

IRS News Release

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IRS Reminds International Taxpayers of Tax Obligations; Clarifies Rules for Tax Withholding Agents

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WASHINGTON – The Internal Revenue Service today reminded non-U.S. citizens who may have taxable income, such as international students and scholars who may be working or receiving scholarship funds, that they may have special requirements to file a U.S. tax return.

The IRS also reminded withholding agents -- such as payroll professionals or universities -- that accurately filed Forms 1042-S help speed any refunds due to their non-U.S. citizen taxpayers. Errors on forms or returns could result in some refunds being delayed.

What Non-U.S. Citizen Taxpayers Must Do

The Internal Revenue Code generally requires non-U.S. citizens, whom the code defines as either resident or non-resident aliens, who are engaged in a trade or business within the U.S. to file tax returns. Non-resident aliens such as foreign students, teachers or trainees temporarily in the United States on F, J, M or Q visas are considered engaged in a trade or business.

Most individuals in F-1, J-1, M-1, Q-1 and Q-2 non-immigrant status are eligible to be employed in the U.S. and are eligible to apply for a Social Security number if they are actually employed in the United States. Those not eligible for an SSN but who have a tax filing requirement may request an Individual Taxpayer Identification Number from the IRS.

The non-U.S. citizen's name must be reported exactly as it appears on the official documentation provided to the withholding agent (such as a Social Security Administration card or some other form of official governmental documentation).

Filing a Form 1040-NR or 1040NR-EZ is required by non-U.S. citizens who have a taxable event such as:

- A taxable scholarship or fellowship, as described in Chapter 1 of [Publication 970](#), Tax Benefits for Education;
- Income partially or totally exempt from tax under the terms of a tax treaty; and/or
- Any other income, which is taxable under the Internal Revenue Code.

Non-U.S. citizens also must attach one copy (generally Copy B) for each Form 1042-S received to their tax returns. Non-U.S. citizens should review the Form 1042-S to ensure it accurately reflects their name and income. If the form does not contain accurate information, they must contact the withholding agent for an amended Form 1042-S.

What Withholding Agents Must Do

Generally, non-U.S. citizens who have taxable income also may have withholding of taxes by the source of their income. Withholding agents are required to complete Form 1042-S, Foreign Person's U.S. Source Income Subject to Withholding.

Withholding agents must provide five copies of the Form 1042-S. Copy A should go to the IRS; Copies B, C and D to the recipient of the income; and copy E should be retained by the withholding agent. All information, including the name of the taxpayer, must match exactly on all copies of Form 1042-S.

If withholding agents create a substitute Form 1042-S, all five copies must be in the same physical format. The size, shape and format of any substitute form must adhere to the rules of [Publication 1179](#), General Rules and Specifications for Substitute Forms 1096, 1098, 1099, 5498, and Certain Other Information Returns. The official Form 1042-S is the standard for substitute forms.

A common error is to have a Form 1042-S listing two or more recipients in box 13a. The 2016 instructions to [Form 1042-S](#) have been updated to clarify that in the case of joint owners, Form 1042-S can only list one of the owners in box 13a.

Withholding agents should review [Fact Sheet 2017-3](#), where they can find the latest changes to Form 1042-S instructions and common errors that delay processing of tax returns.