



5876

VITA/TCE Foreign Student and Scholar Volunteer Training Guide
Volunteer Income Tax Assistance (VITA) / Tax Counseling for the Elderly (TCE)

2023 RETURNS



Take your VITA/TCE training online at: apps.irs.gov/app/vita/ (keyword: Link & Learn Taxes). Link to the Practice Lab to gain experience using tax software and take the certification test online, with immediate scoring and feedback.

How to Get Technical Updates?

Updates to the volunteer training materials will be contained in Publication 4491-X, VITA/TCE Training Supplement. The most recent version can be downloaded at: www.irs.gov/pub/irs-pdf/p4491x.pdf

Volunteer Standards of Conduct

VITA/TCE Programs

The mission of the VITA/TCE return preparation programs is to assist eligible taxpayers in satisfying their tax responsibilities by providing free tax return preparation. To establish the greatest degree of public trust, volunteers are required to maintain the highest standards of ethical conduct and provide quality service.

Annually all VITA/TCE volunteers (whether paid or unpaid) must pass the Volunteer Standards of Conduct (VSC) certification test and agree that they will adhere to the VSC by signing and dating Form 13615, Volunteer Standards of Conduct Agreement, prior to volunteering at a VITA/TCE site. In addition, return preparers, quality reviewers, coordinators, and tax law instructors must certify in Intake/Interview & Quality Review. Volunteers who answer tax law questions, instruct tax law classes, prepare or correct tax returns, or conduct quality reviews of completed returns must also certify in tax law prior to signing the form. Form 13615 is not valid until the sponsoring partner's approving official (coordinator, instructor, administrator, etc.) or IRS contact confirms the volunteer's identity with a government-issued photo identification (ID) and signs and dates the form.

As a volunteer in the VITA/TCE Programs, you must adhere to the following Volunteer Standards of Conduct:

- VSC 1 - Follow the Quality Site Requirements (QSR).
- VSC 2 - Do not accept payment, ask for donations, or accept refund payments for federal or state tax return preparation from customers.
- VSC 3 - Do not solicit business from taxpayers you assist or use the information you gained about them (their information) for any direct or indirect personal benefit for yourself or any other specific individual.
- VSC 4 - Do not knowingly prepare false returns.
- VSC 5 - Do not engage in criminal, infamous, dishonest, notoriously disgraceful conduct, or any other conduct considered to have a negative effect on the VITA/TCE programs.
- VSC 6 - Treat all taxpayers in a professional, courteous, and respectful manner.

Failure to comply with these standards could result in, but is not limited to, the following:

- Your removal from all VITA/TCE programs;
- Inclusion in the IRS Volunteer Registry to bar future VITA/TCE activity indefinitely;
- Deactivation of your sponsoring partner's site VITA/TCE EFIN (electronic filing ID number);
- Removal of all IRS products, supplies, loaned equipment, and taxpayer information from your site;
- Termination of your sponsoring organization's partnership with the IRS;
- Termination of grant funds from the IRS to your sponsoring partner; and

TaxSlayer® is a copyrighted software program owned by Rhodes Computer Services. All screen shots that appear throughout the official Volunteer Income Tax Assistance (VITA) and Tax Counseling for the Elderly (TCE) training materials are used with the permission of Rhodes Computer Services.

Confidentiality Statement:

All tax information you receive from taxpayers in your volunteer capacity is strictly confidential and should not, under any circumstances, be disclosed to unauthorized individuals.

Table of Contents

How to Get Technical Updates?	2	Finishing the Return	53
Volunteer Standards of Conduct	2	Introduction	53
Residency Status.	4	Finishing Form 1040-NR	53
Introduction	4	Summary	56
Determining Status	4	Conclusion	58
Summary	8	Social Security Tax.	59
Conclusion	14	Introduction	59
Nonresident Income and Deductions.	15	Social Security Tax - Social Security and Medicare Tax Liability	59
Introduction	15	Conclusion	64
Who Must File?	15	State Income Taxes	65
Taxation of Nonresidents	16	Introduction	65
Summary	24	Conclusion	66
Conclusion	26	Completing Form 8843.	67
Tax Treaties.	27	Introduction	67
Introduction	27	Summary	71
Tax Residency	27	Foreign Student Comprehensive Practice . . .	77
Summary	32	Introduction	77
Conclusion	34	Summary	99
Filing Requirements	35	Summary	112
Introduction	35	Summary	122
What to File	35		
Summary	38		
Conclusion	39		
Filing Status and Dependents.	40		
Introduction	40		
Summary	41		
Conclusion	43		
Individual Taxpayer Identification Number (ITIN) .			
44			
Introduction	44		
Summary	47		
Conclusion	48		
Credits	49		
Introduction	49		
Summary	50		
Conclusion	52		

Residency Status

Introduction

This lesson is designed to teach tax preparers how to identify the residency status of foreign students and scholars who must file U.S. tax returns.

Note: The forms may change after this material becomes available. Screen shots may depict a previous year's version of the forms or software. Publication 4491X, VITA/TCE Training Supplement, will be released in January to notify volunteers of any tax law and software updates.

Objectives

At the end of this lesson, you will be able to:

- Determine if a taxpayer is a resident or nonresident alien

Determining Status

Nonresident Alien Intake and Interview Process — Form 13614-NR

Use [Form 13614-NR, Nonresident Alien Intake and Interview Sheet](#) to engage taxpayers in preparing accurate returns. To ensure quality and accuracy on each return, use the approved intake and interview sheet as a starting point for a comprehensive interaction with the taxpayer, in combination with all the source documents provided by the taxpayer. Confirm each item on the approved intake and interview sheet, to make sure you and the taxpayer have considered all the necessary information to ensure that all questions and issues have been addressed. If items are incorrect or incomplete, revisit the issue and make corrections to the return, as needed.

Some nonresident alien students may believe that they can choose to be treated as a resident alien in order to claim the refundable education credits. Be sure to address proper residency status with each taxpayer.

Three Residency Statuses

The first step in assisting international students and scholars is determining their residency status for tax purposes. All noncitizens or nonnationals of the U.S. are considered aliens. There are three types of aliens for tax purposes:

- Resident: U.S. residents who meet either the green card test or the substantial presence test
- Nonresident: Persons who are not U.S. citizens or lawful permanent residents of the United States
- Dual status: Persons who are both nonresidents and resident aliens in the same tax year

Resident aliens are taxed like U.S. citizens, while nonresident aliens are taxed differently. Most students fall under the nonresident alien status.

[Click here to refer to the Nonresident Alien or Resident Alien? - Decision Tree from Publication 4011.](#)

The determination of residency status for federal income tax purposes may be different from the residency status determined for immigration purposes.

Permanent Resident Status

Aliens are considered residents for tax purposes if they are lawful permanent residents of the United States (holders of green cards) at any time during the calendar year.

What do I need?

- Form 8840, Closer Connection Exception Statement for Aliens
- Form 1040-NR, U.S. Nonresident Alien Income Tax Return

Optional:

- Publication 4011, VITA/TCE Foreign Student and Scholar Volunteer Resource Guide
- Publication 519, U.S. Tax Guide for Aliens
- Link & Learn Taxes, Filing Status Workout and Filing Basic Workout lessons.

Individuals holding green cards have resident status unless it is taken away from them or is administratively or judicially determined to be abandoned.

Substantial Presence

Nonresident aliens meet the substantial presence test if they have spent more than 183 days in the U.S. To meet the substantial presence test, an alien must be physically present in the U.S. for at least:

- 31 days in the current tax year, and
- 183 days during a 3-year period consisting of the current year and the 2 immediately prior tax years, calculated as follows:
 - All days of presence in the current year
 - 1/3 of days of presence in the year immediately before the current year 1/6 of days of presence in the year before that
 - **Rev. Proc. 2020-20** provides for exceptions to the physical presence test for those impacted by COVID-19.

Nonresident aliens who are in the U.S. more than 183 (non-exempt) days in the current tax year meet the substantial presence test.

Exempt Individual

An individual in any of the following categories is temporarily exempt from counting days toward the substantial presence test:

- Student
- Teacher or trainee
- Closer connection to home country (**Out of Scope**)

Resident aliens are taxed like U.S. citizens, while nonresident aliens are taxed differently. Most students fall under the nonresident alien status.

Generally, exempt individuals cannot choose to count their exempt days in order to be treated as a resident under the substantial presence test. (An exception for married taxpayers electing to file jointly where one spouse is a U.S. citizen or resident will be discussed later in the lesson.)

[Click here to refer to the Substantial Presence Test? - Decision Tree from Publication 4011.](#)

Taxpayers must file Form 8843 each year they claim the substantial presence test as an exempt individual. Form 8843 and any required additional statements must be completed if taxpayers intend to request an extension of time based on claiming a closer connection to their home country. Please refer to the lesson on Completing Form 8843 for further information.

Student

A student may be temporarily in the U.S. in F, J, M, or Q immigration status. Immediate family members of a student generally are considered as in the same immigration status, including spouses and unmarried children under age 21 who reside with the student.

During the first five years in the U.S., the days the student is physically present in the U.S. are exempt and not counted as actual days of presence for purposes of the substantial presence test.

Any part of a calendar year in which the student is present in the U.S. counts as a full year. Previous years under any immigration status with exempted days, generally count towards the five-year exemption period. Ask taxpayers if they have previously been in the U.S. in an immigration status with exempted days, even as a child.

Teacher or Trainee

To qualify as a teacher or trainee, an individual must:

- Have entered the U.S. to teach or to obtain required training, other than a student
- Hold a visa and are in J or Q immigration status

Individuals will not be exempt as a teacher or trainee if they were exempt as a teacher, trainee, or student for any part of two of the six preceding calendar years.

Closer Connection to Home Country (Information Purposes Only - Out of Scope)

If a person can show a closer connection to a foreign country than to the U.S., it is also an exception to the substantial presence test. The person must file IRS Form 8840 and be able to show that they meet all of the following:

- Were present in a nonexempt status for less than 183 days during the current year,
- Have a tax home in a foreign country, and
- Have a closer connection to that country than to the U.S.

Form 8840 is Out of Scope for the VITA/TCE Foreign Student and Scholar program.

Remember to refer taxpayers with tax situations outside of your scope of training, experience, and certification to your site coordinator and/or a professional tax preparer.

Generally, students or scholars do not meet this test because they are considered to be in a trade or business in the U.S., thus establishing a closer connection to the United States.



You are completing Marie's 2023 federal income tax return. Marie is a junior at the local university. She came to the U.S. in 2013 from France in F-2 immigration status with her father while he was completing his doctorate. They remained in the U.S. in the same status until her father completed his doctorate in 2015, and then returned home. Marie reentered the U.S. in J-1 student immigration status in 2020, and has not left the U.S. nor changed her immigration status. For 2023 federal income tax purposes, is Marie a resident alien or a nonresident alien?

Marie is a resident alien for 2023 because she has already been in the U.S. for five calendar years in exempt status (three years in F-2 status with her father from 2013-2015, and two years in J-1 student status herself in 2021 and 2022).

Counting Years of Exemption

For the two-year period during which a scholar can be exempt, and the five-year period during which a student can be exempt from counting days toward the substantial presence test, presence in the U.S. for any part of a calendar year counts as a full year's presence.

For example, if a scholar arrived in the U.S. in December 2021 this is the first year of that person's two years. If the person stayed in the U.S. into 2022, and is subject to a two-year limit, that limit was reached at the end of 2022, so the substantial presence test began to apply at the beginning of 2023.



EXERCISES

Question 1

True or False? Kim arrived in the U.S. as a student in F-1 immigration status in November 2018. In 2023, she would be considered a nonresident alien for federal income tax purposes.

Question 2

True or False? Yvonne came to the U.S. on J-1 immigration status in July 2021 to teach for two years, starting in August 2021. Beginning in tax year 2023, she would be considered a resident alien for federal income tax purposes.

Residency Start Date

Residency for a taxpayer who meets the 183-day substantial presence test begins the first day of the tax year the taxpayer was present in the U.S. and met the substantial presence test.

The start date of residency for taxpayers with green cards is the first day they were in the U.S. as lawful permanent residents. Typically, that is the day they received notice that their green card application was approved. Green card holders are resident aliens, even if they are not physically present in the U.S.

For foreign students and scholars who meet the substantial presence test and were also granted permanent residency, residency begins on the earlier of the two dates.



Marlin, a graduate student, is in the U.S. temporarily in J-1 immigration status. He arrived on June 15, 2018 to prepare for the fall semester. Marlin was never in the U.S. before. He will begin counting days of substantial presence on January 1, 2023, and was in the U.S. all year except for two months during the summer. Is Marlin a resident or nonresident alien for tax year 2023?

Because Marlin remained in the U.S. for at least 183 days during 2023, he would be considered a resident alien.

Residency through Marriage (For Informational Purposes Only – Out of Scope)

Nonresident aliens who do not meet the substantial presence test and do not have green cards may still be treated as residents if they are married to a U.S. citizen or resident. This election can be made if:

- At the end of the year, one spouse is a nonresident alien and the other is a U.S. citizen or resident, and
- Both spouses agree to file a joint return and to treat the nonresident alien as a resident alien for the entire tax year

Taxpayers may be assisted through a traditional VITA/TCE site to have their paper return prepared. However, the required accompanying election statement preparation is **Out of Scope** for the VITA/TCE Foreign Student and Scholar program. Taxpayers should be referred to www.irs.gov/Individuals/International-Taxpayers/Nonresident-Spouse-Treated-as-a-Resident for more information regarding the election statement, or refer the taxpayer to a professional tax preparer.

