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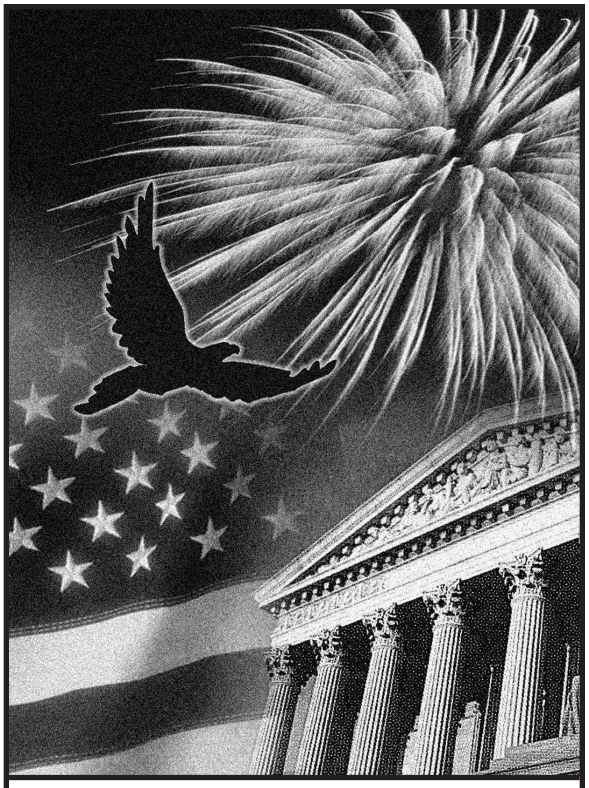
U.S. Tax Guide for Aliens

For use in preparing

2021 Returns



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Feb 14, 2022

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Future Developments

For the latest information about developments related to Pub. 519, such as legislation enacted after it was published, go to *IRS.gov/Pub519*.

Introduction

For tax purposes, an alien is an individual who is not a U.S. citizen. Aliens are classified as nonresident aliens and resident aliens. This publication will help you determine your status and give you information you will need to file your U.S. tax return. Resident aliens are generally taxed on their worldwide income, the same as U.S. citizens. Nonresident aliens are taxed only on their income from sources within the United States and on certain income connected with the conduct of a trade or business in the United States.

The information in this publication is not as comprehensive for resident aliens as it is for

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

Commonly Asked Questions	Where To Find the Answer
Am I a nonresident alien or resident alien?	See chapter 1.
Can I be a nonresident alien and a resident alien in the same year?	• See *Dual-Status Aliens* in chapter 1. • See chapter 6.
I am a resident alien and my spouse is a nonresident alien. Are there special rules for us?	• See *Nonresident Spouse Treated as a Resident* in chapter 1. • See *Community Income* in chapter 2.
Is all my income subject to U.S. tax?	• See chapter 2. • See chapter 3.
Is my scholarship subject to U.S. tax?	• See *Scholarships, Grants, Prizes, and Awards* in chapter 2. • See *Scholarships and Fellowship Grants* in chapter 3. • See chapter 9.
Would any U.S. estate or gift taxes apply to me, my estate, or an estate for which I am an executor, trustee, or representative?	See *U.S. federal estate and gift tax* in *Reminders*.
What is the tax rate on my income subject to U.S. tax?	See chapter 4.
I moved to the United States this year. Can I deduct my moving expenses on my U.S. return?	See *Deductions* in chapter 5.
Can I claim my spouse and/or children as dependents?	See *Dependents* in chapter 5.
I pay income taxes to my home country. Can I get credit for these taxes on my U.S. tax return?	See *Tax Credits and Payments* in chapter 5.
What forms must I file and when and where do I file them?	See chapter 7.
How should I pay my U.S. income taxes?	See chapter 8.
Am I eligible for any benefits under a tax treaty?	• See *Income Entitled to Tax Treaty Benefits* in chapter 8. • See chapter 9.
Are employees of foreign governments and international organizations exempt from U.S. tax?	See chapter 10.
Is there anything special I have to do before leaving the United States?	• See *Expatriation Tax* in chapter 4. • See chapter 11.

nonresident aliens. Resident aliens are generally treated the same as U.S. citizens and can find more information in other IRS publications at *IRS.gov/Forms*.

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

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

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

You can send us comments through *IRS.gov/FormComments*. Or, you can write to the Internal Revenue Service, Tax Forms and Publications, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224.

Although we can't respond individually to each comment received, we do appreciate your feedback and will consider your comments and suggestions as we revise our tax forms, instructions, and publications. **Do not** send tax questions, tax returns, or payments to the above address.

Getting answers to your tax questions. If you have a tax question not answered by this publication or the *How To Get Tax Help* section at the end of this publication, go to the IRS Interactive Tax Assistant page at *IRS.gov/Help/ITA* where you can find topics by using the search feature or viewing the categories listed.

Getting tax forms, instructions, and publications. Go to *IRS.gov/Forms* to download current and prior-year forms, instructions, and publications.

Ordering tax forms, instructions, and publications. Go to *IRS.gov/OrderForms* to order current forms, instructions, and publications; call 800-829-3676 to order prior-year forms and instructions. The IRS will process your order for forms and publications as soon as possible. **Do not** resubmit requests you've already sent us. You can get forms and publications faster online.

What's New

Credits for sick and family leave for certain self-employed individuals. The Families First Coronavirus Response Act (FFCRA) helped self-employed individuals affected by coronavirus by providing paid sick leave and paid family leave credits equivalent to those that employers are required to provide their employees for qualified sick leave wages and qualified family leave wages. The COVID-related Tax Relief Act of 2020 extended the period during which self-employed individuals can claim these credits from April 1, 2020, through March 31, 2021. For more information, see *IRS.gov/COVID-19-Related-Tax-Credits*.

Extension and expansion of credits for sick and family leave. The American Rescue Plan Act of 2021 (the ARP), enacted on March 11, 2021, provides that certain self-employed individuals can claim credits for up to 10 days of "paid sick leave," and up to 60 days of "paid

family leave," if they are unable to work or telework due to circumstances related to coronavirus. Self-employed individuals may claim these credits for the period beginning on April 1, 2021, and ending September 30, 2021. For more information, see Form 7202 and its instructions.

COVID-19 Medical Condition Travel Exception. For tax year 2021, individuals cannot claim the COVID-19 Medical Condition Travel Exception to exclude any days of presence in the United States for the purpose of the "substantial presence test." However, days of presence in the United States in 2020 that were excluded for tax year 2020 may impact the application of the "substantial presence test" for tax year 2021. For more information, see *Substantial Presence Test*, later. Also, see Revenue Procedure 2020-20, available at *IRS.gov/irb/2020-20_IRB#REV-PROC-2020-20*, and the instructions for Forms 8843 and 8233.

Reminders

Charitable contributions. Students or business apprentices eligible for the benefits of Article 21(2) of the United States-India Income Tax Treaty who have elected to use the standard deduction may qualify to take a deduction for charitable contributions of up to $300. For more information, see chapter 5.

Form 1040-NR-EZ discontinued. Beginning with tax year 2020, Form 1040-NR-EZ is no longer available. Nonresident alien taxpayers should use Form 1040-NR.

Redesigned Form 1040-NR. Beginning with tax year 2020, nonresident alien taxpayers will file a redesigned Form 1040-NR, which is similar to the Form 1040. Attach Form 1040-NR Schedules OI, A, and NEC to Form 1040-NR as necessary. Filers may also be required to attach Form 1040 Schedules 1, 2, or 3 to Form 1040-NR. For more information, see Form 1040-NR and its instructions.

Disaster tax relief. Disaster tax relief is available for those impacted by certain Presidentially declared disasters in 2021 (see *IRS.gov/DisasterTaxRelief*). Aliens who are required to file a U.S. income tax return may be affected. For more information, see the Instructions for Form 1040, or the Instructions for Form 1040-NR.

Multilevel marketing. For clarification regarding the characterization and source of income received from multilevel marketing companies by distributors (upper-tier distributors) that are based on the sales or purchases of persons whom they have recruited and sponsored (lower-tier distributors), see *Multilevel marketing* under *Personal Services* in chapter 2.

Additional Medicare Tax. You may be required to pay Additional Medicare Tax. Also, you may need to report Additional Medicare Tax withheld by your employer. For more information, see *Additional Medicare Tax* under *Social Security and Medicare Taxes* and *Self-Employment Tax* in chapter 8. For more information on Additional Medicare Tax, go to *IRS.gov/ADMT*.

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

Advance payments of the premium tax credit. Advance payments of the premium tax credit may have been made to the health insurer to help pay for the insurance coverage of you, your spouse, or your dependent. If advance payments of the premium tax credit were made, you must file a 2021 tax return and Form 8962. If you enrolled someone who is not claimed as a dependent on your tax return or for more information, see the Instructions for Form 8962.

Form 1095-A. If you, your spouse, or a dependent enrolled in health insurance through the Marketplace, you should have received a Form 1095-A. If you receive a Form 1095-A for 2021, save it. It will help you figure your premium tax credit. If you did not receive a Form 1095-A, contact the Marketplace.

U.S. federal estate and gift tax. An individual (or deceased person) who is (or was) a nonresident noncitizen of the United States for estate and gift tax purposes may still have U.S. estate and gift tax filing and payment obligations. The determination of whether an individual is a nonresident noncitizen for U.S. estate and gift tax purposes is different than the determination of whether an individual is a nonresident alien for U.S. federal income tax purposes. Estate and gift tax considerations are outside of the scope of this publication, but you should consult with the information available on IRS.gov to determine whether any U.S. estate or gift tax considerations may apply to your situation. Further information on U.S. federal estate tax considerations for nonresident noncitizens is available at *Estate Tax for Nonresidents not Citizens of the United States* and *Frequently Asked Questions on Estate Taxes for Nonresidents not Citizens of the United States*. Further information on U.S. federal gift tax considerations for nonresidents noncitizens of the United States is available at *Gift Tax for Nonresidents not Citizens of the United States* and *Frequently Asked Questions on Gift Taxes for Nonresidents not Citizens of the United States*.

Refunds of certain withholding tax delayed. Refund requests for tax withheld and reported on Form 1042-S, Form 8288-A, or Form 8805 may require additional time for processing. Allow up to 6 months for these refunds to be issued.

Third-party designee. You can check the "Yes" box in the "Third-Party Designee" area of your return to authorize the IRS to discuss your return with a friend, a family member, or any other person you choose. This allows the IRS to call the person you identified as your designee to answer any questions that may arise during the processing of your return. It also allows your designee to perform certain actions such as asking the IRS for copies of notices or transcripts related to your return. Also, the authorization can be revoked. See your income tax return instructions for details.

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

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

1. Nonresident Alien or Resident Alien?

Introduction

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

If you are both a nonresident and resident in the same year, you have a dual status. See *Dual-Status Aliens*, later. Also see *Nonresident Spouse Treated as a Resident* and some other special situations explained later in the chapter.

Topics

This chapter discusses:

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

Useful Items

You may want to see:

Form (and Instructions)

- ❑ **1040** U.S. Individual Income Tax Return
- ❑ **1040-SR** U.S. Tax Return for Seniors
- ❑ **1040-NR** U.S. Nonresident Alien Income Tax Return
- ❑ **8833** Treaty-Based Return Position Disclosure Under Section 6114 or 7701(b)
- ❑ **8840** Closer Connection Exception Statement for Aliens
- ❑ **8843** Statement for Exempt Individuals and Individuals With a Medical Condition

See chapter 12 for information about getting these forms.

Nonresident Aliens

If you are an alien (not a U.S. citizen), you are considered a nonresident alien unless you meet

one of the two tests described under *Resident Aliens* below.

Resident Aliens

You are a resident alien of the United States for tax purposes if you meet either the green card test or the substantial presence test for calendar year 2021 (January 1–December 31). Even if you do not meet either of these tests, you may be able to choose to be treated as a U.S. resident for part of the year. See *First-Year Choice* under *Dual-Status Aliens,* later.

Green Card Test

You are a resident for tax purposes if you are a lawful permanent resident of the United States at any time during calendar year 2021. (However, see *Dual-Status Aliens*, later.) This is known as the green card test. You are a lawful permanent resident of the United States at any time if you have been given the privilege, according to the immigration laws, of residing permanently in the United States as an immigrant. You generally have this status if the U.S. Citizenship and Immigration Services (USCIS) (or its predecessor organization) has issued you an alien registration card, also known as a green card. You continue to have resident status under this test unless the status is taken away from you or is administratively or judicially determined to have been abandoned.

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

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

If you initiate the determination, your resident status is considered to be abandoned when you file either of the following documents with your USCIS Alien Registration Receipt Card (green card) attached with the USCIS or a U.S. consular officer.

- *USCIS.gov/Form I-407* (Record of Abandonment of Lawful Permanent Resident Status).
- A letter stating your intent to abandon your resident status. When filing by mail, you must send by certified mail, return receipt requested (or the foreign equivalent), and keep a copy and proof that it was mailed and received.

CAUTION *Until you have proof your letter was received, you remain a resident alien for tax purposes even if the USCIS would not recognize the validity of your green card because it is more than 10 years old or because you have been absent from the United States for a period of time.*

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

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

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

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

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

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

Substantial Presence Test

You are a resident for tax purposes if you meet the substantial presence test for calendar year 2021. To meet this test, you must be physically present in the United States on at least:

1. 31 days during 2021; and
2. 183 days during the 3-year period that includes 2021, 2020, and 2019, counting:
   a. All the days you were present in 2021,
   b. 1/3 of the days you were present in 2020, and
   c. 1/6 of the days you were present in 2019.

Example. You were physically present in the United States on 120 days in each of the years 2021, 2020, and 2019. To determine if you meet the substantial presence test for 2021, count the full 120 days of presence in 2021, 40 days in 2020 (1/3 of 120), and 20 days in 2019 (1/6 of 120). Because the total for the 3-year period is 180 days, you are not considered a resident under the substantial presence test for 2021.

The term "United States" includes the following areas.

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

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

Days of Presence in the United States

You are treated as present in the United States on any day you are physically present in the country at any time during the day. However, there are exceptions to this rule. Do not count the following as days of presence in the United States for the substantial presence test.

- Days you commute to work in the United States from a residence in Canada or Mexico if you regularly commute from Canada or Mexico.
- Days you are in the United States for less than 24 hours when you are in transit between two places outside the United States.
- Days you are in the United States as a crew member of a foreign vessel.
- Days you are unable to leave the United States because of a medical condition that arose while you are in the United States. If you were unable to leave the United States due to COVID-19 travel disruptions, you may be eligible to exclude up to 60 consecutive days in the United States during a certain period. See *COVID-19 Medical Condition Travel Exception*, earlier.
- Days you are in the United States under a NATO visa as a member of a force or civilian component to NATO. However, this exception does not apply to an immediate family member who is present in the United States under a NATO visa. A dependent family member must count every day of presence for purposes of the substantial presence test.
- Days you are an exempt individual.

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

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

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

calendar year and end in the following calendar year.

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

Days in transit. Do not count the days you are in the United States for less than 24 hours and you are in transit between two places outside the United States. You are considered to be in transit if you engage in activities that are substantially related to completing travel to your foreign destination. For example, if you travel between airports in the United States to change planes en route to your foreign destination, you are considered to be in transit. However, you are not considered to be in transit if you attend a business meeting while in the United States. This is true even if the meeting is held at the airport.

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

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

In the case of an individual who is judged mentally incompetent, proof of intent to leave the United States can be determined by analyzing the individual's pattern of behavior before he or she was judged mentally incompetent. If you qualify to exclude days of presence because of a medical condition, you must file a fully completed Form 8843 with the IRS. See *Form 8843*, later.

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

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

Note. For more information on determining resident alien or nonresident alien status under the substantial presence test as a result of having applied the COVID-19 Medical Condition Travel Exception to exclude days of presence in the United States in 2020, see Revenue Procedure 2020-20, 2020-20 I.R.B. 801, available at *IRS.gov/irb/2020-20_IRB#REV-PROC-2020-20*, and the instructions for Form 8843.

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

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

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

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

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

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

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

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

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

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

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

Note. Generally, if you are present in the United States under an "A" or "G" class visa, you are considered a foreign government-related individual (with full-time diplomatic or consular status). None of your days count for purposes of the substantial presence test.

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

Teachers and trainees. A teacher or trainee is an individual, other than a student, who is temporarily in the United States under a "J" or "Q" visa and substantially complies with the requirements of that visa. You are considered to have substantially complied with the visa requirements if you have not engaged in activities that are prohibited by U.S. immigration laws and could result in the loss of your visa status.

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

You will not be an exempt individual as a teacher or trainee in 2021 if you were exempt as a teacher, trainee, or student for any part of 2 of the 6 preceding calendar years. However, you will be an exempt individual if all of the following conditions are met.

- You were exempt as a teacher, trainee, or student for any part of 3 (or fewer) of the 6 preceding calendar years.
- A foreign employer paid all of your compensation during 2021.
- You were present in the United States as a teacher or trainee in any of the 6 prior years.

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

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

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

Example. Carla was temporarily in the United States during the year as a teacher on a "J" visa. Her compensation for the year was paid by a foreign employer. Carla was treated as an exempt teacher for the previous 2 years, but her compensation was not paid by a foreign employer. She will not be considered an exempt individual for the current year because she was exempt as a teacher for at least 2 of the past 6 years.

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

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

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

You will not be an exempt individual as a student in 2021 if you have been exempt as a teacher, trainee, or student for any part of more than 5 calendar years unless you meet both of the following requirements.

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

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

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

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

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

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

In figuring the days of presence in the United States, you can exclude only the days on which you actually competed in a sports event. You cannot exclude the days on which you were in the United States to practice for the event, to perform promotional or other activities related to the event, or to travel between events.

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

Form 8843. If you exclude days of presence in the United States because you fall into any of the following categories, you must file a fully completed Form 8843.

- You were unable to leave the United States as planned because of a medical condition or problem.
- You were temporarily in the United States as a teacher or trainee on a "J" or "Q" visa.
- You were temporarily in the United States as a student on an "F," "J," "M," or "Q" visa.
- You were a professional athlete competing in a charitable sports event.

Attach Form 8843 to your 2021 income tax return. If you do not have to file a return, send Form 8843 to the following address.

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

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

Closer Connection to a Foreign Country

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

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

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

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

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

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

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

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

Establishing a closer connection. You will be considered to have a closer connection to a foreign country than the United States if you or the IRS establishes that you have maintained more significant contacts with the foreign country than with the United States. In determining whether you have maintained more significant contacts with the foreign country than with the United States, the facts and circumstances to be considered include, but are not limited to, the following.

1. The country of residence you designate on forms and documents.
2. The types of official forms and documents you file, such as Form W-9, Form W-8BEN, or Form W-8ECI.

3. The location of:
   - Your permanent home;
   - Your family;
   - Your personal belongings, such as cars, furniture, clothing, and jewelry;
   - Your current social, political, cultural, professional, or religious affiliations;
   - Your business activities (other than those that constitute your tax home);
   - The jurisdiction in which you hold a driver's license;
   - The jurisdiction in which you vote; and
   - Charitable organizations to which you contribute.

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

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

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

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

- Form I-508, Request for Waiver of Certain Rights, Privileges, Exemptions, and Immunities.
- Form I-485, Application to Register Permanent Residence or Adjust Status.
- Form I-130, Petition for Alien Relative.
- Form I-140, Immigrant Petition for Alien Workers.
- Form ETA-750, Application for Alien Employment Certification.
- Form OF-230, Application for Immigrant Visa and Alien Registration.

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

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

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

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

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

Effect of Tax Treaties

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

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

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

Certain students and trainees from Barbados, Hungary, and Jamaica. Nonresident alien students from Barbados, Hungary, and Jamaica, as well as trainees from Jamaica, may qualify for an election to be treated as a resident alien for U.S. tax purposes under the U.S. income tax treaties with those countries. See *Pub. 901* for additional information. If you qualify for this election, you can make it by filing a Form 1040 and attaching a signed election statement to your return. The rules about resident aliens described in this publication apply to you. Once made, the election applies as long as you remain eligible, and you must obtain permission from the U.S. competent authority in order to terminate the election.

Dual-Status Aliens

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

First Year of Residency

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

Residency starting date under substantial presence test. If you meet the substantial presence test for a calendar year, your residency starting date is generally the first day you are present in the United States during that calendar year. However, you do not have to count up to 10 days of actual presence in the United States if on those days you establish that:

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

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

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

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

Example. Ivan Ivanovich is a citizen of Russia. He came to the United States for the first time on January 6, 2021, to attend a business meeting and returned to Russia on January 10, 2021. His tax home remained in Russia. On March 1, 2021, he moved to the United States and resided here for the rest of the year. Ivan is able to establish a closer connection to Russia for the period January 6–10, 2021. Thus, his residency starting date is March 1, 2021.

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

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

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

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

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

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

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

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

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

Example. Robert Bach is a citizen of Switzerland. He came to the United States as a U.S. resident for the first time on May 1, 2020, and remained until November 5, 2020, when he returned to Switzerland. Robert came back to the United States on March 5, 2021, as a lawful permanent resident and still resides here. In calendar year 2021, Robert's U.S. residency is deemed to begin on January 1, 2021, because he qualified as a resident in calendar year 2020.

First-Year Choice

If you do not meet either the green card test or the substantial presence test for 2020 or 2021 and you did not choose to be treated as a resident for part of 2020, but you meet the substantial presence test for 2021, you can choose to be treated as a U.S. resident for part of 2021. To make this choice, you must:

1. Be present in the United States for at least 31 days in a row in 2021, and
2. Be present in the United States for at least 75% of the number of days beginning with the first day of the 31-day period and ending with the last day of 2021. For purposes of this 75% requirement, you can treat up to 5 days of absence from the United States as days of presence in the United States.

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

If you make the first-year choice, your residency starting date for 2021 is the first day of the earliest 31-day period (described in (1) above) that you use to qualify for the choice. You are treated as a U.S. resident for the rest of the year. If you are present for more than one 31-day period and you satisfy condition (2) above for each of those periods, your residency starting date is the first day of the first 31-day period. If you are present for more than one 31-day period but you satisfy condition (2) above only for a later 31-day period, your residency starting date is the first day of the later 31-day period.

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

Example 1. Juan DaSilva is a citizen of the Philippines. He came to the United States for the first time on November 1, 2021, and was here on 31 consecutive days (from November 1 through December 1, 2021). Juan returned to the Philippines on December 1 and came back to the United States on December 17, 2021. He stayed in the United States for the rest of the year. During 2021, Juan was a resident of the United States under the substantial presence test. Juan can make the first-year choice for 2021 because he was in the United States in 2021 for a period of 31 days in a row (November 1 through December 1) and for at least 75% (0.75) of the days following (and including) the first day of his 31-day period (46 total days of presence in the United States divided by 61 days in the period from November 1 through December 31 equals 75.4% (0.754)). If Juan makes the first-year choice, his residency starting date will be November 1, 2021.

Example 2. The facts are the same as in *Example 1*, except that Juan was also absent from the United States on December 24, 25, 29, 30, and 31. He can make the first-year choice for 2021 because up to 5 days of absence are considered days of presence for purposes of the 75% (0.75) requirement.

Statement required to make the first-year choice for 2021. You must attach a statement to Form 1040 or 1040-SR to make the first-year choice for 2021. The statement must contain your name and address and specify the following.

- That you are making the first-year choice for 2021.
- That you were not a resident in 2020.
- That you are a resident under the substantial presence test in 2022.
- The number of days of presence in the United States during 2022.
- The date or dates of your 31-day period of presence and the period of continuous presence in the United States during 2021.
- The date or dates of absence from the United States during 2021 that you are treating as days of presence.

You cannot file Form 1040 or 1040-SR or the statement until you meet the substantial presence test for 2021. If you have not met the test for 2022 as of April 18, 2022, you can request an extension of time for filing your 2022 Form 1040 or 1040-SR until a reasonable period after you have met that test. To request an extension to file until October 15, 2022, use Form 4868. You can file the paper form or use one of the electronic filing options explained in the Form 4868 instructions. You should pay with this extension the amount of tax you expect to owe for 2021 figured as if you were a nonresident alien the entire year. You can use Form 1040-NR to figure the tax. Enter the tax on Form 4868. If you do not pay the tax due, you will be charged interest on any tax not paid by the regular due date of your return, and you may be charged a penalty on the late payment.

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

If you do not follow the procedures discussed here for making the first-year choice, you will be treated as a nonresident alien for all of 2021. However, this does not apply if you can show by clear and convincing evidence that you took reasonable actions to become aware of the filing procedures and significant steps to comply with the procedures.

Choosing Resident Alien Status

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

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

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

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

If you make this choice, the following rules apply.

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

Note. A similar choice is available if, at the end of the tax year, one spouse is a nonresident alien and the other spouse is a U.S. citizen or resident. See *Nonresident Spouse Treated as a Resident*, later. If you previously made that choice and it is still in effect, you do not need to make the choice explained here.

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

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

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

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

Last Year of Residency

If you were a U.S. resident in 2021 but are not a U.S. resident during any part of 2021, you cease to be a U.S. resident on your residency termination date. Your residency termination date is December 31, 2021, unless you qualify for an earlier date as discussed later.

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

1. The last day in 2021 that you are physically present in the United States, if you met the substantial presence test;
2. The first day in 2021 that you are no longer a lawful permanent resident of the United States, if you met the green card test; or
3. The later of (1) or (2), if you met both tests.

You can use this date only if, for the remainder of 2021, your tax home was in a foreign country and you had a closer connection to that foreign country. See *Closer Connection to a Foreign Country*, earlier.

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

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

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

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

Example. Lola Bovary is a citizen of Malta. She came to the United States for the first time on March 1, 2021, and resided here until August 25, 2021. On December 12, 2021, Lola came to the United States for vacation and stayed here until December 16, 2021, when she returned to Malta. She is able to establish a closer connection to Malta for the period December 12–16. Lola is not a U.S. resident for tax purposes during 2021 and can establish a closer connection to Malta for the rest of calendar year 2021. Lola is a U.S. resident under the substantial presence test for 2021 because she was present in the United States for 183 days (178 days for the period March 1 to August 25 plus 5 days in December). Lola's residency termination date is August 25, 2021.

Residency during the next year. If you are a U.S. resident during any part of 2022 and you are a resident during any part of 2021, you will be treated as a resident through the end of 2021. This applies whether you have a closer connection to a foreign country than the United States during 2021, and whether you are a resident under the substantial presence test or green card test.

Statement required to establish your residency termination date. You must file a statement with the IRS to establish your residency termination date. You must sign and date this statement and include a declaration that it is made under penalties of perjury. The statement must contain the following information (as applicable).

- Your name, address, U.S. TIN (if any), and U.S. visa number (if any).
- Your passport number and the name of the country that issued your passport.
- The tax year for which the statement applies.
- The last day that you were present in the United States during the year.
- Sufficient facts to establish that you have maintained your tax home in, and that you have a closer connection to, a foreign country following your last day of presence in the United States during the year or following the abandonment or rescission of your status as a lawful permanent resident during the year.
- The date that your status as a lawful permanent resident was abandoned or rescinded.
- Sufficient facts (including copies of relevant documents) to establish that your status as a lawful permanent resident has been abandoned or rescinded.
- If you can exclude days, as discussed earlier under *De minimis presence*, include the dates of the days you are excluding and sufficient facts to establish that you have maintained your tax home in, and that you have a closer connection to, a foreign country during the period you are excluding.

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

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

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

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

Nonresident Spouse Treated as a Resident

If, at the end of your tax year, you are married and one spouse is a U.S. citizen or a resident alien and the other spouse is a nonresident alien, you can choose to treat the nonresident spouse as a U.S. resident. This includes situations in which one spouse is a nonresident alien at the beginning of the tax year, but a resident alien at the end of the year, and the other spouse is a nonresident alien at the end of the year.

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

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

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

How To Make the Choice

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

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

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

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

Suspending the Choice

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

Example. Dick Brown was a resident alien on December 31, 2018, and married to Judy, a nonresident alien. They chose to treat Judy as a resident alien and filed joint 2018 and 2019 income tax returns. On January 10, 2020, Dick became a nonresident alien. Judy had remained a nonresident alien throughout the period. Dick and Judy could have filed joint or separate returns for 2020 because Dick was a resident alien for part of that year. However, because neither Dick nor Judy is a resident alien at any time during 2021, their choice is suspended for that year. If either meets the filing requirements for nonresident aliens discussed in chapter 7, they must file separate returns as nonresident aliens for 2021. If Dick becomes a resident alien again in 2022, their choice is no longer suspended.

Ending the Choice

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

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

1. ***Revocation.*** Either spouse can revoke the choice for any tax year, provided he or she makes the revocation by the due date for filing the tax return for that tax year. The spouse who revokes the choice must attach a signed statement declaring that the choice is being revoked. The statement must include the name, address, and identification number of each spouse. (If one spouse dies, include the name and address of the person who is revoking the choice for the deceased spouse.) The statement must also include a list of any states, foreign countries, and possessions that have community property laws in which either spouse is domiciled or where real property is located from which either spouse receives income. File the statement as follows.
   a. If the spouse revoking the choice must file a return, attach the statement to the return for the first year the revocation applies.
   b. If the spouse revoking the choice does not have to file a return, but does file a return (for example, to obtain a refund), attach the statement to the return.
   c. If the spouse revoking the choice does not have to file a return and does not file a claim for refund, send the statement to the Internal Revenue Service Center where you filed the last joint return.
2. ***Death.*** The death of either spouse ends the choice, beginning with the first tax year following the year the spouse died. However, if the surviving spouse is a U.S. citizen or resident and is entitled to the joint tax rates as a surviving spouse, the choice will not end until the close of the last year for which these joint rates may be used. If both spouses die in the same tax year, the choice ends on the first day after the close of the tax year in which the spouses died.
3. ***Legal separation.*** A legal separation under a decree of divorce or separate maintenance ends the choice as of the beginning of the tax year in which the legal separation occurs.
4. ***Inadequate records.*** The IRS can end the choice for any tax year that either spouse has failed to keep adequate books, records, and other information necessary to determine the correct income tax liability, or to provide adequate access to those records.

Aliens From American Samoa or Puerto Rico

If you are a nonresident alien in the United States and a bona fide resident of American Samoa or Puerto Rico during the entire tax year, you are taxed, with certain exceptions, according to the rules for resident aliens of the United States. For more information, see *Bona Fide Residents of American Samoa or Puerto Rico* in chapter 5.

If you are a nonresident alien from American Samoa or Puerto Rico who does not qualify as a bona fide resident of American Samoa or Puerto Rico for the entire tax year, you are taxed as a nonresident alien.

Resident aliens who formerly were bona fide residents of American Samoa or Puerto Rico are taxed according to the rules for resident aliens.

2.

Source of Income

Introduction

After you have determined your alien status, you must determine the source of your income. This chapter will help you determine the source of different types of income you may receive during the tax year.

Topics

This chapter discusses:

- Income source rules, and
- Community income.

This chapter also discusses special rules for married individuals who are domiciled in a country with community property laws.

