connection to, a foreign country during the period you are excluding.

Attach the required statement to your income tax return. If you are not required to file a return, send the statement to the following address.

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

You must submit the statement on or before the due date for filing Form 1040-NR. The due date for filing is discussed in chapter 7.

If you do not file the required statement as explained above, you cannot claim that you have a closer connection to a foreign country or countries. This does not apply if you can show by clear and convincing evidence that you took reasonable actions to become aware of the requirements for filing the statement and significant steps to comply with those requirements.

Nonresident Spouse Treated as a Resident

If, at the end of your tax year, you are married and one spouse is a U.S. citizen or a resident alien and the other spouse is a nonresident alien, you can choose to treat the

nonresident spouse as a U.S. resident. This includes situations in which one spouse is a nonresident alien at the beginning of the tax year, but a resident alien at the end of the year, and the other spouse is a nonresident alien at the end of the year.

If you make this choice, you and your spouse are treated for income tax purposes as residents for your entire tax year. Neither you nor your spouse can claim under any tax treaty not to be a U.S. resident. You are both taxed on worldwide income. You must file a joint income tax return for the year you make the choice, but you and your spouse can file joint or separate returns in later years.



If you file a joint return under this provision, the special instructions and restrictions for dual-status taxpayers in chapter 6 do not apply to you.

Example. Bob and Sharon Williams are married and both are nonresident aliens at the beginning of the year. In June, Bob

became a resident alien and remained a resident for the rest of the year. Bob and Sharon both choose to be treated as resident aliens by attaching a statement to their joint return. Bob and Sharon must file a joint return for the year they make the choice, but they can file either joint or separate returns for later years.

How To Make the Choice

Attach a statement, signed by both spouses, to your joint return for the first tax year for which the choice applies. It should contain the following information.

- A declaration that one spouse was a nonresident alien and the other spouse a U.S. citizen or resident alien on the last day of your tax year, and that you choose to be treated as U.S. residents for the entire tax year.
- The name, address, and TIN of each spouse. (If one spouse died, include the

name and address of the person making the choice for the deceased spouse.)

Amended return. You generally make this choice when you file your joint return. However, you can also make the choice by filing a joint amended return on Form 1040-X. Attach Form 1040 or 1040-SR and enter “Amended” across the top of the corrected return. If you make the choice with an amended return, you and your spouse must also amend any returns that you may have filed after the year for which you made the choice.

You must generally file the amended joint return within 3 years from the date you filed your original U.S. income tax return or 2 years from the date you paid your income tax for that year, whichever is later.

Suspending the Choice

The choice to be treated as a resident alien is suspended for any tax year (after the tax

year you made the choice) if neither spouse is a U.S. citizen or resident alien at any time during the tax year. This means each spouse must file a separate return as a nonresident alien for that year if either meets the filing requirements for nonresident aliens discussed in chapter 7.

Example. Dick Brown was a resident alien on December 31, 2020, and married to Judy, a nonresident alien. They chose to treat Judy as a resident alien and filed joint 2020 and 2021 income tax returns. On January 10, 2022, Dick became a nonresident alien. Judy had remained a nonresident alien throughout the period. Dick and Judy could have filed joint or separate returns for 2022 because Dick was a resident alien for part of that year. However, because neither Dick nor Judy is a resident alien at any time during 2023, their choice is suspended for that year. If either meets the filing requirements for nonresident aliens discussed in chapter 7, they must file

separate returns as nonresident aliens for 2023. If Dick becomes a resident alien again in 2024, their choice is no longer suspended.

Ending the Choice

Once made, the choice to be treated as a resident applies to all later years unless suspended (as explained earlier under *Suspending the Choice*) or ended in one of the following ways.

If the choice is ended in one of the following ways, neither spouse can make this choice in any later tax year.

1. ***Revocation.*** Either spouse can revoke the choice for any tax year, provided they make the revocation by the due date for filing the tax return for that tax year. The spouse who revokes the choice must attach a signed statement declaring that the choice is being revoked. The statement must include the name, address, and TIN of each

spouse. (If one spouse dies, include the name and address of the person who is revoking the choice for the deceased spouse.) The statement must also include a list of any states, foreign countries, and territories that have community property laws in which either spouse is domiciled or where real property is located from which either spouse receives income. File the statement as follows.

- a. If the spouse revoking the choice must file a return, attach the statement to the return for the first year the revocation applies.
- b. If the spouse revoking the choice does not have to file a return, but does file a return (for example, to obtain a refund), attach the statement to the return.
- c. If the spouse revoking the choice does not have to file a return and

does not file a claim for refund, send the statement to the Internal Revenue Service Center where you filed the last joint return.

2. ***Death.*** The death of either spouse ends the choice, beginning with the first tax year following the year the spouse died. However, if the surviving spouse is a U.S. citizen or resident and is entitled to the joint tax rates as a surviving spouse, the choice will not end until the close of the last year for which these joint rates may be used. If both spouses die in the same tax year, the choice ends on the first day after the close of the tax year in which the spouses died.
3. ***Legal separation.*** A legal separation under a decree of divorce or separate maintenance ends the choice as of the

beginning of the tax year in which the legal separation occurs.

4. ***Inadequate records.*** The IRS can end the choice for any tax year that either spouse has failed to keep adequate books, records, and other information necessary to determine the correct income tax liability, or to provide adequate access to those records.

Aliens From American Samoa or Puerto Rico

If you are a nonresident alien in the United States and a bona fide resident of American Samoa or Puerto Rico during the entire tax year, you are taxed, with certain exceptions, according to the rules for resident aliens of the United States. For more information, see *Bona Fide*