Dual-status Alien (For Informational Purposes Only – Out of Scope)

Dual-status aliens are resident aliens and nonresident aliens at different times in the same tax year. This most commonly occurs in the year a person arrives in the U.S. or leaves the U.S. It may also occur if residency status changes during the year. If a taxpayer is a dual-status alien, they may choose to file as a resident alien for the entire year. (However, their world-wide income would then be subject to U.S. tax.)

Completing dual-status returns is a complex issue and is **Out of Scope** for the VITA/TCE Foreign Student and Scholar program. Refer dual-status taxpayers to a professional tax preparer. More information is in IRS Publication 519, U.S. Tax Guide for Aliens, through the IRS website at www.irs.gov/Individuals/International-Taxpayers/Dual-Status-Aliens.

Summary

This topic discussed residency status of foreign students and scholars for filing U.S. taxes.

Aliens are considered residents for tax purposes if they hold a green card at any time during the calendar year. Nonresident aliens meet the substantial presence test if they were present in the U.S. more than 183 days. Dual status aliens are resident aliens and nonresident aliens at different times in the same tax year.

Exemptions from counting days toward the substantial presence are granted for:

- Students
- Teachers or trainees
- Individuals who can show a closer connection to a home country

For taxpayers who meet the 183-day substantial presence test, the start date of residency for tax purposes is the first day the person was in the U.S. in the tax year in which the substantial presence test was met.

Nonresident aliens may be treated as residents for tax purposes if they make an election to be treated as a resident alien when filing jointly with their spouse who is a U.S. citizen or resident. The election continues until formally revoked.

Also, nonresident students from Barbados, Hungary, and Jamaica, as well as trainees from Jamaica, may qualify for an election to be treated as U.S. residents for tax purposes under their tax treaty provisions with the U.S. A formal, signed, election statement must be attached to Form 1040 (**Out of Scope**). The election continues until formally revoked.

Rev. Proc. 2020-20 provides for exceptions to the physical presence test for those impacted by COVID-19.



EXERCISES (continued)

How Would You Respond?

Zheng came into the tax center and needs help with his 2023 tax return. He came to the U.S. in J-1 immigration status in 2021 to teach at a university for two years. He brought his wife and one child (both in J-2 immigration status). The university hired Zheng's wife Jiang Zhou, who received employment authorization to teach, starting in the 2023 fall semester. Follow along in the conversation and think about how you would answer his questions.

How Would You Respond?

- Zheng:** My wife and I both teach at the university, but I have been teaching longer than my wife has. I'm not sure what our residency status will be for the 2023 tax year.
- You:** I can help you with that. First, tell me when you arrived to begin working at the university?
- Zheng:** I came to the U.S. for the first time on a visa to teach for two years in the fall of 2021. My contract was extended for another two years in 2023, to go through 2025.
- You:** And when did your wife come to the U.S.?
- Zheng:** My wife and our child came with me in 2021, but she didn't start work at the university until November 2023.
- You:** Okay, so you and your family were here over two years?
- Zheng:** That's right. Can you tell me if my wife would be considered a resident?

Question 3

Based on this information, would Zheng's wife be considered a resident for 2023?

- a. Zheng can file as a resident alien, but Jiang Zhou is a nonresident alien
- b. Both are considered nonresident aliens
- c. Both are considered resident aliens
- d. Zheng can file as a nonresident alien, but Jiang Zhou is a resident alien

Focus on Forms

Emily Andersson, a student from Sweden in J-1 immigration status, arrived in the U.S. on December 27, 2021. She is enrolled in a master's program and has not applied for any other visa status or U.S. residency.

On June 21, 2022, Emily went home to Sweden for her sister's wedding and returned on August 2, 2022. She has remained in the U.S. throughout 2023. She is single with no children.

Emily has returned to your site to have her return prepared because she was pleased with the service she received last year. Her director is Sue Leary from the School of Philosophy at State College, 323 S. 49th Ave., Omaha, NE 68011, phone number (402) 555-20XX, ext. 111.

She works in the student counseling center on campus and received Form W-2. She is unsure if she has any treaty benefits.

Complete Emily's Form 13614-NR. (Data has been entered up to Dependent Information).

Last or Family Name **ANDERSSON** First **EMILY** Middle Initial **E**

ITIN or Social Security # **222-XX-XXXX** Visa # **2001199** Passport # **332667**

Date of Birth: 03 / 06 / 1990 Telephone # **402-555-XXXX** e-mail Address

Were you a U.S. citizen or resident alien the entire year? Yes No Were you ever a U.S. citizen? Yes No

U.S. Local Street Address **162 JULIUS RD**

City **OMAHA** State **NE** Zip Code **68000**

Foreign Residence Address **11 ANY STREET**

Address Line 2 **INNERSTADEN STOCKHOLM**

Foreign Country **SWEDEN** Province/County **STOCKHOLM** Postal Code

Country of Citizenship **SWEDEN** Country that issued Passport **SWEDEN**

Are you married? Yes No If "YES", is your spouse in the U.S.? Yes No

If "YES", is it recognized by the State where you will be filing? Yes No

Are you a U.S. National Resident of Canada Resident of Mexico Resident of South Korea Resident of India
 Yes No Yes No Yes No Yes No Yes No

Dependent Information

First Name	Last or Family Name	Date of Birth (mm/dd/yyyy)	ITIN or SSN	Relationship to you (son, daughter, none, etc.)	Number of months lived with you in the U.S. in 2022	U.S. citizen, U.S. resident alien, U.S. national, or a resident of Canada, Mexico, or South Korea	Did person file joint return?	Did person provide more than 50% of their own support?	Did you provide more than 50% of their support?	Did the person have Gross Income of \$4,400 or more?

What is the date you FIRST entered the United States? ___ / ___ / ___

Entry Immigration Status - Check one

U.S. Immigrant/Permanent Resident F-1 Student F-2 Spouse or child of Student
 H-1 Temporary Employee *J-1 Exchange Visitor J-2 Spouse or child of Exchange Visitor
 Other (list)

Current Immigration Status - Check one

U.S. Immigrant/Permanent Resident F-1 Student F-2 Spouse or child of Student
 H-1 Temporary Employee *J-1 Exchange Visitor J-2 Spouse or child of Exchange Visitor
 Other (list)

Have you ever changed your visa type or U.S. immigration status? Yes No

If "Yes", indicate the date and nature of the change. ___ / ___ / ___

Enter the type of U.S. visa you held during these years

2016 _____ 2017 _____ 2018 _____ 2019 _____ 2020 _____ 2021 _____

*** If Immigration status is J-1, what is the subtype? Check one**

01 Student 05 Professor 12 Research Scholar
 02 Short Term Scholar Other (list)

What is the actual primary activity of the visit? Check one

01 Studying in a Degree Program 04 Lecturing 07 Conducting Research 10 Clinical Activities
 02 Studying in a Non-Degree Program 05 Observing 08 Training 11 Temporary Employment
 03 Teaching 06 Consulting 09 Demonstrating Special Skills 12 Here with Spouse

Emily's Form 13614-NR has been completed. She was in the country 5 days in 2021, 324 days in 2022, and 365 days in 2023.

Form 13614-NR (October 2022)	Department of the Treasury - Internal Revenue Service Nonresident Alien Intake and Interview Sheet	OMB Number 1545-1964								
Last or Family Name ANDERSSON		First EMILY								
Middle Initial E										
ITIN or Social Security # 222-00-XXX	Visa # 2001199	Passport # 332667								
Date of Birth: (mm/dd/yyyy) 03 / 06 / 1990	Telephone # 402-555-XXXX	e-mail Address								
Were you a U.S. citizen or resident alien the entire year? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Were you ever a U.S. citizen? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No								
U.S. Local Street Address 162 JULIUS RD										
City OMAHA	State NE	Zip Code 68000								
Foreign Residence Address 11 ANY STREET										
Address Line 2 INNERSTADEN STOCKHOLM										
Foreign Country SWEDEN	Province/County STOCKHOLM	Postal Code								
Country of Citizenship SWEDEN		Country that issued Passport SWEDEN								
Are you married? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No										
If "YES", is your spouse in the U.S.? <input type="checkbox"/> Yes <input type="checkbox"/> No										
If "YES", is it recognized by the State where you will be filing? <input type="checkbox"/> Yes <input type="checkbox"/> No										
Are you a U.S. National	Resident of Canada	Resident of Mexico								
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No								
Resident of South Korea	Resident of India									
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No									
Dependent Information										
First Name	Last or Family Name	Date of Birth (mm/dd/yyyy)	ITIN or SSN	Relationship to you (son, daughter, none, etc.)	Number of months lived with you in the U.S. in 2022	U.S. citizen, U.S. resident alien, U.S. national, or a resident of Canada, Mexico, or South Korea	Did person file joint return?	Did person provide more than 50% of their own support?	Did you provide more than 50% of their support?	Did the person have Gross Income of \$4,400 or more?
What is the date you FIRST entered the United States? <u>12 / 27 / 2020</u>										
Entry Immigration Status - Check one										
<input type="checkbox"/> U.S. Immigrant/Permanent Resident			<input type="checkbox"/> F-1 Student			<input type="checkbox"/> F-2 Spouse or child of Student				
<input type="checkbox"/> H-1 Temporary Employee			<input checked="" type="checkbox"/> *J-1 Exchange Visitor			<input type="checkbox"/> J-2 Spouse or child of Exchange Visitor				
Other (list)										
Current Immigration Status - Check one										
<input type="checkbox"/> U.S. Immigrant/Permanent Resident			<input type="checkbox"/> F-1 Student			<input type="checkbox"/> F-2 Spouse or child of Student				
<input type="checkbox"/> H-1 Temporary Employee			<input checked="" type="checkbox"/> *J-1 Exchange Visitor			<input type="checkbox"/> J-2 Spouse or child of Exchange Visitor				
Other (list)										
Have you ever changed your visa type or U.S. immigration status? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No										
If "Yes", indicate the date and nature of the change. <u> </u> / <u> </u> / <u> </u>										
Enter the type of U.S. visa you held during these years										
2016	2017	2018	2019	2020	2021					
				J-1	J-1					
* If Immigration status is J-1, what is the subtype? Check one										
<input checked="" type="checkbox"/> 01 Student			<input type="checkbox"/> 05 Professor			<input type="checkbox"/> 12 Research Scholar				
<input type="checkbox"/> 02 Short Term Scholar			Other (list)							
What is the actual primary activity of the visit? Check one										
<input checked="" type="checkbox"/> 01 Studying in a Degree Program			<input type="checkbox"/> 04 Lecturing		<input type="checkbox"/> 07 Conducting Research			<input type="checkbox"/> 10 Clinical Activities		
<input type="checkbox"/> 02 Studying in a Non-Degree Program			<input type="checkbox"/> 05 Observing		<input type="checkbox"/> 08 Training			<input type="checkbox"/> 11 Temporary Employment		
<input type="checkbox"/> 03 Teaching			<input type="checkbox"/> 06 Consulting		<input type="checkbox"/> 09 Demonstrating Special Skills			<input type="checkbox"/> 12 Here with Spouse		
Catalog Number 39748B				www.irs.gov				Form 13614-NR (Rev. 10-2022)		

Check the years you were present in the United States as a teacher, trainee, student or as an accompanying spouse or dependent of a person in such status for any part of the year. 2016 2017 2018 2019 2020 2021

Have you ever been present in the U.S. PRIOR to 2016 on a teacher, trainee, student visa, or as their accompanying spouse or dependent? Yes No If so, what years and visa type _____

How many days (including vacations, nonworkdays and partial days) were you present in the U.S. during

2020 5 2021 324 2022 365

List the dates you entered and left the United States during 2022

Date entered United States mm/dd/yyyy	Date departed United States mm/dd/yyyy	Date entered United States mm/dd/yyyy	Date departed United States mm/dd/yyyy

Did you file a U.S. income tax return for any year before 2022? Yes No

If "Yes", give latest year 4 / 15 / 21 Form number filed 1040-NR

During 2022, did you apply to be a green card holder (lawful permanent resident) of the United States? Yes No

Do you have an application pending to change your status to lawful permanent resident? Yes No

1. Are you claiming the benefits of a U.S. income tax treaty with a foreign country? Yes No

If "Yes", enter the appropriate information in the columns below

(a) Country	(b) Tax Treaty Article	(c) Number of months claimed in prior tax years	(d) Amount of exempt income in current tax year

2. Were you subject to tax in a foreign country on any of the income shown in 1(d) above? Yes No

Information about academic institution you attended in 2022

Name STATE COLLEGE	Telephone number 402-555-XXXX
Address 323 S 49TH AVE, OMAHA, NE 68011	
Name of your academic/specialized program director SUE LEARY	Telephone number 402-555-XXXX
Address 323 S 49TH AVE, OMAHA, NE 68011	

During 2022 did you receive

Did you have

Scholarships or Fellowship Grants <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Casualty Losses in a Declared Disaster <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Wages, Salaries or Tips <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Student Loan Interest Paid <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Interest <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	State or Local Income Taxes <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Distributions from IRA, Pension or Annuity <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	U.S. Charitable Contributions <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
State or Local Tax Refunds <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Child/Dependent Care Expenses <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Unemployment Compensation <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	IRA Contributions <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Dividend income or capital gains or losses <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Any Other Income (gambling, lottery, prizes, awards, self-employment, rents, royalties, virtual currency, etc.) <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Did you or any dependent have health insurance coverage through HealthCare.gov (The Marketplace)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
If yes, was any Advanced Premium Tax Credit received? (Provide Form 1095-A) <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

Privacy Act and Paperwork Reduction Act Notice

The Privacy Act of 1974 requires that when we ask for information we tell you our legal right to ask for the information, why we are asking for it, and how it will be used. We must also tell you what could happen if we do not receive it, and whether your response is voluntary, required to obtain a benefit, or mandatory.