Resident Aliens

A resident alien's income is generally subject to tax in the same manner as a U.S. citizen. If you are a resident alien, you must report all interest, dividends, wages, or other compensation for services, income from rental property or royalties, and other types of income on your U.S. tax return. You must report these amounts from sources within and outside the United States.

Nonresident Aliens

Nonresident aliens are taxed only on their income from sources within the United States and on certain income connected with the conduct of a trade or business in the United States (see chapter 4).

The general rules for determining U.S. source income that apply to most nonresident aliens are shown in Table 2-1. The following discussions cover the general rules as well as the exceptions to these rules.

TIP *Not all items of U.S. source income are taxable. See chapter 3.*

Interest Income

Generally, U.S. source interest income includes the following items.

- Interest on bonds, notes, or other interest-bearing obligations of U.S. residents or domestic corporations.
- Interest paid by a domestic or foreign partnership or foreign corporation engaged in a U.S. trade or business at any time during the tax year.
- Original issue discount (OID).
- Interest from a state, the District of Columbia, or the U.S. Government.

The place or manner of payment is immaterial in determining the source of the income.

A substitute interest payment made to the transferor of a security in a securities lending transaction or a sale-repurchase transaction is sourced in the same manner as the interest on the transferred security.

Exceptions. U.S. source interest income does not include the following items.

1. Interest paid by a resident alien or a domestic corporation on obligations issued before August 10, 2010, if for the 3-year period ending with the close of the payer's tax year preceding the interest payment, at least 80% (0.80) of the payer's total gross income:
   a. Is from sources outside the United States, and
   b. Is attributable to the active conduct of a trade or business by the individual or corporation in a foreign country or a U.S. possession.

   However, the interest will be considered U.S. source interest income if either of the following applies.
   a. The recipient of the interest is related to the resident alien or domestic corporation. See section 954(d)(3) for the definition of "related person."
   b. The terms of the obligation are significantly modified after August 9, 2010. Any extension of the term of the obligation is considered a significant modification.
2. Interest paid by a foreign branch of a domestic corporation or a domestic partnership on deposits or withdrawable accounts with mutual savings banks, cooperative banks, credit unions, domestic building and loan associations, and other savings institutions chartered and supervised as savings and loan or similar associations under federal or state law if the interest paid or credited can be deducted by the association.
3. Interest on deposits with a foreign branch of a domestic corporation or domestic partnership, but only if the branch is in the commercial banking business.

Table 2-1. **Summary of Source Rules for Income of Nonresident Aliens**

Item of income	Factor determining source
Salaries, wages, other compensation	Where services performed
Business income: Personal services Sale of inventory—purchased Sale of inventory—produced	 Where services performed Where sold Where produced
Interest	Residence of payer
Dividends	Whether a U.S. or foreign corporation*
Rents	Location of property
Royalties: Natural resources Patents, copyrights, etc.	 Location of property Where property is used
Sale of real property	Location of property
Sale of personal property	Seller's tax home (but see *Personal Property*, later, for exceptions)
Pension distributions attributable to contributions	Where services were performed that earned the pension
Investment earnings on pension contributions	Location of pension trust
Sale of natural resources	Allocation based on fair market value of product at export terminal. For more information, see section 1.863-1(b) of the regulations.

* Exceptions include: Part of a dividend paid by a foreign corporation is U.S. source if at least 25% of the corporation's gross income is effectively connected with a U.S. trade or business for the 3 tax years before the year in which the dividends are declared. Special rules apply for dividend equivalent payments.

Dividends

In most cases, dividend income received from domestic corporations is U.S. source income. Dividend income from foreign corporations is usually foreign source income. An exception to the second rule is discussed later.

A substitute dividend payment made to the transferor of a security in a securities lending transaction or a sale-repurchase transaction is sourced in the same manner as a distribution on the transferred security.

Exception. Part of the dividends received from a foreign corporation is U.S. source income if 25% or more of its total gross income for the 3-year period ending with the close of its tax year preceding the declaration of dividends was effectively connected with a trade or business in the United States. If the corporation was formed less than 3 years before the declaration, use its total gross income from the time it was formed. Determine the part that is U.S. source income by multiplying the dividend by the following fraction.

$$\frac{\text{Foreign corporation's gross income connected with a U.S. trade or business for the 3-year period}}{\text{Foreign corporation's gross income from all sources for that period}}$$

Dividend equivalent payments. U.S. source dividends also include dividend equivalent payments. Dividend equivalent payments include:

- Substitute dividends paid pursuant to a securities lending transaction, sale-repurchase transaction, or substantially similar transaction;
- A payment that references a U.S. source dividend made pursuant to a specified notional principal contract (NPC); or
- A payment that references a U.S. source dividend made pursuant to a specified equity-linked instrument (ELI).

A payment of a dividend equivalent amount includes any gross amount that references a U.S. source dividend and that is used to compute any net amount transferred to or from the taxpayer under a contract, if the taxpayer is the long party under the contract. As a result, a taxpayer may be treated as having received a dividend equivalent payment even if the taxpayer makes a net payment or no amount is paid because the net amount is zero.

In 2021, an NPC or ELI will generally be a specified NPC or specified ELI, respectively, if the contract is a delta one transaction. Generally, delta is the ratio of change in the fair market value of an NPC or ELI to a small change in the fair market value of the number of shares of the stock referenced by the contract. Generally, the amount of a dividend equivalent for a specified NPC or specified ELI is the per share dividend amount multiplied by the number of shares of stock referenced by the contract multiplied by the delta of the contract. Special rules

apply to complex contracts. See Regulations section 1.871-15 and Notice 2018-72, 2018-40 I.R.B., available at *IRS.gov/irb/2018-40_IRB#NOT-2018-72*, for additional information.

Guarantee of Indebtedness

Amounts received directly or indirectly, for the provision of a guarantee of indebtedness issued after September 27, 2010, are U.S. source income if they are paid by:

1. A noncorporate resident or U.S. corporation, or
2. Any foreign person if the amounts are effectively connected with the conduct of a U.S. trade or business.

For more information, see section 861(a)(9).

Personal Services

All wages and any other compensation for services performed in the United States are considered to be from sources in the United States. The only exceptions to this rule are discussed in *Employees of foreign persons, organizations, or offices*, later, and in *Crew members*, earlier.

If you are an employee and receive compensation for labor or personal services performed both inside and outside the United States, special rules apply in determining the source of the compensation. Compensation (other than certain fringe benefits) is sourced on a time basis. Certain fringe benefits (such as housing and education) are sourced on a geographical basis.

Or, you may be permitted to use an alternative basis to determine the source of compensation. See *Alternative Basis*, later.

Multilevel marketing. Certain companies sell products through a multilevel marketing arrangement, such that an upper-tier distributor, who has sponsored a lower-tier distributor, is entitled to a payment from the company based on certain activities of that lower-tier distributor. Generally, depending on the facts, payments from such multilevel marketing companies to independent (nonemployee) distributors (upper-tier distributors) that are based on the sales or purchases of persons whom they have sponsored (lower-tier distributors) constitute income for the performance of personal services in recruiting, training, and supporting the lower-tier distributors. The source of such income is generally based on where the services of the upper-tier distributor are performed and may, depending on the facts, be considered multiyear compensation, with the source of income determined over the period to which such compensation is attributable.

Self-employed individuals. If you are self-employed, you determine the source of compensation for labor or personal services from self-employment on the basis that most correctly reflects the proper source of that income under the facts and circumstances of your particular case. In many cases, the facts and circumstances will call for an apportionment on a time basis as explained next.

Time Basis

Use a time basis to figure your U.S. source compensation (other than the fringe benefits discussed in *Geographical Basis*). Do this by multiplying your total compensation (other than the fringe benefits sourced on a geographical basis) by the following fraction.

$$\frac{\text{Number of days you performed services in the United States during the year}}{\text{Total number of days you performed services during the year}}$$

You can use a unit of time less than a day in the above fraction, if appropriate. The time period for which the compensation is made does not have to be a year. Instead, you can use another distinct, separate, and continuous time period if you can establish to the satisfaction of the IRS that this other period is more appropriate.

Example 1. Christina Brooks, a resident of the Netherlands, worked 240 days for a U.S. company during the tax year. She received $80,000 in compensation. None of it was for fringe benefits. Christina performed services in the United States for 60 days and performed services in the Netherlands for 180 days. Using the time basis for determining the source of compensation, $20,000 ($80,000 × $^{60}/_{240}$) is her U.S. source income.

Example 2. Rob Waters, a resident of South Africa, is employed by a corporation. His annual salary is $100,000. None of it is for fringe benefits. During the first quarter of the year, he worked entirely within the United States. On April 1, Rob was transferred to Singapore for the remainder of the year. Rob is able to establish that the first quarter of the year and the last 3 quarters of the year are two separate, distinct, and continuous periods of time. Accordingly, $25,000 of Rob's annual salary is attributable to the first quarter of the year (0.25 × $100,000). All of it is U.S. source income because he worked entirely within the United States during that quarter. The remaining $75,000 is attributable to the last three quarters of the year. During those quarters, he worked 150 days in Singapore and 30 days in the United States. His periodic performance of services in the United States did not result in distinct, separate, and continuous periods of time. Of this $75,000, $12,500 ($75,000 × $^{30}/_{180}$) is U.S. source income.

Multiyear compensation. The source of multiyear compensation is generally determined on a time basis over the period to which the compensation is attributable. Multiyear compensation is compensation that is included in your income in 1 tax year but that is attributable to a period that includes 2 or more tax years.

You determine the period to which the compensation is attributable based on the facts and circumstances of your case. For example, an amount of compensation that specifically relates to a period of time that includes several calendar years is attributable to the entire multiyear period.

The amount of compensation treated as from U.S. sources is figured by multiplying the total multiyear compensation by a fraction. The numerator of the fraction is the number of days (or unit of time less than a day, if appropriate) that you performed labor or personal services in the United States in connection with the project. The denominator of the fraction is the total number of days (or unit of time less than a day, if appropriate) that you performed labor or personal services in connection with the project.

Geographical Basis

Compensation you receive as an employee in the form of the following fringe benefits is sourced on a geographical basis.

- Housing.
- Education.
- Local transportation.
- Tax reimbursement.
- Hazardous or hardship duty pay as defined in Regulations section 1.861-4(b)(2)(ii)(D)(5).
- Moving expense reimbursement.

The amount of fringe benefits must be reasonable and you must substantiate them by adequate records or by sufficient evidence.

Principal place of work. The above fringe benefits, except for tax reimbursement and hazardous or hardship duty pay, are sourced based on your principal place of work. Your principal place of work is usually the place where you spend most of your working time. This could be your office, plant, store, shop, or other location. If there is no one place where you spend most of your working time, your main job location is the place where your work is centered, such as where you report for work or are otherwise required to “base” your work.

If you have more than one job at any time, your main job location depends on the facts in each case. The more important factors to be considered are:

- The total time you spend at each place,
- The amount of work you do at each place, and
- How much money you earn at each place.

Housing. The source of a housing fringe benefit is determined based on the location of your principal place of work. A housing fringe benefit includes payments to you or on your behalf (and your family's if your family resides with you) only for the following.

- Rent.
- Utilities (except telephone charges).
- Real and personal property insurance.
- Occupancy taxes not deductible under section 164 or 216(a).
- Nonrefundable fees for securing a leasehold.
- Rental of furniture and accessories.
- Household repairs.
- Residential parking.
- Fair rental value of housing provided in kind by your employer.

A housing fringe benefit does not include:

- Deductible interest and taxes (including deductible interest and taxes of a tenant-stockholder in a cooperative housing corporation);

- The cost of buying property, including principal payments on a mortgage;
- The cost of domestic labor (maids, gardeners, etc.);
- Pay television subscriptions;
- Improvements and other expenses that increase the value or appreciably prolong the life of property;
- Purchased furniture or accessories;
- Depreciation or amortization of property or improvements;
- The value of meals or lodging that you exclude from gross income; or
- The value of meals or lodging that you deduct as moving expenses.

The deduction for moving expenses is available only if you are a member of the U.S. Armed Forces on active duty and move due to a permanent change of duty station.

Education. The source of an education fringe benefit for the education expenses of your dependents is determined based on the location of your principal place of work. An education fringe benefit includes payments only for the following expenses for education at an elementary or secondary school.

- Tuition, fees, academic tutoring, special needs services for a special needs student, books, supplies, and other equipment.
- Room and board and uniforms that are required or provided by the school in connection with enrollment or attendance.

Local transportation. The source of a local transportation fringe benefit is determined based on the location of your principal place of work. Your local transportation fringe benefit is the amount that you receive as compensation for local transportation for you or your spouse or dependents at the location of your principal place of work. The amount treated as a local transportation fringe benefit is limited to actual expenses incurred for local transportation and the fair rental value of any employer-provided vehicle used predominantly by you, your spouse, or your dependents for local transportation. Actual expenses do not include the cost (including interest) of any vehicle purchased by you or on your behalf.

Tax reimbursement. The source of a tax reimbursement fringe benefit is determined based on the location of the jurisdiction that imposed the tax for which you are reimbursed.

Moving expense reimbursement. The source of a moving expense reimbursement is generally based on the location of your new principal place of work. However, the source is determined based on the location of your former principal place of work if you provide sufficient evidence that such determination of source is more appropriate under the facts and circumstances of your case. Sufficient evidence generally requires an agreement between you and your employer, or a written statement of company policy, which is reduced to writing before the move and which is entered into or established to induce you or other employees to move to another country. The written statement or agreement must state that your employer will reimburse you for moving expenses that you incur to return to your former principal place of work regardless of whether you continue to work for your employer after returning to that location. It may contain certain conditions upon which the right to reimbursement is determined as long as those conditions set forth standards that are definitely ascertainable and can only be fulfilled prior to, or through completion of, your return move to your former principal place of work.

Alternative Basis

If you are an employee, you can determine the source of your compensation under an alternative basis if you establish to the satisfaction of the IRS that, under the facts and circumstances of your case, the alternative basis more properly determines the source of your compensation than the time or geographical basis. If you use an alternative basis, you must keep (and have available for inspection) records to document why the alternative basis more properly determines the source of your compensation. Also, if your total compensation from all sources is $250,000 or more, check "Yes" to both questions on line K of Schedule OI (Form 1040-NR), and attach a written statement to your tax return that sets forth all of the following.

1. Your name and SSN (entered across the top of the statement).
2. The specific compensation income, or the specific fringe benefit, for which you are using the alternative basis.
3. For each item in (2), the alternative basis of allocation of source used.
4. For each item in (2), a computation showing how the alternative allocation was computed.
5. A comparison of the dollar amount of the U.S. compensation and foreign compensation sourced under both the alternative basis and the time or geographical basis discussed earlier.

Transportation Income

Transportation income is income from the use of a vessel or aircraft or for the performance of services directly related to the use of any vessel or aircraft. This is true whether the vessel or aircraft is owned, hired, or leased. The term "vessel or aircraft" includes any container used in connection with a vessel or aircraft.

All income from transportation that begins and ends in the United States is treated as derived from sources in the United States. If the transportation begins or ends in the United States, 50% of the transportation income is treated as derived from sources in the United States.

For transportation income from personal services, 50% of the income is U.S. source income if the transportation is between the United States and a U.S. possession. For nonresident aliens, this only applies to income derived from, or in connection with, an aircraft.

For information on how U.S. source transportation income is taxed, see chapter 4.

Scholarships, Grants, Prizes, and Awards

Generally, the source of scholarships, fellowship grants, grants, prizes, and awards is the residence of the payer regardless of who actually disburses the funds. However, see *Activities to be performed outside the United States*, later.

For example, payments for research or study in the United States made by the United States, a noncorporate U.S. resident, or a domestic corporation are from U.S. sources. Similar payments from a foreign government or foreign corporation are foreign source payments even though the funds may be disbursed through a U.S. agent.

Payments made by an entity designated as a public international organization under the International Organizations Immunities Act are from foreign sources.

Activities to be performed outside the United States. Scholarships, fellowship grants, targeted grants, and achievement awards received by nonresident aliens for activities performed, or to be performed, outside the United States are not U.S. source income.

CAUTION *These rules do not apply to amounts paid as salary or other compensation for services. See Personal Services, earlier, for the source rules that apply.*

Pensions and Annuities

If you receive a pension from a domestic trust for services performed both in and outside the United States, part of the pension payment is from U.S. sources. That part is the amount attributable to earnings of the pension plan and the employer contributions made for services performed in the United States. This applies whether the distribution is made under a qualified or nonqualified stock bonus, pension, profit-sharing, or annuity plan (whether or not funded).

If you performed services as an employee of the United States, you may receive a distribution from the U.S. Government under a plan, such as the Civil Service Retirement System, that is treated as a qualified pension plan. Your U.S. source income is the otherwise taxable amount of the distribution that is attributable to your total U.S. Government basic pay other than tax-exempt pay for services performed outside the United States.

Disaster tax relief. If you are required to file a U.S. federal income tax return, you may be entitled to some special disaster-related rules regarding the use of retirement funds. For more information, see *Pub. 590-B*. Also, go to *IRS.gov/DisasterTaxRelief*.

COVID-19 relief. If you are required to file a U.S. federal income tax return and you were impacted by COVID-19, you may be entitled to some special rules for 2021 regarding the use of retirement funds. For more information, see Form 8915-E, Qualified 2021 Disaster Retirement Plan Distributions and Repayments, and its instructions. Also, see *Pub. 590-B*.

Rents or Royalties

Your U.S. source income includes rent and royalty income received during the tax year from property located in the United States or from any interest in that property.

U.S. source income also includes rents or royalties for the use of, or for the privilege of using, in the United States, intangible property such as patents, copyrights, secret processes and formulas, goodwill, trademarks, franchises, and similar property.

Real Property

Real property is land and buildings and generally anything built on, growing on, or attached to land.

Gross income from sources in the United States includes gains, profits, and income from the sale or other disposition of real property located in the United States.

Natural resources. The income from the sale of products of any farm, mine, oil or gas well, other natural deposit, or timber located in the United States and sold in a foreign country, or located in a foreign country and sold in the United States, is partly from sources in the United States. For information on determining that part, see Regulations section 1.863-1(b).

Personal Property

Personal property is property, such as machinery, equipment, or furniture, that is not real property.

Gain or loss from the sale or exchange of personal property generally has its source in the United States if you have a tax home in the United States. If you do not have a tax home in the United States, the gain or loss is generally considered to be from sources outside the United States.

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

Inventory property. Inventory property is personal property that is stock in trade or that is held primarily for sale to customers in the ordinary course of your trade or business. Income from the sale of inventory that you purchased is sourced where the property is sold. Generally, this is where title to the property passes to the buyer. For example, income from the sale of inventory in the United States is U.S. source income, whether you purchased it in the United States or in a foreign country.

Income from the sale of inventory property that you produced in the United States and sold outside the United States (or vice versa) is sourced where the property is produced.

These rules apply even if your tax home is not in the United States.

Depreciable property. To determine the source of any gain from the sale of depreciable personal property, you must first figure the part of the gain that is not more than the total depreciation adjustments on the property. You allocate this part of the gain to sources in the United States based on the ratio of U.S. depreciation adjustments to total depreciation adjustments. The rest of this part of the gain is considered to be from sources outside the United States.

For this purpose, "U.S. depreciation adjustments" are the depreciation adjustments to the basis of the property that are allowable in figuring taxable income from U.S. sources. However, if the property is used predominantly in the United States during a tax year, all depreciation deductions allowable for that year are treated as U.S. depreciation adjustments. But there are some exceptions for certain transportation, communications, and other property used internationally.

Gain from the sale of depreciable property that is more than the total depreciation adjustments on the property is sourced as if the property were inventory property, as discussed above.

A loss is sourced in the same way as the depreciation deductions were sourced. However, if the property was used predominantly in the United States, the entire loss reduces U.S. source income.

The basis of property usually means the cost (money plus the fair market value of other property or services) of property you acquire. Depreciation is an amount deducted to recover the cost or other basis of a trade or business asset. The amount you can deduct depends on the property's cost, when you began using the property, how long it will take to recover your cost, and which depreciation method you use. A depreciation deduction is any deduction for depreciation or amortization or any other allowable deduction that treats a capital expenditure as a deductible expense.

Intangible property. Intangible property includes patents, copyrights, secret processes or formulas, goodwill, trademarks, trade names, or other like property. The gain from the sale of amortizable or depreciable intangible property, up to the previously allowable amortization or depreciation deductions, is sourced in the same way as the original deductions were sourced. This is the same as the source rule for gain from the sale of depreciable property. See *Depreciable property*, earlier, for details on how to apply this rule.

Gain in excess of the amortization or depreciation deductions is sourced in the country where the property is used if the income from the sale is contingent on the productivity, use, or disposition of that property. If the income is not contingent on the productivity, use, or disposition of the property, the income is sourced according to your tax home (discussed earlier). If payments for goodwill do not depend on its productivity, use, or disposition, their source is the country in which the goodwill was generated.

Sales through offices or fixed places of business. Despite any of the earlier rules, if you do not have a tax home in the United States, but you maintain an office or other fixed place of business in the United States, treat the income from any sale of personal property (including inventory property) that is attributable to that office or place of business as U.S. source income. However, this rule does not apply to sales of inventory property for use, disposition, or consumption outside the United States if your office or other fixed place of business outside the United States materially participated in the sale.

If you have a tax home in the United States but maintain an office or other fixed place of business outside the United States, income from sales of personal property, other than inventory, depreciable property, or intangibles, that is attributable to that foreign office or place of business may be treated as U.S. source income. The income is treated as U.S. source income if an income tax of less than 10% of the income from the sale is paid to a foreign country. This rule also applies to losses if the foreign country would have imposed an income tax of less than 10% had the sale resulted in a gain.

Community Income

If you are married and you or your spouse is subject to the community property laws of a foreign country, U.S. state, or U.S. possession, you must generally follow those laws to determine the income of yourself and your spouse for U.S. tax purposes. But you must disregard certain community property laws if:

- Both you and your spouse are nonresident aliens, or
- One of you is a nonresident alien and the other is a U.S. citizen or resident and you do not both choose to be treated as U.S. residents as explained in *Nonresident Spouse Treated as a Resident*, earlier.

In these cases, you and your spouse must report community income as explained later.

Earned income. Earned income of a spouse, other than trade or business income and a partner's distributive share of partnership income, is treated as the income of the spouse whose services produced the income. That spouse must report all of it on his or her separate return.

Trade or business income. Trade or business income, other than a partner's distributive share of partnership income, is treated as the income of the spouse carrying on the trade or business. That spouse must report all of it on his or her separate return.

Partnership income (or loss). A partner's distributive share of partnership income (or loss) is treated as the income (or loss) of the partner. The partner must report all of it on his or her separate return.

Separate property income. Income derived from the separate property of one spouse (and

which is not earned income, trade or business income, or partnership distributive share income) is treated as the income of that spouse. That spouse must report all of it on his or her separate return. Use the appropriate community property law to determine what is separate property.

Other community income. All other community income is treated as provided by the applicable community property laws.

3. Exclusions From Gross Income

Introduction

Resident and nonresident aliens are allowed exclusions from gross income if they meet certain conditions. An exclusion from gross income is generally income you receive that is not included in your U.S. income and is not subject to U.S. tax. This chapter covers some of the more common exclusions allowed to resident and nonresident aliens.

Topics

This chapter discusses:

- Nontaxable interest,
- Nontaxable dividends,
- Certain compensation paid by a foreign employer,
- Gain from sale of home, and
- Scholarships and fellowship grants.

Useful Items

You may want to see:

Publication

- ❑ **54** Tax Guide for U.S. Citizens and Resident Aliens Abroad
- ❑ **523** Selling Your Home

See chapter 12 for information about getting these publications.

Resident Aliens

Resident aliens may be able to exclude the following items from their gross income.

Foreign Earned Income and Housing Amount

If you are physically present in a foreign country or countries for at least 330 full days during any period of 12 consecutive months, you may qualify for the foreign earned income exclusion. The exclusion is $108,700 in 2021. In addition, you may be able to exclude or deduct certain foreign housing amounts. You may also qualify if you are a bona fide resident of a foreign country and you are a citizen or national of a country with which the United States has an income tax treaty. For more information, see *Pub. 54*.

Foreign country. A foreign country is any territory under the sovereignty of a government other than that of the United States.

The term "foreign country" includes the country's territorial waters and airspace, but not international waters and the airspace above them. It also includes the seabed and subsoil of those submarine areas adjacent to the country's territorial waters over which it has exclusive rights under international law to explore and exploit the natural resources.

The term "foreign country" does not include U.S. possessions or territories. It does not include the Antarctic region.

Nonresident Aliens

Nonresident aliens can exclude the following items from their gross income.

Interest Income

Interest income that is not connected with a U.S. trade or business is excluded from income if it is from:

- Deposits (including certificates of deposit) with persons in the banking business;
- Deposits or withdrawable accounts with mutual savings banks, cooperative banks, credit unions, domestic building and loan associations, and other savings institutions chartered and supervised as savings and loan or similar associations under federal or state law (if the interest paid or credited can be deducted by the association); and
- Amounts held by an insurance company under an agreement to pay interest on them.

State and local government obligations. Interest on obligations of a state or political subdivision, the District of Columbia, or a U.S. possession is generally not included in income. However, interest on certain private activity bonds, arbitrage bonds, and certain bonds not in registered form is included in income.

Portfolio interest. Interest and OID that qualifies as portfolio interest is not subject to chapter 3 (of the Internal Revenue Code) withholding under sections 1441 through 1443. However, such interest may be subject to withholding if it is a withholdable payment, and there is no exception to chapter 4 (of the Internal Revenue Code) withholding under sections 1471 through 1474. For more information, see the discussion of portfolio interest under *Withholding on Specific Income* in *Pub. 515*.

To qualify as portfolio interest, the interest must be paid on obligations issued after July 18, 1984, and otherwise subject to withholding. For obligations issued after March 18, 2012, portfolio interest does not include interest paid on debt that is not in registered form. Before March 19, 2012, portfolio interest included interest on certain registered and nonregistered (bearer) bonds if the obligations meet the requirements described below.

Obligations in registered form. Portfolio interest includes interest paid on an obligation that is in registered form, and for which you have received documentation that the beneficial owner of the obligation is not a U.S. person.

Generally, an obligation is in registered form if:

- The obligation is registered as to both principal and any stated interest with the issuer (or its agent) and any transfer of the obligation may be effected only by surrender of the old obligation and reissuance to the new holder;
- The right to principal and stated interest with respect to the obligation may be transferred only through a book entry system maintained by the issuer or its agent; or
- The obligation is registered as to both principal and stated interest with the issuer or its agent and can be transferred both by surrender and reissuance and through a book entry system.

An obligation that would otherwise be considered to be in registered form is not considered to be in registered form as of a particular time if it can be converted at any time in the future into an obligation that is not in registered form. For more information on whether obligations are considered to be in registered form, see the discussion of portfolio interest under *Withholding on Specific Income* in *Pub. 515*.

Obligations not in registered form. For obligations issued before March 19, 2012, interest on an obligation that is not in registered form (bearer obligation) is portfolio interest if the obligation is foreign targeted. A bearer obligation is foreign targeted if:

- There are arrangements to ensure that the obligation will be sold, or resold in connection with the original issue, only to a person who is not a U.S. person;
- Interest on the obligation is payable only outside the United States and its possessions; and
- The face of the obligation contains a statement that any U.S. person who holds the obligation will be subject to limits under the U.S. income tax laws.

Documentation is not required for interest on bearer obligations to qualify as portfolio interest. In some cases, however, you may need documentation for purposes of Form 1099 reporting and backup withholding.

Interest that does not qualify as portfolio interest. Payments to certain persons and payments of contingent interest do not qualify as portfolio interest. You must withhold at the statutory rate on such payments unless some other exception, such as a treaty provision, applies.

Contingent interest. Portfolio interest does not include contingent interest. Contingent interest is either of the following.

1. Interest that is determined by reference to:
   - Any receipts, sales, or other cash flow of the debtor or related person;

- Income or profits of the debtor or related person;
- Any change in value of any property of the debtor or a related person; or
- Any dividend, partnership distributions, or similar payments made by the debtor or a related person.

For exceptions, see section 871(h)(4)(C).

2. Any other type of contingent interest that is identified by the Secretary of the Treasury in regulations.

Related persons. Related persons include the following.

- Members of a family, including only brothers, sisters, half brothers, half sisters, spouse, ancestors (parents, grandparents, etc.), and lineal descendants (children, grandchildren, etc.).
- Any person who is a party to any arrangement undertaken for the purpose of avoiding the contingent interest rules.
- Certain corporations, partnerships, and other entities. For details, see *Nondeductible Loss* in chapter 2 of *Pub. 544*.

Exception for existing debt. Contingent interest does not include interest paid or accrued on any debt with a fixed term that was issued:

- On or before April 7, 1993; or
- After April 7, 1993, pursuant to a written binding contract in effect on that date and at all times thereafter before that debt was issued.

Dividend Income

The following dividend income is exempt from the 30% tax.

Certain dividends paid by foreign corporations. There is no 30% tax on U.S. source dividends you receive from a foreign corporation. See *Exception* under *Dividends* in chapter 2 for how to figure the amount of U.S. source dividends. This exemption does not apply to dividend equivalent payments.

Certain interest-related dividends. There is no 30% tax on interest-related dividends from sources within the United States that you receive from a mutual fund or other regulated investment company (RIC). The mutual fund will designate in writing which dividends are interest-related dividends.

Certain short-term capital gain dividends. There may not be any 30% tax on certain short-term capital gain dividends from sources within the United States that you receive from a mutual fund or other RIC. The mutual fund will designate in writing which dividends are short-term capital gain dividends. This tax relief will not apply to you if you are present in the United States for 183 days or more during your tax year.

Services Performed for Foreign Employer

If you were paid by a foreign employer, your U.S. source income may be exempt from U.S. tax, but only if you meet one of the situations discussed next.

Employees of foreign persons, organizations, or offices. Income for personal services performed in the United States as a nonresident alien is not considered to be from U.S. sources and is tax exempt if you meet all three of the following conditions.

1. You perform personal services as an employee of or under a contract with a nonresident alien individual, foreign partnership, or foreign corporation not engaged in a trade or business in the United States; or you work for an office or place of business maintained in a foreign country or possession of the United States by a U.S. corporation, U.S. partnership, or U.S. citizen or resident.
2. You perform these services while you are a nonresident alien temporarily present in the United States for a period or periods of not more than a total of 90 days during the tax year.
3. Your pay for these services is not more than $3,000.

If you do not meet all three conditions, your income from personal services performed in the United States is U.S. source income and is taxed according to the rules in chapter 4.

If your pay for these services is more than $3,000, the entire amount is income from a trade or business within the United States. To find if your pay is more than $3,000, do not include any amounts you get from your employer for advances or reimbursements of business travel expenses, if you were required to and did account to your employer for those expenses. If the advances or reimbursements are more than your expenses, include the excess in your pay for these services.

A "day" means a calendar day during any part of which you are physically present in the United States.