Our legal right to ask for information is 5 U.S.C. 301. We are asking for this information to assist us in contacting you relative to your interest and/or participation in the IRS volunteer income tax preparation and outreach programs. The information you provide may be furnished to others who coordinate activities and staffing at volunteer return preparation sites or outreach activities. The information may also be used to establish effective controls, send correspondence and recognize volunteers. Your response is voluntary. However, if you do not provide the requested information, the IRS may not be able to use your assistance in these programs.

The Paperwork Reduction Act requires that the IRS display an OMB control number on all public information requests. The OMB Control Number for this study is 1545-2075. Also, if you have any comments regarding the time estimates associated with this study or suggestion on making this process simpler, please write to the Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:T:SP, 1111 Constitution Ave. NW, Washington, DC 20224.



EXERCISES (continued)

Question 4

Kerry Chang, a citizen of the People's Republic of China, is temporarily in the U.S. as a graduate student in F-1 immigration status. He has resided continuously in the U.S. since arriving on August 15, 2017. His immigration status has not changed. When did Kerry become a resident alien for federal income tax purposes?

- a. 2017
- b. 2021
- c. 2022
- d. 2023

Question 5

Phillip, a resident of Denmark, is in the U.S. as a teaching scholar in J-1 immigration status. He arrived in the U.S. on December 17, 2021 and has been here continuously since. On July 7, 2023, Phillip was notified by U.S. Citizenship and Immigration Services (USCIS) that his application for permanent residence was approved and a green card would be issued by July 20, 2023. What is his residency starting date for federal income tax purposes?

- a. July 20, 2023
- b. July 7, 2023
- c. January 1, 2023
- d. January 1, 2024

Question 6

True or False? Mai is a student who has been in the U.S. since June 2018 and began counting days of presence on January 1, 2023. Mai's husband accompanies her in J-2 immigration status. He was given permission to work by the USCIS and began working in July. He is a resident alien for federal tax purposes.

Conclusion



EXERCISE Answers

- Answer 1.** TRUE, Kim would still be considered a nonresident alien for federal income tax purposes. As a student, she is exempt from counting her days of presence during her first five years.
- Answer 2.** True, Yvonne is considered a resident alien for federal income tax purposes in 2023. She was in an exempt status in 2021 and 2022. Even though she was not in the U.S. for a full year in 2021, she must count that entire year toward her two years of exempt status.
- Answer 3.** C, For the year 2023, Zheng and Jiang Zhou will be considered resident aliens for tax purposes, because they have already spent two years as exempt individuals.
- Answer 4.** C, Kerry became a resident alien for federal income tax purposes in 2022.
- Answer 5.** C, Phillip will be considered a resident alien for tax purposes as of January 1, 2023.
- Answer 6.** True, Mai and her husband are both resident aliens.

Nonresident Income and Deductions

Introduction

This lesson discusses the taxation of nonresident students and scholars. The U.S. does not tax foreign source income received by nonresident aliens, but nonresident aliens are subject to taxation of income from U.S. sources.

Objectives

At the end of this lesson, you will be able to:

- Be aware of some tax law changes that affect Foreign Student and Scholars
- Determine the source of a student's or scholar's income
- Determine whether a student and scholar should file Form 1040-NR
- Identify different types of income and determine if they are a taxable
- Identify the applicable itemized deductions that can be included on Form 1040-NR
- Accurately complete Form 1040-NR

Who Must File?

Filing is required by nonresident alien students and scholars who have:

- Any other income that is taxable under the Internal Revenue Code
- Income partially or totally exempt from tax under the terms of a tax treaty
- A student with a \$300 taxable scholarship, or a researcher whose income is exempt by treaty, etc.

Filing is not required by nonresident alien students and scholars who have income only from:

- Foreign sources
- Interest income from a United States bank, savings & loan institution, credit union, or insurance company, and/or an investment-generating portfolio
- A scholarship or fellowship that is entirely a Tax-Free Scholarship or Fellowship as described in [Chapter 1 of Publication 970, Tax Benefits for Education](#)
- Any other income that is nontaxable under the Internal Revenue Code
- Income that is not taxable because of an income tax treaty must be reported on a U.S. income tax return, even if no tax is due.

What do I need?

- 1040-NR, U.S. Nonresident Alien Income Tax Return
- W-8BEN, Beneficial Owner's Certificate of Foreign Status for U.S. Tax Withholding
- 8233, Exemption from Withholding on Compensation for Independent (& Certain Dependent) Personal Service of a Nonresident Alien Individual
- Publications 519, U.S. Tax Guide for Aliens
- Publication 970, Tax Benefits for Education

Optional:

- Publication 4012, VITA/TCE Volunteer Resource Guide
- Publication 4011, VITA/TCE Foreign Student and Scholar Volunteer Resource Guide
- Link & Learn Taxes, Filing Basics Workout and Filing Status Workout lessons.

Taxation of Nonresidents

Source of Income

Nonresident aliens' foreign-source income is not subject to U.S. tax, so the source of each kind of income needs to be determined before filing.

Types and Sources of Income	
Income type:	Source is determined by:
Dividends	Where payer is incorporated
Interest	Payer's place of residence
Pension payments attributable to: --Contributions (employer or employee, pretax) Earnings of domestic (U.S.) trusts	Where the services were performed The U.S. is the source
Rents	Where property is located
Royalties from natural resources	Where property is located
Royalties from patents, copyrights, etc.	Where property is used
Salaries, wages, and other compensation for personal services	Where services are performed
Sale of inventory that was purchased	Where the inventory is sold (where title passes)
Sale of personal property (except inventory)	Tax home of seller
Sale of real property	Where the property is located
Scholarships and fellowships	Residence of grantor

Peer-to-Peer Economy

Income received from peer-to-peer U.S. source income such as Uber, Lyft, AirBnB, etc. is generally taxable. Certain expenses may be deductible; however, this topic is **Out of Scope** for the VITA/TCE Foreign Student and Scholar program.

(Limited self-employment income is handled by VITA, only for Form 1040, U.S. Individual Income Tax Return.)

Effectively Connected Income

Nonresident alien students and/or scholars are considered to be engaged in a U.S. trade or business if they are studying, teaching, or doing research. Income from such activities is "effectively connected" and must be reported on Form 1040-NR. This income is taxed at the same rates applicable to U.S. citizens and resident aliens.

Income that is **not** effectively connected must be reported on Form 1040-NR. No deductions can be taken against it, and it is taxed at a flat rate of 30 percent, unless a lower treaty rate applies.

Wages, Salaries, and Tips

Wages are generally subject to tax withholding by the employer. Upon being hired, an employee files Form W-4, Employee's Withholding Certificate to advise the employer of the employee's status for withholding. A nonresident student should check the "Single" box on Form W-4, even if married, due to the restrictions on deductions that can be claimed by nonresidents.

The withholding estimator on www.irs.gov does not calculate for a non resident alien at this time. Therefore, the proper amount of tax divided by the number of pay periods should be added to Form W-4, Line 4c extra withholding. This should account for nonresident aliens who do not qualify for the standard deduction.

Use **Notice 1392, Supplemental Form W-4 Instructions for Nonresident Aliens**.

Some tax treaties allow a limited exemption from tax for wages earned while temporarily studying in the U.S. To avoid withholding on wages eligible for the exemption, a student should fill out Form 8233, and give three copies to the employer.

If a student fails to give Form 8233 to the employer, or earns more than the treaty exemption amount, federal tax will be withheld and amounts earned will be reported on Form W-2, Wage and Tax Statement. However, treaty provisions can still be claimed on the tax return.

Income not subject to withholding because of a treaty is reported on **Form 1042-S**, Foreign Person's U.S. Source Income Subject to Withholding. This is reported on the Form 1040-NR line for Total Income Exempt by a Treaty from Schedule OI. See Publication 4011 for details.

The following worksheet can help you determine the correct amount of wages to report on the Total amount from Form(s) W-2, box 1. line of Form 1040-NR. Some of the lines may not apply to the student or scholar you are assisting. If the student or scholar has more than one W-2, add the Box 1 amounts together before completing this worksheet.

Wages from Box 1 of Form W-2	
Plus	Code 19 income from Form 1042-S
Plus	Code 20 income from Form 1042-S
	Code 19 treaty benefit
	Code 20 treaty benefit
	Wages to be entered on return

Amounts excluded by treaty benefits Codes 18 and 19 should not be included in the Total amount from Form(s) W-2, box 1 line. These amounts will be shown on Schedule OI and the line for Total income exempt by a treaty from Schedule OI.

Amounts claimed for the treaty exemption on the Form 1040-NR will be the lesser of amounts earned or the treaty maximum. For example, if a treaty allows \$5,000 and the wages were \$3,800, the amount listed as exempted by the treaty will be \$3,800.



EXERCISES

Question 1

Alejandro is an international student from Spain, temporarily present in the U.S. in F-1 immigration status. He is entitled to a \$5,000 treaty exemption for wages. He didn't know about Form 8233 and never filed it. He earned \$11,800 during the tax year, all of which was reported on Form W-2. How much will Alejandro report as wages on his Form 1040-NR for the current tax year?

- a. \$5,000
- b. \$6,800
- c. \$8,000
- d. \$11,800

Interest Income

Investment income is generally treated as **not** effectively connected with a U.S. trade or business. This includes dividends, capital gains, rental income, and interest, with the exception of bank interest. U.S.-source interest received on deposits held in the “banking business” is excluded from nonresident aliens’ income; they need not even report it.

The exemption of bank interest applies only if it is not connected with a U.S. trade or business. Thus, the exemption may be lost if a nonresident holds large sums in a bank for the purpose of earning money.

The “banking business” includes commercial banks, mutual savings banks, cooperative banks, credit unions, domestic building and loan associations, and other savings institutions chartered and supervised as savings and loans or similar associations under federal or state law.



Lorenzo is a junior at a state university. He is in F-1 immigration status. When he came to the U.S. to study, his parents gave him \$20,000 for expenses. He loaned \$5,000 to his cousin, a U.S. resident. His cousin paid him \$1,050 last year (\$1,000 of principal repayment and \$50 interest). He deposited the remaining \$15,000 in the college credit union and earned \$300 interest. Does Lorenzo need to report any of the interest earned?

The \$50 from Lorenzo’s cousin is not from the banking business, nor is it connected to his trade or business of studying. Therefore, it is reported on Form 1040-NR. The \$300 interest from the credit union is excluded from income, and does not have to be reported.

Dividend Income

If a nonresident student or scholar invests in the stock market and receives dividend income, it is not considered effectively connected with the person’s trade or business of studying, and it’s generally taxed at a 30% rate unless a lower treaty rate is applicable. This income is reported on Form 1040-NR, Schedule NEC, Tax on Income Not Effectively Connected With a U.S. Trade or Business.

If the taxpayer properly notified the brokerage firm of their nonresident alien status, the brokerage firm would then report that income to the taxpayer on Form 1042-S and withhold a percentage of it for income tax.

If the student or scholar did not tell the brokerage firm that they are a nonresident alien, it may have been reported on a Form 1099-DIV, Dividends and Distributions, in which case it is likely nothing was withheld from it. In either case, the taxpayer should properly report this income as not effectively connected income on Schedule NEC. If a lower treaty rate applies, the return is **Out of Scope** for the VITA/TCE Foreign Student and Scholar program. See Publication 4011 for a list of potential treaties relating to dividends.

Scholarships and Fellowships

Income in the form of a scholarship or fellowship is treated in one of three ways. It is either:

- Excludable under the Internal Revenue Code (this is called the Section 117 exclusion),
- Exempt by treaty, or
- Taxable

The Section 117 exclusion says a student who is a candidate for a degree may be able to exclude some or all income received under a “qualified” scholarship.

A qualified scholarship is any amount received as a scholarship or fellowship grant, and used for tuition, fees, books, supplies, and equipment that the student is required to buy. Amounts used for other purposes, such as room and board or travel, are not excludable. Section 117 does not apply if the student must perform services to receive the money (i.e. teaching assistant). Some treaties also exempt amounts received as scholarship or fellowship grants.

To prevent withholding, the student must file Form W-8BEN with the educational institution or other provider of the scholarship.

Scholarship and Fellowship Grants Exclusion

Line 8r—Scholarship and fellowship grants not reported on Form W-2

Enter the amount of scholarship and fellowship grants not reported on Form W-2, reduced by the total amount exempt by treaty. However, if you were a degree candidate at an eligible educational organization, generally **include on line 8r only the amounts you used for expenses other than tuition, fees, and required, course-related expenses**. For example, amounts used for room, board, and travel must be reported on line 8r.

Note: Attach any Form(s) 1042-S you receive from the educational organization to page 1 of the Form 1040-NR. Scholarship and fellowship grants are reported in box 2 of Form 1042-S.

For more information about tax requirements for scholarships and fellowships, see Pub. 519 and chapter 1 of Pub. 970.



EXERCISES (continued)

Question 2

Fatima, an international student from Brazil, received a \$6,000 scholarship from Mountain State University. The university applied \$4,700 of it for tuition, fees, and books. The other \$1,300 was used for living expenses. How much must Fatima report on her tax return?