Example 1. During 2021, Henry Smythe, a nonresident alien from a nontreaty country, worked for an overseas office of a U.S. partnership. Henry, who uses the calendar year as his tax year, was temporarily present in the United States for 60 days during 2021 performing personal services for the overseas office of the partnership. That office paid him a total gross salary of $2,800 for those services. During 2021, he was not engaged in a trade or business in the United States. The salary is not considered U.S. source income and is exempt from U.S. tax.

Example 2. The facts are the same as in *Example 1*, except that Henry's total gross salary for the services performed in the United States during 2021 was $4,500. He received $2,875 in 2021, and $1,625 in 2022. During 2021, he was engaged in a trade or business in the United States because the compensation for his personal services in the United States was more than $3,000. Henry's salary is U.S. source income and is taxed under the rules in chapter 4.

Crew members. Compensation for services performed by a nonresident alien in connection with the individual's temporary presence in the United States as a regular crew member of a foreign vessel (for example, a boat or ship) engaged in transportation between the United States and a foreign country or U.S. possession is not U.S. source income and is exempt from U.S. tax. This exemption does not apply to compensation for services performed on foreign aircraft.

Students and exchange visitors. Nonresident alien students and exchange visitors present in the United States under "F," "J," or "Q" visas can exclude from gross income pay received from a foreign employer.

This group includes bona fide students, scholars, trainees, teachers, professors, research assistants, specialists, or leaders in a field of specialized knowledge or skill, or persons of similar description. It also includes the alien's spouse and minor children if they come with the alien or come later to join the alien.

A nonresident alien temporarily present in the United States under a "J" visa includes an alien individual entering the United States as an exchange visitor under the Mutual Educational and Cultural Exchange Act of 1961.

Foreign employer. A foreign employer is:

- A nonresident alien individual, foreign partnership, or foreign corporation; or
- An office or place of business maintained in a foreign country or in a U.S. possession by a U.S. corporation, a U.S. partnership, or an individual who is a U.S. citizen or resident.

The term "foreign employer" does not include a foreign government. Pay from a foreign government that is exempt from U.S. income tax is discussed in chapter 10.

Income from certain annuities. Do not include in income any annuity received under a qualified annuity plan or from a qualified trust exempt from U.S. income tax if you meet both of the following conditions.

1. You receive the annuity only because:
   a. You performed personal services outside the United States while you were a nonresident alien; or
   b. You performed personal services inside the United States while you were a nonresident alien and you met the three conditions, described earlier, under *Employees of foreign persons, organizations, or offices*.
2. At the time the first amount is paid as an annuity under the plan (or by the trust), 90% or more of the employees for whom contributions or benefits are provided under the annuity plan (or under the plan of which the trust is a part) are U.S. citizens or residents.

If the annuity qualifies under condition (1) but not condition (2) above, you do not have to include the amount in income if:

- You are a resident of a country that gives a substantially equal exclusion to U.S. citizens and residents, or
- You are a resident of a beneficiary developing country under Title V of the Trade Act of 1974.

If you are not sure whether the annuity is from a qualified annuity plan or qualified trust, ask the person who made the payment.

Income affected by treaties. Income of any kind that is exempt from U.S. tax under a treaty to which the United States is a party is excluded from your gross income. Income on which the tax is only limited by treaty, however, is included in gross income. See chapter 9.

Gambling Winnings From Dog or Horse Racing

You can exclude from your gross income winnings from legal wagers initiated outside the United States in a pari-mutuel pool with respect to a live horse or dog race in the United States.

Gain From the Sale of Your Main Home

If you sold your main home, you may be able to exclude up to $250,000 of the gain on the sale of your home. If you are married and file a joint return, you may be able to exclude up to $500,000. For information on the requirements for this exclusion, see *Pub. 523*.

CAUTION *This exclusion does not apply if you are subject to the expatriation tax rules discussed in chapter 4.*

Scholarships and Fellowship Grants

If you are a candidate for a degree, you may be able to exclude from your income part or all of the amounts you receive as a qualified scholarship. The rules discussed here apply to both resident and nonresident aliens.

TIP *If a nonresident alien receives a grant that is not from U.S. sources, it is not subject to U.S. tax. See Scholarships, Grants, Prizes, and Awards in chapter 2 to determine whether your grant is from U.S. sources.*

A scholarship or fellowship is excludable from income only if:

1. You are a candidate for a degree at an eligible educational institution, and
2. You use the scholarship or fellowship to pay qualified education expenses.

Candidate for a degree. You are a candidate for a degree if you:

1. Attend a primary or secondary school or are pursuing a degree at a college or university; or
2. Attend an accredited educational institution that is authorized to provide:
   a. A program that is acceptable for full credit toward a bachelor's or higher degree, or
   b. A program of training to prepare students for gainful employment in a recognized occupation.

Eligible educational institution. An eligible educational institution is one that maintains a regular faculty and curriculum and normally has a regularly enrolled body of students in attendance at the place where it carries on its educational activities.

Qualified education expenses. These are expenses for:

- Tuition and fees required to enroll at or attend an eligible educational institution; and
- Course-related expenses, such as fees, books, supplies, and equipment that are required for the courses at the eligible educational institution. These items must be required of all students in your course of instruction.

However, in order for these to be qualified education expenses, the terms of the scholarship or fellowship cannot require that it be used for other purposes, such as room and board, or specify that it cannot be used for tuition or course-related expenses.

Expenses that do not qualify. Qualified education expenses do not include the cost of:

- Room and board,
- Travel,
- Research,
- Clerical help, or
- Equipment and other expenses that are not required for enrollment in or attendance at an eligible educational institution.

This is true even if the fee must be paid to the institution as a condition of enrollment or attendance. Scholarship or fellowship amounts used to pay these costs are taxable.

Amounts used to pay expenses that do not qualify. A scholarship amount used to pay any expense that does not qualify is taxable, even if the expense is a fee that must be paid to the institution as a condition of enrollment or attendance.

Payment for services. You cannot exclude from income the portion of any scholarship, fellowship, or tuition reduction that represents payment for past, present, or future teaching, research, or other services. This is true even if all candidates for a degree are required to perform the services as a condition for receiving the degree.

Example. On January 7, Maria Gomez is notified of a scholarship of $2,500 for the spring semester. As a condition for receiving the scholarship, Maria must serve as a part-time teaching assistant. Of the $2,500 scholarship, $1,000 represents payment for her services. Assuming that Maria meets all other conditions, she can exclude no more than $1,500 from income as a qualified scholarship.

4. How Income of Aliens Is Taxed

Introduction

Resident and nonresident aliens are taxed in different ways. Resident aliens are generally taxed in the same way as U.S. citizens. Nonresident aliens are taxed based on the source of their income and whether or not their income is effectively connected with a U.S. trade or business. The following discussions will help you determine if income you receive during the tax year is effectively connected with a U.S. trade or business and how it is taxed.

Topics

This chapter discusses:

- Income that is effectively connected with a U.S. trade or business,
- Income that is not effectively connected with a U.S. trade or business,
- Interrupted period of residence, and
- Expatriation tax.

Useful Items

You may want to see:

Publication

- ❑ **544** Sales and Other Dispositions of Assets
- ❑ **1212** List of Original Issue Discount Instruments

Form (and Instructions)

- ❑ **6251** Alternative Minimum Tax—Individuals
- ❑ **Schedule D (Form 1040)** Capital Gains and Losses

See chapter 12 for information about getting these publications and forms.

Resident Aliens

Resident aliens are generally taxed in the same way as U.S. citizens. This means that their worldwide income is subject to U.S. tax and must be reported on their U.S. tax return. Income of resident aliens is subject to the graduated tax rates that apply to U.S. citizens. Resident aliens use the Tax Table or Tax Computation Worksheets located in the

Instructions for Form 1040, which apply to U.S. citizens.

Nonresident Aliens

A nonresident alien's income that is subject to U.S. income tax must be divided into two categories.

1. Income that is effectively connected with a trade or business in the United States, and
2. Income that is not effectively connected with a trade or business in the United States (discussed under *The 30% Tax*, later).

The difference between these two categories is that effectively connected income, after allowable deductions, is taxed at graduated rates. These are the same rates that apply to U.S. citizens and residents. Income that is not effectively connected is taxed at a flat 30% (or lower treaty) rate.

CAUTION *If you were formerly a U.S. citizen or resident alien, these rules may not apply. See* Expatriation Tax, *later in this chapter.*

Trade or Business in the United States

Generally, you must be engaged in a trade or business during the tax year to be able to treat income received in that year as effectively connected with that trade or business. Whether you are engaged in a trade or business in the United States depends on the nature of your activities. The discussions that follow will help you determine whether you are engaged in a trade or business in the United States.

Personal Services

If you perform personal services in the United States at any time during the tax year, you are usually considered engaged in a trade or business in the United States.

TIP *Certain compensation paid to a nonresident alien by a foreign employer is not included in gross income. For more information, see* Services Performed for Foreign Employer *in chapter 3.*

COVID-19 relief for certain nonresident alien individuals temporarily performing services or other activities in the United States. Due to COVID-19, you may be eligible to choose an uninterrupted period of up to 60 calendar days, beginning on or after February 1, 2020. and on or before April 1, 2020, during which your services or other activities conducted in the United States will not be taken into account in determining whether you were engaged in a trade or business in the United States. To be eligible, you must have been temporarily present in the United States while performing these activities, and but for COVID-19, you would not have performed these activities in the United States. You were temporarily present in the United States if, in 2020, you were a nonresident alien (taking into account the COVID-19 Medical Condition Travel Exception), or a U.S. citizen or lawful permanent resident who had a tax home outside the United States in 2019 and reasonably expected to have a tax home outside the United States in 2020. Your income earned during this 60-day period will not be subject to the 30% tax discussed later in this chapter solely because you were not treated as having a U.S. trade or business. For more information, see FAQs for Nonresident Alien Individuals and Foreign Businesses with Employees or Agents Impacted by COVID-19 Emergency Travel Disruptions, available at *IRS.gov/newsroom/FAQs-for-Nonresdient-Alien-Individuals-and-Foreign-Businesses-with-Employees-or-Agents-Impacted-by-COVID-19-Emergency-Travel-Disruptions*. Also, see *Personal Services* under *Tax Treaty Benefits* in chapter 9, later.

Other Trade or Business Activities

Other examples of being engaged in a trade or business in the United States follow.

Students and trainees. If you are temporarily present in the United States as a nonimmigrant under an “F,” “J,” “M,” or “Q” visa, and not otherwise engaged in a trade or business, you are considered to be engaged in a trade or business in the United States if you have taxable income from participation in a scholarship or fellowship described in section 1441(b). The taxable part of any scholarship or fellowship grant that is U.S. source income is treated as effectively connected with a trade or business in the United States.

Note. A nonresident alien temporarily present in the United States under a “J” visa includes a nonresident alien individual admitted to the United States as an exchange visitor under the Mutual Educational and Cultural Exchange Act of 1961.

Business operations. If you own and operate a business in the United States selling services, products, or merchandise, you are, with certain exceptions, engaged in a trade or business in the United States.

Partnerships. If you are a member of a partnership that at any time during the tax year is engaged in a trade or business in the United States, you are considered to be engaged in a trade or business in the United States.

Beneficiary of an estate or trust. If you are the beneficiary of an estate or trust that is engaged in a trade or business in the United States, you are treated as being engaged in the same trade or business.

Trading in stocks, securities, and commodities. If your only U.S. business activity is trading in stocks, securities, or commodities (including hedging transactions) through a U.S. resident broker or other agent, you are not engaged in a trade or business in the United States.

For transactions in stocks or securities, this applies to any nonresident alien, including a dealer or broker in stocks and securities.

For transactions in commodities, this applies to commodities that are usually traded on an organized commodity exchange and to transactions that are usually carried out at such an exchange.

This discussion does not apply if you have a U.S. office or other fixed place of business at any time during the tax year through which, or by the direction of which, you carry out your transactions in stocks, securities, or commodities.

Trading for a nonresident alien's own account. You are not engaged in a trade or business in the United States if trading for your own account in stocks, securities, or commodities is your only U.S. business activity. This applies even if the trading takes place while you are present in the United States or is done by your employee or your broker or other agent.

This does not apply to trading for your own account if you are a dealer in stocks, securities, or commodities. This does not necessarily mean, however, that as a dealer you are considered to be engaged in a trade or business in the United States. Determine that based on the facts and circumstances in each case or under the rules given above in *Trading in stocks, securities, and commodities*.

Effectively Connected Income

If you are engaged in a U.S. trade or business, all income, gain, or loss for the tax year that you get from sources within the United States (other than certain investment income) is treated as effectively connected income. This applies whether or not there is any connection between the income and the trade or business being carried on in the United States during the tax year.

Two tests, described under *Investment Income*, later, determine whether certain items of investment income (such as interest, dividends, and royalties) are treated as effectively connected with that business.

In limited circumstances, some kinds of foreign source income may be treated as effectively connected with a trade or business in the United States. For a discussion of these rules, see *Foreign Income*, later.

Investment Income

Investment income from U.S. sources that may or may not be treated as effectively connected with a U.S. trade or business generally falls into the following three categories.

1. Fixed or determinable income (interest, dividends, rents, royalties, premiums, annuities, etc.).
2. Gains (some of which are considered capital gains) from the sale or exchange of the following types of property.
   - Timber, coal, or domestic iron ore with a retained economic interest.
   - Patents, copyrights, and similar property on which you receive contingent payments after October 4, 1966.
   - Patents transferred before October 5, 1966.

- OID obligations.

3. Capital gains (and losses).

Use the two tests described next to determine whether an item of U.S. source income falling in one of the three categories above and received during the tax year is effectively connected with your U.S. trade or business. If the tests indicate that the item of income is effectively connected, you must include it with your other effectively connected income. If the item of income is not effectively connected, include it with all other income discussed under *The 30% Tax*, later, in this chapter.

Asset-use test. This test usually applies to income that is not directly produced by trade or business activities. Under this test, if an item of income is from assets (property) used in, or held for use in, the trade or business in the United States, it is considered effectively connected.

An asset is used in, or held for use in, the trade or business in the United States if the asset is:

- Held for the principal purpose of promoting the conduct of a trade or business in the United States;
- Acquired and held in the ordinary course of the trade or business conducted in the United States (for example, an account receivable or note receivable arising from that trade or business); or
- Otherwise held to meet the present needs of the trade or business in the United States and not its anticipated future needs.

Generally, stock of a corporation is not treated as an asset used in, or held for use in, a trade or business in the United States.

Business-activities test. This test usually applies when income, gain, or loss comes directly from the active conduct of the trade or business. The business-activities test is most important when:

- Dividends or interest are received by a dealer in stocks or securities,
- Royalties are received in the trade or business of licensing patents or similar property, or
- Service fees are earned by a servicing business.

Under this test, if the conduct of the U.S. trade or business was a material factor in producing the income, the income is considered effectively connected.

Personal Service Income

You are usually engaged in a U.S. trade or business when you perform personal services in the United States. Personal service income you receive in a tax year in which you are engaged in a U.S. trade or business is effectively connected with a U.S. trade or business. Income received in a year other than the year you performed the services is also effectively connected if it would have been effectively connected if received in the year you performed the services. Personal service income includes wages, salaries, commissions, fees, per diem allowances, and employee allowances and bonuses. The income may be paid to you in the form of cash, services, or property.

If you are engaged in a U.S. trade or business only because you perform personal services in the United States during the tax year, income and gains from assets, and gains and losses from the sale or exchange of capital assets, are generally not effectively connected with your trade or business. However, if there is a direct economic relationship between your holding of the asset and your trade or business of performing personal services, the income, gain, or loss is effectively connected.

Pensions. If you performed personal services in the United States after 1986, and in a later tax year, you receive pension or retirement distributions attributable to these services when you are a nonresident alien, such distributions are effectively connected income to the extent attributable to contributions. This is true whether or not you are engaged in a U.S. trade or business in the year you receive the pension or retirement distributions.

Transportation Income

Transportation income (defined in chapter 2) is effectively connected if you meet both of the following conditions.

1. You had a fixed place of business in the United States involved in earning the income.
2. At least 90% of your U.S. source transportation income is attributable to regularly scheduled transportation.

"Fixed place of business" generally means a place, site, structure, or other similar facility through which you engage in a trade or business. "Regularly scheduled transportation" means that a ship or aircraft follows a published schedule with repeated sailings or flights at regular intervals between the same points for voyages or flights that begin or end in the United States. This definition applies to both scheduled and chartered air transportation.

If you do not meet the two conditions above, the income is not effectively connected and is taxed at a 4% rate. See *Transportation Tax*, later in this chapter.

Business Profits and Losses and Sales Transactions

All profits or losses from U.S. sources that are from the operation of a business in the United States are effectively connected with a trade or business in the United States. For example, profit from the sale in the United States of inventory property purchased either in this country or in a foreign country is effectively connected trade or business income. A share of U.S. source profits or losses of a partnership that is engaged in a trade or business in the United States is also effectively connected with a trade or business in the United States.

Real Property Gain or Loss

Gains and losses from the sale or exchange of U.S. real property interests (whether or not they are capital assets) are taxed as if you are engaged in a trade or business in the United States. You must treat the gain or loss as effectively connected with that trade or business.

U.S. real property interest. This is any interest in real property located in the United States or the U.S. Virgin Islands or any interest (other than as a creditor) in a domestic corporation that is a U.S. real property holding corporation. Real property includes the following.

1. Land and unsevered natural products of the land, such as growing crops and timber, and mines, wells, and other natural deposits.
2. Improvements on land, including buildings, other permanent structures, and their structural components.
3. Personal property associated with the use of real property, such as equipment used in farming, mining, forestry, or construction or property used in lodging facilities or rented office space, unless the personal property is:
   a. Disposed of more than 1 year before or after the disposition of the real property, or
   b. Separately sold to persons unrelated either to the seller or to the buyer of the real property.

U.S. real property holding corporation. A corporation is a U.S. real property holding corporation if the fair market value of the corporation's U.S. real property interests are at least 50% of the total fair market value of:

- The corporation's U.S. real property interests; plus
- The corporation's interests in real property located outside the United States; plus
- The corporation's other assets that are used in, or held for use in, a trade or business.

Stock in any domestic corporation is treated as stock in a U.S. real property holding corporation unless you establish that the corporation is not a U.S. real property holding corporation.

Publicly traded exception. A U.S. real property interest does not include a class of stock of a corporation that is regularly traded on an established securities market, unless you hold more than 5% of the fair market value of that class of stock (or more than 10% of that stock in the case of (REITs). An interest in a foreign corporation owning U.S. real property is generally not a U.S. real property interest unless the corporation chooses to be treated as a domestic corporation.

Qualified investment entities (QIEs). Special rules apply to QIEs. A QIE is any REIT or any RIC that is treated as a U.S. real property holding corporation (after applying certain rules in section 897(h)(4)(A)(ii)). See *U.S. Real Property Interest* in *Pub. 515* for more information.

Look-through rule for QIEs. In most cases, any distribution from a QIE to a nonresident alien, foreign corporation, or other QIE that is attributable to the QIE's gain from the sale or exchange of a U.S. real property interest is treated as gain recognized by the nonresident alien, foreign corporation, or other QIE from the sale or exchange of a U.S. real property interest.

Certain exceptions apply to the look-through rule for distributions by QIEs. A distribution by a QIE with respect to stock regularly traded on an established securities market in the United States is not treated as gain from the sale or exchange of a U.S. real property interest if the shareholder owns 5% or less of that stock (or 10% or less of that stock in the case of a REIT) at any time during the 1-year period ending on the date of the distribution.

A distribution made by a REIT is generally not treated as gain from the sale or exchange of a U.S. real property interest if the shareholder is a qualified shareholder (as described in section 897(k)(3)).

A distribution that you do not treat as gain from the sale or exchange of a U.S. real property interest may be included in your gross income as a regular dividend.

Disposition of REIT stock. Dispositions of stock in a REIT that is held directly (or indirectly through one or more partnerships) by a qualified shareholder will not be treated as a U.S. real property interest. See sections 897(k)(2) through (4) for more information.

Domestically controlled QIE. The sale of an interest in a domestically controlled QIE is not the sale of a U.S. real property interest. The entity is domestically controlled if at all times during the testing period less than 50% in value of its stock was held, directly or indirectly, by foreign persons. The testing period is the shorter of the:

- 5-year period ending on the date of disposition, or
- Period during which the entity was in existence.

For the purpose of determining whether a QIE is domestically controlled, the following rules apply.

1. A person holding less than 5% of any class of stock of the QIE, which is regularly traded on an established securities market in the United States at all times during the testing period, would be treated as a U.S. person unless the QIE has actual knowledge that such person is not a U.S. person.
2. Any stock in a QIE that is held by another QIE will be treated as held by a foreign person if:
   a. Any class of stock of such other QIE is regularly traded on an established securities market, or
   b. Such other QIE is a RIC that issues certain redeemable securities.

   Notwithstanding the above, the stock of the QIE will be treated as held by a U.S. person if such other QIE is domestically controlled.
3. Stock in a QIE held by any other QIE not described above will be treated as held by a U.S. person in proportion to the stock of such other QIE that is (or is treated as) held by a U.S. person.

Wash sale. If you dispose of an interest in a domestically controlled QIE in an applicable wash sale transaction, special rules apply. An applicable wash sale transaction is one in which you:

1. Dispose of an interest in the domestically controlled QIE during the 30-day period before the ex-dividend date of a distribution that you would (but for the disposition) have treated as gain from the sale or exchange of a U.S. real property interest; and
2. Acquire, or enter into a contract or option to acquire, a substantially identical interest in that entity during the 61-day period that began on the first day of the 30-day period.

If this occurs, you are treated as having a gain from the sale or exchange of a U.S. real property interest in an amount equal to the distribution that would have been treated as such gain. This also applies to any substitute dividend payment.

A transaction is not treated as an applicable wash sale transaction if:

- You actually receive the distribution from the domestically controlled QIE related to the interest disposed of, or acquired, in the transaction; or
- You dispose of any class of stock in a QIE that is regularly traded on an established securities market in the United States but only if you did not own more than 5% of that class of stock at any time during the 1-year period ending on the date of the distribution.

Alternative minimum tax. There may be a minimum tax on your net gain from the disposition of U.S. real property interests. Figure the amount of this tax, if any, on Form 6251.

Withholding of tax. If you dispose of a U.S. real property interest, the buyer may have to withhold tax. See the discussion of Tax withheld on real property sales in chapter 8.

Gain or Loss of Foreign Persons From the Sale or Exchange of Certain Partnership Interests

If you are a direct or indirect foreign partner in a U.S. or foreign partnership that is engaged (or is treated as engaged) in a trade or business within the United States and you directly or indirectly dispose of that interest, then the gain or loss from the disposition of that partnership interest may affect your federal tax liability. Under section 864(c)(8), your gain or loss from the sale, exchange, or other disposition of that partnership interest is treated as effectively connected with the conduct of a trade or business within the United States ("effectively connected gain" or "effectively connected loss"). However, the amount of effectively connected gain or effectively connected loss is limited to the portion of what your distributive share of effectively connected gain or loss would have been had the partnership sold all of its assets at fair market value as of the date of the disposition.

Section 864(c)(8) applies to sales, exchanges, or other dispositions occurring on or after November 27, 2017. On November 6, 2020, final regulations under section 864(c)(8) were issued applicable to transfers occurring on or after December 26, 2018.

Foreign Income

You must treat three kinds of foreign source income as effectively connected with a trade or business in the United States if:

- You have an office or other fixed place of business in the United States to which the income can be attributed,
- That office or place of business is a material factor in producing the income, and
- The income is produced in the ordinary course of the trade or business carried on through that office or other fixed place of business.

An office or other fixed place of business is a material factor if it significantly contributes to, and is an essential economic element in, the earning of the income.

The three kinds of foreign source income are listed below.

1. Rents and royalties for the use of, or for the privilege of using, intangible personal property located outside the United States or from any interest in such property. Included are rents or royalties for the use, or for the privilege of using, outside the United States, patents, copyrights, secret processes and formulas, goodwill, trademarks, trade brands, franchises, and similar properties if the rents or royalties are from the active conduct of a trade or business in the United States.
2. Dividends, interest, or amounts received for the provision of a guarantee of indebtedness issued after September 27, 2010, from the active conduct of a banking, financing, or similar business in the United States. A substitute dividend or interest payment received under a securities lending transaction or a sale-repurchase transaction is treated the same as the amounts received on the transferred security.
3. Income, gain, or loss from the sale outside the United States, through the U.S. office or other fixed place of business, of:
   a. Stock in trade,
   b. Property that would be included in inventory if on hand at the end of the tax year, or
   c. Property held primarily for sale to customers in the ordinary course of business.

   Item (3) will not apply if you sold the property for use, consumption, or disposition outside the United States and an office or other fixed place of business in a

foreign country was a material factor in the sale.

Any foreign source income that is equivalent to any item of income described above is treated as effectively connected with a U.S. trade or business. For example, foreign source interest and dividend equivalents are treated as U.S. effectively connected income if the income is derived by a foreign person in the active conduct of a banking, financing, or similar business within the United States.

Tax on Effectively Connected Income

Income you receive during the tax year that is effectively connected with your trade or business in the United States is, after allowable deductions, taxed at the rates that apply to U.S. citizens and residents.

Generally, you can receive effectively connected income only if you are a nonresident alien engaged in a trade or business in the United States during the tax year. However, if you receive payments from the sale or exchange of property, the performance of services, or any other transaction during a tax year in which you are not engaged in a U.S. trade or business, but such payments would have been treated as effectively connected income in the year the transaction took place or you performed the services, then they are treated as effectively connected income in the tax year you received them.

Example. Ted Richards entered the United States in August 2020 to perform personal services in the U.S. office of his overseas employer. He worked in the U.S. office until December 25, 2020, but did not leave this country until January 11, 2021. On January 8, 2021, he received his final paycheck for services performed in the United States during 2020. All of Ted's income during his stay here is U.S. source income.

During 2020, Ted was engaged in the trade or business of performing personal services in the United States. Therefore, all amounts paid to him in 2020 for services performed in the United States during 2020 are effectively connected with that trade or business during 2020.

The salary payment Ted received in January 2021 is U.S. source income to him in 2021. It is effectively connected income because he performed the services that earned the income in the United States in 2020 and, therefore, he would have been treated as engaged in a trade or business in the United States during 2020.

Real property income. You may be able to choose to treat all income from real property as effectively connected. See *Income From Real Property*, later in this chapter.

The 30% Tax

Tax at a 30% (or lower treaty) rate applies to certain items of income or gains from U.S. sources but only if the items are not effectively connected with your U.S. trade or business.

Fixed or Determinable Income

The 30% (or lower treaty) rate applies to the gross amount of U.S. source fixed or determinable annual or periodic gains, profits, or income.

Income is fixed when it is paid in amounts known ahead of time. Income is determinable whenever there is a basis for figuring the amount to be paid. Income can be periodic if it is paid from time to time. It does not have to be paid annually or at regular intervals. Income can be determinable or periodic even if the length of time during which the payments are made is increased or decreased.

Items specifically included as fixed or determinable income are interest (other than original issue discount), dividends, dividend equivalent payments (defined in chapter 2), rents, premiums, annuities, salaries, wages, and other compensation. A substitute dividend or interest payment received under a securities lending transaction or a sale-repurchase transaction is treated the same as the amounts received on the transferred security. Other items of income, such as royalties, may also be subject to the 30% tax.

TIP *Some fixed or determinable income may be exempt from U.S. tax. See chapter 3 if you are not sure whether the income is taxable.*

Original issue discount (OID). If you sold, exchanged, or received a payment on a bond or other debt instrument that was issued at a discount, all or part of the OID (other than portfolio interest) may be subject to the 30% tax. The amount of OID is the difference between the stated redemption price at maturity and the issue price of the debt instrument. The 30% tax applies in the following circumstances.

1. You received a payment on a debt instrument. In this case, the amount of OID subject to tax is the OID that accrued while you held the debt instrument minus the OID previously taken into account. But the tax on the OID cannot be more than the payment minus the tax on the interest payment on the debt instrument.
2. You sold or exchanged the debt instrument. The amount of OID subject to tax is the OID that accrued while you held the debt instrument minus the amount already taxed in (1) above.

Report on your return the amount of OID shown on Form 1042-S if you bought the debt instrument at original issue. However, you must recompute your proper share of OID shown on Form 1042-S if any of the following apply.

- You bought the debt instrument at a premium or paid an acquisition premium.
- The debt instrument is a stripped bond or a stripped coupon (including zero coupon instruments backed by U.S. Treasury securities).
- The debt instrument is a contingent payment or inflation-indexed debt instrument.

For the definition of premium and acquisition premium and instructions on how to recompute OID, see *Pub. 1212*.

Gambling Winnings

In general, nonresident aliens are subject to the 30% tax on the gross proceeds from gambling won in the United States if that income is not effectively connected with a U.S. trade or business and is not exempted by treaty. However, no tax is imposed on nonbusiness gambling income a nonresident alien wins playing blackjack, baccarat, craps, roulette, or big-6 wheel in the United States.

Nonresident aliens are taxed at graduated rates on net gambling income won in the United States that is effectively connected with a U.S. trade or business.

Social Security Benefits

A nonresident alien must include 85% of any U.S. social security benefit (and the social security equivalent part of a tier 1 railroad retirement benefit) in U.S. source fixed or determinable annual or periodic income. Social security benefits include monthly retirement, survivor, and disability benefits. This income is exempt under some tax treaties. See Table 1 in the Tax Treaty Tables, available at *IRS.gov/Individuals/International-Taxpayers/Tax-Treaty-Tables* for a list of tax treaties that exempt U.S. social security benefits from U.S. tax. For more information, see *Pub. 915*.

Sales or Exchanges of Capital Assets

These rules apply only to those capital gains and losses from sources in the United States that are not effectively connected with a trade or business in the United States. They apply even if you are engaged in a trade or business in the United States. These rules do not apply to the sale or exchange of a U.S. real property interest or to the sale of any property that is effectively connected with a trade or business in the United States. See *Real Property Gain or Loss*, earlier, under *Effectively Connected Income.*

A capital asset is everything you own except:

- Inventory;
- Business accounts or notes receivable;
- Depreciable property used in a trade or business;
- Real property used in a trade or business;
- Supplies regularly used in a trade or business;
- Certain copyrights, literary or musical or artistic compositions, letters or memoranda, or similar property;
- Certain U.S. Government publications;
- Certain commodities derivative financial instruments held by a commodities derivatives dealer; or
- Hedging transactions.

A capital gain is a gain on the sale or exchange of a capital asset. A capital loss is a loss on the sale or exchange of a capital asset.

If the sale is in foreign currency, for the purpose of determining gain, the cost and selling price of the property should be expressed in U.S. currency at the rate of exchange prevailing as of the date of the purchase and date of the sale, respectively.

You can use *Pub. 544* to determine what is a sale or exchange of a capital asset, or what is treated as such. Specific tax treatment that applies to U.S. citizens or residents generally does not apply to you.

The following gains are subject to the 30% (or lower treaty) rate without regard to the 183-day rule, discussed later.

1. Gains on the disposal of timber, coal, or domestic iron ore with a retained economic interest.
2. Gains on contingent payments received from the sale or exchange of patents, copyrights, and similar property after October 4, 1966.
3. Gains on certain transfers of all substantial rights to, or an undivided interest in, patents if the transfers were made before October 5, 1966.
4. Gains on the sale or exchange of OID obligations.

Gains in (1) are not subject to the 30% (or lower treaty) rate if you choose to treat the gains as effectively connected with a U.S. trade or business. See *Income From Real Property*, later.

183-day rule. If you were in the United States for 183 days or more during the tax year, your net gain from sales or exchanges of capital assets is taxed at a 30% (or lower treaty) rate. For purposes of the 30% (or lower treaty) rate, net gain is the excess of your capital gains from U.S. sources over your capital losses from U.S. sources. This rule applies even if any of the transactions occurred while you were not in the United States.

To determine your net gain, consider the amount of your gains and losses that would be recognized and taken into account only if, and to the extent that, they would be recognized and taken into account if you were in a U.S. trade or business during the year and the gains and losses were effectively connected with that trade or business during the tax year.

In arriving at your net gain, do not take the following into consideration.

- The four types of gains listed earlier.
- The deduction for a capital loss carryover.
- Capital losses in excess of capital gains.
- Exclusion for gain from the sale or exchange of qualified small business stock (section 1202 exclusion).
- Losses from the sale or exchange of property held for personal use. However, losses resulting from casualties or thefts attributable to a federally declared disaster may be deductible on Schedule A (Form 1040-NR). See *Itemized Deductions* in chapter 5.

If you are not engaged in a trade or business in the United States and have not established a tax year for a prior period, your tax year will be the calendar year for purposes of the 183-day rule. Also, you must file your tax return on a calendar year basis.

If you were in the United States for less than 183 days during the tax year, capital gains (other than gains listed earlier) are tax exempt unless they are effectively connected with a trade or business in the United States during your tax year.

Reporting. Report your gains and losses from the sales or exchanges of capital assets that are not effectively connected with a trade or business in the United States on Schedule NEC (Form 1040-NR). Report gains and losses from sales or exchanges of capital assets (including real property) that are effectively connected with a trade or business in the United States on a separate Schedule D (Form 1040) or Form 4797, or both. Attach them to Form 1040-NR.

Income From Real Property

If you have income from real property located in the United States that you own or have an interest in and hold for the production of income, you can choose to treat all income from that property as income effectively connected with a trade or business in the United States. The choice applies to all income from real property located in the United States and held for the production of income and to all income from any interest in such property. This includes income from rents, royalties from mines, oil or gas wells, or other natural resources. It also includes gains from the sale or exchange of timber, coal, or domestic iron ore with a retained economic interest.

You can make this choice only for real property income that is not otherwise effectively connected with your U.S. trade or business.

If you make the choice, you can claim deductions attributable to the real property income and only your net income from real property is taxed.

This choice does not treat a nonresident alien, who is not otherwise engaged in a U.S. trade or business, as being engaged in a trade or business in the United States during the year.

Example. You are a nonresident alien and are not engaged in a U.S. trade or business. You own a single-family house in the United States that you rent out. Your rental income for the year is $10,000. This is your only U.S. source income. As discussed earlier under *The 30% Tax*, the rental income is subject to a tax at a 30% (or lower treaty) rate. You received a Form 1042-S showing that your tenants properly withheld this tax from the rental income. You do not have to file a U.S. tax return (Form 1040-NR) because your U.S. tax liability is satisfied by the withholding of tax.

If you make the choice discussed earlier, you can offset the $10,000 income by certain rental expenses. (See *Pub. 527*.) Any resulting net income is taxed at graduated rates.

If you make this choice, report the rental income and expenses on Schedule E (Form 1040). Enter the net rental income or loss from Schedule E (Form 1040) on Schedule 1 (Form 1040), Part I, line 5. Attach Schedule 1 (Form 1040) and Schedule E (Form 1040) to Form 1040-NR. For the first year you make the choice, also attach the statement discussed next.

Making the choice. Make the initial choice by attaching a statement to your return, or amended return, for the year of the choice. Include the following in your statement.

- That you are making the choice.
- Whether the choice is under section 871(d) (explained earlier) or a tax treaty.
- A complete list of all your real property, or any interest in real property, located in the United States. Give the legal identification of U.S. timber, coal, or iron ore in which you have an interest.
- The extent of your ownership in the property.
- The location of the property.
- A description of any major improvements to the property.
- The dates you owned the property.
- Your income from the property.
- Details of any previous choices and revocations of the real property income choice.

This choice stays in effect for all later tax years unless you revoke it.

Revoking the choice. You can revoke the choice without IRS approval by filing Form 1040-X for the year you made the choice and for later tax years. You must file Form 1040-X within 3 years from the date your return was filed or 2 years from the time the tax was paid, whichever is later. If this time period has expired for the year of choice, you cannot revoke the choice for that year. However, you may revoke the choice for later tax years only if you have IRS approval. For information on how to get IRS approval, see Regulations section 1.871-10(d)(2).

Note. You can file your Form 1040-X electronically beginning with the 2019 tax year. For more information, see *IR-2020-107*.

Transportation Tax

A 4% tax rate applies to transportation income that is not effectively connected because it does not meet the two conditions listed earlier under *Transportation Income*. If you receive transportation income subject to the 4% tax, you should figure the tax and show it on line 23c of Form 1040-NR. Attach a statement to your return that includes the following information (if applicable).

- Your name, TIN, and tax year.
- A description of the types of services performed (whether on or off board).
- Names of vessels or registration numbers of aircraft on which you performed the services.
- Amount of U.S. source transportation income derived from each type of service for each vessel or aircraft for the calendar year.
- Total amount of U.S. source transportation income derived from all types of services for the calendar year.

This 4% tax applies to your U.S. source gross transportation income. This only includes

transportation income that is treated as derived from sources in the United States if the transportation begins or ends in the United States. For transportation income from personal services, the transportation must be between the United States and a U.S. possession. For personal services of a nonresident alien, this only applies to income derived from, or in connection with, an aircraft.

Interrupted Period of Residence

You are subject to tax under a special rule if you interrupt your period of U.S. residence with a period of nonresidence. The special rule applies if you meet all of the following conditions.

1. You were a U.S. resident for a period that includes at least 3 consecutive calendar years.
2. You were a U.S. resident for at least 183 days in each of those years.
3. You ceased to be treated as a U.S. resident.
4. You then again became a U.S. resident before the end of the third calendar year after the end of the period described in (1) above.

Under this special rule, you are subject to tax on your U.S. source gross income and gains on a net basis at the graduated rates applicable to individuals (with allowable deductions) for the period you were a nonresident alien, unless you would be subject to a higher tax under section 871 (rules that normally apply to taxation of a nonresident alien's income, discussed earlier) after taking into account any applicable treaty benefit. For information on how to figure the special tax, see *Expatriation Tax*, later.

Example. John Willow, a citizen of New Zealand, entered the United States on April 1, 2015, as a lawful permanent resident. On August 1, 2017, John ceased to be a lawful permanent resident and returned to New Zealand. During his period of residence, he was present in the United States for at least 183 days in each of 3 consecutive years (2016, 2017, and 2018). He returned to the United States on October 5, 2021, as a lawful permanent resident. He became a resident before the close of the third calendar year (2021) beginning after the end of his first period of residence (August 1, 2018). Therefore, he is subject to tax under the special rule for the period of nonresidence (August 2, 2018, through October 4, 2021) if it is more than the tax that would normally apply to him as a nonresident alien.

Reporting requirements. If you are subject to this tax for any year in the period you were a nonresident alien, you must file Form 1040-NR for that year. The return is due by the due date (including extensions) for filing your U.S. income tax return for the year that you again become a U.S. resident. If you already filed returns for that period, you must file amended returns. You must attach a statement to your return that identifies the source of all of your U.S. and foreign gross income and the items of income subject to this special rule.

Expatriation Tax

The expatriation tax provisions apply to U.S. citizens who have renounced their citizenship and LTRs who have ended their residency. The following section describes the expatriation rules under section 877A, which applies to individuals who expatriated on or after June 17, 2008. See *Expatriation After June 16, 2008*, later. If you expatriated before June 17, 2008, refer to *Expatriation After June 3, 2004, and Before June 17, 2008* in chapter 4 of the 2018 Pub. 519, and the 2018 Instructions for Form 8854.

CAUTION *If you renounced your citizenship or terminated your long-term residency after June 3, 2004, and before June 17, 2008, you will still be considered a U.S. citizen or a U.S. resident for tax purposes until you notify the Department of State or Department of Homeland Security (as applicable) of your expatriation and file Form 8854 with the IRS.*

Long-term resident (LTR) defined. You are an LTR if you were a lawful permanent resident of the United States in at least 8 of the last 15 tax years ending with the year your residency ends. In determining if you meet the 8-year requirement, do not count any year that you are treated as a resident of a foreign country under a tax treaty and do not waive treaty benefits.

Expatriation After June 16, 2008

Expatriation date. Your expatriation date is the date you relinquish U.S. citizenship (in the case of a former citizen) or terminate your long-term residency (in the case of a former U.S. resident).

Former U.S. citizen. You are considered to have relinquished your U.S. citizenship on the earliest of the following dates.

1. The date you renounced U.S. citizenship before a diplomatic or consular officer of the United States (provided that the voluntary renouncement was later confirmed by the issuance of a certificate of loss of nationality).
2. The date you furnished to the State Department a signed statement of voluntary relinquishment of U.S. nationality confirming the performance of an expatriating act (provided that the voluntary relinquishment was later confirmed by the issuance of a certificate of loss of nationality).
3. The date the State Department issued a certificate of loss of nationality.
4. The date that a U.S. court canceled your certificate of naturalization.

Former LTR. You are considered to have terminated your long-term residency on the earliest of the following dates.

1. The date you voluntarily relinquished your lawful permanent resident status by filing Department of Homeland Security Form I-407 with a U.S. consular or immigration officer.
2. The date you became subject to a final administrative order that you abandoned your lawful permanent resident status (or, if such order has been appealed, the date of a final judicial order issued in connection with such administrative order).
3. The date you became subject to a final administrative order for your removal from the United States under the Immigration and Nationality Act.
4. If you were a dual resident of the United States and a country with which the United States has an income tax treaty, the date you began to be treated as a resident of that country under the provisions of the treaty and notified the IRS of that treatment on Forms 8833 and 8854. See *Effect of Tax Treaties* in chapter 1 for more information about dual residents.

Covered expatriate. If you expatriated after June 16, 2008, you are treated as a covered expatriate, and the expatriation rules under section 877A apply to you if you meet any of the following conditions.

1. Your average annual net income tax for the 5 years ending before the date of expatriation or termination of residency is more than the following.
   a. $139,000 if you expatriated or terminated residency in 2008.
   b. $145,000 if you expatriated or terminated residency in 2009 or 2010.
   c. $147,000 if you expatriated or terminated residency in 2011.
   d. $151,000 if you expatriated or terminated residency in 2012.
   e. $155,000 if you expatriated or terminated residency in 2013.
   f. $157,000 if you expatriated or terminated residency in 2014.
   g. $160,000 if you expatriated or terminated residency in 2015.
   h. $161,000 if you expatriated or terminated residency in 2016.
   i. $162,000 if you expatriated or terminated residency in 2017.
   j. $165,000 if you expatriated or terminated residency in 2018.
   k. $168,000 if you expatriated or terminated residency in 2019.
   l. $171,000 if you expatriated or terminated residency in 2020.
   m. $172,000 if you expatriated or terminated residency in 2021.
2. Your net worth is $2 million or more on the date of your expatriation or termination of residency.

3. You fail to certify on Form 8854 that you have complied with all U.S. federal tax obligations for the 5 years preceding the date of your expatriation or termination of residency.

Relief procedures for certain former citizens. If you were a U.S. citizen who expatriated after March 18, 2010, you may be eligible for certain relief procedures that provide an alternative means for satisfying the tax compliance certification process. For more information, see Relief Procedures for Certain Former Citizens, available at *IRS.gov/Individuals/International-Taxpayers/Relief-Procedures-for-Certain-Former-Citizens*.

Exception for dual-citizens and certain minors. Certain dual-citizens and certain minors (defined next) are not subject to the expatriation tax even if they meet (1) or (2) above. However, they must still provide the certification required in (3) above.

Certain dual-citizens. You may qualify for the exception described above if both of the following apply.

- You became at birth a U.S. citizen and a citizen of another country and, as of the expatriation date, you continue to be a citizen of, and are taxed as a resident of, that other country.
- You have been a resident of the United States for not more than 10 years during the 15-year tax period ending with the tax year during which the expatriation occurs. For the purpose of determining U.S. residency, use the substantial presence test described in chapter 1.

Certain minors. You may qualify for the exception described earlier if you meet both of the following requirements.

- You expatriated before you were age 18 1/2.
- You have been a resident of the United States for not more than 10 tax years before the expatriation occurs. For the purpose of determining U.S. residency, use the substantial presence test described in chapter 1.

How To Figure the Expatriation Tax if You Are a Covered Expatriate

In the year you expatriate, you are subject to income tax on the net unrealized gain (or loss) in your property as if the property had been sold for its fair market value on the day before your expatriation date ("mark-to-market tax"). This applies to most types of property interests you held on the date of relinquishment of citizenship or termination of residency. But see *Exceptions*, later.

Gains arising from deemed sales must be taken into account for the tax year of the deemed sale without regard to other U.S. Internal Revenue laws. Losses from deemed sales must be taken into account to the extent otherwise provided under U.S. Internal Revenue laws. However, section 1091 (relating to the disallowance of losses on wash sales of stock and securities) does not apply. The net gain that you must otherwise include in your income is reduced (but not below zero) by the following.

1. $600,000 if you expatriated or terminated residency before January 1, 2009.
2. $626,000 if you expatriated or terminated residency in 2009.
3. $627,000 if you expatriated or terminated residency in 2010.
4. $636,000 if you expatriated or terminated residency in 2011.
5. $651,000 if you expatriated or terminated residency in 2012.
6. $668,000 if you expatriated or terminated residency in 2013.
7. $680,000 if you expatriated or terminated residency in 2014.
8. $690,000 if you expatriated or terminated residency in 2015.
9. $693,000 if you expatriated or terminated residency in 2016.
10. $699,000 if you expatriated or terminated residency in 2017.
11. $711,000 if you expatriated or terminated residency in 2018.
12. $725,000 if you expatriated or terminated residency in 2019.
13. $737,000 if you expatriated or terminated residency in 2020.
14. $744,000 if you expatriated or terminated residency in 2021.

Exceptions. The mark-to-market tax does not apply to the following.

1. Eligible deferred compensation items.
2. Ineligible deferred compensation items.
3. Interests in nongrantor trusts.
4. Specified tax deferred accounts.

Instead, items (1) and (3) may be subject to withholding at source. In the case of item (2), you are treated as receiving the present value of your accrued benefit as of the day before your expatriation date. In the case of item (4), you are treated as receiving a distribution of your entire interest in the account on the day before your expatriation date. See Notice 2009-85 and the Instructions for Form 8854 for more information.

Expatriation Tax Return

You must file an initial Form 8854 in the year you relinquish your U.S. citizenship or terminate your long-term residency, even if you are not a covered expatriate. In addition, you must file a Form 8854 annually after you expatriate if you are a covered expatriate and you:

1. Deferred the payment of mark-to-market tax (see *Deferral of payment of mark-to-market tax*, later),
2. Have an item of eligible deferred compensation, or
3. Have an interest in a nongrantor trust.

Deferral of payment of mark-to-market tax. You can make an irrevocable election to defer payment of the mark-to-market tax imposed on the deemed sale of property. If you make this election, the following rules apply.

1. You can make the election on a property-by-property basis.
2. The deferred tax attributable to a particular property is due on the return for the tax year in which you dispose of the property.
3. Interest is charged for the period the tax is deferred.
4. The due date for the payment of the deferred tax cannot be extended beyond the earlier of the following dates.
   a. The due date of the return required for the year of death.
   b. The time that the security provided for the property fails to be adequate. See item (6) below.
5. You make the election on Form 8854.
6. You must provide adequate security (such as a bond).
7. You must make an irrevocable waiver of any right under any treaty of the United States that would preclude assessment or collection of the mark-to-market tax.

For more information about the deferral of payment, see the Instructions for Form 8854.

5. Figuring Your Tax

Introduction

After you have determined your alien status, the source of your income, and if and how that income is taxed in the United States, your next step is to figure your tax. The information in this chapter is not as comprehensive for resident aliens as it is for nonresident aliens. Resident aliens should get publications, forms, and instructions for U.S. citizens because the information for filing returns for resident aliens is generally the same as for U.S. citizens.

If you are both a nonresident alien and a resident alien in the same tax year, see chapter 6 for a discussion of dual-status aliens.

Topics

This chapter discusses:

- Identification numbers,
- Filing status,
- Deductions,
- Dependents,

- Itemized deductions,
- Tax credits and payments, and
- Special rules for bona fide residents of American Samoa and Puerto Rico.

Useful Items

You may want to see:

Publication

- ❑ **463** Travel, Gift, and Car Expenses
- ❑ **501** Dependents, Standard Deduction, and Filing Information
- ❑ **521** Moving Expenses
- ❑ **526** Charitable Contributions
- ❑ **535** Business Expenses
- ❑ **597** Information on the United States–Canada Income Tax Treaty

Form (and Instructions)

- ❑ **W-7** Application for IRS Individual Taxpayer Identification Number
- ❑ **1040** U.S. Individual Income Tax Return
- ❑ **1040-SR** U.S. Tax Return For Seniors
- ❑ **1040-NR** U.S. Nonresident Alien Income Tax Return
- ❑ **2106** Employee Business Expenses
- ❑ **3903** Moving Expenses
- ❑ **4563** Exclusion of Income for Bona Fide Residents of American Samoa
- ❑ **7202** Credits for Sick Leave and Family Leave for Certain Self-Employed Individuals
- ❑ **8959** Additional Medicare Tax
- ❑ **8990** Limitation on Business Interest Expense Under Section 163(j)

See chapter 12 for information about getting these publications and forms.

Tax Year

You must figure your income and file a tax return on the basis of an annual accounting period called a tax year. If you have not previously established a fiscal tax year, your tax year is the calendar year. A calendar year is 12 consecutive months ending on December 31. If you have previously established a regular fiscal year (12 consecutive months ending on the last day of a month other than December or a 52-53 week year) and are considered to be a U.S. resident for any calendar year, you will be treated as a U.S. resident for any part of your fiscal year that falls within that calendar year.

Identification Number

A taxpayer identification number (TIN) must be furnished on returns, statements, and other tax-related documents. For an individual, this is a social security number (SSN). If you do not have and are not eligible to get an SSN, you must apply for an individual taxpayer identification number (ITIN). An employer identification number (EIN) is required if you are engaged in a trade or business as a sole proprietor and have employees or a qualified retirement plan.

You must furnish a TIN if you are:

- An alien who has income effectively connected with the conduct of a U.S. trade or business at any time during the year;
- An alien who has a U.S. office or place of business at any time during the year;
- A nonresident spouse treated as a resident, as discussed in chapter 1; or
- Any other alien who files a tax return, an amended return, or a refund claim (but not information returns).

Social security number (SSN). Generally, you can get an SSN if you have been lawfully admitted to the United States for permanent residence or under other immigration categories that authorize U.S. employment.

To apply for a new SSN, you must submit Form SS-5 and the required documents in person at your local Social Security Administration (SSA) office. To get Form SS-5, you can download Form SS-5 at *SSA.gov/forms*, call the SSA at 800-772-1213, or go to your local SSA office. For more information, go to *Social Security Number and Card*.

International students. If you have an F-1, M-1, or J-1 visa, see SSA Pub. 05-10181, available at *SSA.gov/Pubs/10181.html*, for more information about the documents you must provide to prove your immigrant status.

Individual taxpayer identification number (ITIN). If you already have an ITIN, enter it wherever an SSN is required on your tax return. If you do not have and are not eligible to get an SSN, you must apply for an ITIN. For details on how to do so, see *Form W-7* and its instructions.

If you qualify for an ITIN and your application is complete, you will receive a letter from the IRS assigning your tax identification number usually within 7 weeks. If you have not received your ITIN or other correspondence 7 weeks after applying, call the IRS toll-free number at 800-829-1040 to request the status of your application if you are in the United States. If you are outside the United States, call 267-941-1000 (not a toll-free number).

An ITIN is for tax use only. It does not entitle you to social security benefits or change your employment or immigration status under U.S. law.

In addition to those aliens who are required to furnish a TIN and are not eligible for an SSN, a Form W-7 must be filed for alien spouses or dependents who qualify for an allowable tax benefit and are not eligible for an SSN.

Additional information on obtaining an ITIN is available in the Instructions for Form W-7 and at *IRS.gov/ITIN*.

Expired ITIN. Some ITINs must be renewed. The following ITINs expired at the end of 2021 and must be renewed if you need to file a federal tax return in 2022.

- An ITIN that hasn't been used on a federal tax return at least once in the last 3 years.
- An ITIN that has the middle digits 88 (for example, 9NN-88-NNNN).
- An ITIN that has the middle digits 90, 91, 92, 94, 95, 96, 97, 98, or 99 (for example, 9NN-95-NNNN) and was assigned before 2013.

You do not need to renew your ITIN if you do not need to file a federal tax return. To renew your ITIN, see Form W-7 and its instructions at *IRS.gov/FormW7*. For more information, go to *IRS.gov/ITIN*.

Employer identification number (EIN). An individual may use an SSN (or ITIN) for individual taxes and an EIN for business taxes. To apply for an EIN, file *Form SS-4* with the IRS.

Filing Status

The amount of your tax depends on your filing status. Your filing status is important in determining whether you can take certain deductions and credits. The rules for determining your filing status are different for resident aliens and nonresident aliens.

Resident Aliens

Resident aliens can use the same filing statuses available to U.S. citizens. See your form instructions or *Pub. 501* for more information on filing status.

Married filing jointly. Generally, you can file as married filing jointly only if both you and your spouse were U.S. citizens or resident aliens for the entire tax year, or if you choose to be a nonresident spouse treated as a resident, as discussed in chapter 1.

Qualifying widow(er). If your spouse died in 2019 or 2020 and you did not remarry before the end of 2021, you may qualify to file as a qualifying widow(er) and use the joint return tax rates. This applies only if you could have filed a joint return with your spouse for the year your spouse died.

For more information on the qualifying widow(er) filing status, see *Qualifying Widow(er)* under *Filing Status* in the 2021 Instructions for Form 1040.

Head of household. You can qualify as head of household if you are unmarried or considered unmarried on the last day of the year and you pay more than half the cost of keeping up a home for you and a qualifying person. You must be a resident alien for the entire tax year.

You are considered unmarried for this purpose if your spouse was a nonresident alien at any time during the year and your spouse doesn't choose to be treated as a resident, as discussed in chapter 1 under *Nonresident Spouse Treated as a Resident*.

Note. Even if you are considered unmarried for head of household purposes because you are married to a nonresident alien, you may still be considered married for purposes of the earned income credit (EIC). In that case, you will not be entitled to the credit. See *Pub. 596* for more information.

Nonresident Aliens

If you are a nonresident alien filing Form 1040-NR, you may be able to use one of the filing statuses discussed later.

Married nonresident alien. Married nonresident aliens who are not married to U.S. citizens or residents must generally use the Tax Table column or the Tax Computation Worksheet for married filing separate returns when determining the tax on income effectively connected with a U.S. trade or business.

Exceptions. Married nonresident aliens normally cannot use the Tax Table column or the Tax Computation Worksheet for single individuals. However, you may be able to file as single if you lived apart from your spouse during the last 6 months of the year and you are a married resident of Canada, Mexico, or South Korea, or are a married U.S. national. See the Instructions for Form 1040-NR to see if you qualify. "U.S. national" is defined later in this section.

A nonresident alien generally cannot file as married filing jointly. 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 on Form 1040 or 1040-SR. For information on these choices, see chapter 1. If you do not make the choice to file jointly, file Form 1040-NR and use the Tax Table column or the Tax Computation Worksheet for married individuals filing separately.

U.S. national. An individual who, although not a U.S. citizen, owes his or her allegiance to the United States is considered a U.S. national. Also, U.S. nationals include American Samoans and Northern Mariana Islanders who choose to become U.S. nationals instead of U.S. citizens.

Qualifying widow(er). You may be eligible to file as a qualifying widow(er) and use the joint return tax rates.

For more information on the qualifying widow(er) filing status, see *Qualifying Widow(er)* under *Filing Status* in the 2021 Instructions for Form 1040-NR.

Head of household. You cannot file as head of household if you are a nonresident alien at any time during the tax year. However, if you are married, your spouse can qualify as a head of household if:

- Your spouse is a resident alien or U.S. citizen for the entire tax year;
- You do not choose to be treated as a resident alien; and
- Your spouse meets the other requirements for this filing status, as discussed earlier under *Resident Aliens*.

Note. Even if your spouse is considered unmarried for head of household purposes because you are a nonresident alien, your spouse may still be considered married for purposes of the EIC. In that case, your spouse will not be entitled to the credit. See *Pub. 596* for more information.

Estates and trusts. A nonresident alien estate or trust using Form 1040-NR must use the Tax Rate Schedule W in the Form 1040-NR instructions when determining the tax on income effectively connected with a U.S. trade or business.

Special rules for aliens from certain U.S. possessions. A nonresident alien who is a bona fide resident of American Samoa or Puerto Rico for the entire tax year and who is temporarily working in the United States should see *Bona Fide Residents of American Samoa or Puerto Rico* at the end of this chapter for information about special rules.

Reporting Your Income

You must report each item of income that is taxable according to the rules in chapters 2, 3, and 4. For resident aliens, this includes income from sources both within and outside the United States. For nonresident aliens, this includes both income that is effectively connected with a trade or business in the United States (subject to graduated tax rates) and income from U.S. sources that is not effectively connected (subject to a flat 30% tax rate or lower tax treaty rate).

Deductions

Resident and nonresident aliens can claim similar deductions on their U.S. tax returns. However, nonresident aliens can generally claim only deductions related to income that is effectively connected with their U.S. trade or business.

Resident Aliens

You can claim the same deductions allowed to U.S. citizens if you are a resident alien for the entire tax year. While the discussion under *Nonresident Aliens*, later, contains some of the same general rules and guidelines that apply to you, it is specifically directed toward nonresident aliens. You should get the Instructions for Form 1040 for more information on how to claim your allowable deductions.

Nonresident Aliens

You can claim deductions to figure your effectively connected taxable income. You generally cannot claim deductions related to income that is not connected with your U.S. business activities. Except for certain itemized deductions, discussed later, you can claim deductions only to the extent they are connected with your effectively connected income.

Ordinary and necessary business expenses. You can deduct all ordinary and necessary expenses in the operation of your U.S. trade or business to the extent they relate to income effectively connected with that trade or business. For information about other business expenses, see *Pub. 535*.

Qualified business income deduction. If you have income effectively connected with a U.S. trade or business, you may be able to deduct up to 20% of your qualified business income from your qualified trade or business, plus 20% of your qualified REIT dividends and qualified publicly traded partnership (PTP) income. For more information, see *Line 13a* in the Instructions for Form 1040-NR.

For more information on the qualified business income deduction, see Form 8995, Form 8995-A and its schedules, and the related instructions for the forms and schedules.

Losses. You can deduct losses resulting from transactions that you entered into for profit and that you were not reimbursed for by insurance, etc., to the extent that they relate to income that is effectively connected with a trade or business in the United States.

Note. For tax years 2018, 2019, and 2020, the Coronavirus Aid, Relief, and Economic Security (CARES) Act repealed the limitation on business losses under section 461(l). There is generally no limit on the deduction of your business losses for 2020. If you filed a 2018 or 2019 tax return with a limitation on your business losses, you can file an amended tax return to use the losses to reduce your income.

Beginning in 2021, and before 2026, you may not deduct excess business losses. For 2021, an excess business loss is the amount of losses from trades or businesses of a noncorporate taxpayer that is more than the threshold amount of $262,000 ($524,000 for married taxpayers filing a joint return).

Educator expenses. If you were an eligible educator in 2021, you can deduct as an adjustment to income up to $250 in unreimbursed qualified expenses you paid or incurred during 2021 for certain professional development courses, and for books, supplies (other than nonathletic supplies for courses of instruction in health or physical education), computer equipment (including related software and services), and other supplementary equipment and materials you use in the classroom. For more information, see your tax form instructions.

TIP *Qualified expenses include amounts paid or incurred in 2021 for personal protective equipment, disinfectant, and other supplies used for the prevention of the spread of coronavirus.*

Individual retirement arrangement (IRA). If you made contributions to a traditional IRA for 2021, you may be able to take an IRA deduction. But you must have taxable compensation effectively connected with a U.S. trade or business to do so. A Form 5498 should be sent to you by June 1, 2022, that shows all contributions to your traditional IRA for 2021. If you were covered by a retirement plan (qualified pension, profit-sharing (including 401(k)), annuity, SEP, SIMPLE, etc.) at work or through self-employment, your IRA deduction may be reduced or eliminated. But you can still make contributions to a traditional IRA even if you cannot deduct them. If you made nondeductible contributions to a traditional IRA for 2021, you must report them on Form 8606.

For more information, see *Pub. 590-A*.

Moving expenses. The deduction for moving expenses is only available if you are a member of the U.S. Armed Forces on active duty and,

due to a military order, you move because of a permanent change of station. For more information, see *Pub. 3*. If you qualify, use Form 3903 to figure the amount to deduct.

Services or reimbursements provided by government to members of the U.S. Armed Forces. Do not include in income the value of moving and storage services provided by the government because of a move pursuant to a military order incident to a permanent change of station. Similarly, do not include in income amounts received as a dislocation allowance, temporary lodging expense, temporary lodging allowance, or move-in housing allowance. For more information, see *Pub. 3*.

Self-employed SEP, SIMPLE, and qualified retirement plans. If you are self-employed, you may be able to deduct contributions to a SEP, SIMPLE, or qualified retirement plan that provides retirement benefits for yourself and your common-law employees, if any. To make deductible contributions for yourself, you must have net earnings from self-employment that are effectively connected with your U.S. trade or business.

Get *Pub. 560* for further information.

Penalty on early withdrawal of savings. You must include in income all effectively connected interest income you receive or that is credited to your account during the year. Do not reduce it by any penalty you must pay on an early withdrawal from a time savings account. However, if the interest income is effectively connected with your U.S. trade or business during the year, you can deduct on line 17 of Schedule 1 (Form 1040) the amount of the early withdrawal penalty that the banking institution charged. Attach Schedule 1 (Form 1040) to your Form 1040-NR.

Student loan interest deduction. If you paid interest in 2021 on a qualified student loan, you may be able to deduct up to $2,500 of the interest you paid. Generally, you can claim the deduction if all the requirements are met.

The deduction is taken on line 20 of Schedule 1 (Form 1040). Attach Schedule 1 (Form 1040) to your Form 1040-NR.

To figure the deduction, see the Instructions for Form 1040-NR. For more information, see *Pub. 970*.