- a. \$1,300
- b. \$2,000
- c. \$4,700
- d. \$6,000

Gambling Income

(Out of Scope, For Information Purpose)

Some international students and scholars receive income from gambling. This income is not effectively connected with the reason for their visit to the U.S. and must be reported on Schedule NEC and not on Form 1040-NR, page 1.

Canadian residents may report their net winnings, while residents of all other countries must report their gross winnings. Separate lines on Schedule NEC are provided for computing the tax for these two scenarios.

Capital Gain or Loss

Nonresident alien students and scholars are subject to 30 percent taxation of U.S. capital gains, unless a tax treaty allows a lower rate. Report this income in the Capital Gains and Losses From Sales or Exchanges of Property section of the 1040-NR. If a sale of stock takes place, it should be reported regardless of whether a gain or loss occurs. Refer to Publication 901, U.S. Tax Treaties for the table that lists the income tax rates on capital gains.

Sales of stock and other capital gain issues should be handled only by tax preparers who have certified at the advanced level. The types of capital gains and losses within the scope of the VITA/TCE Foreign Student and Scholar program may be further limited, see Publication 4011.

Itemized Deductions

Nonresident students and scholars (except students from India) are not permitted to take the standard deduction. While nonresident students and scholars must itemize deductions, they are limited in the type of expenses they can deduct. Expenses that can be itemized include:

- State and local taxes (Taxpayers may claim an itemized deduction of up to \$10,000 (\$5,000 for married taxpayers filing a separate return) for State and local income taxes, property taxes or sales taxes, applicable to taxable years beginning after December 31, 2017 and before January 1, 2026.)
- U.S. Charitable contributions
- Casualty loss (**Out of Scope**). Before referring a taxpayer elsewhere, beware that the Tax Reform Act has limited these losses to Federally Declared Disaster Areas only.

State and Local Taxes

State and local income taxes are fully deductible in the year paid, no matter to which state they were paid. They will normally be listed on the student's or scholar's Form W-2 or Form 1042-S. A student or scholar may also have a canceled check or receipt for additional state or local income taxes paid during the tax year.

Taxpayers may claim an itemized deduction of up to \$10,000 (\$5,000 for married taxpayers filing a separate return) for State and local income taxes, property taxes or sales taxes, applicable to taxable years beginning after December 31, 2017 and before January 1, 2026.



U.S. Charitable Contributions

Students can deduct charitable contributions to U.S. charities and nonprofit organizations. Those generally include religious, charitable, educational, scientific, and literary organizations; and organizations that work to prevent cruelty to children or animals. Contributions made directly to a foreign organization are not deductible.

To verify the deductibility of a contribution, the IRS has an online tool that searches for all valid U.S. charitable and other eligible nonprofit organizations. [Click here](#) to search for eligible organizations.

Contributions made to a U.S. organization that transfers funds to a foreign organization may be deductible. To be deductible, the U.S. organization must control use of the funds.

Refer to the Publication 17, Your Federal Income Tax (For Individuals) for possible limitations on the amount deductible.

Recordkeeping Requirements for Cash Contributions

You cannot deduct a cash contribution, regardless of the amount, unless you keep the following information:

- The canceled check or a bank copy of the canceled check
- A bank statement containing the name of the charity, the date, and the amount, or
- A written communication (receipt) from the charity which includes the name of the charity, date of the contribution, and the amount of the contribution - It can only be claimed as an itemized deduction.

Preparing Form 1040-NR

Information Section

If your site is preparing paper returns, it is advisable to have the student or scholar complete the top section of the form, although you can provide guidance. Remind the taxpayer that the name must be listed in the same order it appears on the Social Security card or ITIN letter.

Many students move at the end of the school year. Their present home address should be the address where refunds or correspondence can be received once the return is processed.

Filing Status

Generally, the only two filing statuses available to nonresident aliens are Single and Married Filing Separately. Only in rare circumstances would a Qualifying Surviving Spouse be applicable.

If the taxpayer is married, the “Married nonresident alien” box must be marked, even if the spouse does not reside with the taxpayer.

Wages

The amount to list on the wage line should be computed as follows:

Wages in Box 1 of Form W-2	
Plus	Code 19 income from Form 1042-S
Plus	Code 20 income from Form 1042-S
	Code 19 Treaty benefit
	Code 20 Treaty benefit
	Wages to be entered on return

Paul, a student from France, received Form 1042-S showing code 20 income of \$5,000. Paul also received a W-2 with \$3,900 in Box 1. Paul would report \$3,900 on the wage line, calculated as follows:

Amount in Box 1 of Form W-2	\$3,900
Plus: Code 20 Income	\$5,000
Minus: Treaty Benefit	\$5,000
Equals: Amount to be listed on return	\$3,900

Taxable Refunds of State and Local Taxes

Students may have received taxable refunds of state and/or local taxes. Remember that nonresident students, except from India, must itemize their deductions. This can include state and local income taxes paid. **Any refund of state and local taxes may need to be included on the return in the year received.**

Students from India are allowed a standard deduction. If the standard deduction was used on the previous year’s tax return, do not include the amount of any state or local tax refund in taxable income.

Scholarships and Fellowship Grants

Nonresident students must report all scholarships they receive for room and board and living expenses that are not exempted by their treaty. Scholarships that cover only tuition, books, and fees are not reported. Scholarships from outside the U.S. are not reported either. If the student uses part of a reportable scholarship to pay for tuition, books, fees or supplies, these expenses can be excluded from the Scholarship and Fellowship grants not reported on Form W-2 line, Schedule 1 (1040) that flows over to Form 1040-NR, Line 8, Other income from Schedule 1.



EXERCISES (continued)

Question 3

Nina from New Zealand received the following scholarships:

Tuition waiver	\$3,600
Science Scholar Scholarship	\$2,000
Abbott Scholarship	\$1,000
Merrill Scholarship	\$1,000

Her only qualifying education expenses include her tuition, \$750 on books and \$250 on required fees other than health insurance. What is Nina required to report on her tax return?

- a. Everything
- b. All of the scholarships, but not the tuition waiver
- c. The tuition waiver but none of the scholarships
- d. Neither the scholarships nor the tuition waiver

Preparing Form 1040-NR (continued)

Student Loan Interest Deduction

Many foreign students and scholars incur interest charges while temporarily in the U.S., but very few of those interest charges are tax-deductible. The only type of interest that can be deducted is qualified student loan interest. All of the following conditions must be met for interest to be qualified student loan interest:

- The interest must have been paid during the tax year
- The interest repayment must have been required to be paid
- Filing status must be Single or Qualifying Surviving Spouse
- The loan must have been issued to pay for educational expenses, and The recipient of the loan must be at least a half-time student
- The lender must be a qualifying U.S. institution

Itemized Deductions

Form 1040-NR should be filed if a student or scholar has itemized deductions that would reduce taxable income. Students from India can take the standard deduction on either form. Refer to Publication 4011 or Publication 17.

Tax

If the Taxable income line is a positive number, the taxpayer has some income subject to tax. Since all of the income on Form 1040-NR is considered “effectively connected” income, you can use the standard tax tables to determine the correct amount of tax. If filing paper be sure to use only the Married Filing Separate column for married taxpayers.

Social Security and Medicare Tax

Students and scholars are exempt from Social Security and Medicare tax as long as they are nonresidents in compliance with their visa. Therefore, the line for “Other taxes...” on Form 1040-NR is generally left blank.

An exception is when a student or scholar’s spouse with a J-2 visa works for tips and did not pay the full amount of the Social Security and Medicare taxes. In that case, there is tax liability entered on that line.

Federal Income Tax Withheld

A student or scholar may have federal income tax withholding listed in a number of places: for example, Forms W-2, Form 1099-R, Form 1042-S, etc. If a taxpayer has income from more than one payor, add all the federal withholding amounts together.

Estimated Tax and Overpayment from Prior Year

For most students and scholars, the line for estimated tax payments and amount applied from the previous year’s return will be blank. Very few nonresidents make estimated tax payments, especially if their only income is from wages and scholarships.

Very few students and scholars elect to have their refunds applied to next year’s taxes. If a student or scholar had either of these types of payments, list the amount on the estimated tax payments line.

Summary

In this lesson, you learned that:

- The U.S. does not tax nonresident aliens' foreign-source income; income source needs to be determined before filing
- Nonresident students' or scholars' income is "effectively connected" if they are studying, teaching, or doing research; it is reported on Form 1040-NR. Some tax treaties provide for a limited exemption from tax for wages earned while temporarily studying, teaching, or training in the U.S.
- Income received from interest, dividends, or gambling is not "effectively connected" and must be reported. Income in the form of a scholarship or fellowship is treated in one of three ways:
 - Section 117 exclusion
 - Exempt by treaty
 - Taxable

Nonresident students (except students and scholars from India) must itemize deductions but are limited in the type of expenses they can deduct. Nonresident students and scholars are subject to 30 percent taxation of U.S. capital gains, unless a tax treaty allows a lower rate.



Ingrid, from Germany, worked part of the year at the local university in California. She gave the university Form 8233 and they properly applied her treaty benefit. In August, Ingrid moved to Illinois and began the fall semester at the local university. She gave Form 8233 to the university in Illinois. However, the Illinois university was not aware that Ingrid had already exempted part of her income in California. At the end of the year, Ingrid's taxable wages were calculated as follows:

Income and Federal Taxes Withheld	Amount
W-2 California university wages, taxes withheld	\$380
1042-S Code 20 California university	\$9,000
W-2 Illinois university wages, taxes withheld	\$1,685
1042-S Code 20 Illinois university	\$9,000
Total wages	\$20,065
Allowable treaty benefit	\$9,000
Taxable wages	\$11,065

Would Ingrid receive a refund of federal income taxes withheld if her treaty benefit was applied correctly at both colleges?



EXERCISES (continued)

Question 4

True or False? Mario came to the U.S. last year for postgraduate study. He borrowed \$2,000 from the college credit union for his last semester's fees and books. Mario has graduated, but remained in the U.S. for one year of practical training. He began repaying the loan and paid \$50 in interest during the current tax year. Mario can claim this interest as a deduction.

Question 5

True or False? Egor, who is from Russia, earned \$3,434 last year. He had \$89 withheld for state income taxes. Even though he listed the taxes as a deduction on his federal return last year, they did not help lower his taxable income for that year. Egor received a state refund of \$43 this year. He would include this on his current federal return.

Question 6

Lucas, a resident of Brazil, entered the U.S. last year in F-1 immigration status to study engineering. He invested the money that he brought with him in the stock market. During the tax year, he sold some stock to pay tuition and fees. Lucas should report the sale of the stock if:

- a. He has a loss he can deduct
- b. A sale of stock occurred (gain or loss)
- c. It is more than his allowable treaty benefit

Question 7

Alejandro is an international student from Spain, temporarily present in the U.S. in F-1 immigration status. He is entitled to a \$5,000 treaty exemption for wages. He didn't know about Form 8233 and never filed it. He earned \$11,800 during the tax year, all of which was reported on Form W-2. How much will Alejandro report as wages on his Form 1040-NR for the current tax year?

- a. \$5,000
- b. \$6,800
- c. \$8,000
- d. \$11,800

Question 8

Jacob, who is from England, had \$348 of state income tax withheld in 2022. His total income was \$5,800 in 2022. The deduction of the state income taxes helped reduce his taxable income, as illustrated below.

Wages	\$5,800
State income tax	\$348
Taxable income	\$5,452

Jacob received a \$22 state income tax refund in 2023 on his 2022 state return. Should he report it as income on his 2023 tax return?

Conclusion



EXERCISE Answers

- Answer 1.** B, Alejandro will enter \$6,800 (\$11,800 minus the \$5,000 treaty exemption) on Form 1040-NR line for wages, salaries, tips, etc.
- Answer 2.** A, The University will issue Form 1042-S for \$1,300; Fatima must report \$1,300 as a taxable scholarship on Form 1040-NR.
- Answer 3.** B, Nina is not required to report the tuition waiver on her tax return. She must report the other \$4,000 of scholarships on the Form W-2 line, Schedule 1 (1040) that will flow over to Form 1040-NR, Line 8, Other income from Schedule 1.
- Answer 4.** True, Mario can deduct the \$50 on the Student loan interest deduction line of Schedule 1 (Form 1040) which flows to the Adjustments to income, From Schedule 1 line on Form 1040-NR.
- Answer 5.** True, Egor would include the state refund of \$43 on his current federal return because he did not receive a tax benefit on his prior-year return.
- Answer 6.** B, All sale of stock is reported on Form 1040-NR, Tax on income not effectively connected with a U.S. trade or business from Schedule NEC (Form 1040-NR). Any gain is taxable at 30 percent, unless treaty allows a lesser amount; see Publication 901. Not all losses are deductible.
- Answer 7.** B, Alejandro will enter \$6,800 (\$11,800 minus the \$5,000 treaty exemption) on Form 1040-NR line for wages, salaries, tips, etc.
- Answer 8.** True, The \$22 is listed as income on his 2023 federal return.

Introduction

This lesson is designed to teach tax preparers how to determine if there is a tax treaty affecting the reporting requirements of foreign students and scholars who must file a U.S. tax return. The lesson also covers income codes and uncommon treaty provisions that may affect taxable income.

Objectives

At the end of this lesson, you will be able to:

- Determine if a student or scholar is eligible for tax treaty benefits
- Determine which income code to use in the application of the treaty benefits
- Identify which forms a student or scholar should file

Foreign Tax Treaties with the U.S.