Charitable contributions. If you are a student or business apprentice from India who is eligible to claim the standard deduction under Article 21(2) of the United States–India Income Tax Treaty, you may be able to take a charitable contribution deduction of up to $300 for 2021. For more details, see the instructions for line 10b of Form 1040 or Form 1040-NR.

Dependents

Resident aliens can claim their dependents in the same way as U.S. citizens. However, only nonresident aliens who are U.S. nationals; residents of Canada, Mexico, and South Korea; or residents of India who were students or business apprentices can have a qualifying dependent. See *Nonresident Aliens*, later.

In general, a dependent is a **qualifying child** or a **qualifying relative**. However, the following exceptions apply.

1. An individual who is a dependent of a taxpayer is treated as having no dependents.
2. An individual who files a joint return is not a dependent if the individual files a joint return, unless the joint return is filed only to claim a refund of estimated or withheld taxes.
3. An individual claimed as a dependent must be a citizen, national, or resident of the United States, or a resident of Canada or Mexico.

You must show the SSN (or ITIN) of any dependent you list in the *Dependents* section of your Form 1040-NR.

CAUTION *If you do not show the dependent's SSN (or ITIN) when required or if you show an incorrect SSN, certain tax benefits may be disallowed. See* Identification Number*, earlier.*

Resident Aliens

If you are a resident alien, a qualifying dependent includes your qualifying child or qualifying relative. Five tests must be met for a child to be your qualifying child. Four tests must be met for a person to be your qualifying relative. For more information, see the Instructions for Form 1040.

You must show the SSN (or ITIN) of any dependent you list in the *Dependents* section of your Form 1040 or 1040-SR.

CAUTION *If you do not show the dependent's SSN (or ITIN) when required or if you show an incorrect SSN, certain tax benefits may be disallowed. See* Identification Number*, earlier.*

Nonresident Aliens

See *Pub. 501* for more information.

Residents of Mexico or Canada, or U.S. nationals. If you are a resident of Mexico or Canada, or a national of the United States, you can claim each of your dependents who meets certain tests. Residents of Mexico or Canada, or nationals of the United States, must use the same rules as U.S. citizens to determine who is a dependent. See *Pub. 501* for these rules.

Residents of South Korea. A nonresident alien who is a resident of South Korea (other than an employee of the South Korean government) may be able to claim his or her child as a qualifying dependent. In addition to using the same rules as U.S. citizens to determine who is a dependent, under the income tax treaty with South Korea, the child must have lived with the nonresident alien in the United States at some time during the tax year.

Students and business apprentices from India. Students and business apprentices who are eligible for the benefits of Article 21(2) of the United States-India Income Tax Treaty can claim their dependents if they meet the same rules that apply to U.S. citizens.

Itemized Deductions

Nonresident aliens can claim some of the same itemized deductions that resident aliens can claim. However, nonresident aliens can claim itemized deductions only if they have income effectively connected with their U.S. trade or business.

There may be limitations that impact the amount of itemized deductions you can claim on Schedule A. See the Instructions for Schedule A (Form 1040) or *Instructions for Schedule A, Itemized Deductions* in the Instructions for Form 1040-NR.

Resident Aliens

You can claim the same itemized deductions as U.S. citizens using Schedule A (Form 1040). See the Instructions for Schedule A (Form 1040) for more information.

If you do not itemize your deductions, you can claim the standard deduction for your particular filing status. For further information, see the Instructions for Form 1040.

Nonresident Aliens

You can deduct certain itemized deductions if you receive income effectively connected with your U.S. trade or business. You can generally only include deductions and losses that are properly allocated and apportioned to income effectively connected with a U.S. trade or business. You cannot include deductions and/or losses that relate to exempt income or to income that is not effectively connected with a U.S. trade or business. However, you can deduct certain charitable contributions and casualty and theft losses even if they do not relate to your effectively connected income. Use Schedule A (Form 1040-NR) to claim itemized deductions. See the Instructions for Form 1040-NR for more information.

Standard deduction. Nonresident aliens cannot claim the standard deduction. However, there is a special rule, described next, for certain nonresident aliens from India.

Students and business apprentices from India. A special rule applies to students and business apprentices who are eligible for the benefits of Article 21(2) of the United States-India Income Tax Treaty. You can claim the standard deduction, provided you do not claim itemized deductions.

Use Worksheet 5-1 to figure your standard deduction for 2021. If you are married and your spouse files a return and itemizes deductions, you cannot take the standard deduction.

Disaster tax relief. If you are a student or business apprentice eligible for the benefits of Article 21(2) of the United States-India Income Tax Treaty who was affected by certain major federally declared disasters in 2021 (see *IRS.gov/DisasterTaxRelief* and *FEMA.gov/Disasters*), you may be able to elect to increase

Worksheet 5-1. **2021 Standard Deduction Worksheet for Students and Business Apprentices From India** *Keep for Your Records*

Caution. If you are married filing a separate return and your spouse itemizes deductions, do not complete this worksheet. You cannot take the standard deduction even if you were born before January 2, 1957, or are blind.

1. Enter the amount shown below for your filing status.
   - Single or married filing separately—$12,550
   - Qualifying widow(er)—$25,100 . . . . . **1.** _____
2. Can you be claimed as a dependent on someone else's U.S. income tax return?
   - ☐ **No.** Enter the amount from line 1 on line 4. Skip line 3 and go to line 5.
   - ☐ **Yes.** Go to line 3.
3. Is your **earned income*** more than $750?
   - ☐ **Yes.** Add $350 to your earned income. Enter the total.
   - ☐ **No.** Enter $1,100 . . . . . **3.** _____
4. Enter the **smaller** of line 1 or line 3 . . . . . **4.** _____
5. If born before January 2, 1957, OR blind, enter $1,300 ($1,700 if single). If born before January 2, 1957, AND blind, enter $2,600 ($3,400 if single). Otherwise, enter -0- . . . . . **5.** _____
6. Enter any net disaster loss from the 2021 Form 4684, line 15 . . . . . **6.** _____
7. Add lines 4, 5, and 6. Enter the total here and on Form 1040-NR, line 12a. Enter "Standard Deduction Allowed Under U.S.-India Income Tax Treaty" in the space to the left of these lines. **This is your standard deduction for 2021** . . . . . **7.** _____

**** Earned income*** includes wages, salaries, tips, professional fees, and other compensation received for personal services you performed. It also includes any amount received as a scholarship that you must include in your income. Generally, your earned income is the total of the amount(s) you reported on Form 1040-NR, lines 1a and 1b, plus Schedule 1 (Form 1040), lines 3 and 6, minus Form 1040-NR, line 10c, and Schedule 1 (Form 1040), line 14.

your standard deduction by any qualified disaster-related personal casualty losses on your 2021 tax return. Use Worksheet 5-1 to calculate your standard deduction for 2021. See the 2021 Form 4684 and its instructions for more information on the tax benefits for qualified disaster-related personal casualty losses.

State and local income taxes. You can deduct state and local income taxes you paid on income that is effectively connected with a trade or business in the United States. Your deduction is limited to a combined, total deduction of $10,000 ($5,000 if married filing separately). If you received a refund or rebate in 2021 of taxes you paid in an earlier year, do not reduce your deduction by that amount. Instead, you must include the refund or rebate in income if you deducted the taxes in the earlier year and the deduction reduced your tax. See *Recoveries* in *Pub. 525* for details on how to figure the amount to include in income.

Charitable contributions. You can deduct your charitable contributions or gifts to qualified organizations subject to certain limits. Qualified organizations include organizations that are religious, charitable, educational, scientific, or literary in nature, or that work to prevent cruelty to children or animals. Certain organizations that promote national or international amateur sports competition are also qualified organizations.

For more information on deducting charitable contributions, see *Gifts to U.S. Charities* under *Instructions for Schedule A, Itemized Deductions* in the Instructions for Form 1040-NR.

Foreign organizations. Contributions made directly to a foreign organization are not deductible. However, you can deduct contributions to a U.S. organization that transfers funds to a charitable foreign organization if the U.S. organization controls the use of the funds or if the foreign organization is only an administrative arm of the U.S. organization.

Under a limited number of income tax treaties, you may be eligible to deduct contributions to a charitable foreign organization. See *Pub. 526* for details.

Casualty and theft losses. You may be able to deduct casualty and theft losses on your tax return.

CAUTION *You can only deduct a nonbusiness casualty or theft loss if it is attributable to a federally declared disaster.*

If your casualty or theft loss is attributable to a federally declared disaster, you can deduct your loss even though your property is not connected with a U.S. trade or business. The property can be personal-use property or income-producing property not connected with a U.S. trade or business. The property must be located in the United States at the time of the casualty or theft. You can deduct theft losses only in the year in which you discover the loss. Use Form 4684 and its instructions to figure your deductible casualty and theft losses. For more information, see *Pub. 547*.

Other itemized deductions. You may be allowed to deduct some other itemized deductions not discussed earlier. These include the following.

- Net qualified disaster losses.
- Casualty and theft losses of income-producing property.
- Deduction for repayment of amounts under a claim of right if over $3,000. See *Pub. 525* for details.
- Certain unrecovered investment in a pension.
- Impairment-related work expenses of a disabled person.

For more information, see the instructions for line 7 under *Instructions for Schedule A, Itemized Deductions* in the Instructions for Form 1040-NR. Also see *Pub. 529*.

Net qualified disaster losses. See the Instructions for Form 4684 for more information on net qualified disaster losses. To determine if you were affected by a major federally declared disaster, go to *IRS.gov/DisasterTaxRelief*.

Losses from income-producing property. These losses are not subject to the limitations that apply to personal-use property. Use Section B of Form 4684 to figure your deduction for these losses.

Tax Credits and Payments

This discussion covers tax credits and payments for resident aliens, followed by a discussion of the credits and payments for nonresident aliens.

Resident Aliens

Resident aliens generally claim tax credits and report tax payments, including withholding, using the same rules that apply to U.S. citizens.

The following items are some of the credits you may be able to claim.

Foreign tax credit. You can claim a credit, subject to certain limits, for income tax you paid or accrued to a foreign country on foreign source income. You cannot claim a credit for taxes paid or accrued on excluded foreign earned income. To claim a credit for income taxes paid or accrued to a foreign country, you will generally file Form 1116 with your Form 1040 or 1040-SR.

For more information, see *Pub. 514*.

Child and dependent care credit. You may be able to take this credit if you pay someone to care for your dependent qualifying child who is under age 13, or your disabled dependent or disabled spouse, so that you can work or look for work.

For more information, see Form 2441 and *Pub. 503*.

Credit for the elderly or the disabled. You may qualify for this credit if you are age 65 or older or if you retired on permanent and total disability. For more information on this credit, see *Pub. 524* and Schedule R (Form 1040).

Credits for certain self-employed individuals. You may be eligible for certain income tax credits if you are an eligible self-employed individual and were unable to work from January 1, 2021, through March 31, 2021, due to COVID-19. Both credits are calculated and reported on the Form 7202.

Note. The COVID-related Tax Relief Act of 2020 amended the FFCRA to extend the periods of leave for which employers may continue to claim tax credits for providing such leave starting from January 1, 2021, through March 31, 2021, although the requirement that employers provide the leave still expired on December 31, 2020.

Credit for sick leave for certain self-employed individuals. You may be entitled to claim the credit for sick leave if you were unable to perform services as a self-employed individual because of certain coronavirus-related care:

1. You required, and/or
2. You provided to another.

For more information, see Form 7202, Part I, and its instructions.

Credit for family leave for certain self-employed individuals. You may be entitled to claim the credit for family leave if you were unable to perform services as a self-employed individual because of certain coronavirus-related care you provided to a son or daughter under the age of 18. For more information, see Form 7202, Part II, and its instructions.

Extension and expansion of credits for sick and family leave. The ARP provides that certain self-employed individuals can claim credits for up to 10 days of "paid sick leave," and up to 60 days of "paid family leave," if they are unable to work or telework due to circumstances related to coronavirus. Self-employed individuals may claim these credits for the period beginning on April 1, 2021, and ending September 30, 2021. For more information, go to *IRS.gov/Form7202*.

Education credits. You may qualify for these credits if you paid qualified education expenses for yourself, your spouse, or your dependent. There are two education credits: the American opportunity credit and the lifetime learning credit. You cannot claim these credits if you are married filing separately. Use Form 8863 to figure the credit. For more information, see *Pub. 970*.

Nonresident aliens, see *Education credits* under *Nonresident Aliens*, later.

Retirement savings contributions credit. You may qualify for this credit (also known as the saver's credit) if you made eligible contributions to an employer-sponsored retirement plan or to an IRA in 2021. Use Form 8880 and its instructions to figure the credit. For more information about the requirements to claim the credit, see *Pub. 590-A*.

Child tax credit and the additional child tax credit. You may be able to take these credits if you have a qualifying child under the age of 18 and meet other requirements. The maximum amount of the credit per qualifying child is $3,600 for a qualifying child under age 6 and up to $3,000 for a qualifying child over age 5 and under age 18. The enhanced credit amount begins to phase out where modified adjusted gross income exceeds $150,000 in the case of a qualifying widow(er) and $75,000 in all other cases. If you lived in the United States for more than half the year, the child tax credit will be fully refundable even if you don't have earned income. If you don't meet this residency requirement, your child tax credit will be a combination of a nonrefundable child tax credit and a refundable additional child tax credit, as was the case in 2020. The credit for other dependents has not been enhanced and is figured as it was in 2020.

"Qualifying child," for purposes of the child tax credit and the additional child tax credit, is a child who:

- Was under age 18 at the end of 2021;
- Is your son, daughter, stepchild, eligible foster child, brother, sister, stepbrother, stepsister, half brother, half sister, or a descendant of any of them (for example, your grandchild, niece, or nephew);
- Is a U.S. citizen, U.S. national, or resident alien;
- Did not provide over half of his or her own support for 2021;
- Lived with you more than half of 2021 (temporary absences, such as for school, vacation, or medical care, count as time lived in the home);
- Is claimed as a dependent on your return; and
- Does not file a joint return for the year (or files it only to claim a refund of withheld income tax or estimated tax paid).

An adopted child is always treated as your own child. An adopted child includes a child lawfully placed with you for legal adoption.

If you did not have an SSN (or ITIN) issued on or before the due date of your 2021 return (including extensions), you cannot claim the child tax credit on either your original or an amended 2021 return.

If your child did not have an SSN valid for employment issued before the due date of the 2021 return (including extensions), you cannot claim the child tax credit for this child but may be able to claim the credit for other dependents for this child. See *Credit for other dependents*, discussed below.

Use the Child Tax Credit and Credit for Other Dependents Worksheet in the Instructions for Form 1040, and Schedule 8812 (Form 1040) to figure the credits. For more information, see *Pub. 972*.

Election to use prior year earned income. You may elect to use your 2020 earned income to figure your additional child tax credit if your 2020 earned income is more than your 2021 earned income. See the Instructions for Form 1040, and the Instructions for Schedule 8812 for more information.

Credit for other dependents. The credit for other dependents is for people who have dependents who cannot be claimed for the child tax credit. The qualifying dependent must be a U.S. citizen, U.S. national, or U.S. resident alien and must have an SSN, ITIN, or adoption taxpayer identification number (ATIN) issued on or before the due date of your 2021 return (including extensions). See the Child Tax Credit and Credit for Other Dependents Worksheet in the Instructions for Form 1040.

Adoption credit. You may qualify to take a tax credit of up to $14,440 for qualifying expenses paid to adopt an eligible child. This amount may be allowed for the adoption of a child with special needs regardless of whether you have qualifying expenses. To claim the adoption credit, file Form 8839 with your Form 1040 or 1040-SR.

Earned income credit (EIC). The EIC, or earned income tax credit (EITC), is a benefit for working people with low to moderate income. To qualify for the EIC, you must have earned income from working for someone or from running or owning a business or farm and meet basic rules. Also, you must either meet additional rules for workers without a qualifying child or have a child who meets all the qualifying child rules. The EIC reduces the amount of tax you owe and may give you a refund. For more information, go to *IRS.gov/EIC*.

If you did not have an SSN issued on or before the due date of the 2021 return (including extensions), you cannot claim the EIC on either your original or an amended 2021 return. Also, if a child did not have an SSN issued on or before the due date of your return (including extensions), you cannot count that child as a qualifying child in figuring the EIC on either your original or an amended 2021 return.

CAUTION *If a social security card has a legend that says "Not Valid for Employment" and the number was issued so that you*

(or your spouse or your qualifying child) could receive a federally funded benefit, you cannot claim the EIC. An example of a federally funded benefit is Medicaid. If a card has this legend and the individual's immigration status has changed so that the individual is now a U.S. citizen or lawful permanent resident, ask the SSA to issue a new social security card without the legend.

To find out if you are eligible for the EIC, go to *IRS.gov/EITCAssistant*.

Election to use prior year earned income. You may elect to use your 2020 earned income to figure your EIC if your 2020 earned income is more than your 2021 earned income. See the Instructions for Form 1040 and *Pub. 596* for more information.

Other information. There are other eligibility rules that are not discussed here. For more information, see *Pub. 596*.

Nonresident Aliens

You can claim some of the same credits that resident aliens can claim. You can also report certain taxes you paid, are considered to have paid, or that were withheld from your income.

Credits

Credits are allowed only if you receive effectively connected income. You may be able to claim some of the following credits.

Foreign tax credit. If you receive foreign source income that is effectively connected with a trade or business in the United States, you can claim a credit for any income taxes paid or accrued to any foreign country or U.S. possession on that income.

If you do not have foreign source income effectively connected with a U.S. trade or business, you cannot claim credits against your U.S. tax for taxes paid or accrued to a foreign country or U.S. possession.

You cannot take any credit for taxes imposed by a foreign country or U.S. possession on your U.S. source income if those taxes were imposed only because you are a citizen or resident of the foreign country or possession.

If you claim a foreign tax credit, you will generally have to attach to your return a Form 1116. See *Pub. 514* for more information.

Child and dependent care credit. You may qualify for this credit if you pay someone to care for your dependent qualifying child who is under age 13, or your disabled dependent or disabled spouse, so that you can work or look for work. For definitions of these terms, see *Pub. 503*.

Married nonresident aliens can claim the credit only if they choose to file a joint return with a U.S. citizen or resident spouse as discussed in *How To Make the Choice* in chapter 1, or if they qualify as certain married individuals living apart (see *Joint Return Test* in *Pub. 503*).

The amount of your child and dependent care expense that qualifies for the credit in any tax year cannot be more than your earned income from the United States for that tax year. Earned income generally means wages, salaries, and professional fees for personal services performed.

For more information, see *Pub. 503*.

Education credits. If you are a nonresident alien for any part of the year, you generally cannot claim the education credits. However, you may be able to claim an education credit under the following circumstances.

1. You are married and choose to file a joint return with a U.S. citizen or resident spouse as discussed under *Nonresident Spouse Treated as a Resident* in chapter 1.
2. You are a dual-status alien, and choose to be treated as a U.S. resident for the entire year. See *Choosing Resident Alien Status* in chapter 1.

Additional information on the American opportunity tax credit is available at *IRS.gov/AOTC*.

Retirement savings contributions credit. You may qualify for this credit (also known as the saver's credit) if you made eligible contributions to an employer-sponsored retirement plan or to an individual retirement arrangement (IRA) in 2021. You cannot claim this credit if:

- You were born after January 1, 2003;
- You were a full-time student;
- You were claimed as a dependent on someone else's 2021 tax return; or
- Your adjusted gross income is more than $32,500.

Use Form 8880 to figure the credit. For more information, see *Pub. 590-A*.

Child tax credit and the additional child tax credit. You may be able to take these credits if you have a qualifying child under the age of 18 and meet other requirements. The maximum amount of the credit per qualifying child is $3,600 for a qualifying child under age 6 and up to $3,000 for a qualifying child over age 5 and under age 18.

CAUTION *Only nonresident aliens who are U.S. nationals; residents of Canada, Mexico, or South Korea; or students and business apprentices from India who qualify for benefits under Article 21(2) of the income tax treaty with India can claim the child tax credit.*

"Qualifying child," for purposes of the child tax credit and the additional child tax credit, is a child who:

- Was under age 18 at the end of 2021;
- Is your son, daughter, stepchild, eligible foster child, brother, sister, stepbrother, stepsister, half brother, half sister, or a descendant of any of them (for example, your grandchild, niece, or nephew);
- Is a U.S. citizen, U.S. national, or resident alien;
- Did not provide over half of his or her own support for 2021;
- Lived with you more than half of 2021 (temporary absences, such as for school, vacation, or medical care, count as time lived in the home);
- Is claimed as a dependent on your return; and
- Does not file a joint return for the year (or files it only to claim a refund of withheld income tax or estimated tax paid).

An adopted child is always treated as your own child. An adopted child includes a child lawfully placed with you for legal adoption.

If you did not have an SSN (or ITIN) issued on or before the due date of your 2021 return (including extensions), you may not claim the child tax credit on either your original or an amended tax return.

If your child did not have an SSN valid for employment issued before the due date of the 2021 return (including extensions), you cannot claim the child tax credit for this child but may be able to claim the credit for other dependents for this child. See *Credit for other dependents*, discussed below.

Use the Child Tax Credit and Credit for Other Dependents Worksheet in the Instructions for Forms 1040 and 1040-SR, and Schedule 8812 (Form 1040) to figure the credits. For more information, see *Pub. 972*.

Election to use prior year earned income. You may elect to use your 2020 earned income to figure your additional child tax credit if your 2020 earned income is more than your 2021 earned income. See the Instructions for Form 1040 and the Instructions for Schedule 8812 for more information.

Credit for other dependents. Dependents who cannot be claimed for the child tax credit may still qualify you for the credit for other dependents. This is a nonrefundable tax credit of $500 per qualifying person. The qualifying dependent must be a U.S. citizen, U.S. national, or U.S. resident alien. See the Child Tax Credit and Credit for Other Dependents Worksheet for Form 1040-NR, in the Instructions for Form 1040-NR. To claim the credit for other dependents, your dependent must have an SSN, ITIN, or ATIN issued on or before the due date of your 2021 return (including extensions).

CAUTION *Only nonresident aliens who are U.S. nationals; residents of Canada, Mexico, or South Korea; or students and business apprentices from India who qualify for benefits under Article 21(2) of the income tax treaty with India can claim the credit for other dependents.*

Adoption credit. You may qualify to take a tax credit of up to $14,440 for qualifying expenses paid to adopt an eligible child. This amount may be allowed for the adoption of a child with special needs regardless of whether you have qualifying expenses. To claim the adoption credit, file Form 8839 with your Form 1040-NR.

Married nonresident aliens can claim the credit only if they choose to file a joint return with a citizen or resident spouse, as discussed in *Nonresident Spouse Treated as a Resident* in chapter 1, or if they qualify as certain married individuals living apart (see *Married Persons Not Filing Jointly* in the Form 8839 instructions).

Credit for prior-year alternative minimum tax. If you paid alternative minimum tax in a prior year, get Form 8801 to see if you qualify for this credit.

Earned income credit (EIC). If you are a nonresident alien for any part of the tax year, you generally cannot get the EIC. However, if you are married and choose to file a joint return with a U.S. citizen or resident spouse, as discussed in *Nonresident Spouse Treated as a Resident* in chapter 1, you may be eligible for the credit.

You and your spouse (if filing a joint return) and any qualifying child must have valid SSNs to claim the EIC. You cannot claim the EIC using an ITIN.

If you did not have an SSN issued on or before the due date of the 2021 return (including extensions), you cannot claim the EIC on either your original or an amended 2021 return. Also, if a child did not have an SSN issued on or before the due date of your return (including extensions), you cannot count that child as a qualifying child in figuring the EIC on either your original or an amended 2021 return.

CAUTION *If a social security card has a legend that says "Not Valid for Employment" and the number was issued so that you (or your spouse or your qualifying child) could receive a federally funded benefit, you cannot claim the EIC. An example of a federally funded benefit is Medicaid. If a card has this legend and the individual's immigration status has changed so that the individual is now a U.S. citizen or lawful permanent resident, ask the SSA to issue a new social security card without the legend.*

See *Pub. 596* for more information on the credit.

Credits for certain self-employed individuals. Sections 7002 and 7004 of the Families First Coronavirus Response Act created two credits against income tax for eligible self-employed individuals who were unable to work during the period April 1, 2020, through December 31, 2020, due to conditions related to the coronavirus. Both credits are calculated and reported on the new Form 7202.

Note. The COVID related Tax Relief Act of 2020 amended the FFCRA to extend the periods of leave for which employers may continue to claim tax credits for providing such leave starting from January 1, 2021, through March 31, 2021, although the requirements that employers provide the leave still expired on December 31, 2020.

Credit for sick leave for certain self-employed individuals. You may be entitled to claim the credit for sick leave if you were unable to perform services as a self-employed individual because of certain coronavirus-related care:

1. You required, and/or
2. You provided to another.

For more information, see new Form 7202, Part I, and its instructions.

Credit for family leave for certain self-employed individuals. You may be entitled to claim the credit for family leave if you were unable to perform services as a self-employed individual because of certain coronavirus-related care you provided to a son or daughter under the age of 18. For more information, see new Form 7202, Part II, and its instructions.

Tax Withheld

You can claim the tax withheld during the year as a payment against your U.S. tax. You claim it on lines 25a through 25g of Form 1040-NR. The tax withheld reduces any tax you owe with Form 1040-NR.

Withholding from wages. Any federal income tax withheld from your wages during the tax year while you were a nonresident alien is allowed as a payment against your U.S. income tax liability for the same year. You can claim the income tax withheld whether or not you were engaged in a trade or business in the United States during the year, and whether or not the wages (or any other income) were connected with a trade or business in the United States.

Excess social security tax withheld. If you have two or more employers, you may be able to claim a credit against your U.S. income tax liability for social security tax withheld in excess of the maximum required. See *Social Security and Medicare Taxes* in chapter 8 for more information.

Additional Medicare Tax. Your employer is responsible for withholding the 0.9% (0.009) Additional Medicare Tax on Medicare wages or Railroad Retirement Tax Act (RRTA) compensation it pays to you in excess of $200,000 in 2021. If you do not owe Additional Medicare Tax, you can claim a credit for any withheld Additional Medicare Tax against the total tax liability shown on your tax return by filing Form 8959.

Tax paid on undistributed long-term capital gains. If you are a shareholder in a mutual fund (or other RIC) or REIT, you can claim a credit for your share of any taxes paid by the company on its undistributed long-term capital gains. You will receive information on Form 2439, which you must attach to your return.

Tax withheld at the source. You can claim as a payment any tax withheld at the source on investment and other fixed or determinable annual or periodic income paid to you. Fixed or determinable income includes interest, dividend, rental, and royalty income that you do not claim to be effectively connected income. Wage or salary payments can be fixed or determinable income to you, but are usually subject to withholding as discussed above. Taxes on fixed or determinable income are withheld at a 30% rate or at a lower treaty rate.

Tax withheld on partnership income. If you are a foreign partner in a partnership, the partnership will withhold tax on your share of effectively connected taxable income from the partnership. The partnership will give you a statement on Form 8805, showing the tax withheld. A partnership that is publicly traded may withhold on your actual distributions of effectively connected income. In this case, the partnership will give you a statement on Form 1042-S. Claim the tax withheld as a payment on line 25e or 25g of Form 1040-NR, as appropriate.

Tax withheld on gain from the sale or exchange of certain partnership interests. If you are a direct or indirect foreign partner in a U.S. or foreign partnership that is engaged (or is treated as engaged) in a trade or business within the United States and you directly or indirectly dispose of that interest for a gain, then for transfers occurring after 2017, the transferee will generally withhold and pay into the IRS on your behalf a tax equal to 10% of the amount realized on the sale. The rules for withholding and paying over this amount are similar to sales of U.S. real property interests. You will receive a Form 8288-A reflecting the amount withheld that you may then claim on line 25f of your Form 1040-NR as a credit against the tax you owe on the gain. You may be able to provide certain information to the transferee to reduce or eliminate withholding. For example, if a nonrecognition provision of the Internal Revenue Code applies to all of the gain realized on a transfer, the transferee does not need to withhold if you provide a notice describing the application of a nonrecognition provision. If you are a transferee that failed to withhold, under section 1446(f)(4) the partnership may withhold on distributions to you.

On November 30, 2020, final regulations under section 1446(f) were issued which are generally applicable to transfers of non-PTP interests that occur on or after January 29, 2021. Notice 2018-29 applies to transfers of non-PTP interests that occurred before the applicability date of the final regulations, or, under certain circumstances, taxpayers may apply the proposed regulations to transfers of non-PTP interests during this time. The requirements for transfers of PTP interests and withholding under section 1446(f)(4) are suspended for transfers occurring before January 1, 2022. For more information, see *Pub. 515*.

For more information, see Treasury Decision 9926 on page 1602 of I.R.B. 2020-51, available at *IRS.gov/irb/2020-51_IRB#TD-9926*. Also, see the final regulations as published in the Federal Register at *govinfo.gov/content/pkg/FR-2020-11-30/pdf/2020-22619.pdf*.

Tax withheld on dispositions of U.S. real property interests. You can claim as a payment any tax withheld with respect to a disposition of a U.S. real property interest (or income treated as derived from the disposition of a U.S. real property interest). See *Real Property Gain or Loss* in chapter 4. The buyer will give you a statement of the amount withheld on Form 8288-A. Claim the tax withheld as a payment on line 25f of Form 1040-NR.

Claiming tax withheld on your return. When you fill out your tax return, take extra care to enter the correct amount of any tax withheld shown on your information documents. The following table lists some of the more common information documents and shows where to find the amount of tax withheld.

Form number	Location of tax withheld
RRB-1042S	Box 13
SSA-1042S	Box 9
W-2	Box 2
W-2c	Box 2
1042-S	Box 10
8805	Line 10
8288-A	Box 2

Bona Fide Residents of American Samoa or Puerto Rico

If you are a nonresident alien who is a bona fide resident of American Samoa or Puerto Rico for the entire tax year, you are generally taxed the same as resident aliens. You should file Form 1040 or 1040-SR and report all income from sources both in and outside the United States. However, you can exclude the income discussed in the following paragraphs.

For tax purposes other than reporting income, however, you will be treated as a nonresident alien. For example, you are not allowed the standard deduction, you cannot file a joint return, and you cannot claim a dependent unless that person is a citizen or national of the United States. There are also limits on what deductions and credits are allowed. See *Nonresident Aliens* under *Deductions*, *Itemized Deductions*, and *Tax Credits and Payments* in this chapter.

Residents of Puerto Rico. If you are a bona fide resident of Puerto Rico for the entire year, you can exclude from gross income all income from sources in Puerto Rico (other than amounts for services performed as an employee of the United States or any of its agencies).

If you report income on a calendar year basis and you do not have wages subject to withholding for 2021, file your return and pay your tax by June 15, 2022. You must also make your first payment of estimated tax for 2022 by June 15, 2022. You cannot file a joint income tax return or make joint payments of estimated tax. However, if you are married to a U.S. citizen or resident, see *Nonresident Spouse Treated as a Resident* in chapter 1.

If you earn wages subject to withholding, your U.S. income tax return is due by April 18, 2022. You must also make your first payment of estimated tax for 2021 by April 18, 2022. For information on withholding and estimated tax, see chapter 8.

Residents of American Samoa. If you are a bona fide resident of American Samoa for the entire year, you can exclude from gross income all income from sources in American Samoa (other than amounts for services performed as an employee of the U.S. Government or any of its agencies). An employee of the American Samoan Government is not considered an employee of the U.S. Government or any of its agencies for purposes of the exclusion. For more information about this exclusion, see Form 4563 and *Pub. 570*.

6. Dual-Status Tax Year

Introduction

You have a dual-status tax year when you have been both a resident alien and a nonresident alien in the same year. Dual status does not refer to your citizenship; it refers only to your resident status in the United States. In determining your U.S. income tax liability for a dual-status tax year, different rules apply for the part of the year you are a resident of the United States and the part of the year you are a nonresident.

The most common dual-status tax years are the years of arrival and departure. See *Dual-Status Aliens* in chapter 1.

If you are married and choose to be a nonresident spouse treated as a resident, as explained in chapter 1, the rules of this chapter do not apply to you for that year.

Topics

This chapter discusses:

- Income subject to tax,
- Restrictions for dual-status taxpayers,
- How to figure the tax,
- Forms to file,
- When and where to file, and
- How to fill out a dual-status return.

Useful Items

You may want to see:

Publication

- ❑ **503** Child and Dependent Care Expenses
- ❑ **514** Foreign Tax Credit for Individuals
- ❑ **575** Pension and Annuity Income

Form (and Instructions)

- ❑ **1040** U.S. Individual Income Tax Return
- ❑ **1040-SR** U.S. Tax Return for Seniors
- ❑ **1040-C** U.S. Departing Alien Income Tax Return
- ❑ **1040-ES** Estimated Tax for Individuals
- ❑ **1040-ES (NR)** U.S. Estimated Tax for Nonresident Alien Individuals
- ❑ **1040-NR** U.S. Nonresident Alien Income Tax Return
- ❑ **1116** Foreign Tax Credit

See chapter 12 for information about getting these publications and forms.

Tax Year

You must file your tax return on the basis of an annual accounting period called a tax year. If you have not previously established a fiscal tax year, your tax year is the calendar year. A calendar year is 12 consecutive months ending on December 31. If you have previously established a regular fiscal year (12 consecutive months ending on the last day of a month other than December, or a 52-53 week year) and are considered to be a U.S. resident for any calendar year, you will be treated as a U.S. resident for any part of your fiscal year that falls within that calendar year.

Income Subject to Tax

For the part of the year you are a resident alien, you are taxed on income from all sources. Income from sources outside the United States is taxable if you receive it while you are a resident alien. The income is taxable even if you earned it while you were a nonresident alien or if you became a nonresident alien after receiving it and before the end of the year.

For the part of the year you are a nonresident alien, you are taxed on income from U.S. sources and on certain foreign source income treated as effectively connected with a U.S. trade or business. The rules for treating foreign source income as effectively connected are discussed in chapter 4 under *Foreign Income*.

Income from sources outside the United States that is not effectively connected with a trade or business in the United States is not taxable if you receive it while you are a nonresident alien. The income is not taxable even if you earned it while you were a resident alien or if you became a resident alien or a U.S. citizen after receiving it and before the end of the year.

Income from U.S. sources is taxable whether you receive it while a nonresident alien or a resident alien unless specifically exempt under the Internal Revenue Code or a tax treaty provision. Generally, tax treaty provisions apply only to the part of the year you were a nonresident. In certain cases, however, treaty provisions may apply while you were a resident alien. See chapter 9 for more information.

When determining what income is taxed in the United States, you must consider exemptions under U.S. tax law as well as the reduced tax rates and exemptions provided by tax treaties between the United States and certain foreign countries. For a further discussion of tax treaties, see chapter 9.

Restrictions for Dual-Status Taxpayers

The following restrictions apply if you are filing a tax return for a dual-status tax year.

Standard deduction. You cannot use the standard deduction allowed on Form 1040 or 1040-SR. However, you can itemize any allowable deductions.

Head of household. You cannot use the head of household Tax Table column or Tax Computation Worksheet.

Joint return. You cannot file a joint return. However, see *Choosing Resident Alien Status* under *Dual-Status Aliens* in chapter 1.

Tax rates. If you are married and a nonresident of the United States for all or part of the tax year and you do not choose to file jointly as discussed in chapter 1, you must use the Tax Table column or Tax Computation Worksheet for married filing separately to figure your tax on income effectively connected with a U.S. trade or business. You cannot use the Tax Table column or Tax Computation Worksheet for married filing jointly or single. However, you may be able to file as single if you lived apart from your spouse during the last 6 months of the year and you are a:

- Married resident of Canada, Mexico, or South Korea; or
- Married U.S. national.

See the Instructions for Form 1040-NR to see if you qualify.

A U.S. national is an individual who, although not a U.S. citizen, owes his or her allegiance to the United States. U.S. nationals include American Samoans and Northern Mariana Islanders who chose to become U.S. nationals instead of U.S. citizens.

Tax credits. You cannot claim the education credits, EIC, or credit for the elderly or the disabled unless:

- You are married; and
- You choose to be a nonresident spouse treated as a resident for all of 2021 by filing a joint return with your spouse who is a U.S. citizen or resident, as discussed in chapter 1.

Dependents

As a dual-status taxpayer, you may be able to claim a dependent on your tax return. In general, a dependent is a qualifying child or a qualifying relative. You may be entitled to claim additional deductions and credits if you have a qualifying dependent. See the Instructions for Form 1040 or the Instructions for Form 1040-NR for more information.

If you were a U.S. national or a resident of Canada or Mexico, you can claim a dependent on the same terms as U.S. citizens. If you are a resident of South Korea or India, see chapter 5.

How To Figure Your Tax

When you figure your U.S. tax for a dual-status year, you are subject to different rules for the part of the year you are a resident and the part of the year you are a nonresident.

Income

All income for your period of residence and all income that is effectively connected with a trade or business in the United States for your period of nonresidence, after allowable deductions, are added and taxed at the rates that apply to U.S. citizens and residents. Income that is not connected with a trade or business in the United States for your period of nonresidence is subject to the flat 30% rate or lower treaty rate. You cannot take any deductions against this income.

Social security and railroad retirement benefits. During the part of the year you are a nonresident alien, 85% of any U.S. social security benefits (and the equivalent part of tier 1 railroad retirement benefits) you receive is subject to the flat 30% tax, unless exempt, or subject to a lower treaty rate. (See *The 30% Tax* in chapter 4.)

During the part of the year you are a resident alien, part of the social security and the equivalent part of tier 1 railroad retirement benefits will be taxed at graduated rates if your modified adjusted gross income plus half of these benefits are more than a certain base amount.

Use the Social Security Benefits Worksheet in the Instructions for Form 1040 to help you figure the taxable part of your social security and equivalent tier 1 railroad retirement benefits for the part of the year you were a resident alien.

If you received U.S. social security benefits while you were a nonresident alien, the SSA will send you Form SSA-1042S showing your combined benefits for the entire year and the amount of tax withheld. You will not receive separate statements for the benefits received during your periods of U.S. residence and nonresidence. Therefore, it is important for you to keep careful records of these amounts. You will need this information to properly complete your return and figure your tax liability.

If you received railroad retirement benefits while you were a nonresident alien, the U.S. Railroad Retirement Board (RRB) will send you Form RRB-1042S, Statement for Nonresident Alien Recipients of Payments by the Railroad Retirement Board, and/or Form RRB-1099-R, Annuities or Pensions by the Railroad Retirement Board. If your country of legal residence changed or your rate of tax changed during the tax year, you may receive more than one form.

Tax Credits and Payments

This discussion covers tax credits and payments for dual-status aliens.

Credits

As a dual-status alien, you can generally claim tax credits using the same rules that apply to resident aliens. There are certain restrictions that may apply. These restrictions are discussed here, along with a brief explanation of credits often claimed by individuals.

CAUTION *You cannot claim the education credits, EIC, or credit for the elderly or the disabled unless you are married and you choose to be treated as a resident for all of 2021 by filing a joint return with your spouse who is a U.S. citizen or resident, as discussed in chapter 1.*

Foreign tax credit. If you have paid, or are liable for the payment of, income tax to a foreign country on income from foreign sources, you may be able to claim a credit for the foreign taxes.

If you claim the foreign tax credit, you must generally file Form 1116 with your income tax return. For more information, see the Instructions for Form 1116 and *Pub. 514*.

Child and dependent care credit. You may qualify for this credit if you pay someone to care for your dependent qualifying child who is under age 13, or your disabled dependent or disabled spouse, so that you can work or look for work.

Married dual-status aliens can claim the credit only if they choose to file a joint return as discussed in chapter 1, or if they qualify as certain married individuals living apart.

The amount of your child and dependent care expense that qualifies for the credit in any tax year cannot be more than your earned income for that tax year.

For more information, see *Pub. 503* and Form 2441.

Retirement savings contributions credit. You may qualify for this credit (also known as the saver's credit) if you made eligible contributions to an employer-sponsored retirement plan or to an IRA in 2021. You cannot claim this credit if:

- You were born after January 2, 2004,
- You were a full-time student,
- You were claimed as a dependent on someone else's 2021 tax return, or
- Your adjusted gross income is more than $33,000.

Use Form 8880 to figure the credit. For more information, see *Pub. 590-A*.

Child tax credit and the additional child tax credit. You may be able to take these credits if you have a qualifying child under the age of 18 and meet other requirements. Depending on modified adjusted gross income, you may receive an enhanced credit amount of up to $3,600 for a qualifying child under age 6 and up to $3,000 for a qualifying child over age 5 and under age 18. The enhanced credit amount begins to phase out where modified adjusted gross income exceeds $150,000 in the case of a qualifying widow(er) and $75,000 in all other cases.

"Qualifying child," for purposes of the child tax credit and the additional child tax credit, is a child who:

- Was under age 18 at the end of 2021;
- Is your son, daughter, stepchild, eligible foster child, brother, sister, stepbrother, stepsister, half brother, half sister, or a descendant of any of them (for example, your grandchild, niece, or nephew);
- Is a U.S. citizen, U.S. national, or resident alien;
- Did not provide over half of his or her own support for 2021;
- Lived with you more than half of 2021 (temporary absences, such as for school, vacation, or medical care, count as time lived in the home);
- Is claimed as a dependent on your return.
- Does not file a joint return for the year (or files it only to claim a refund of withheld income tax or estimated tax paid); and

An adopted child is always treated as your own child. An adopted child includes a child lawfully placed with you for legal adoption.

If you did not have an SSN (or ITIN) issued on or before the due date of your 2021 return (including extensions), you may not claim the child tax credit on either your original or an amended 2021 return.

If your child did not have an SSN valid for employment issued before the due date of the 2021 return (including extensions), you cannot claim the child tax credit for this child but may be able to claim the credit for other dependents for this child. See *Credit for other dependents*, discussed below.

Use the Child Tax Credit and Credit for Other Dependents Worksheet in the Instructions for Forms 1040 and 1040-SR, and Schedule 8812 (Form 1040) to figure the credits. For more information, see *Pub. 972*.

Credit for other dependents. The credit for other dependents is for people who have dependents who cannot be claimed for the child tax credit. The qualifying dependent must be a U.S. citizen, U.S. national, or U.S. resident alien and must have an SSN, ITIN, or ATIN issued on or before the due date of your 2021 return (including extensions). For more information, see *Pub. 972*.

Adoption credit. You may qualify to take a tax credit of up to $14,440 for qualifying expenses paid to adopt an eligible child. This amount may be allowed for the adoption of a child with special needs regardless of whether you have qualifying expenses. To claim the adoption credit, file Form 8839 with the U.S. income tax return that you file.

Married dual-status aliens can claim the credit only if they choose the *Nonresident Spouse Treated as a Resident* status as discussed in chapter 1, or if they qualify as certain married individuals living apart (see *Married Persons Not Filing Jointly* in the Form 8839 instructions).

Payments

You can report as payments against your U.S. income tax liability certain taxes you paid, are considered to have paid, or that were withheld from your income. These include:

- Tax withheld from wages earned in the United States,
- Taxes withheld at the source from various items of income from U.S. sources other than wages,
- Estimated tax paid with Form 1040-ES or Form 1040-ES (NR), and
- Tax paid with Form 1040-C at the time of departure from the United States.

Forms To File

The U.S. income tax return you must file as a dual-status alien depends on whether you are a resident alien or a nonresident alien at the end of the tax year.

Resident at end of year. You must file Form 1040 or 1040-SR if you are a dual-status taxpayer 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.

Nonresident at end of year. You must file 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 or 1040-SR as the statement, but be sure to enter "Dual-Status Statement" across the top.

If you expatriated or terminated your residency in 2021, you may be required to file an expatriation statement (Form 8854) with your tax return. For more information, see *Expatriation Tax* in chapter 4.

Statement. Any statement must have your name, address, and TIN on it. You do not need to sign a separate statement or schedule accompanying your return because your signature on the return also applies to the supporting statements and schedules.

When and Where To File

If you are a resident alien on the last day of your tax year and report your income on a calendar year basis, you must file no later than April 15 of the year following the close of your tax year (but see the *TIP*, later). If you report your income on other than a calendar year basis, file your return no later than the 15th day of the 4th month following the close of your tax year. In either case, file your return with the address for dual-status aliens shown on the back of the Instructions for Forms 1040 and 1040-SR.

If you are a nonresident alien on the last day of your tax year and you report your income on a calendar year basis, you must file no later than April 15 of the year following the close of your tax year if you receive wages subject to withholding. If you report your income on other than a calendar year basis, file your return no later than the 15th day of the 4th month following the close of your tax year. If you did not receive wages subject to withholding and you report your income on a calendar year basis, you must file no later than June 15 of the year following the close of your tax year. If you report your income on other than a calendar year basis, file your return no later than the 15th day of the 6th month following the close of your tax year. In any case, mail your return to:

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

If enclosing a payment, mail your return to:

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

TIP *If the regular due date for filing falls on a Saturday, Sunday, or legal holiday, the due date is the next day that is not a Saturday, Sunday, or legal holiday.*

7. Filing Information

Introduction

This chapter provides the basic filing information that you may need.

Topics

This chapter discusses:

- Forms aliens must file,
- When and where to file,
- Penalties, and
- Amended returns and claims for refund.

Useful Items

You may want to see:

Forms (and Instructions)

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

See chapter 12 for information about getting these forms.

What, When, and Where To File

What return you must file as well as when and where you file that return, depend on your status at the end of the tax year as a resident or a nonresident alien.

Resident Aliens

Resident aliens should file Form 1040 or 1040-SR at the address shown in the Instructions for Form 1040. The due date for filing your return and paying any tax due is April 15 of the year following the year for which you are filing a return (but see the *TIP*, earlier).

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

regarded as having abandoned status and may lose permanent resident status.

Extensions of time to file. You can get an automatic 6-month extension (October 15 for calendar year taxpayers) if, no later than the date your return is due, you file Form 4868. For more information, see Form 4868.

CAUTION *An automatic 6-month extension to file does not extend the time to pay your tax. If you do not pay your tax by the original due date of your return, you will owe interest on the unpaid tax and may owe penalties.*

You are allowed an automatic extension to file until June 15 if your main place of business and the home you live in are outside the United States and Puerto Rico on April 15. If you need more time by the end of the 2-month period, you can get an additional 4 months until October 15 if, no later than June 15, you file Form 4868.

In addition to the 6-month extension, taxpayers who are out of the country (as defined in the Instructions for Form 4868) can request a discretionary 2-month additional extension of time to file their returns (December 15 for calendar year taxpayers). To request this extension, you must send the IRS a letter explaining the reasons why you need the additional 2 months. Send the letter by the extended due date (October 15 for calendar year taxpayers) to the following address.

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

You will not receive any notification from the IRS unless your request is denied for being untimely.

The discretionary 2-month additional extension is not available to taxpayers who have an approved extension of time to file on Form 2350 (for U.S. citizens and resident aliens abroad who expect to qualify for special tax treatment).

TIP *If the due date for filing falls on a Saturday, Sunday, or legal holiday, the due date is the next day that is not a Saturday, Sunday, or legal holiday.*

IRS e-file You may be able to file your return electronically. Go to *IRS.gov/Efile* for more information.

Nonresident Aliens

Nonresident aliens who are required to file an income tax return should use Form 1040-NR.

If you are any of the following, you must file a return.

1. A nonresident alien individual engaged or considered to be engaged in a trade or business in the United States during 2021. (But see *Exceptions*, later.)
   You must file even if:
   a. Your income did not come from a trade or business conducted in the United States,
   b. You have no income from U.S. sources, or
   c. Your income is exempt from income tax.
2. A nonresident alien individual not engaged in a trade or business in the United States with U.S. income on which the tax liability was not satisfied by the withholding of tax at the source.
3. A representative or agent responsible for filing the return of an individual described in (1) or (2).
4. A fiduciary for a nonresident alien estate or trust.

You must also file if you want to:

- Claim a refund of overwithheld or overpaid tax, or
- Claim the benefit of any deductions or credits. For example, if you have no U.S. business activities but have income from real property that you choose to treat as effectively connected income (discussed in chapter 4), you must timely file a true and accurate return to take any allowable deductions against that income. For information on what is timely, see *When to file for deductions and credits* under *When To File,* later.

Exceptions. You do not need to file Form 1040-NR if you meet any of the following conditions.

CAUTION *The exception that previously allowed nonresident aliens whose only U.S. trade or business was the performance of personal services and whose wage income did not exceed the personal exemption amount to not file a Form 1040-NR is no longer available. You must meet (1), (2), or (3) below to be exempt from filing a 2021 Form 1040-NR.*

1. You were a nonresident alien student, teacher, or trainee who was temporarily present in the United States under an "F," "J," "M," or "Q" visa, and you have no income that is subject to tax, such as wages, tips, scholarship and fellowship grants, dividends, etc.
2. You were a student or business apprentice who was eligible for the benefits of Article 21(2) of the United States-India Income Tax Treaty, you are single or a qualifying widow(er), and your gross income for 2021 was less than or equal to $12,550 if single ($25,550 if a qualifying widow(er)).
3. You were a partner in a U.S. partnership that was not engaged in a trade or business in the United States during 2021 and your Schedule K-1 (Form 1065) includes only income from U.S. sources that is not effectively connected with a U.S. trade or business.

CAUTION *Even if you have left the United States and filed a Form 1040-C on departure, you must still file an annual U.S. income tax return. If you are married and both you and your spouse are required to file, you must each file a separate return.*

Foreign-owned domestic disregarded entities. If a foreign person wholly owns a domestic disregarded entity (DE), the domestic DE is treated as a domestic corporation separate from its owner (the foreign person) for the limited purposes of the requirements under section 6038A that apply to 25% foreign-owned domestic corporations. The foreign-owned domestic DE must file a pro forma Form 1120 with Form 5472 attached by the due date (including extensions) of the return. The only information required to be completed on Form 1120 is the name and address of the foreign-owned domestic DE and items B and E on the first part. A foreign-owned domestic DE may have had a reporting requirement before 2017 if it had a U.S. trade or business or other activity that otherwise required reporting. See the Instructions for Form 5472 for additional information and coordination with Form 5472 filing by the domestic DE. Also note that because the domestic DE is generally a transparent entity, the foreign person will include (or continue to include) on Form 1040-NR any of the domestic DE's tax items that are subject to reporting. A DE (foreign or domestic) may also have a separate reporting requirement related to employment or excise taxes. See Regulations sections 301.7701-2(c)(2)(iv) and (v).

When To File

If you are an employee and you receive wages subject to U.S. income tax withholding, you will generally file by the 15th day of the 4th month after your tax year ends. For the 2021 calendar year, file your return by April 18, 2022.

If you are not an employee who receives wages subject to U.S. income tax withholding, you must file by the 15th day of the 6th month after your tax year ends. For the 2021 calendar year, file your return by June 15, 2022.

Extensions of time to file. If you cannot file your return by the due date, file Form 4868 or use one of the electronic filing options explained in the Instructions for Form 4868. For the 2021 calendar year, this will extend the due date to October 15, 2022 if your regular due date is April 18, 2022. If your regular due date is June 15, 2022, this will extend the due date to December 15, 2022. You must file the extension by the regular due date of your return.

CAUTION *An automatic 6-month extension to file does not extend the time to pay your tax. If you do not pay your tax by the original due date of your return, you will owe interest on the unpaid tax and may owe penalties. See Form 4868.*

You are allowed an automatic extension to file until June 15 if your main place of business and the home you live in are outside the United States and Puerto Rico on April 15. If you need more time by the end of the 2-month period, you can get an additional 4 months until October 15 if, no later than June 15, you file Form 4868.

In addition to the 6-month extension to October 15, taxpayers whose main place of business is outside the United States and Puerto Rico and who live outside those jurisdictions can request a discretionary 2-month extension

of time to file their returns (to December 15 for calendar year taxpayers). To request this extension, you must send the IRS a letter explaining the reasons why you need the additional 2 months. Send the letter by the extended due date (October 15 for calendar year taxpayers) to the following address.

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

You will not receive any notification from the IRS unless your request is denied for being untimely.

When to file for deductions and credits. To get the benefit of any allowable deductions or credits, you must timely file a true and accurate return. For this purpose, a return is timely if it is filed within 16 months of the due date just discussed. However, if you did not file a 2022 tax return and 2021 is not the first year for which you are required to file one, your 2021 return is timely for this purpose if it is filed by the earlier of:

- The date that is 16 months after the due date for filing your 2021 return, or
- The date the IRS notifies you that your 2021 return has not been filed and that you cannot claim certain deductions and credits.

The allowance of the following credits is not affected by this time requirement.

- Credit for withheld taxes.
- Credit for excise tax on certain uses of gasoline and special fuels.
- Credit for tax paid by a mutual fund (or other RIC) or a REIT on undistributed long-term capital gains.

Protective return. If your activities in the United States were limited and you do not believe that you had any gross income effectively connected with a U.S. trade or business during the year, you can file a protective return (Form 1040-NR) by the deadline explained above. By filing a protective return, you protect your right to receive the benefit of deductions and credits in the event it is later determined that some or all of your income is effectively connected. You are not required to report any effectively connected income or any deductions on the protective return, but you must give the reason the return is being filed.

If you believe some of your activities resulted in effectively connected income, file your return reporting that income and related deductions by the regular due date. To protect your right to claim deductions or credits resulting from other activities, attach a statement to that return explaining that you wish to protect your right to claim deductions and credits if it is later determined that the other activities produced effectively connected income.

You can follow the same procedure if you believe you have no U.S. tax liability because of a U.S. tax treaty. Be sure to also complete item L on Schedule OI (Form 1040-NR).

Waiver of filing deadline. The IRS may waive the filing deadline if you establish that, based on the facts and circumstances, you acted reasonably and in good faith in failing to file a U.S. income tax return (including a protective return) and you cooperate with the IRS in determining your U.S. income tax liability for the tax year for which you did not file a return.

Where To File

If you are not enclosing a payment, file Form 1040-NR at the following address.

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

If enclosing a payment, mail your return to:

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

Aliens from the U.S. Virgin Islands. Report all income from U.S. sources, as well as income from other sources, on your return. For information on filing U.S. Virgin Islands returns, contact the U.S. Virgin Islands Bureau of Internal Revenue.

If you are a bona fide resident of the U.S. Virgin Islands during your entire tax year and work temporarily in the United States, you must pay your income taxes to the U.S. Virgin Islands and file your income tax returns at the following address.

Virgin Islands Bureau of Internal Revenue
6115 Estate Smith Bay
Suite 225
St. Thomas, VI 00802

Chapter 8 discusses withholding from U.S. wages of residents of the U.S. Virgin Islands.

Aliens from Guam or the Commonwealth of the Northern Mariana Islands (CNMI). If you are a bona fide resident of Guam or the CNMI during your entire tax year, you must file your return with, and pay any tax due to, Guam or the CNMI. Report all income, including income from U.S. sources, on your return. It is not necessary to file a separate U.S. income tax return.

Bona fide residents of Guam should file their Guam returns at the following address.

Department of Revenue and Taxation
Government of Guam
P.O. Box 23607
Barrigada, GU 96921

Bona fide residents of the CNMI should file their CNMI income tax returns at the following address.

Department of Finance
Division of Revenue and Taxation
Commonwealth of the Northern Mariana Islands
P.O. Box 5234 CHRB
Saipan, MP 96950

If you are not a bona fide resident of Guam or the CNMI, see *Pub. 570* for information on where to file your return.

Amended Returns and Claims for Refund

If you find changes in your income, deductions, or credits after you mail your return, file Form 1040-X. Also use Form 1040-X if you should have filed Form 1040 or 1040-SR instead of Form 1040-NR, or vice versa.

If you amend Form 1040-NR or file the correct return, enter "Amended" across the top, and attach the corrected return (Form 1040, 1040-SR, or 1040-NR) to Form 1040-X. Ordinarily, an amended return claiming a refund must be filed within 3 years from the date your return was filed or within 2 years from the time the tax was paid, whichever is later. A return filed before the final due date is considered to have been filed on the due date.

Note. You can file your Form 1040-X electronically for the 2019 tax year. For more information, see *IR-2020-107*.

CAUTION *Taxpayers with a tax year that **began before 2018** can attach Form 1040-A or 1040-EZ to the amended return (even though those forms are no longer used) if either form was filed as the original return.*

Other Forms You May Have To File

You may be required to file information returns to report certain foreign income or assets, or monetary transactions.

FinCEN Form 105, Report of International Transportation of Currency or Monetary Instruments (CMIR)

FinCEN Form 105 is required by 31 U.S.C. 5316 and Treasury Department regulations (31 CFR, chapter X).

The following persons must file FinCEN Form 105.

1. Each person who physically transports, mails, or ships, or causes to be physically transported, mailed, or shipped, currency or other monetary instruments totaling more than $10,000 at one time from the United States to any place outside the United States or into the United States from any place outside the United States.

2. Each person who receives in the United States currency or other monetary instruments totaling more than $10,000 at one time from any place outside the United States.

A transfer of funds through normal banking procedures, which does not involve the physical transportation of currency or monetary instruments, is not required to be reported.

Penalties. Civil and criminal penalties are provided for failing to file a report, filing a report containing material omissions or misstatements, or filing a false or fraudulent report. Also, the entire amount of the currency or monetary instrument may be subject to seizure and forfeiture.

More information. The form is available at *FINCEN.gov/resources/filing-information*. For more information about BSA E-Filing, see the E-Filing Section at *BSAefiling.fincen.treas.gov/main.html*.

Form 8938

You may have to file Form 8938 to report the ownership of a specified foreign financial asset(s) if you are one of the following individuals.

- A resident alien of the United States for any part of the tax year.
- A nonresident alien who makes an election to be treated as a resident for purposes of filing a joint income tax return. See chapter 1 for information about this election.
- A nonresident alien who is a bona fide resident of American Samoa or Puerto Rico. See *Pub. 570* for a definition of bona fide resident.

You must file Form 8938 if the total value of those assets exceeds an applicable threshold (the "reporting threshold"). The reporting threshold varies depending on whether you live in the United States, are married, or file a joint income tax return with your spouse. Specified foreign financial assets include any financial account maintained by a foreign financial institution and, to the extent held for investment, any stock, securities, or any other interest in a foreign entity and any financial instrument or contract with an issuer or counterparty that is not a U.S. person.

You may have to pay penalties if you are required to file Form 8938 and fail to do so, or if you have an understatement of tax due to any transaction involving an undisclosed foreign financial asset.

More information about filing Form 8938 can be found in the Instructions for Form 8938.

Penalties

The law provides penalties for failure to file returns or pay taxes as required.

Civil Penalties

If you do not file your return and pay your tax by the due date, you may have to pay a penalty. You may also have to pay a penalty if you substantially understate your tax, file a frivolous tax submission, or fail to supply your TIN. If you provide fraudulent information on your return, you may have to pay a civil fraud penalty.

Filing late. If you do not file your return by the due date (including extensions), you may have to pay a failure-to-file penalty. The penalty is based on the tax not paid by the due date (without regard to extensions). The penalty is usually 5% for each month or part of a month that a return is late, but not more than 25%.

Fraud. If your failure to file is due to fraud, the penalty is 15% for each month or part of a month that your return is late, up to a maximum of 75%.

Return over 60 days late. If you file your return more than 60 days after the due date or extended due date, the minimum penalty is the smaller of $435 or 100% of the unpaid tax.

Exception. You will not have to pay the penalty if you show that you failed to file on time because of reasonable cause and not because of willful neglect.

Paying tax late. You will have to pay a failure-to-pay penalty of 1/2 of 1% (0.005) of your unpaid taxes for each month, or part of a month, after the due date that the tax is not paid. This penalty does not apply during the automatic 6-month extension of time to file period if you paid at least 90% of your actual tax liability on or before the due date of your return and pay the balance when you file the return.

The monthly rate of the failure-to-pay penalty is half the usual rate 1/4% (0.0025 instead of 1/2% (0.005)) if an installment agreement is in effect for that month. You must have filed your return by the due date (including extensions) to qualify for this reduced penalty.

If a notice of intent to levy is issued, the rate will increase to 1% at the start of the first month beginning at least 10 days after the day that the notice is issued. If a notice and demand for immediate payment is issued, the rate will increase to 1% at the start of the first month beginning after the day that the notice and demand is issued.

This penalty cannot be more than 25% of your unpaid tax. You will not have to pay the penalty if you can show that you had a good reason for not paying your tax on time.

Combined penalties. If both the failure-to-file penalty and the failure-to-pay penalty (discussed earlier) apply in any month, the 5% (or 15%) failure-to-file penalty is reduced by the failure-to-pay penalty. However, if you file your return more than 60 days after the due date or extended due date, the minimum penalty is the smaller of $435 or 100% of the unpaid tax.

Accuracy-related penalty. You may have to pay an accuracy-related penalty if you underpay your tax because:

- You show negligence or disregard of rules or regulations,
- You substantially understate your income tax,
- You claim tax benefits for a transaction that lacks economic substance, or
- You fail to disclose a foreign financial asset.

The penalty is equal to 20% of the underpayment. The penalty is 40% of any portion of the underpayment that is attributable to an undisclosed noneconomic substance transaction or an undisclosed foreign financial asset transaction. The penalty will not be figured on any part of an underpayment on which the fraud penalty, discussed later, is charged.

Negligence or disregard. The term "negligence" includes a failure to make a reasonable attempt to comply with the tax law or to exercise ordinary and reasonable care in preparing a return. Negligence also includes failure to keep adequate books and records. You will not have to pay a negligence penalty if you have a reasonable basis for a position you took, or if you can show a reasonable cause and acted in good faith.

The term "disregard" includes any careless, reckless, or intentional disregard.

Adequate disclosure. You can avoid the penalty for disregard of rules or regulations if you adequately disclose on your return a position that has at least a reasonable basis. See *Disclosure statement*, later.