Many countries have tax treaties with the U.S. that allow their residents to earn money while temporarily living in the U.S. without being subject to income tax on those earnings in both countries. It is important for volunteers working with international students and scholars to be familiar with these treaties.

The full texts of the tax treaties, technical explanations, and protocols are available through the IRS Web site (www.irs.gov/businesses/international-businesses/united-states-income-tax-treaties-a-to-z). Understanding them may be challenging. IRS Publication 901, U.S. Tax Treaties, has additional information.

You can also get copies of the text of most treaties at the following address:

Department of the Treasury
Office of Public Correspondence
1500 Pennsylvania Ave NW - Room 3419
Washington, D.C. 20220

References to the most commonly used Treaties under the Foreign Student and Scholar VITA Program are in Publication 4011. www.irs.gov/businesses/small-businesses-self-employed/state-government-websites

Tax Residency

A student or scholar must have been a resident of the treaty country prior to entering the U.S. for the provisions of that treaty to apply. The key factor is the residency and NOT citizenship of the individual. In most cases, the person will be both a citizen and resident of the same treaty country. However, it is very important to determine the country of residency in order to apply the proper treaty benefits.

Again, treaty benefits are tied to the residency of an individual immediately before entering the U.S., not the country that issued their passport.

Loren Chen, who was born and raised in Canada, attended undergraduate school in the People's Republic of China and became a resident of the People's Republic of China. Loren now attends graduate school in the US. He is required to use the Treaty Provisions of the People's Republic of China.

What do I need?

- Form 1040-NR, U.S. Nonresident Alien Income Tax Return
- Form 1042-S, Foreign Person's U.S. Source Income Subject to Withholding
- Form 8233, Exemption from Withholding on Compensation for Independent (and Certain Dependent) Personal Services of a Nonresident Alien Individual

Optional:

- Publication 519, U.S. Tax Guide for Aliens
- Information on the United States-Canada Income Tax Treaty
- Publication 901, U.S. Tax Treaties
- Publication 4011, VITA/TCE Foreign Student and Scholar Volunteer Resource Guide.
- Link & Learn Taxes, Filing Status Workout and Filing Basics Workout lessons.

The complete text of the tax treaties, available at:

www.irs.gov/businesses/international-businesses/united-states-income-tax-treaties-a-to-z



EXERCISES

Question 1

Michael Chang, a citizen of the People's Republic of China, moved to Canada with his parents at the age of 4, where he remained until moving for college. On June 30, 2022, at age 18, Michael entered the U.S. on F-1 immigration status, to attend university. Which country's treaty would be used to prepare his return?

- a. China
- b. Canada
- c. Both
- d. Neither

Income Codes

Each type of income that an alien can earn is identified by a numeric code on Form 1042-S, box 1. International students and scholars should receive Form 1042-S in lieu of Form W-2 for any income that is covered by a treaty. The codes are helpful in determining the application of the treaty benefits.

The most common codes used by international students and scholars are:

- Code 16: Scholarship or fellowship grants
- Code 19: Compensation for teaching or researching
- Code 20: Compensation during study and training

Refer to pages 13 through 15 in Publication 4011 for tables.

If nonresident aliens fail to timely notify the payer of their treaty benefit, they may be issued a regular income document. However, the individual would still be allowed the tax treaty benefit on their return.

Income Code 16—Scholarship or Fellowship Grants

Income or the waiver of fees is treated differently in each category:

- Money received for tuition, fees, books, and/or supplies is not taxable if it was spent for the purpose intended and there was no requirement to perform services
- Money received for room and board is normally taxable, but some countries have treaty provisions making it nontaxable. Usually there are a maximum number of years during which the income is nontaxable. Refer to page 13 in Publication 4011 for table.
- Money received for performing services such as teaching or research is treated as wages



Zama is from Eswatini, Africa, and is in the U.S. as an F-1 student. Zama receives a tuition waiver from her college and is not required to work to get the waiver. She received a \$250 scholarship from a local group to help cover her books. She pays her own room and board with monies from her home country. Are any of the monies she received taxable?

Zama has no taxable scholarship or fellowship income. The waiver is not taxable because she has no requirement to work. The scholarship is not taxable because the money is used to buy her books.

Income Code 19—Compensation for Teaching or Researching

Professors' and teachers' pay may be exempt from U.S. income taxes for either two or three years, if they are temporarily in the U.S. to teach or do research. These exemptions by treaty apply to income earned by the visiting professor or teacher only, not to any earnings of a spouse or dependents.

Refer to page 14 in Publication 4011 for table.

Some countries, including India, the Netherlands, and Thailand, have treaty clauses saying that if the maximum years of presence are exceeded, the entire treaty benefit is lost. This could require a teacher to file amended returns and pay tax on previous years' income. If a teacher expects to stay more than the limited years of presence, they should avoid claiming the treaty benefit for any years. If they leave sooner than anticipated, prior to the period expiring, they can file amended returns to properly claim their treaty benefits.

Other countries, such as the Czech Republic, France, Indonesia, Israel, Jamaica, Netherlands, Philippines, Portugal, Slovak Republic and Thailand prohibit claiming this treaty benefit if a teacher has either claimed a tax treaty provision as a student, or made a previous treaty claim as a teacher. Refer to Publication 901, U.S. Tax Treaties, for specific information on these countries.

The treaty exemption for teaching or research income is counted from the day of arrival in the U.S. (In some cases, this may mean that treaty provisions extend into a tax year where the individual may be considered a resident alien. These returns would be **Out of Scope** for all VITA programs.)

Income Code 20—Compensation During Study and Training

Students and trainees from many countries are allowed to earn some money tax-free in the U.S. Immigration restrictions usually bar students from working off campus during their first year in the U.S., therefore, most international students earn money from the college or university they attend. If a student earns more wages than their treaty benefit allows, the excess must be reported on their tax return.

A spouse or dependent of an F-1 student is not generally permitted to work while in the U.S. on an F-2 visa. Spouses who acquire their own F-1 visas may be eligible to work on campus.

Refer to page 19 in Publication 4011 for table.

Form 8233

International students and scholars who qualify should complete Form 8233, Exemption From Withholding on Compensation for Independent (and Certain Dependent) Personal Services of a Nonresident Alien Individual, annually and give it to their employer. This allows employers to avoid withholding federal income tax on the students' and scholars' earnings until the applicable treaty benefit amount is exceeded.

Students and scholars are entitled to claim treaty benefits on their tax returns even if they did not give the proper forms to their employer or college, or if the employer did not issue the correct reporting document.

In some cases, the student/scholar may have failed to file Form 8233 timely. In this case, they may be issued a Form W-2. However, this does not prevent them from taking advantage of their treaty benefits.



Michael Wei is a student from the People's Republic of China. He entered the U.S. in August 2022 in F-1 immigration status. In 2023, he received a \$8,000 scholarship (tuition only) from the University and worked at the school library. He received a Form W-2 in the amount of \$3,200 for his work-study (Form 8233 was not submitted timely) and a Form 1042-S reporting his scholarship. Form 1040-NR, Schedule OI is completed as shown.



EXERCISES (continued)

Question 2

True or False? Suzan is from Poland, a country that has a treaty benefit to exempt income from teaching for two years. She is in J-1 immigration status and is teaching engineering at a local university. She was hired on a four-year contract to teach at the university. She only stayed one year, then returned to Poland for a great job opportunity. Since her contract was for four years and she received Form W-2, she should not claim the treaty benefit for any year.

Dependent and Independent Personal Services

Sometimes students and scholars try to make use of the treaty benefits for dependent and independent personal service income (Income Codes 17 and 18).

Many treaties do not permit students and scholars to earn those types of income; they are only allowed to engage in employment that is related to the reason they were admitted to the country.

Taxpayers claiming Code 17 and 18 treaty benefits remain **Out of Scope** for the VITA/TCE Foreign Student and Scholar program.

Capital Gains and Dividend Income

Capital gains or losses for the sale of U.S. stocks may be subject to a 30% mandatory withholding rate or no withholding. This does not mean that this is the actual treaty rate. The sales and withholdings may be reported on Form 1099-B or Form 1042-S. Use the actual treaty to determine the proper rate. Start by referring to the table in Publication 4011. The sales are listed on Schedule NEC, with the applicable tax transferring to the Form 1040-NR, page 2. The sales are NOT listed directly on Form 1040-NR, page 1 for students. (These sales are not reported on Form 8849 nor Schedule D.) As students, U.S. stock sales are generally considered NOT effectively connected with the taxpayer's U.S. trade or business. Also, if the taxpayer was physically present in the U.S. for less than 183 days, the sales may be excludable under IRC §7701(b).

Dividend income for the nonresident aliens is subject to 30% income tax rate, unless a lower rate is allowed by treaty. These lower treaty rates are **Out of Scope** for the VITA/TCE Foreign Student and Scholar program, as they are vastly different from one treaty to another and may contain several caveats. Due to their complexity, they should not be attempted to be interpreted for Foreign Student and Scholar VITA clients. The lower treaty rate countries are listed in Publication 4011 for reference, so that the volunteers will know which dividends may be permitted a lower treaty rate and need additional research. The taxable dividends are reported on Schedule NEC.

Unique Treaty Provisions

Most treaties have very similar rules for students and scholars. However, these three countries have uncommon provisions:

- Canada
- India
- People's Republic of China

Canada

The tax treaty with Canada exempts all earned income if a taxpayer coming from Canada earned up to \$10,000 in the tax year, but taxes all income if the taxpayer earned over \$10,000. This treaty benefit is lost if a nonresident becomes a resident for tax purposes.

The Canada treaty also has an exception to the general rule that other treaties have stating international students and scholars cannot use treaty benefits for dependent personal services. Students and scholars from Canada are allowed to use this treaty benefit.

Publication 597, Information on the United States-Canada Income Tax Treaty, has more information on the treaty's benefits to students and scholars from Canada.

India

India is the only country whose international students and business apprentices on F, J, or M immigration status are allowed to use the standard deduction instead of itemizing deductions on their U.S. income tax return. An Indian student may take a standard deduction equal to the amount allowable on Form 1040.

Treaty benefits for a scholar (teacher) from India differ from those for a student. The scholar's income is not taxable if present for no longer than two years; however, the scholar benefit for Income Code 19 is lost retroactively if the visit exceeds two years. (The Indian scholar is not allowed the standard deduction.)

The deduction for personal exemptions is suspended through 2025. Currently, you can't claim a personal exemption deduction for yourself, your spouse, or your dependents. However, various dependency-related credits may still apply.

People's Republic of China

The U.S. tax treaty with the People's Republic of China has provisions that are available to both nonresident and resident aliens. It states that a scholar is exempt from tax on earned income for three years. After two years, a scholar will become a resident alien for tax purposes, but is still entitled to one more year of tax benefits under the treaty.

Most countries' scholars can receive more than one two-year exemption by waiting three years after their current exemption to return to the United States. Chinese scholars are only allowed three years of treaty benefits during their lifetime.

A student from the People's Republic of China is also entitled to the \$5,000 exemption each year for the amount of time reasonably necessary to complete education or training. Students will become resident aliens for tax purposes after five years, but would still be entitled to the treaty benefit as long as they remain students.

The United States-People's Republic of China treaty does not apply to Hong Kong, Macau, or Taiwan.



EXERCISES (continued)

Question 3

True or False? Miles McCarthy is an international student from Canada. He entered the U.S. in F-1 immigration status in 2022. In 2023, he earned \$9,980 from on campus employment. His federal tax withholding was \$600. Miles will receive a refund of \$600 when he files Form 1040-NR.

Question 4

Agamvir Singh, a scholar from India, arrived in the U.S. in 2021 in a J-1 immigration status. He had a one-year contract to teach accounting at the local university. His teaching was well received, and he was asked to stay and teach until the fall of 2024. If Agamvir stays to teach through 2024, which years' teaching income will be excludable?

- a. None
- b. 2023 and 2024
- c. 2024
- d. 2021, 2022, 2023, and 2024

Question 5

Ann Ku, a scholar from the People's Republic of China, came to the U.S. in 2021 to teach for three years at the local university. She was paid \$39,500 per year for her full-time "Music Theory Using the Ukulele" program. For 2021 and 2022, she filed Form 1040-NR, reporting no taxable income because her treaty benefit exempted all of her teaching income. In 2023, she is a resident alien for federal income tax purposes. Which form will she file?

- a. Form 1040
- b. Form 1040-NR
- c. Ann does not need to file a tax return

Summary

Many countries have tax treaties with the U.S. that allow their residents to earn income without being subject to income tax on those earnings in both countries.

U.S. Tax Treaty provisions may not be honored by all state taxing authorities.

Treaty benefits are tied to the residency of the country the individual established residency in before entering the U.S.

Pay of professors and teachers may be exempt from U.S. income taxes for either two or three years if they are temporarily in the U.S. to teach or do research. Students and trainees from many countries are allowed to earn tax-free income in the U.S. from the college or university they attend.

Many treaties only allow students and scholars to engage in employment that is related to the reason they were admitted to the country. Capital gains from stock sales may be taxed at lower than 30%, if treaty provisions permit.

Any dividends paid to a resident of a country that has a treaty providing lower rates of tax for dividend income require additional research and are **Out of Scope** for the VITA/TCE program. All others are taxed at 30%.

Canada, India, and the People's Republic of China have unique provisions for students and scholars. For more information regarding the benefits of a particular country's tax treaty, see Publication 901, U.S. Tax Treaties or Publication 4011 for further details.



EXERCISES (continued)

Question 6

Gretchen, who is from Germany, is a student in F-1 immigration status. She has been in the U.S. for two years. Her earned income last year was \$11,500, all of it earned in the U.S. Based on this information, what is the amount of the treaty benefit available to Gretchen?

- e. \$0
- f. \$5,000
- g. \$9,000
- h. \$11,500

Question 7

Karen is a student from Norway. She has been in the U.S. for four years. Her earned income last year was \$7,300, all of it earned in the U.S. Based on this information, what is the amount of the treaty benefit available to her?

\$ _____ (Please do not use commas in answer)

Question 8

Heng is a professor from the People's Republic of China. He has been teaching in the U.S. for two years. In 2023, his earned income at the university was \$41,000. Based on this information, how much of Heng's earned income is exempt from taxation?

- a. \$0
- b. \$5,000
- c. \$36,000
- d. \$41,000

Conclusion



EXERCISE Answers

- Answer 1.** B, Canada's treaty applies to Michael's tax return because he was a resident of Canada just before he entered the U.S.
- Answer 2.** False, Suzan is entitled to the treaty benefit, even though her original contract exceeded the limit on years of presence. The tax treaty with Poland does not contain retroactive elimination of benefits, as other countries may.
- Answer 3.** True, Miles will receive a refund of \$600. On his Form 1040-NR, Schedule OI, he will state his income is exempted by the U.S.-Canada Income Tax Treaty Article XV. This treaty exempts all of his earned income as a nonresident alien student as long as it is below \$10,000. He only earned \$9,980 in 2023.
- Answer 4.** A, All of Agamvir's earnings will be taxable because he was present in the U.S. for more than two years. He also must file amended returns for 2021 and 2022, changing his income from nontaxable to taxable. The treaty with India retroactively eliminates the benefit if the time frame is exceeded.
- Answer 5.** A, Ann will file Form 1040, but her earnings are still exempt from tax. She will attach Form 8833, Treaty-Based Return Position Disclosure Under Section 6114 or 7701(b), to her Form 1040. She must file to claim her treaty benefit.
- Answer 6.** A, Because Gretchen earned more than the \$9,000 exemption allowed in the U.S.-Germany tax treaty, and that treaty contains provisions that retroactively eliminates benefits if the allowable period in the U.S. or income amounts are exceeded as defined in the treaty. Gretchen gets no treaty benefit.
- Answer 7.** Karen's treaty benefit is \$2,000.
- Answer 8.** D, All of Heng's income is exempt from taxation. The United States-People's Republic of China treaty article 19 states that a scholar is exempt from tax on earned income from teaching with no limits for three years.

Filing Requirements

Introduction

This lesson is designed to teach tax preparers how to identify which foreign students and scholars must file a U.S. tax return. The primary form referenced in this lesson is Form 1040-NR, U.S. Nonresident Alien Income Tax Return.

Objectives

At the end of this lesson, you will be able to:

- Understand filing requirements for resident, dual-status, and nonresident taxpayers
- Determine what sources of income must be reported on tax returns
- Identify the appropriate tax form a nonresident taxpayer should file
- Determine whether a nonresident alien should file a tax return

Changes for 2023

The Tax Reform Act of 2017 has reduced the exemption deduction to zero. This means that the filing requirement for Form 1040-NR has also been affected. Any **taxable** income will cause a filing requirement.

Filing Status

Foreign students and scholars will have one of three statuses for tax purposes:

- Resident alien
- Nonresident alien
- Dual-status alien

Each status has different filing requirements. This lesson will focus on filing requirements for nonresident aliens.

If a taxpayer is determined to be a Resident Alien, the normal rules and procedures for filing a Form 1040 should be followed (VITA certification in Basic, Advanced, International, etc., as needed).

What to File

Resident Aliens

Resident aliens are generally subject to the same federal income tax filing requirements as U.S. citizens; whether they must file depends on their filing status and income.

The Link & Learn lessons, Filing Basics Workout and Filing Status Workout, and Publication 17, Your Federal Income Tax Guide For Individuals, provide information about the five different filing statuses, including how to determine the taxpayer's filing status and which tax form to use.

A U.S. citizen or resident alien who is married to a nonresident alien spouse who does not meet either the green card or substantial presence test may qualify for one of the three filing status options:

- Married Filing Separately
- Married Filing Jointly
- Head of Household

What do I need?

- Publication 17, Your Federal Income Tax For Individuals
- Publication 519, U.S. Tax Guide for Aliens
- Publication 4011, VITA/TCE Foreign Student and Scholar Volunteer Resource Guide

Optional:

You can also refer to Link & Learn Taxes, Filing Basics Workout and Filing Status Workout lessons.

Dual-status Aliens — Residents (Out of Scope)

You must file a paper Form 1040 if you are a dual-status tax-payer who becomes a resident during the year and who is a U.S. resident on the last day of the tax year. Enter “Dual-Status Return” across the top of the return.

Attach a statement to your return to show the income for the part of the year you are a nonresident. You can use Form 1040-NR as the statement, but be sure to enter “Dual-Status Statement” across the top. Do not sign Form 1040-NR. If no payment is enclosed, the return is filed with the Department of the Treasury, Internal Revenue Service, Austin, TX 73301-0215 U.S.A. If a payment is enclosed, the return is mailed to Internal Revenue Service, P.O. Box 1303, Charlotte, NC 28201-1303 U.S.A.

A taxpayer who qualifies for, and wishes to file as a dual-status alien, does not meet the criteria for preparation at a VITA site. These returns and statements are **Out of Scope** for the VITA/TCE Foreign Student and Scholar program.

Dual-status Aliens — Nonresidents (Out of Scope)

You must file a paper Form 1040-NR if you are a dual-status taxpayer who gives up residence in the United States during the year and who is not a U.S. resident on the last day of the tax year. Enter “Dual-Status Return” across the top of the return.

Attach a statement to your return to show the income for the part of the year you are a resident. You can use Form 1040 as the statement, but be sure to enter “Dual- Status Statement” across the top. Do not sign Form 1040. If no payment is enclosed, the return is filed with the Department of the Treasury, Internal Revenue Service, Austin, TX 73301-0215 U.S.A. If a payment is enclosed, the return is mailed to Internal Revenue Service, P.O. Box 1303, Charlotte, NC 28201-1303 U.S.A.

Dual status may be available as a filing option, but it is **Out of Scope** for the VITA/TCE Foreign Student and Scholar program.

Nonresident Aliens

Nonresident students, teachers, or trainees who are temporarily in the U.S. in F, J, M, or Q immigration status must file returns if they have income that is subject to withholding, whether tax is withheld or not.

Nonresident aliens claiming treaty benefits must also file a return.



Even if students are not required to file a Nonresident tax return, they must file Form 8843 when they have days in the U.S. exempted from the substantial presence test during the tax year due to their F, J, M, or Q immigration status. This also applies to their accompanying family members in similar statuses. The Form 8843 may be signed and mailed by itself. Students and scholars who are not required to file a return should do so if they are eligible for a refund. Refer to the lesson on Form 8843 for more information.

Charlie is a sophomore at the local college. He has been in F-1 immigration status since he first arrived in the U.S. in 2021. In 2023, he had wages of \$2,000 from his on-campus job. His wage statement shows that \$200 of federal income tax was withheld. Does Charlie need to file a 2023 tax return?

Charlie has a filing requirement.

Mary is a freshman at a university. She is in the U.S. in F-1 immigration status. In 2023, Mary had wages of \$5,230 from her job on campus. Her wage statement shows that \$200 was withheld for federal income tax. Does Mary need to file a 2023 tax return?

Mary is required to file a tax return.

Form 1040-NR

Form 1040-NR is the form used for nonresident alien tax situations and may be filed electronically.

When and Where to File

A student who received any wages must file a tax return by April 15, 2024. If the only income was from scholarships or other income not subject to withholding, the return must be filed by June 15th following the end of the tax year.

If you are not enclosing a payment, mail Form 1040-NR to:

Department of the Treasury
Internal Revenue Service Austin,
TX 73301-0215
U.S.A.

If enclosing a payment, mail Form 1040-NR to:

Internal Revenue Service
P.O. Box 1303
Charlotte, NC 28201-1303 U.S.A.

If April 15th or June 15th falls on a Saturday, Sunday, or legal holiday, the due date is the next day that is not a Saturday, Sunday, or legal holiday.

The instructions for Form 1040-NR provide complete details about payment methods.

Failure to File

Many students and scholars who are required to file returns either do not file or file incorrectly. Many of them would be eligible for a refund if they filed the required forms. Some would rather forgo the refund than try to figure out which form they should file and when. Part of your job is to inform them whether they need to file.

The IRS will not penalize foreign students and scholars for not filing if they have no tax liability. However, they still must file Form 8843, Statement for Exempt Individuals and Individuals with a Medical Condition. If they choose to apply for residency at a later date, they may be asked to show proof of tax compliance. Therefore, foreign students and scholars should file a tax return if they have circumstances requiring them to file. This is true even if their tax withholding covers the tax that will be assessed, and are not interested in or eligible for a refund.



EXERCISES

Question 1

True or False? Jessica is a married student from Spain. She cannot be claimed as a dependent on any U.S. return. During 2023, her only income is \$9,000 that she earned on campus. Her only deduction is \$280 of state income taxes paid. She should file Form 1040-NR for tax year 2023.

Question 2

True or False? Patricia is a student from Honduras. She is single and has no dependents. In 2023, Patricia earned \$9,500 in wages from her job on campus. She has deductions of \$25 for state income tax and \$300 for contributions to her church. Patricia does not need to file Form 1040-NR for 2023. Your Next Client

Summary

Foreign students and scholars fall into one of three statuses for tax purposes:

- Resident alien
- Nonresident alien
- Dual-status alien

Each status has different filing requirements.

Resident aliens are generally subject to the same federal income tax filing requirements as U.S. citizens.

Dual-status returns and statements are **Out of Scope** for the VITA/TCE Foreign Student and Scholar program.

It is required that nonresident aliens file a tax return if they have a filing requirement, even if they are not interested in or eligible for a refund.



EXERCISES (continued)

Your Next Client

Janet first arrived in the U.S. August 1, 2021, on an F-1 student visa and has not changed her visa status. Janet is a nonresident alien from Great Britain attending college in New York. She does not know which form to file. She had no wages, but she sold \$4,400 of stock online. She made only \$150 after expenses.

Question 3

What would you tell Janet?

- Janet should file Form 1040
- Janet should file Form 1040-NR
- Janet does not need to file a return

Question 4

True or False? Thomas, who is from Italy, worked on campus in 2023. He earned \$7,530 and had no withholding. He does not need to file a tax return for 2023.

Question 5

True or False? Hakim is a single student from Morocco. He tells you that he gave charitable contributions of \$20 every week to his local mosque. Hakim's total income was \$9,200. His state income tax withholding was \$175. Hakim does not need to file Form 1040-NR.

Question 6

True or False? Tim is a married student from Canada. He qualifies to claim a tax treaty provision. He should file Form 1040-NR.

Conclusion



EXERCISE Answers

Answer 1. True, Jessica should file Form 1040-NR.

Answer 2. False, Patricia must file Form 1040-NR because she has taxable income and may deduct her charitable contributions.

Answer 3. B, You should tell Janet to file Form 1040-NR. She will also need to file Schedule NEC to report the stock sales.

Answer 4. False, Thomas must file a return because he has taxable income for 2023.

Answer 5. False, Hakim must file Form 1040-NR because he has taxable income and may deduct his charitable contributions.

Answer 6. True, Tim must file Form 1040-NR to claim any treaty benefits.

Filing Status and Dependents

Introduction

This lesson is designed to teach tax preparers how to determine the proper filing status for nonresident aliens. It will also address the eligibility of a nonresident alien to claim dependency of their spouse or child. The lesson also covers unusual treaty provisions that may affect treaty benefits.

Objectives

This lesson discusses family-related restrictions and exceptions that apply to foreign students and scholars. At the end of this lesson, you will be able to:

- Determine a student's filing status
- Determine if a student can claim a qualifying dependent
- Identify which forms a spouse and dependents should file

What's New

Currently, there are no new tax law changes for this topic. The exemption amounts remain at zero through 2025.

Filing Status

Generally, all unmarried nonresidents must use the Single filing status. (See special rules for Qualifying Surviving Spouse in Form 1040-NR instructions.) Married nonresidents must use one of the "Married" statuses, whether their spouse is present in the U.S. or not.

However, a nonresident alien who is married to a U.S. citizen or resident can choose to be treated as a resident and file a joint return (Form 1040). Marital status is determined by the country or state in which the taxpayer was married. The required statement to be attached to the joint return is **Out of Scope** for the VITA/TCE Foreign Student and Scholar program. The paper return may be prepared by the site, but the election statement must be prepared and attached by the taxpayers.

Review [Publication 519](#) for more information on this choice.

The filing status determines which tax rate table will be used, so be careful to select the correct filing status. Refer to the instructions for Form 1040-NR for the appropriate tax rate table.

Spousal Exemptions

As a reminder, the deduction for all exemptions is suspended (reduced to zero), effective for tax years 2018 through 2025.



EXERCISES

Question 1

True or False? Nand, a student in F-1 immigration status, came to the U.S. from India in December 2016 and has been here continuously with no change in immigration status. On December 31, 2023, he married a student who had recently arrived in the U.S. for the first time, in F-1 student immigration status. Nand and his wife can choose to file a joint tax return treating both as resident aliens for 2023.

What do I need?