This exception will not apply to an item that is attributable to a tax shelter. In addition, it will not apply if you fail to keep adequate books and records or to substantiate items properly.

Substantial understatement of income tax. You understate your tax if the tax shown on your return is less than the correct tax. The understatement is substantial if it is more than the larger of 10% of the correct tax or $5,000. However, the amount of the understatement is reduced to the extent the understatement is due to:

1. Substantial authority,
2. Adequate disclosure and a reasonable basis, or
3. Reasonable cause and good faith .

If an item on your return is attributable to a tax shelter, there is no reduction for an adequate disclosure. However, there is a reduction for a position with substantial authority, but only if you reasonably believed that your tax treatment was more likely than not the proper treatment.

Substantial authority. Whether there is or was substantial authority for the tax treatment of an item depends on the facts and circumstances. Consideration will be given to court opinions, Treasury regulations, revenue rulings, revenue procedures, and notices and announcements issued by the IRS and published in the Internal Revenue Bulletin that involve the same or similar circumstances as yours.

Disclosure statement. To adequately disclose the relevant facts about your tax treatment of an item, use Form 8275, Disclosure Statement. You must also have a reasonable basis for treating the item the way you did.

In cases of substantial understatement, only items that meet the requirements of Revenue Procedure 2020-54, available at *IRS.gov/irb/*

2020-53_IRB#REV-PROC-2020-54 (or its successor) are considered adequately disclosed on your return.

Revenue Procedure 2020-54 does not take into account the effect of tax law changes effective for tax years beginning after December 31, 2020. If a line referenced in this revenue procedure is affected by such a change and requires additional reporting, a taxpayer may have to file Form 8275; or Form 8275-R, Regulation Disclosure Statement, until regulations or other guidance has been issued to comply with the requirement.

A complete and accurate disclosure of a tax position on the appropriate year's Schedule UTP, Uncertain Tax Position Statement, will be treated as if the corporation filed a Form 8275 or Form 8275-R regarding the tax position. The filing of a Form 8275 or Form 8275-R, however, will not be treated as if the corporation filed a Schedule UTP.

Use Form 8275-R to disclose items or positions contrary to regulations.

Transaction lacking economic substance. For more information on economic substance, see section 7701(o).

Foreign financial asset. For more information on undisclosed foreign financial assets, see section 6662(j) or the Instructions for Form 8938.

Reasonable cause. You will not have to pay a penalty if you show a good reason (reasonable cause) for the way you treated an item. You must also show that you acted in good faith. This does not apply to a transaction that lacks economic substance.

Filing erroneous claim for refund or credit. You may have to pay a penalty if you file an erroneous claim for refund or credit. The penalty is equal to 20% of the disallowed amount of the claim, unless you can show that you had reasonable cause for filing your claim. However, any disallowed amount due to a transaction that lacks economic substance will not be treated as due to reasonable cause. The penalty will not be figured on any part of the disallowed amount of the claim that is subject to accuracy-related or fraud penalties.

Frivolous tax submission. You may have to pay a penalty of $5,000 if you file a frivolous tax return or other frivolous submissions. A frivolous tax return is one that does not include enough information to figure the correct tax or that contains information clearly showing that the tax you reported is substantially incorrect. For more information on frivolous returns, frivolous submissions, and a list of positions that are identified as frivolous, see IRS.gov/irb/2010-17_IRB#NOT-2010-33 (or its successor).

You will have to pay the penalty if you filed this kind of return or submission based on a frivolous position or a desire to delay or interfere with the administration of federal tax laws. This includes altering or striking out the preprinted language above the space provided for your signature.

This penalty is added to any other penalty provided by law.

Fraud. If there is any underpayment of tax on your return due to fraud, a penalty of 75% of the underpayment due to fraud will be added to your tax.

Failure to supply TIN. If you do not include your SSN or ITIN or the SSN or ITIN of another person where required on a return, statement, or other document, you may be subject to a penalty of $50 for each failure. You may also be subject to a penalty of $50 if you do not give your SSN or ITIN to another person when it is required on a return, statement, or other document.

For example, if you have a bank account that earns interest, you must give your SSN or ITIN to the bank. The number must be shown on the Form 1099-INT or other statement the bank sends you. If you do not give the bank your SSN or ITIN, you will be subject to the $50 penalty. (You may also be subject to backup withholding of income tax.)

You will not have to pay the penalty if you are able to show that the failure was due to reasonable cause and not willful neglect.

Criminal Penalties

You may be subject to criminal prosecution (brought to trial) for actions such as:

1. Tax evasion;
2. Willful failure to file a return, supply information, or pay any tax due;
3. Fraud and false statements; or
4. Preparing and filing a fraudulent return.

8. Paying Tax Through Withholding or Estimated Tax

Introduction

This chapter discusses how to pay your U.S. income tax as you earn or receive income during the year. In general, the federal income tax is a pay-as-you-go tax. There are two ways to pay as you go.

1. **Withholding.** If you are an employee, your employer probably withholds income tax from your pay. Tax may also be withheld from certain other income—including pensions, bonuses, commissions, and gambling winnings. In each case, the amount withheld is paid to the U.S. Treasury in your name.
2. **Estimated tax.** If you do not pay your tax through withholding, or do not pay enough tax that way, you might have to pay estimated tax. People who are in business for themselves will generally have to pay their tax this way. You may have to pay estimated tax if you receive income such as dividends, interest, rent, and royalties. Estimated tax is used to pay not only income tax, but self-employment tax and alternative minimum tax as well.

Topics

This chapter discusses:

- How to notify your employer of your alien status,
- Income subject to withholding of income tax,
- Exemptions from withholding,
- Social security and Medicare taxes, and
- Estimated tax rules.

Useful Items

You may want to see:

Publication

- ❑ **515** Withholding of Tax on Nonresident Aliens and Foreign Entities
- ❑ **901** U.S. Tax Treaties

Form (and Instructions)

- ❑ **W-4** Employee's Withholding Allowance Certificate
- ❑ **Notice 1392** Supplemental Form W-4 Instructions for Nonresident Aliens
- ❑ **W-8BEN** Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding and Reporting (Individuals)
- ❑ **W-8ECI** Certificate of Foreign Person's Claim That Income Is Effectively Connected With the Conduct of a Trade or Business in the United States
- ❑ **W-9** Request for Taxpayer Identification Number and Certification
- ❑ **1040-ES (NR)** U.S. Estimated Tax for Nonresident Alien Individuals
- ❑ **8233** Exemption From Withholding on Compensation for Independent (and Certain Dependent) Personal Services of a Nonresident Alien Individual
- ❑ **8288-B** Application for Withholding Certificate for Dispositions by Foreign Persons of U.S. Real Property Interests
- ❑ **13930** Application for Central Withholding Agreement

See chapter 12 for information about getting these publications and forms.

Notification of Alien Status

You must let your employer know whether you are a resident or a nonresident alien so your employer can withhold the correct amount of tax from your wages.

If you are a resident alien under the rules discussed in chapter 1, you must file Form W-9 or a similar statement with your employer. If you are a nonresident alien under those rules, you must furnish to your employer Form 8233 or Form W-8BEN, establishing that you are a foreign person, or Form W-4, establishing that your compensation is subject to graduated withholding at the same rates as resident aliens or U.S. citizens.

If you are a resident alien and you receive income other than wages (such as dividends and royalties) from sources within the United States, file Form W-9 or similar statement with the withholding agent (generally, the payer of the income) so the agent will not withhold tax on the income at the 30% (or lower treaty) rate. If you receive this type of income as a nonresident alien, file Form W-8BEN with the withholding agent so that the agent will withhold tax at the 30% (or lower treaty) rate. However, if the income is effectively connected with a U.S. trade or business, file Form W-8ECI instead.

Withholding From Compensation

The following discussion generally applies only to nonresident aliens. Tax is withheld from resident aliens in the same manner as U.S. citizens.

Wages and other compensation paid to a nonresident alien for services performed as an employee are usually subject to graduated withholding at the same rates as resident aliens and U.S. citizens. Therefore, your compensation, unless it is specifically excluded from the term "wages" by law, or is exempt from tax by treaty, is subject to graduated withholding.

Withholding on Wages

If you are an employee and you receive wages subject to graduated withholding, you will be required to fill out a Form W-4. Also fill out Form W-4 for a scholarship or fellowship grant to the extent it represents payment for past, present, or future services and for which you are not claiming a tax treaty withholding exemption on Form 8233 (discussed later under *Income Entitled to Tax Treaty Benefits*). These are services you are required to perform as an employee and as a condition of receiving the scholarship or fellowship (or tuition reduction).

Nonresident aliens must follow the special instructions in *Notice 1392* when completing Form W-4 for compensation paid as employees performing dependent personal services in the United States. Compensation for dependent personal services includes amounts paid as wages, salaries, fees, bonuses, commissions, compensatory scholarships, fellowship income, and similar designations for amounts paid to an employee.

To see if you need to have your withholding increased or decreased, use the IRS *Tax Withholding Estimator*.

See *Withholding on Scholarships and Fellowship Grants*, later, for how to fill out Form W-4 if you receive a U.S. source scholarship or fellowship grant that is not a payment for services.

Students and business apprentices from India. If you are eligible for the benefits of Article 21(2) of the United States-India Income Tax Treaty, you may claim an additional withholding allowance for the standard deduction.

Household employees. If you work as a household employee, your employer does not have to withhold income tax. However, you may agree to voluntarily withhold income tax by filing a Form W-4 with your employer. The agreement goes into effect when your employer accepts the agreement by beginning the withholding. You or your employer may end the agreement by letting the other know in writing.

Agricultural workers. If you are an agricultural worker on an H-2A visa, your employer does not have to withhold income tax. However, your employer will withhold income tax only if you and your employer agree to withhold. In that case, you must provide your employer with a properly completed Form W-4. You can find more information about not having tax withheld at *IRS.gov/ForeignAgriculturalWorkers*.

Wages Exempt From Withholding

Wages that are exempt from U.S. income tax under an income tax treaty are generally exempt from withholding. For information on how to claim this exemption from withholding, see *Income Entitled to Tax Treaty Benefits*, later.

Wages paid to aliens who are residents of American Samoa, Canada, Mexico, Puerto Rico, or the U.S. Virgin Islands may be exempt from withholding. The following paragraphs explain these exemptions.

Residents of Canada or Mexico engaged in transportation-related employment. Certain residents of Canada or Mexico who enter or leave the United States at frequent intervals are not subject to withholding on their wages. These persons either:

- Perform duties in transportation service between the United States and Canada or Mexico; or
- Perform duties connected to the construction, maintenance, or operation of a waterway, viaduct, dam, or bridge crossed by, or crossing, the boundary between the United States and Canada or the boundary between the United States and Mexico.

CAUTION *This employment is subject to withholding of social security and Medicare taxes unless the services are performed for a railroad.*

To qualify for the exemption from withholding during a tax year, a Canadian or Mexican resident must give the employer a statement in duplicate with name, address, and identification number, certifying that the resident:

- Is not a U.S. citizen or resident;
- Is a resident of Canada or Mexico, whichever applies; and
- Expects to perform duties previously described during the tax year in question.

The statement can be in any form, but it must be dated and signed by the employee and must include a written declaration that it is made under penalties of perjury.

Residents of American Samoa and Puerto Rico. If you are a nonresident alien employee who is a resident of American Samoa or Puerto Rico, wages for services performed in American Samoa or Puerto Rico are generally not subject to withholding unless you are an employee of the United States or any of its agencies in American Samoa or Puerto Rico.

Residents of the U.S. Virgin Islands. Nonresident aliens who are bona fide residents of the U.S Virgin Islands are not subject to withholding of U.S. tax on income earned while temporarily employed in the United States. This is because those persons pay their income tax to the U.S. Virgin Islands. To avoid having tax withheld on income earned in the United States, bona fide residents of the U.S. Virgin Islands should write a letter, in duplicate, to their employers, stating that they are bona fide residents of the U.S. Virgin Islands and expect to pay tax on all income to the U.S. Virgin Islands.

Withholding on Pensions

If you receive a pension distribution from the United States, the payment is generally subject to the 30% (or lower treaty) rate of withholding. You may, however, have tax withheld at graduated rates on the portion of the pension that arises from the performance of services in the United States after 1986. You must fill out Form W-8BEN or Form 8233 and give it to the withholding agent or payer before the income is paid or credited to you.

Withholding on Tip Income

Tips you receive during the year for services performed in the United States are subject to U.S. income tax. Include them in taxable income. In addition, tips received while working for one employer, amounting to $20 or more in a month, are subject to graduated withholding.

Independent Contractors

If there is no employee-employer relationship between you and the person for whom you perform services, your compensation is subject to the 30% (or lower treaty) rate of withholding. However, if you are engaged in a trade or business in the United States during the tax year, your compensation for personal services as an independent contractor (independent personal services) may be entirely or partly exempt from withholding if you reach an agreement with the

IRS on the amount of withholding required. An agreement that you reach with the IRS regarding withholding from your compensation for independent personal services is effective for payments covered by the agreement after it is agreed to by all parties. You must agree to timely file an income tax return for the current tax year.

Central withholding agreements (CWA). If you are a nonresident alien entertainer or athlete performing or participating in athletic events in the United States, you may be able to enter into a CWA with the IRS for reduced withholding, provided certain requirements are met. Under no circumstances will such a withholding agreement reduce taxes withheld to less than the anticipated amount of income tax liability.

Use Form 13930 to apply for a CWA, for a nonresident alien entertainer or athlete that has calendar year-to-date U.S. gross income of at least $10,000. Form 13930 must be mailed to the address listed below.

CAUTION *We have temporarily waived the income requirement for which form to use when applying for a CWA. Form 13930-A is currently unavailable. While the waiver is in effect, individuals with income below $10,000 can apply for a CWA using Form 13930, Instructions on how to apply for a Central Withholding Agreement. For more information on how to apply for a CWA, see Form 13930. For more information, go to IRS.gov/Individuals/International-Taxpayers/Central-Withholding-Agreements.*

A request for a CWA must be received by the IRS at least 45 days before the agreement is to take effect to ensure it is in place before the tour begins or the first event occurs, and it must contain all supporting documentation specified in the instructions, or no consideration will be given to entering into a CWA. Exceptions will be considered on a case-by-case basis.

Central Withholding Agreement Program
Internal Revenue Service
850 Trafalgar Ct., Suite 200
Maitland, FL 32751-4153

Final payment exemption. Your final payment of compensation during the tax year for independent personal services may be entirely or partly exempt from withholding. This exemption is available only once during your tax year and applies to a maximum of $5,000 of compensation. To obtain this exemption, you or your agent must give the following statements and information to the Commissioner or his delegate.

- A statement by each withholding agent from whom you have received gross income effectively connected with a trade or business in the United States during the tax year, showing the amount of income paid and the tax withheld. Each statement must be signed by the withholding agent and verified by a declaration that it is made under penalties of perjury.
- A statement by the withholding agent from whom you expect to receive the final payment of compensation, showing the amount of the payment and the amount of tax that would be withheld if a final payment exemption were not granted. This statement must also be signed by the withholding agent and verified by a declaration that it is made under penalties of perjury.
- A statement by you that you do not intend to receive any other income effectively connected with a trade or business in the United States during the current tax year.
- The amount of tax that has been withheld or paid under any other provision of the Internal Revenue Code or regulations for any income effectively connected with your trade or business in the United States during the current tax year.
- The amount of your outstanding tax liabilities, if any, including interest and penalties, from the current tax year or prior tax periods.
- Any provision of an income tax treaty under which a partial or complete exemption from withholding may be claimed, the country of your residence, and a statement of sufficient facts to justify an exemption under the treaty.
- A statement signed by you, and verified by a declaration that it is made under penalties of perjury, that all the information given is true and that to your knowledge no relevant information has been omitted.

If satisfied with the information, the IRS will determine the amount of your tentative income tax for the tax year on gross income effectively connected with your trade or business in the United States. Ordinary and necessary business expenses can be taken into account if proven to the satisfaction of the Commissioner or his delegate.

The Commissioner or his delegate will send you a letter, directed to the withholding agent, showing the amount of the final payment of compensation that is exempt from withholding and the amount that can be paid to you because of the exemption. You must give two copies of the letter to the withholding agent and must also attach a copy of the letter to your income tax return for the tax year for which the exemption is effective. For more information, see *Pub. 515*.

Refund of Taxes Withheld in Error

Multilevel marketing. If you are a distributor for a multilevel marketing company who had taxes withheld in error, file a U.S. income tax return (Form 1040-NR or Form 1120-F) or, if a tax return has already been filed, a claim for refund (Form 1040-X or amended Form 1120-F) to recover the amount withheld in error. You must also attach to the U.S. income tax return or claim for refund supporting information that includes, but is not limited to, the following items.

- A copy of your Form W-2, Form 1042-S, or Form 1099 to prove the amount of taxes withheld.
- A statement explaining why income reported on your Form W-2, Form 1042-S, or Form 1099 is not subject to U.S. taxation.
- A statement listing all the dates you entered and left the United States during the tax year. If the compensation is multiyear compensation, the statement must list all the dates you entered and left the United States during each of the tax years to which the compensation is attributable.
- A copy of any documents or records that show the number of days you actually were present in the United States during the years listed.
- A statement providing (a) the number of days (or unit of time less than a day, if appropriate) that personal services were performed in the United States in connection with recruiting, training, and supporting your lower-tier distributors; and (b) the total number of days (or unit of time less than a day, if appropriate) that personal services were performed globally in connection with recruiting, training, and supporting your lower-tier distributors.
- Any further relevant document or record supporting your claim that the taxes were withheld in error.

Refund of taxes withheld in error on social security benefits paid to resident aliens. Social security benefits paid to a lawful permanent resident (green card holder) are not subject to 30% withholding. For U.S. income tax purposes, green card holders continue to be resident aliens until their lawful permanent resident status under immigration laws is either taken away or is administratively or judicially determined to have been abandoned. See *Green Card Test* in chapter 1. If you are a green card holder and tax was withheld in error on your social security benefits because you have a foreign address, the withholding tax is refundable by the IRS. To obtain a refund, you must file a Form 1040 or 1040-SR. To determine if you are entitled to a refund, send your return to:

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

You must also attach the following to your Form 1040 or 1040-SR.

- A copy of Form SSA-1042S, Social Security Benefit Statement.
- A copy of the green card.
- A signed declaration that includes the following statements: "The SSA should not have withheld income tax from my social security benefits because I am a U.S. lawful permanent resident and my green card has been neither revoked nor administratively or judicially determined to have been abandoned. I am filing a U.S. income tax return for the tax year as a resident alien reporting all of my worldwide income. I have not claimed benefits for the tax year under an income tax treaty as the resident of a country other than the United States."

Withholding From Other Income

Other income subject to 30% withholding generally includes fixed or determinable income such as interest (other than portfolio interest), dividends, pensions and annuities, and gains from certain sales and exchanges, discussed in chapter 4. It also includes 85% of social security benefits paid to nonresident aliens.

Other income not subject to withholding of 30% (or lower treaty) rate. The following income is not subject to withholding at the 30% (or lower treaty) rate if you file Form W-8ECI with the payer of the income.

- Income (other than compensation) that is effectively connected with your U.S. trade or business.
- Income from real property that you choose to treat as effectively connected with a U.S. trade or business. See *Income From Real Property* in chapter 4 for details about this choice.

Special rules for withholding on partnership income, scholarships, and fellowships are explained next.

Tax Withheld on Partnership Income

If you are a foreign partner in a U.S. or foreign partnership, the partnership will withhold tax on your share of ECTI from the partnership. Your partnership may be able to reduce withholding on your share of ECTI by considering certain partner-level deductions. Generally, you must submit Form 8804-C for this purpose. For more information, see the Instructions for Form 8804-C.

The withholding rate on your share of effectively connected income is generally the highest rate of tax specified under section 1 (37%). However, the partnership may withhold at the highest rate that applies to a particular type of income allocable to you if you gave the partnership the appropriate documentation. Long-term capital gain is an example of a particular type of income to which the highest tax rate applies. Claim the tax withheld as a credit on your 2021 Form 1040-NR.

The partnership will give you a statement on Form 8805 showing the tax withheld. A partnership that is publicly traded will withhold tax on your actual distributions of effectively connected income. In this case, the partnership will give you a statement on Form 1042-S.

Tax withheld on gain from the sale or exchange of certain partnership interests. If you are a direct or indirect foreign partner in a U.S. or foreign partnership that is engaged (or is treated as engaged) in a trade or business within the United States and you directly or indirectly dispose of that interest for a gain, then for transfers occurring after 2017 the transferee will generally withhold and pay to the IRS on your behalf a tax equal to 10% of the amount realized on the sale. The rules for withholding and paying over this amount are similar to the rules for sales of U.S. real property interests. You will receive a Form 8288-A reflecting the amount withheld that you may then claim on line 25f of your Form 1040-NR as a credit against the tax you owe on the gain. You may be able to provide certain information to the transferee to reduce or eliminate withholding. For example, if a nonrecognition provision of the Internal Revenue Code applies to all of the gain realized on a transfer, the transferee does not need to withhold if you provide a notice describing the application of a nonrecognition provision. If you are a transferee that failed to withhold, under section 1446(f)(4) the partnership may withhold on distributions to you.

On November 30, 2020, final regulations under section 1446(f) were issued which are generally applicable to transfers of non-PTP interests that occur on or after January 29, 2021. Notice 2018-29 applies to transfers of non-PTP interests that occurred before the applicability date of the final regulations, or, under certain circumstances, taxpayers may apply the proposed regulations to transfers of non-PTP interests during this time. The requirements for transfers of PTP interests and withholding under section 1446(f)(4) are suspended for transfers occurring before January 1, 2022. For more information, see *Pub. 515*.

For more information, see Treasury Decision 9926 on page 1602 of I.R.B. 2020-51, available at *IRS.gov/irb/2020-51_IRB#TD-9926*. Also, see the final regulations as published in the Federal Register at *govinfo.gov/content/pkg/FR-2020-11-30/pdf/2020-22619.pdf*.

Withholding on Scholarships and Fellowship Grants

There is no withholding on a qualified scholarship received by a candidate for a degree. See chapter 3.

If you are a nonresident alien student or grantee with an "F," "J," "M," or "Q" visa and you receive a U.S. source grant or scholarship that is not fully exempt, the withholding agent (usually the payer of the scholarship) withholds tax at 14% (or lower treaty rate) of the taxable part of the grant or scholarship that is not a payment for services. However, if you are not a candidate for a degree and the grant does not meet certain requirements, tax will be withheld at the 30% (or lower treaty) rate.

Any part of a scholarship or fellowship grant that is a payment for services is subject to graduated withholding, as discussed earlier under *Withholding on Wages*.

Alternate Withholding Procedure

Your withholding agent may choose to use an alternate procedure by asking you to fill out Form W-4. See below for items that may reduce your withholding.

Expenses. Include expenses that will be deductible on your return. These include the IRA deduction discussed under *Deductions* in chapter 5.

Nontaxable grant or scholarship. You can exclude the part of your grant or scholarship that is not taxable under U.S. law or under a tax treaty.

Standard deduction. If you are a student who qualifies under Article 21(2) of the United States-India Income Tax Treaty, you can take the standard deduction. The standard deduction amount for 2021 is $12,550.

Form W-4. Complete the appropriate lines of Form W-4. Sign and date the form and give it to your withholding agent.

If you file a Form W-4 to reduce or eliminate the withholding on your scholarship or grant, you must file an annual U.S. income tax return to be allowed any deductions you claimed on that form. If you are in the United States during more than 1 tax year, you must attach a statement to your yearly Form W-4 indicating that you have filed a U.S. income tax return for the previous year. If you have not been in the United States long enough to be required to file a return, you must attach a statement to your Form W-4 saying you will file a U.S. income tax return when required.

After the withholding agent has accepted your Form W-4, tax will be withheld on your scholarship or grant at the graduated rates that apply to wages. The gross amount of the income is reduced by the applicable amount(s) on Form W-4, and the withholding tax is figured on the remainder.

You will receive a Form 1042-S from the withholding agent (usually the payer of your grant) showing the gross amount of your taxable scholarship or fellowship grant less any withholding allowance amount, the tax rate, and the amount of tax withheld. Use this form to prepare your annual U.S. income tax return.

For more information, go to *IRS.gov/FormW4*.

Income Entitled to Tax Treaty Benefits

If a tax treaty between the United States and your country of residence provides an exemption from, or a reduced rate of, tax for certain items of income, you should notify the payer of the income (the withholding agent) of your foreign status to claim a tax treaty withholding exemption. Generally, you do this by filing either Form W-8BEN or Form 8233 with the withholding agent.

File Form W-8BEN for income that is not personal services income. File Form 8233 for personal services income, as discussed next.

TIP *If you qualify for an exemption under a tax treaty but did not submit a Form 8233 to your withholding agent to claim an exemption from withholding, you can still get the benefit of the exemption by filing a Form 1040-NR. Follow the instructions for line 1a of the Form 1040-NR.*

Employees and independent contractors. If you perform personal services as an employee or as an independent contractor and you can claim an exemption from withholding on that personal service income because of a tax treaty, give Form 8233 to each withholding agent from whom amounts will be received.

Even if you submit Form 8233, the withholding agent may have to withhold tax from your income. This is because the factors on which the treaty exemption is based may not be determinable until after the close of the tax year. In this case, you must file Form 1040-NR to recover any overwithheld tax and to provide the IRS

with proof that you are entitled to the treaty exemption.

Students, teachers, and researchers. Students, teachers, and researchers must attach the appropriate statement shown in Appendix A (for students) or Appendix B (for teachers and researchers) at the end of this publication to the Form 8233 and give it to the withholding agent. For treaties not listed in the appendices, attach a statement in a format similar to those for other treaties.

If you received a scholarship or fellowship grant, as well as personal services income, from the same withholding agent, use Form 8233 to claim an exemption from withholding based on a tax treaty for both types of income.

Special events and promotions. Withholding at the full 30% rate is required for payments made to a nonresident alien or foreign corporation for gate receipts (or television or other receipts) from music festivals, boxing promotions, and other entertainment or sporting events, unless the withholding agent has been specifically advised otherwise by letter from the IRS. Depending on the calendar year in which the U.S. gross income is earned, Form 13930 can be used to request a reduction in withholding. Withholding may be required even if the income may be exempt from taxation by provisions of a tax treaty. One reason for this is that the partial or complete exemption is usually based on factors that cannot be determined until after the close of the tax year.

For more information, go to *IRS.gov/Individuals/International-Taxpayers/Central-Withholding-Agreements*.

CAUTION *We have temporarily waived the income requirement for which form to use when applying for a CWA. Form 13930-A is currently unavailable. While the waiver is in effect, individuals with income below $10,000 can apply for a CWA using Form 13930, Instructions on how to apply for a Central Withholding Agreement. For more information on how to apply for a CWA, see Form 13930. For more information, go to IRS.gov/Individuals/International-Taxpayers/Central-Withholding-Agreements.*

CAUTION *You will be required to pay U.S. tax at the time of your departure from the United States on any income for which you incorrectly claimed a treaty exemption. For more details on treaty provisions that apply to compensation, see Pub. 901.*

Tax withheld on real property sales. If you are a nonresident alien and you disposed of a U.S. real property interest, the transferee (buyer) of the property must generally withhold a tax equal to 15% of the amount realized on the disposition.

However, if the property is acquired by the buyer for use as a residence and the amount realized does not exceed $1 million, the rate of withholding is 10%.

The amount realized is the sum of:

- The cash paid, or to be paid (principal only);
- The fair market value of other property transferred, or to be transferred; and
- The amount of any liability assumed by the transferee or to which the property is subject immediately before and after the transfer.

If the property transferred was owned jointly by U.S. and foreign persons, the amount realized is allocated between the transferors based on the capital contribution of each transferor.

A distribution by a QIE to a nonresident alien shareholder that is treated as gain from the sale or exchange of a U.S. real property interest by the shareholder is subject to withholding at 21%. Withholding is also required on certain distributions and other transactions by domestic or foreign corporations, partnerships, trusts, and estates. These rules are covered in *Pub. 515* and in the Instructions for Form 8288.

For information on the tax treatment of dispositions of U.S. real property interests, see *Real Property Gain or Loss* in chapter 4.

If you are a partner in a domestic partnership, and the partnership disposes of a U.S. real property interest at a gain, the partnership will withhold tax on the amount of gain allocable to its foreign partners. Your share of the income and tax withheld will be reported to you on Form 8805 or Form 1042-S (in the case of a PTP).

Withholding is not required in the following situations.

1. The property is acquired by the buyer for use as a residence and the amount realized is not more than $300,000.
2. The property disposed of is an interest in a domestic corporation if any class of stock of the corporation is regularly traded on an established securities market. However, this exception does not apply to certain dispositions of substantial amounts of nonpublicly traded interests in publicly traded corporations.
3. The property disposed of is an interest in a U.S. corporation that is not regularly traded on an established market and you (the seller) give the buyer a copy of a statement issued by the corporation certifying that the interest is not a U.S. real property interest.
4. You (the seller) give the buyer a certification stating, under penalties of perjury, that you are not a foreign person, and containing your name, U.S. TIN, and home address.

   You can give the certification to a qualified substitute. The qualified substitute gives the buyer a statement, under penalties of perjury, that the certification is in the possession of the qualified substitute. For this purpose, a "qualified substitute" is:

   a. The person (including any attorney or title company) responsible for closing the transaction, other than your agent;

   b. The buyer's agent.
5. The buyer receives a withholding certificate from the IRS.
6. You give the buyer written notice that you are not required to recognize any gain or loss on the transfer because of a nonrecognition provision in the Internal Revenue Code or a provision in a U.S. tax treaty. The buyer must file a copy of the notice with the Ogden Service Center, P.O. Box 409101, Ogden, UT 84409. You must verify the notice as true and sign it under penalties of perjury.

   See Regulations section 1.1445-2(d)(2) for more information on the transferor's notice of nonrecognition.

   You may not give the buyer a written notice for any of the following transfers:

   a. The sale of your main home on which you exclude gain,

   b. A like-kind exchange that does not qualify for nonrecognition treatment in its entirety, or

   c. A deferred like-kind exchange that has not been completed at the time the buyer must file Form 8288.

   Instead, you must get a withholding certificate (described next).
7. The amount you realize on the transfer of a U.S. real property interest is zero.
8. The property is acquired by the United States, a U.S. state or possession, a political subdivision, or the District of Columbia.
9. The distribution is from a domestically controlled QIE and is treated as a distribution of a U.S. real property interest only because an interest in the entity was disposed of in an applicable wash sale transaction. For the definition of a QIE, see *Qualified investment entities* under *Real Property Gain or Loss*, earlier. See *Wash sale* under *Real Property Gain or Loss* in chapter 4.

The certifications in (3) and (4) must be disregarded by the buyer if the buyer or qualified substitute has actual knowledge, or receives notice from a seller's or buyer's agent (or substitute), that they are false. This also applies to the qualified substitute's statement under (4).

Withholding certificates. The tax required to be withheld on a disposition can be reduced or eliminated under a withholding certificate issued by the IRS. In most cases, either you or the buyer can request a withholding certificate.