- Form 1040-NR, U.S. Nonresident Alien Income Tax Return
- Form 8843, Statement for Exempt Individuals and Individuals with a Medical Condition
- Publication 17, Your Federal Income Tax For Individuals
- Publication 503, Child and Dependent Care Expenses
- Publication 519, U.S. Tax Guide for Aliens
- Publication 596, Earned Income Credit EIC
- Publication 4011, VITA/TCE Foreign Student and Scholar Volunteer Resource Guide

Optional:

You can also refer to Link & Learn Taxes, Filing Basics Workout and Filing Status Workout lessons.

Spouse and Dependent Filing Requirements

Spouses and dependents in J-2 immigration status, who are authorized to work, file Form 8843 and Form 1040-NR. Spouses and dependents who enter the U.S. in J-2 immigration status and are permitted to work, must pay into Social Security and Medicare. They cannot file to have their Social Security tax refunded. If they do not have a filing requirement for Form 1040-NR, then they will only need to file Form 8843. A Form 8843 is filed to explain the basis of a claim that an exempt nonresident can exclude days of presence in the United States for purposes of the substantial presence test.



EXERCISES (continued)

Question 2

Emetaly is from Guatemala. She arrived in the U.S. in 2023 with her husband and son. Emetaly is in F-1 immigration status, and her husband and son are in F-2 immigration status. She earned \$13,000 from an on-campus job.

Can Emetaly claim her husband and son on her 2023 Form 1040-NR?

Summary

A nonresident alien filing Form 1040-NR cannot have a Married filing jointly or a Head of household filing status. Generally, all unmarried nonresident aliens use the Single filing status.

Spouses and dependents with exempt days in J-2 or F-2 immigration status, each must file a Form 8843.

In some cases, single individuals may qualify for Qualifying Surviving Spouse. See Form 1040-NR instructions for details.



EXERCISES (continued)

How Would You Respond?

Rishabh, who is from India, came into the tax center for help with his tax return. He arrived in F-1 immigration status in 2022. In 2023, his wife and two children joined him in the U.S. and obtained identification numbers. In 2023, his wife gave birth to a third child in the U.S.

Rishabh earned \$11,500 from on-campus work in 2023 and provided all support for his family. His wife, who is in F-2 immigration status, is not permitted to work.

Follow along in the conversation and think about how you would answer Rishabh's questions.

How Would You Respond?

- Rishabh:** I've been here as a student for two years. My wife and children joined me the following year and have been here since. I don't know which filing status to use or if I can claim my wife or any of my children as exemptions.
- You:** I can help you with that. Let's first determine which status you should file. Are you a resident?
- Rishabh:** No, I am here in F-1 immigration status for school.
- You:** Ok, so your filing status is going to be "Other Married nonresident alien" and you can use Form 1040-NR to file. Did your wife earn any income last year?
- Rishabh:** No, she is F-2 immigration status and is not allowed to work.

Question 3

Based on this scenario, can Rishabh claim his wife as an exemption?

How Would You Respond?

You: You cannot claim your wife as an exemption.

Rishabh: OK, I understand. What about my children? Are there any credits I am entitled to take?

You: Well let's see, where were your children born?

Rishabh: Two of them were born in India, and we had a third child last year. She was born here in the U.S.

You: So, your two oldest children came over in F-2 immigration status along with your wife, is that right?

Rishabh: Yes.

Question 4

Based on this scenario, which children can Rishabh claim the child tax credit?

- a. All of them
- b. None of them
- c. The two children born in India
- d. The child born in the U.S.

Question 5

A spouse in J-2 immigration status with work authorization and income files

- a. Form 8843 and Form
- b. 1040-NR Form 8843 only
- c. Form 1040-NR

Conclusion



EXERCISE Answers

- Answer 1.** True, Since Nand has been in the U.S. for over 5 years, he is considered a resident alien for tax purposes. A nonresident alien married to a U.S. citizen or resident alien may choose to file a joint tax return and have all income taxed as residents.
- Answer 2.** No, Emetaly cannot claim her husband and son on her return.
- Answer 3.** No, For the tax year of 2019 through 2025, you cannot claim a personal exemption deduction for yourself, your spouse, or your dependents.
- Answer 4.** D, Rishabh cannot claim the child tax credit for his two children born in India, but he can claim the child tax credit for his child born in the U.S. **Note:** Only U.S. residents, or residents of Canada, Mexico, South Korea, or India are permitted to claim qualifying dependents and related credits.
- Answer 5.** A, Spouses and dependents in J-2 immigration status that have income will need to file Form 1040 NR and Form 8843.

Individual Taxpayer Identification Number (ITIN)

Introduction

Identification Numbers

Most nonresident students and scholars cannot claim family members as dependents for credits or allowances. Any family member who can be claimed as a dependent must have a Taxpayer Identification Number (TIN). If the dependent has been issued a Social Security Number (SSN), it is used as the TIN.

Most family members do not have work authorization, so they may not be eligible to obtain SSNs. The IRS issues an Individual Taxpayer Identification Number (ITIN) to someone who is required to have a TIN but is not eligible to obtain an SSN. **The ITIN was created for use on tax returns only.**

Those who are permitted to work in the U.S. under their visa status are eligible to be issued a SSN and will not be issued an ITIN for this purpose.

Objectives

At the end of this lesson, you will be able to:

- Define ITINs and explain their purpose
- Determine who needs an ITIN
- Identify and explain the special rules that apply to dependents and spouses Estimated time to complete: 10 minutes

What is an ITIN?

An ITIN is:

- A tax processing number issued by the IRS for certain resident and non-resident aliens (including spouses and dependents) who are not eligible for SSNs.
- A nine-digit number in the same format as the SSN (9XX-XX-XXXX), begins with a “9”.
- Any ITIN that wasn’t included on a federal tax return at least once for three consecutive tax years will expire

For more information see: www.irs.gov/individuals/itin-expiration-faqs

Purpose of ITINs

ITINs:

- Are IRS-assigned numbers issued only for federal tax purposes
- Provide a means to efficiently process and account for tax returns and payments for those not eligible for Social Security Numbers
- Assist the IRS with collection of taxes from foreign nationals, nonresident aliens and others who have filing or payment obligations under U.S. tax law

The issuance of an ITIN does **NOT**:

- Entitle the recipient to Social Security benefits or replace a SSN
- Change the recipients’ immigration status
- Give the individual the right to work in the United States.
- Entitle the recipient to the Earned Income Credit (EIC)

Who Needs an ITIN?

Any individual who is not eligible to obtain a SSN, but must furnish a taxpayer identification number to the IRS such as a:

- Dependent or spouse of a U.S. citizen or resident alien
- Nonresident alien student, professor, or researcher filing a U.S. federal tax return
- Dependent or spouse of a nonresident alien holding a U.S. visa
- Dependent or spouse of a nonresident alien who is a resident of Canada, Mexico, South Korea, or India

Marcos Marquez is married and a resident alien with a SSN. His spouse is a nonresident alien and does not qualify for a SSN. She must apply for an ITIN using Form W-7/W-7(SP) in order for Marcos to file a joint return with her on his U.S. federal income tax return.

ITINs not used in the last three consecutive tax years: Any ITIN that is not used on a federal tax return for at least three consecutive tax years will expire on December 31 of the third consecutive tax year of non-use. ITINs with middle digits (the fourth and fifth positions) “70,” “71,” “72,” “73,” “74,” “75,” “76,” “77,” “78,” “79,” “80,” “81,” “82,” “83,” “84,” “85,” “86,” “87” or “88” have expired. In addition, ITINs with middle digits “90,” “91,” “92,” “94,” “95,” “96,” “97,” “98,” or “99” if assigned before 2013, have expired.

You must renew your Individual Taxpayer Identification Number (ITIN) to file your U.S. tax return.

Who is Not Eligible for an ITIN?

The following are not eligible for an ITIN:

- U.S. citizens
- Aliens with visa statuses that permit them to work in the U.S. (even if only on a limited basis); these individuals qualify for an SSN
- Permanent legal resident of the U.S. (holder of a Green card, also known as Permanent Resident Card)
- Any individual with a valid SSN
- Applicant not meeting the criteria for residency and/or ID documentation (who failed to prove identity and foreign status)



Nicole is on F-1 immigration status. She entered the United States in December 2022 to attend the local university. She does not have an SSN and does not qualify for one. Nicole has no earned income and has no filing requirement. Does she need to apply for an ITIN?

No, because Nicole does not have a federal filing requirement.

How to Apply for an ITIN

Each person who requires an ITIN must file a separate Form W-7/W-7(SP) and provide supporting identification documentation.

Form W-7/W-7(SP) must be completed and attached to a U.S. federal income tax return. The applicant's name must be listed on the Form W-7/W-7(SP) as it appears on the tax return.

Form W-2, Wage and Tax Statement, must have the same name that appears on the federal tax return submitted with Form W-7.

ITIN Documentation

Documents substantiating proof of identity and foreign status must be:

- Must be current and valid at the time the application is submitted
- Original, or
- Certified copies

Certified copies of documents submitted to prove “identity” and “foreign status” must bear an original, authentic stamp/seal placed by the issuing agency. Documents displaying a photocopied seal or stamp are not acceptable and will be returned to the applicant.

In lieu of sending original documentation, taxpayers may be eligible to use an IRS authorized Certifying Acceptance Agent (CAA) or make an appointment at a designated IRS Taxpayer Assistance Center (TAC) location. To find a local CAA, visit www.irs.gov/individuals/acceptance-agent-program or check the local telephone directory for the nearest location.

How to Submit an ITIN Application

Individuals who require an ITIN must:

- Complete Form W-7/W-7(SP)
- Attach a completed federal tax return (or documentation supporting Exception criteria) and required supporting documentation

Be aware that some taxpayers may have several Forms W-7/W-7(SP) with one tax return. Or, there may be several returns (delinquent) with one or more Forms W-7/W-7(SP).

Where to Submit an ITIN Application

The following are the most common ways to apply for an ITIN using Form W-7:

- In person at IRS Taxpayer Assistance Center (TAC). Service at TACs is by appointment only. Appointments can be scheduled by calling 1-844-545-5640. For list of locations and services provided, click www.irs.gov/uac/Contact-Your-Local-IRS-Office-1 or search for “Local IRS office” at www.irs.gov.
- Through an Acceptance Agent or Certifying Acceptance Agent (CAA). Search for “Acceptance Agent Program” at www.irs.gov.
- Through the Student and Exchange Visitor Program (SEVP). For a sample of the certification letter for SEVP-Approved Colleges, Universities, and Institutions Transmitting Form W-7, Applications for Individual Taxpayer Identification Number (ITIN) search for “SEVP” at www.irs.gov.

By Mail:

Internal Revenue Service ITIN Operation
P.O. Box 149342
Austin, TX 78714-9432

Student and Exchange Visitor Program (SEVP)

SEVP participants, spouses and dependents (F, J, or M Visa who receive taxable scholarship, fellowship or grants reportable by the school on Form W-2 OR 1042-S) may apply using a streamlined process, through SEVP approved institutions, which include many universities and colleges.

A certification letter, in lieu of submitting original or certified documents, must be prepared by the SEVP institution and must meet specifications.

The Form W-7 application must be submitted to the Austin ITIN Operation by a SEVIS official (i.e., DSO, RO, etc.) with the certification letter, copy of identity and foreign status documents, copy of DS-2019 - Certificate of Eligibility for Exchange Visitor Status (J-1 Status), copy of I-20 - Certificate of Eligibility for Nonimmigrant Status.

* The SEVP Streamlined Process is subject to change.

Additional guidance for the Student and Exchange Visitor Program (SEVP)-approved institutions can be found in the [Instructions for Form W-7](#).

Summary

ITINs:

- Are tax processing numbers issued by the IRS
- Are for certain resident and non-resident aliens (including spouses and dependents) who are not eligible for SSNs
- Have special rules and processing requirements

NOTE: ITINs do not replace SSNs.

Just like a Social Security card, an ITIN issuance letter must be presented for tax preparation at the VITA/TCE sites.

For additional information on ITINs, please refer to [Publication 1915, Understanding Your IRS Individual Taxpayer Identification Number ITIN](#).



EXERCISES

Question 1

Brandon is a student and resident alien with an SSN. He is eligible and plans to claim his nonresident alien wife and 8-year-old daughter as dependents, but they are not eligible for SSNs. Both his wife and child will each need an ITIN.

- a. True
- b. False

Conclusion



EXERCISE Answers

Answer 1. A, Brandon's wife and child will need ITINs if he intends to claim them both as dependents for various credits on his tax return.

Introduction

This lesson is designed to teach tax preparers how to identify credits for which nonresident aliens may be eligible. In most circumstances, nonresident aliens will not qualify for these credits, but there are exceptions.

Objectives

This lesson discusses tax credits and exceptions that apply to foreign students and scholars. At the end of this lesson, you will be able to:

- Determine if a student or scholar is eligible to claim a tax credit
- Identify situations or exceptions that may allow a nonresident alien to claim certain tax credits

Which Credits May Apply?

A nonresident alien may be eligible to claim:

- Child Tax Credit
- Child and Dependent Care Credit
- Credit for Other Dependents

Child Tax Credit and Credit for Other Dependents

To claim the child tax credit, a nonresident alien must have a qualifying child who is:

- A U.S. citizen, national, or resident alien who lived with the taxpayer for more than half of the tax year (or, for U.S. nationals, an adopted child who lived with them all year as a member of their household)
- The son, daughter, stepchild, foster child, brother, sister, stepbrother, stepsister, or a descendant of any of them (for example, the taxpayer's grandchild), and was under age 17 at the end of the year
- The taxpayer's dependent
- The Tax Reform Act of 2017 requires the qualifying child have a valid Social Security Number for tax years beginning January 1, 2018.

Credit for Other Dependents

The credit for other dependents was signed into law as part of the 2017 Tax Cuts and Jobs Act and it is in effect through 2025. This allows a \$500 nonrefundable credit (per dependent) for any of your dependents who are not qualifying children under 17 for the child tax credit. There is no age limit for the \$500 credit, but the tax tests for dependency must be met.

Child and Dependent Care Credit

Nonresident aliens must meet all of these requirements to be able to claim the child and dependent care credit:

- Pay a qualifying caregiver to care for a dependent under the age of 13, or a disabled dependent (any age), or a disabled spouse, so the taxpayer and spouse (if applicable) can work or look for work.
- Pay for care provided during the hours when a student or scholar was working (or looking for work) rather than attending classes or studying. Not claim an expense for the credit in an amount exceeding earned income from the United States.
- Generally, married persons must file a joint return to claim the credit. If your filing status is married filing separately and all of the following apply, you are considered unmarried for purposes of claiming the credit on Form 2441.

What do I need?

- Form 1040-NR, U.S. Nonresident Alien Income Tax Return
- Publication 17, Your Federal Income Tax Guide For Individuals
- Publication 503, Child and Dependent Care Expenses
- Publication 519, U.S. Tax Guide for Aliens
- Publication 596, Earned Income Credit
- Publication 972, Child Tax Credit
- Publication 4011, VITA/TCE Foreign Student and Scholar Volunteer Resource Guide

- You lived apart from your spouse during the last 6 months of tax year.
- Your home was the qualifying person's main home for more than half of the tax year.
- You paid more than half of the cost of keeping up that home for the tax year.

Non-Eligible Credits

Students and scholars are generally not eligible to claim:

- Earned Income Tax Credit
- Education Credits (American Opportunity or Lifetime Learning Credit)

Earned Income Tax Credit

A student or scholar who is a nonresident for any part of the tax year generally does not qualify for the earned income tax credit (EITC). However, a student or scholar who is married and chooses to file a joint return with a U.S. citizen or resident spouse may be eligible for the credit.

See **Publication 596** for more information.

Nonresident aliens cannot elect to file as residents in order to claim education credits, unless they can file jointly on Form 1040 with their U.S. citizen or resident spouse.

Education Credits

Generally, nonresident aliens are not eligible to claim any education credits, even if they have qualifying educational expenses. Only those married to a U.S. citizen or a resident spouse, electing to file a joint return, may claim the American opportunity credit or the lifetime learning credit on Form 1040.

Nonresident aliens cannot elect to file as residents in order to claim education credits, unless they can file jointly on Form 1040 with their U.S. citizen or resident spouse.



EXERCISES

Question 1

True or false? Anand, a student who is in F-1 immigration status, came to the U.S. in December 2022 and has been here continuously with no change in immigration status. He entered the U.S. from India with his spouse, Deepak, and their one-year-old child. His spouse gave birth to a second child in the U.S. in 2023. He can claim the child born in the U.S. for the child tax credit.

Summary

A nonresident alien may be eligible to claim:

- Child Tax Credit
- Child and Dependent Care Credit
- Credit for Other Dependents

Generally, students and scholars are not eligible to claim:

- Earned Income Tax Credit
- Education Credits (American Opportunity or Lifetime Learning Credit)

Exceptions may be possible if the nonresident alien is married to a U.S. citizen or resident spouse, and elects to file as Married Filing Jointly.



EXERCISES (continued)

Question 2

Jin paid over \$2,500 in qualifying educational expenses to attend the local university in 2023. He entered the U.S. in 2021 from the People's Republic of China and is here in F-1 immigration status. He is not married and is filing as a nonresident alien. Jin is eligible to claim an education credit on his tax return.

- a. True
- b. False

Question 3

Kaja is from Denmark. She arrived in the U.S. in 2023 with her husband and son. Kaja is in F-1 immigration status, and her husband and son, who is 10 years old, is in F-2 immigration status. She earned \$10,950 from an on-campus job.

Does Kaja qualify to claim both the earned income tax credit and the child tax credit for her son?

- a. Yes
- b. No

Conclusion



EXERCISE Answers

Answer 1. True, Since Anand had a child born in the U.S., and the child met all of the qualifications to be eligible for the child tax credit, he is eligible for the credit.

Answer 2. B, Jin cannot claim an educational credit unless he is married to a U.S. citizen or resident spouse, and elects to file as Married Filing Jointly.

Answer 3. B, Kaja does not qualify to claim either credit.

Introduction

This lesson is designed to teach tax preparers how to complete the final steps for finishing the return. Forms referenced in this lesson include:

Objectives

At the end of this lesson, you will be able to:

- Complete the taxpayer identification section of Form 1040-NR
- Verify that critical sections of the tax return are complete and correct

List options for students and scholars who:

- Owe money with their tax return
- Will receive a refund
- Identify students and scholars who must make estimated payments for the next tax year Choose the correct form to use
- Organize the return

Finishing Form 1040-NR

Identifying Your Site

Some taxpayers complete the taxpayer identification section and ask for your help on the other parts of the return. You can use the form they started, but be sure to complete the Paid Preparer Use Only section to properly identify your site information. This includes your: Site Name, Site Address, Phone Number, and Site Identification Number (SIDN) which is placed within the PTIN box. This ensures your site gets the appropriate credit for completing the return (QSR #8).

Taxpayer Identification Section

Taxpayer Identification Numbers

Every individual return filed with the IRS must show a taxpayer identification number. This can be either a Social Security Number (SSN) or an Individual Taxpayer Identification Number (ITIN). Every dependent listed on the return must also have a taxpayer identification number.

The Social Security Administration issues Social Security numbers to:

- U.S. citizens
- Aliens who have work authorization

What do I need?

- Form 8843, Statement for Exempt Individuals and Individuals with a Medical Condition Form 1040-NR, U.S. Nonresident Alien Income Tax Return
- Form 1040-ES (NR), U.S. Estimated Tax for Nonresident Alien Individuals Form W-7, Application for IRS Individual Taxpayer Identification Number⁵

Optional:

- Form W-4, Employee's Withholding Certificate
- Publication 519, U.S. Tax Guide for Aliens
- Publication 901, U.S. Tax Treaties
- Publication 4011, VITA/TCE Foreign Student and Scholar Volunteer Resource Guide
- Publication 1915, Understanding Your IRS Individual Taxpayer Identification Number ITIN
- Link & Learn Taxes lesson, Finishing the Return

Everyone eligible for an SSN should apply for one. Anyone who is not eligible for an SSN and who needs an identification number should file Form W-7, Application for IRS Taxpayer Identification Number or Form W-7(SP) with their tax return.

Form 8843 does not require an identification number. A student or scholar who is not required to file a return does not need an identification number to file Form 8843.

Other Information

Form 8843

The nonresident return's Other Information section on Form 1040-NR and Schedule OI, Other Information, asks questions very similar to those on Form 8843. Complete this section even though it may seem repetitive.

Answers to many of these questions may be found in the taxpayer's passport information. Request that taxpayers bring their passports and other pertinent documents when having their returns prepared.

Exclusions and Reduced Tax Rates for Capital Gains

Be sure to correctly record the type and amount of tax exempt income. Enter both the:

- Amount excluded and/or applicable reduced tax rates and
- Treaty article number(s) that allows the exclusion or reduced tax rate

If this section is incomplete, the form may be rejected or a paper filed return may be returned to the scholar or student, and the treaty benefit disallowed in part or in full. Treaty article numbers are available in part in **Publication 4011**, **Publication 519** and **Publication 901**. A complete listing of tax treaties and their full text can be found on irs.gov.

Direct Deposit

Checking Account

If the student or scholar prefers the direct deposit option for their refund, complete the Refund section of the return or e-file. On Xu Chung's check, the:

- Routing number is 250250025 (routing numbers are 9 digits in length)
- Account number is 20202086 (account numbers vary in length)
- Check number is 1234 (do not include the check number)

Be sure to enter the correct bank account routing transit and account information. The IRS is not responsible for a lost refund if the information is entered incorrectly. **Note:** Refunds should only be deposited directly into accounts that are in the taxpayer's name, their spouse's name, or both, if it is a joint account.

Savings Account

Sometimes students and scholars want their refunds deposited to a savings account. They may have a small paper card issued by the financial institution that contains the routing and account numbers, or may be able to access this through their financial institution website or app.

On the Collegetown Bank card, the:

- Routing number is 250250025
- Account number is 203621

Savings account deposit slips are not a dependable source for routing numbers. Whenever possible, obtain this information from a statement or other document issued by the financial institution.

Split Refund

Individual taxpayers may split their refunds between up to three accounts. For example, they can send part of their refund to a checking account and put part of it into a savings account.

To split a refund:

- In the Refund section of the tax return, check the box to indicate that **Form 8888**, Allocation of Refund (Including Savings Bond Purchases), is attached
- On Form 8888, record the amount and account information for each allocation
- Attach Form 8888 to the return

If the taxpayer wants the refund deposited into one account, complete the Refund section of the tax return without checking the box that indicates Form 8888 is attached. If a taxpayer wants to split a refund into both a checking and savings account, use Form 8888 to designate the amounts, accounts, and routing numbers.

Taxpayers may also purchase U.S. Savings Bonds with their refund.



EXERCISES

Question 1

True or False? A student or scholar who is not filing any other return needs a taxpayer identification number to file Form 8843.

Question 2

True or False? Taxpayers must attach Form 8888 to their returns even if they want the refund deposited into one account.

Payment Options

Some students and scholars owe money with their tax return. This is usually due to insufficient withholding from wages. Nonresidents have the same payment options as citizens; they can:

- Pay the entire balance by the due date for the return, by direct pay, card or digital wallet, or an IRS Online Account
- Put the balance on a credit card (fees apply)
- Ask for an extension of time to pay or an installment agreement (fees may apply)

Explain to taxpayers that:

- Interest, and any applicable penalties, will continue to accrue until they pay the full amount due
- They should not send cash through the mail; personal checks, cashiers' checks, and money orders are accepted

For more information on the additional various payment options available, go to: www.irs.gov/payments

Paying Tax through Withholding or Estimated Tax

With the changes brought about by the Tax Reform Act of 2017, students and scholars might need to adjust their withholding by updating their Form(s) W-4, W-8BEN, Certificate of Foreign Status of Beneficial Owner for United State Tax Withholding and Reporting (Individual), and Form 8233, Exemption From Withholding for Compensation for Independent (and Certain Dependent) Personal Services of a Nonresident Alien Individual. For details, see chapter 8 of **Publication 519**. Estimated tax is the amount the taxpayer expects to pay (after federal withholding) when filing a return for the next tax year.

Students and scholars who expect to owe over \$1,000 on next year's tax return must make estimated tax payments. For more information see **Publication 505**, Tax Withholding and Estimated Tax, and **Form 1040-ES (NR)**, U.S. Estimated Tax for Nonresident Alien Individuals.



Signature

If paper filing, make sure the taxpayer signs and dates the return before mailing it. Unsigned returns cannot be processed and are returned to the taxpayer. It is important that your site puts the VITA Site Identification Number in the Paid Preparer Use Only section so your site will get credit for preparing the return.

The **Site Identification Number (SIDN)** should be entered correctly on any return through the setup process or through system prompts.

Assembling the Return

If paper filing, verify that all forms, schedules and attachments have the taxpayer's name as well as the Social Security or taxpayer identification number.

- Forms and schedules behind Form 1040-NR
- Forms W-2 and Form 1042-S to the left margin of the front page
- Any Form 1099 that shows federal income tax withheld

Summary

Taxpayer identification numbers are:

- Required on Form 1040-NR for the taxpayer and any dependency related credit
- *Only* required on Form 8843 when filed with a return

The taxpayer identification number can be either the:

- Social Security Number (SSN), or
- Individual Taxpayer Identification Number (ITIN)

Form 1040-NR, Schedule OI, asks for information very similar to that requested on Form 8843. Complete this section even though it may seem repetitive.

In the Other Information section, record the type and amount of tax exempt or reduced treaty rate income, including the treaty article number that allows its exclusion or reduced rate.

Foreign students and scholars who:

- Will receive a refund, can have it deposited directly in up to three separate accounts by using Form 8888.
- Owe tax have the same payment options as citizens

Quality review of the return includes:

- A 100-percent review of ALL returns completed within the VITA/TCE programs
- Verification that the return reflects correct tax law and tax treaty application of the information provided by the taxpayer on Form 13614-NR and supporting documents
- A referral to Publication 4011, Quality Review Check List (including notification to taxpayer that they are responsible for the content of the tax return, under penalties of perjury)

Before the return is submitted, verify that:

- **The taxpayer has been instructed where to sign and date the return, if being mailed**
- The taxpayer has signed and dated the Form 8879 for e-filing
- All required documents are organized correctly, if being mailed
- A copy of the return (and attachments) is given to the taxpayer

Students and scholars who expect to owe over \$1,000 on the next year's tax return must make **estimated tax payments** or **adjust their income tax withholding**.

EXERCISES (continued)

Question 3

Which of the following forms does not always require a taxpayer identification number?

- a. Form 1040-NR
- b. Form 843
- c. Form 8843

Question 4

True or False? If a paper filed tax return is missing the taxpayer's signature, it is returned to the taxpayer.

Question 5

True or False? In the Other Information section, list the taxpayer's type and amount of income exempt from tax. The taxpayer does need to include the applicable tax treaty article.