A withholding certificate can be issued due to any of the following.

1. The IRS determines that reduced withholding is appropriate because either:

   a. The amount required to be withheld would exceed your maximum tax liability, or

   b. Withholding of the reduced amount would not jeopardize collection of the tax.
2. All of your realized gain is exempt from U.S. tax and you have no unsatisfied withholding liability.
3. You or the buyer enters into an agreement with the IRS for the payment of tax and provides security for the tax liability.

See *Pub. 515* and *IRS.gov/Individuals/International-Taxpayers/Withholding-Certificates* for information on procedures to request a withholding certificate.

Credit for tax withheld. The buyer must report and pay over the withheld tax within 20 days after the transfer using Form 8288. This form is filed with the IRS with copies A and B of Form 8288-A. Copy B of this statement will be stamped received by the IRS and returned to you (the seller) if the statement is complete and includes your TIN. You must file Copy B with your tax return to take credit for the tax withheld.

A stamped copy of Form 8288-A will not be provided to you if your TIN is not included on that form. The IRS will send you a letter requesting the TIN and provide instructions for how to get a TIN. When you provide the IRS with a TIN, the IRS will provide you with a stamped Copy B of Form 8288-A.

Social Security and Medicare Taxes

If you work as an employee in the United States, you must pay social security and Medicare taxes in most cases. Your payments of these taxes contribute to your coverage under the U.S. social security system. Social security coverage provides retirement benefits, survivors and disability benefits, and medical insurance (Medicare) benefits to individuals who meet certain eligibility requirements.

In most cases, the first $142,800 of taxable wages received in 2021 for services performed in the United States is subject to social security tax. All taxable wages are subject to Medicare tax. Your employer deducts these taxes from each wage payment. Your employer must deduct these taxes even if you do not expect to qualify for social security or Medicare benefits. You can claim a credit for excess social security tax on your income tax return if you have more than one employer and the amount deducted from your combined wages for 2021 is more than $8,854. Use the appropriate worksheet in chapter 3 of *Pub. 505* to figure your credit.

If any one employer deducted more than $8,537.40, you cannot claim a credit for that amount. Ask your employer to refund the excess. If your employer does not refund the excess, you can file a claim for refund using Form 843.

In general, U.S. social security and Medicare taxes apply to payments of wages for services performed as an employee in the United States, regardless of the citizenship or residence of either the employee or the employer. In limited situations, these taxes apply to wages for services performed outside the United States. Your employer should be able to tell you if social security and Medicare taxes apply to your wages. You cannot make voluntary payments if no taxes are due.

Additional Medicare Tax. In addition to the Medicare tax, a 0.9% (0.009) Additional Medicare Tax applies to Medicare wages, RRTA compensation, and self-employment income that are more than:

- $250,000 if married filing jointly,
- $125,000 if married filing separately, or
- $200,000 for any other filing status.

There are no special rules for nonresident aliens for purposes of Additional Medicare Tax. Wages, RRTA compensation, and self-employment income that are subject to Medicare tax will also be subject to Additional Medicare Tax if in excess of the applicable threshold.

Your employer is responsible for withholding the 0.9% (0.009) Additional Medicare Tax on Medicare wages or RRTA compensation it pays to you in excess of $200,000 in the calendar year. If you intend to file a joint return and you anticipate that you and your spouse's individual wages are not going to be more than $200,000 but your combined wages and self-employment income are going to be more than $250,000, you may want to request additional withholding on Form W-4 and/or make estimated tax payments.

If you file Form 1040-NR, you must pay Additional Medicare Tax if the total of your wages and your self-employment income was more than $125,000 if married (you checked the Married filing separately box at the top of page one of Form 1040-NR), or $200,000 if single or qualifying widow(er) (you checked the Single or Qualifying widow(er) box at the top of page one of Form 1040-NR).

See Form 8959 and its instructions to determine whether you are required to pay Additional Medicare Tax. For more information on Additional Medicare Tax, go to *IRS.gov/ADMT*.

Self-employed individuals may also be required to pay Additional Medicare Tax. See *Self-Employment Tax*, later.

Students and Exchange Visitors

Generally, services performed by you as a nonresident alien temporarily in the United States as a nonimmigrant under subparagraph (F), (J), (M), or (Q) of section 101(a)(15) of the Immigration and Nationality Act are not covered under the social security program if the services are performed to carry out the purpose for which you were admitted to the United States. This means that there will be no withholding of social security or Medicare taxes from the pay you receive for these services. These types of services are very limited and generally include only on-campus work, practical training, and economic hardship employment.

Social security and Medicare taxes will be withheld from your pay for these services if you are considered a resident alien as discussed in chapter 1, even though your nonimmigrant classification ("F," "J," "M," or "Q") remains the same.

Services performed by a spouse or minor child of nonimmigrant aliens with the classification of "F-2," "J-2," "M-2," and "Q-3" **are covered** under social security.

Nonresident Alien Students

If you are a nonresident alien temporarily admitted to the United States as a student, you are generally not permitted to work for a wage or salary or to engage in business while you are in the United States. In some cases, a student admitted to the United States in "F-1," "M-1," or "J-1" status is granted permission to work. Social security and Medicare taxes are not withheld from pay for the work unless the student is considered a resident alien.

TIP *Any student who is enrolled and regularly attending classes at a school may be exempt from social security and Medicare taxes on pay for services performed for that school.*

The USCIS permits on-campus work for students in "F-1" status if it does not displace a U.S. resident. "On-campus work" means work performed on the school's premises. On-campus work includes work performed at an off-campus location that is educationally affiliated with the school. On-campus work under the terms of a scholarship, fellowship, or assistantship is considered part of the academic program of a student taking a full course of study and is permitted by the USCIS. Social security and Medicare taxes are not withheld from pay for this work unless the student is considered a resident alien.

If services performed by a nonresident alien student are not considered as performed to carry out the purpose for which the student was admitted to the United States, social security and Medicare taxes will be withheld from pay for the services unless the pay is exempt under the Internal Revenue Code.

Exchange Visitors

Exchange visitors are temporarily admitted to the United States under section 101(a)(15)(J) of the Immigration and Nationality Act. Social security and Medicare taxes are not withheld on pay for services of an exchange visitor who has been given permission to work and who possesses or obtains a letter of authorization from the sponsor unless the exchange visitor is considered a resident alien.

If services performed by an exchange visitor are not considered as performed to carry out the purpose for which the visitor was admitted to the United States, social security and Medicare taxes are withheld from pay for the services unless the pay is exempt under the Internal Revenue Code.

Nonresident aliens temporarily admitted to the United States as participants in international cultural exchange programs under section 101(a)(15)(Q) of the Immigration and Nationality Act may be exempt from social security and Medicare taxes. The employer must be the petitioner through whom the alien obtained the "Q" visa. Social security and Medicare taxes are not withheld from pay for this work unless the alien is considered a resident alien.

Refund of Taxes Withheld in Error

If social security or Medicare taxes were withheld in error from pay that is not subject to these taxes, contact the employer who withheld the taxes for a refund. If you are unable to get a full refund of the amount from your employer, file a claim for refund with the IRS on Form 843. Attach the following items to Form 843.

- A copy of your Form W-2 to prove the amount of social security and Medicare taxes withheld.
- A copy of your visa.
- Form I-94 (or other documentation showing your dates of arrival or departure).
- If you have a J-1 visa, attach a copy of your Form DS-2019.
- If you have an F-1 or M-1 visa, attach a complete copy of your Form I-20.
- If you are engaged in optional practical training, attach Form I-766
- If you are engaged in employment due to severe economic necessity, documentation showing permission to work in the United States.
- A statement from your employer indicating the amount of the reimbursement your employer provided and the amount of the credit or refund your employer claimed or you authorized your employer to claim. If you cannot obtain this statement from your employer, you must provide this information on your own statement and explain why you are not attaching a statement from your employer or on Form 8316 claiming your employer will not issue the refund.
- If you were exempt from social security and Medicare tax for only part of the year, pay statements showing the tax paid during the period you were exempt.

Send Form 843 (with attachments) to:

Department of the Treasury
Internal Revenue Service Center
Ogden, UT 84201-0038

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CAUTION *Do not use Form 843 to request a refund of Additional Medicare Tax. If Additional Medicare Tax was withheld from your pay in error, you can claim a credit for any withheld Additional Medicare Tax against the total tax liability shown on your tax return by filing Form 8959 with Form 1040, 1040-SR, or 1040-NR. If Additional Medicare Tax was withheld in error in a prior year for which you already filed Form 1040, 1040-SR, or 1040-NR, you must file Form 1040-X for the prior year in which the wages or compensation was originally received to recover the Additional Medicare Tax withheld in error. See the Instructions for Form 1040-X.*

Agricultural Workers

Agricultural workers temporarily admitted into the United States on H-2A visas are exempt from social security and Medicare taxes on compensation paid to them for services performed in connection with the H-2A visa. You can find more information about not having tax withheld at *IRS.gov/Individuals/International-Taxpayers/Foreign-Agricultural-Workers*.

Self-Employment Tax

Self-employment tax is the social security and Medicare taxes for individuals who are self-employed. Nonresident aliens are not subject to self-employment tax unless an international social security agreement in effect determines that they are covered under the U.S. social security system. Residents of the U.S. Virgin Islands, Puerto Rico, Guam, the CNMI, or American Samoa are considered U.S. residents for this purpose and are subject to the self-employment tax. You can find more information about international social security agreements, later.

Resident aliens must pay self-employment tax under the same rules that apply to U.S. citizens. However, a resident alien employed by an international organization, a foreign government, or a wholly owned instrumentality of a foreign government is not subject to the self-employment tax on income earned in the United States.

Self-employment income you receive while you are a resident alien is subject to self-employment tax even if it was paid for services you performed as a nonresident alien.

Example. Bill Jones is an author. Bill had several books published in a foreign country while he was a citizen and resident of that country. During 2021, Bill entered the United States as a resident alien. After becoming a U.S. resident, he continued to receive royalties from his foreign publisher. Bill reports his income and expenses on the cash basis (he reports income on his tax return when received and deducts expenses when paid). Bill's 2021 self-employment income includes the royalties received after he became a U.S. resident even though the books were published while he was a nonresident alien. This royalty income is subject to self-employment tax.

Reporting self-employment tax. Use Schedule SE (Form 1040) to report and figure your self-employment tax. Then, enter the tax on Schedule 2 (Form 1040), line 4. Attach Schedule SE (Form 1040) to Form 1040, 1040-SR, or 1040-NR.

Deferral of employment tax deposits and payments. Section 2302 of the CARES Act permits self-employed individuals to defer payment of a portion of their 2020 self-employment tax until 2021 and 2022. Specifically, the payment of 50% of the social security tax imposed on net earnings from self-employment earned during the period beginning on March 27, 2020, and ending December 31, 2020, may be deferred. Up to half of the maximum amount that can be deferred must be paid by December 31, 2021, and the remaining amount must be paid by December 31, 2022.

The deferral is calculated and reported on Part III of Schedule SE (Form 1040). For more information, see Schedule SE (Form 1040) and its instructions.

Additional Medicare Tax. Self-employed individuals must pay a 0.9% (0.009) Additional Medicare Tax on self-employment income that exceeds one of the following threshold amounts (based on your filing status).

- Married filing jointly—$250,000.
- Married filing separately—$125,000.
- Single, Head of household, or Qualifying widow(er)—$200,000.

If you have both wages and self-employment income, the threshold amount for applying the Additional Medicare Tax on the self-employment income is reduced (but not below zero) by the amount of wages subject to Additional Medicare Tax. A self-employment loss should not be considered for purposes of this tax.

If you file Form 1040-NR, you must pay Additional Medicare Tax if the total of your wages and your self-employment income was more than $125,000 if married (you checked the Married filing separately box at the top of page one of Form 1040-NR), or $200,000 if single or qualifying widow(er) (you checked the Single or Qualifying widow(er) box at the top of page 1 of Form 1040-NR).

See Form 8959 and its separate instructions to determine whether you are required to pay Additional Medicare Tax. For more information on Additional Medicare Tax, go to *IRS.gov/ADMT*.

Deduction for employer-equivalent portion of self-employment tax. If you must pay self-employment tax, you can deduct a portion of the self-employment tax paid in figuring your adjusted gross income. This deduction is figured on Schedule SE (Form 1040).

Note. No portion of the Additional Medicare Tax is deductible for self-employment tax.

More information. See *Pub. 334* for more information about self-employment tax.

International Social Security Agreements

The United States has entered into social security agreements, commonly referred to as "Totalization agreements," with foreign countries to coordinate social security coverage and taxation of workers employed for part or all of their working careers in one of the countries. Under these agreements, dual coverage and dual contributions (taxes) for the same work are eliminated. The agreements generally make sure that social security taxes (including self-employment tax) are paid only to one country.

For a list of current international social security agreements, go to *SSA.gov/international/status.html*. As agreements with additional countries enter into force, they will be posted on this website. For more information on international social security agreements, go to *SSA.gov/international/totalization_agreements.html*.

Employees. Generally, under these agreements, you are subject to social security taxes only in the country where you are working. However, if you are temporarily sent to work for the same employer in the United States and your pay would normally be subject to social

security taxes in both countries, most agreements provide that you remain covered only by the social security system of the country from which you were sent.

To establish that your pay is subject only to foreign social security taxes and is exempt from U.S. social security taxes (including the Medicare tax) under an agreement, you or your employer should request a certificate of coverage from the appropriate agency of the foreign country. This will usually be the same agency to which you or your employer pays your foreign social security taxes. The foreign agency will be able to tell you what information is needed for them to issue the certificate. Your employer should keep a copy of the certificate because it may be needed to show why you are exempt from U.S. social security taxes. Only wages paid on or after the effective date of the agreement can be exempt from U.S. social security taxes.

Some of the countries with which the United States has agreements will not issue certificates of coverage. In this case, either you or your employer should request a statement that your wages are not covered by the U.S. social security system. Request the statement from the following address.

U.S. Social Security Administration
Office of Earnings and International Operations
P.O. Box 17741
Baltimore, MD 21235-7741

Self-employed individuals. Under most agreements, self-employed individuals are covered by the social security system of the country where they reside. However, under some agreements, you may be exempt from U.S. self-employment tax if you temporarily transfer your business activity to or from the United States.

If you believe that your self-employment income is subject only to U.S. self-employment tax and is exempt from foreign social security taxes, request a Certificate of Coverage from the U.S. SSA or by writing to the address given earlier. This certificate will establish your exemption from foreign social security taxes.

To request or submit the Certificate of Coverage online, go to *OPTS.ssa.gov/*. You can also request a Certificate of Coverage by fax at 410-966-1861 or by writing to the following address.

Social Security Administration
Office of Earnings and
International Operations
P.O. Box 17741
Baltimore, MD 21235-7741

To establish that your self-employment income is subject only to foreign social security taxes and is exempt from U.S. self-employment tax, request a Certificate of Coverage from the appropriate agency of the foreign country. If the foreign country will not issue the certificate, you should request a statement that your income is not covered by the U.S. social security system. Request it from the U.S. SSA, at the address given earlier. Attach a photocopy of either statement to Form 1040 or 1040-SR each year you are exempt. Also enter "Exempt, see attached statement" on the line for self-employment tax.

TIP *For questions on the coverage rules of the agreements, call 410-965-0160.*

Estimated Tax Form 1040-ES (NR)

You may have income from which no U.S. income tax is withheld. Or, the amount of tax withheld may be less than the income tax you estimate you will owe at the end of the year. If so, you may have to pay estimated tax.

Generally, you must make estimated tax payments for 2022 if you expect to owe at least $1,000 in tax and you expect your withholding and certain refundable credits to be less than the smaller of:

1. 90% (0.90) of the tax to be shown on your 2022 income tax return, or
2. 100% (1.00) of the tax shown on your 2021 income tax return (if your 2021 return covered all 12 months of the year).

If your adjusted gross income for 2021 was more than $150,000 ($75,000 if your filing status for 2021 is Married filing separately), substitute 110% (1.10) for 100% (1.00) in (2) above if you are not a farmer or fisherman. Item (2) does not apply if you did not file a 2021 return.

A nonresident alien should use Form 1040-ES (NR) to figure and pay estimated tax. If you pay by check, make it payable to "United States Treasury."

How to estimate your tax for 2021. If you filed a 2021 return on Form 1040-NR and expect your income and total deductions for 2022 to be nearly the same, you should use your 2021 return as a guide to complete the Estimated Tax Worksheet in the Form 1040-ES (NR) instructions. If you did not file a return for 2021, or if your income, deductions, or credits will be different for 2022, you must estimate these amounts. Figure your estimated tax liability using the Tax Rate Schedule in the 2022 Form 1040-ES (NR) instructions for your filing status.

Note. If you expect to be a resident of Puerto Rico during the entire year, use Form 1040-ES or Formulario 1040-ES (PR).

When to pay estimated tax. Make your first estimated tax payment by the due date for filing the previous year's Form 1040-NR. If you have wages subject to the same withholding rules that apply to U.S. citizens, you must file Form 1040-NR and make your first estimated tax payment by April 18, 2022. If you do not have wages subject to withholding, file your income tax return and make your first estimated tax payment by June 15, 2022.

If your first estimated tax payment is due April 18, 2022, you can pay your estimated tax in full at that time or in four equal installments by the dates shown next.

1st installment	April 18, 2022
2nd installment	June 15, 2022
3rd installment	Sept. 15, 2022
4th installment	Jan. 17, 2023

If your first payment is not due until June 15, 2022, you can pay your estimated tax in full at that time or:

1. 1/2 of your estimated tax by June 15, 2022;
2. 1/4 of the tax by September 15, 2022; and
3. 1/4 by January 17, 2023.

TIP *You do not have to make the payment due January 17, 2023, if you file your 2022 Form 1040-NR by January 31, 2023, and pay the entire balance due with your return.*

Fiscal year. If your return is not on a calendar year basis, your due dates are the 15th day of the 4th, 6th, and 9th months of your fiscal year, and the 1st month of the following fiscal year. If any date falls on a Saturday, Sunday, or legal holiday, use the next day that is not a Saturday, Sunday, or legal holiday.

Changes in income or deductions. Even if you are not required to make an estimated tax payment in April or June, your circumstances may change so that you will have to make estimated tax payments later. This can happen if you receive additional income or if any of your deductions are reduced or eliminated. If so, see the Form 1040-ES (NR) instructions and *Pub. 505* for information on figuring your estimated tax.

Amended estimated tax. If, after you have made estimated tax payments, you find your estimated tax is substantially increased or decreased because of a change in your income or exemptions, you should adjust your remaining estimated tax payments. To do this, see the Instructions for Form 1040-ES (NR) and *Pub. 505*.

Penalty for failure to pay estimated income tax. You will be subject to a penalty for underpayment of installments of estimated tax except in certain situations. These situations are explained on Form 2210.

9. Tax Treaty Benefits

Introduction

A nonresident alien (and certain resident aliens) from a country with which the United States has an income tax treaty may qualify for certain benefits. Most treaties require that the nonresident

alien be a resident of the treaty country to qualify in the year the benefit is claimed. However, in the case of certain students, trainees, teachers, or researchers, some treaties only require the nonresident alien to be a resident of the treaty country immediately prior to coming to the United States.

Tax treaty tables. You can access the tax treaty tables by going to *IRS.gov/Individuals/International-Taxpayers/Tax-Treaty-Tables*. You can access the texts of recently signed U.S. income tax treaties, protocols, and tax information exchange agreements (TIEAs) and the accompanying Treasury Department tax treaty technical explanations as they become publicly available, as well as the U.S. Model Income Tax Convention, at *Treasury.gov/resource-center/tax-policy/treaties/Pages/treaties.aspx*.

CAUTION *Note that treaty and TIEA documents are posted on this site after signature and before ratification and entry into force.*

The full text of individual tax treaties is also available at *IRS.gov/Businesses/International-Businesses/United-States-Income-Tax-Treaties-A-to-Z*. For more information about tax treaties, go to *IRS.gov/Individuals/International-Taxpayers/Tax-Treaties*.

You can generally arrange to have withholding tax reduced or eliminated on wages and other income that are eligible for tax treaty benefits. See *Income Entitled to Tax Treaty Benefits* in chapter 8.

Topics

This chapter discusses:

- Typical tax treaty benefits,
- How to obtain copies of tax treaties, and
- How to claim tax treaty benefits on your tax return.

Useful Items

You may want to see:

Publication

❑ **901** U.S. Tax Treaties

Form (and Instructions)

❑ **1040-NR** U.S. Nonresident Alien Income Tax Return

❑ **8833** Treaty-Based Return Position Disclosure Under Section 6114 or 7701(b)

See chapter 12 for information about getting these publications and forms.

Treaty Income

A nonresident alien's treaty income is the gross income on which the tax is limited by a tax treaty. Treaty income includes, for example, dividends from sources in the United States that are subject to tax at a tax treaty rate not to exceed 15%. Nontreaty income is the gross income of a nonresident alien on which the tax is not limited by a tax treaty.

Figure the tax on treaty income on each separate item of income at the reduced rate that applies to that item under the treaty.

To determine tax on nontreaty income, figure the tax at either the flat 30% rate or the graduated rate, depending upon whether or not the income is effectively connected with your trade or business in the United States.

Your tax liability is the sum of the tax on treaty income plus the tax on nontreaty income, but it cannot be more than the tax liability figured as if the tax treaty had not come into effect.

Example. Arthur Banks is a nonresident alien who is single and a resident of a foreign country that has a tax treaty with the United States. He received gross income of $25,900 during the tax year from sources within the United States, consisting of the following items.

Dividends on which the tax is limited to a 15% rate by the tax treaty	$1,400
Compensation for personal services on which the tax is not limited by the tax treaty	24,500
Total gross income	**$25,900**

Arthur was engaged in business in the United States during the tax year. His dividends are not effectively connected with that business. He has no deductions.

His tax liability, figured as though the tax treaty had not come into effect, is $3,166 determined as follows.

Total compensation	$24,500
Less: Deductions	0
Taxable income	**$24,500**
Tax determined by graduated rate (Tax Table column for single taxpayers)	$2,746
Plus: Tax on gross dividends ($1,400 × (0.30))	420
Tax determined as though treaty had not come into effect	**$3,166**

Arthur's tax liability, figured by taking into account the reduced rate on dividend income as provided by the tax treaty, is $2,956 determined as follows.

Tax determined by graduated rate (same as figured above)	$2,746
Plus: Tax on gross dividends ($1,400 × (0.15))	210
Tax on compensation and dividends	**$2,956**

His tax liability, therefore, is limited to $2,956, the tax liability figured using the tax treaty rate on the dividends.

Some Typical Tax Treaty Benefits

The following paragraphs briefly explain the exemptions that are available under tax treaties for personal services income, remittances, scholarships, fellowships, and capital gain income. The conditions for claiming the exemptions vary under each tax treaty. For more information about the conditions under a particular tax treaty, download the complete text of most U.S. tax treaties at *IRS.gov/Businesses/International-Businesses/United-States-Income-Tax-Treaties-A-to-Z*. Technical explanations for many of those treaties are also available at that site. Also see *Pub. 901*.

Tax treaty benefits also cover income such as dividends, interest, rentals, royalties, pensions, and annuities. These types of income may be exempt from U.S. tax or may be subject to a reduced rate of tax. For more information, see *Pub. 901* or the applicable tax treaty.

Personal Services

Under most income tax treaties, nonresident aliens from treaty countries and dual residents who tie break in favor of the treaty country (see chapter 1) who are temporarily present in the United States to perform services may be eligible to exempt some or all of their personal services income from U.S. tax if they meet the requirements of the applicable treaty article.

Income from employment. Most income tax treaties have an "income from employment" article, sometimes called the dependent personal services article, which allows residents of the treaty country to exempt income earned as employees in the United States from U.S. tax if they satisfy the following.

- They are present in the United States for a period not exceeding 183 days in a 12-month period.
- The income is paid by a foreign employer.
- The income is not borne by a U.S. permanent establishment of the foreign employer.

Some income tax treaties contain different requirements, such as a different period of maximum presence. For more information, see *Pub. 901*.

Independent personal services. Some income tax treaties contain an "independent personal services" article, which allows residents of the treaty country to exempt income earned as an independent contractor or as a self-employed individual from U.S. tax if they are present in the United States for a period not exceeding a certain number of days and if they do not have a fixed base regularly available to them in the United States.

Note. Some treaties do not have an independent service article. Under these treaties, income for independent personal services may be covered by the business profits article. Under the business profits article, individuals can generally exempt their business profits from

U.S. tax unless they have a permanent establishment in the United States to which the business profits are attributable. For more information, including definitions of the terms "fixed base" and "permanent establishment," see *Pub. 901*.

Teachers, Professors, and Researchers

Under many income tax treaties, nonresident alien teachers or professors who temporarily visit the United States for the primary purpose of teaching at a university or other accredited educational institution are not subject to U.S. income tax on compensation received for teaching for the first 2 or 3 years after their arrival in the United States. Many treaties also provide an exemption for engaging in research.

Generally, the teacher or professor must be in the United States primarily to teach, lecture, instruct, or engage in research. A substantial part of that person's time must be devoted to those duties. The normal duties of a teacher or professor include not only formal classroom work involving regularly scheduled lectures, demonstrations, or other student-participation activities, but also the less formal method of presenting ideas in seminars or other informal groups and in joint efforts in the laboratory.

If you entered the United States as a nonresident alien, but are now a resident alien, the treaty exemption may still apply. See *Students, Apprentices, Trainees, Teachers, Professors, and Researchers Who Became Resident Aliens*, later, under *Resident Aliens*.

Employees of Foreign Governments

All treaties have provisions for the exemption of income earned by certain employees of foreign governments. However, a difference exists among treaties as to who qualifies for this benefit. Under many treaties, aliens who are U.S. residents do not qualify. Under most treaties, aliens who are not nationals or subjects of the foreign country do not qualify. Employees of foreign governments should read the pertinent treaty carefully to determine whether they qualify for benefits. Chapter 10 of this publication also has information for employees of foreign governments.

Students, Apprentices, and Trainees

Under some income tax treaties, students, apprentices, and trainees are exempt from tax on remittances received from abroad for study and maintenance. Also, under some treaties, scholarship and fellowship grants, and a limited amount of compensation received by students, apprentices, and trainees, may be exempt from tax.

If you entered the United States as a nonresident alien, but are now a resident alien, the treaty exemption may still apply. See *Students, Apprentices, Trainees, Teachers, Professors, and Researchers Who Became Resident Aliens*, later, under *Resident Aliens*.

Capital Gains

Most treaties provide for the exemption of gains from the sale or exchange of personal property. Generally, gains from the sale or exchange of real property located in the United States are taxable.

Resident Aliens

Resident aliens may qualify for tax treaty benefits in the situations discussed below.

General Rule for Resident Aliens

Resident aliens generally do not qualify for tax treaty benefits because most tax treaties contain a "saving clause" that preserves or "saves" the right of the United States to tax its citizens and residents as if the tax treaty had not come into effect. However, many tax treaties have exceptions to the saving clause, which may allow a resident alien to continue to claim treaty benefits.

Some exceptions to the saving clause apply to all resident aliens (for example, under the United States-People's Republic of China treaty); others apply only to resident aliens who are not lawful permanent residents of the United States (green card holders).

In most cases, you will also not need to report the income on your Form 1040 or 1040-SR because the income will be exempt from U.S. tax under the treaty. However, if the income has been reported as taxable income on a Form W-2, Form 1042-S, Form 1099, or other information return, you should report it on the appropriate line of Form 1040 or 1040-SR (for example, line 1 in the case of wages or salaries). Enter the amount for which treaty benefits are claimed in parentheses on Schedule 1 (Form 1040), line 8. Next to the amount, enter “Exempt income,” the name of the treaty country, and the treaty article that provides the exemption. Combine this amount with the amounts reported on lines 1 through 7 of Schedule 1 (Form 1040), Part I, and report the total on line 9. Enter this amount on line 8 of Form 1040 or 1040-SR.

Also follow the above procedure for income that is subject to a reduced rate of tax, instead of an exemption, under the treaty. Attach a statement to Form 1040 or 1040-SR showing a computation of the tax at the reduced rate, the name of the treaty country, and the treaty article that provides for the reduced tax rate. Enter this tax on Form 1040 or 1040-SR, line 16. Enter "Tax from attached statement" on the dotted line next to line 16.

Example. Jacques Dubois, who is a resident of the United States under Article 4 of the United States-France income tax treaty, receives French social security benefits. Under Article 18(1) of the treaty, French social security benefits are not taxable by the United States. Benefits conferred by Article 18(1) are excepted from the saving clause under Article 29(3) of the treaty. Mr. Dubois is not required to file a Form 8833 for his French social security benefits or report the benefits on Form 1040 or 1040-SR.

Special Rule for Canadian and German Social Security Benefits

Under income tax treaties with Canada and Germany, if a U.S. resident receives social security benefits from Canada or Germany, those benefits are treated for U.S. income tax purposes as if they were received under the social security legislation of the United States. If you receive social security benefits from Canada or Germany, include them on line 1 of your Social Security Benefits Worksheet in the Instructions for Form 1040, for purposes of determining the taxable amount to be reported on Form 1040 or 1040-SR, line 6b. You are not required to file a Form 8833 for those benefits.

Students, Apprentices, Trainees, Teachers, Professors, and Researchers Who Became Resident Aliens

Generally, you must be a nonresident alien student, apprentice, trainee, teacher, professor, or researcher in order to claim a tax treaty exemption for remittances from abroad for study and maintenance in the United States, for scholarship, fellowship, and research grants, and for wages or other personal service compensation. Once you become a resident alien, you can generally no longer claim a tax treaty exemption for this income.

However, if you entered the United States as a nonresident alien, but you are now a resident alien for U.S. tax purposes, the treaty exemption will continue to apply if the tax treaty's saving clause (explained earlier) provides an exception for it and you otherwise meet the requirements for the treaty exemption (including any time limit for claiming treaty exemptions, explained below). This is true even if you are a nonresident alien electing to file a joint return, as explained in chapter 1.

If you qualify under an exception to the treaty's saving clause, you can avoid income tax withholding by giving the payer a Form W-9 with the statement required by the Form W-9 instructions.

Time limit for claiming treaty exemptions. Many treaties limit the number of years you can claim a treaty exemption. For students, apprentices, and trainees, the limit is usually 4–5 years; for teachers, professors, and researchers, the limit is usually 2–3 years. Once you reach this limit, you can no longer claim the treaty exemption. See the treaty or *Pub. 901* for the time limits that apply.

How to report income on your tax return. In most cases, you will not need to report the income on your Form 1040 or 1040-SR because the income will be exempt from U.S. tax under the treaty. However, if the income has been reported as taxable income on a Form W-2, Form 1042-S, Form 1099, or other information return,

you should report it on the appropriate line of Form 1040 or 1040-SR (for example, line 1 in the case of wages, salaries, scholarships, or fellowships). Enter the amount for which treaty benefits are claimed in parentheses on line 8 of Schedule 1 (Form 1040). Next to the amount, enter "Exempt income," the name of the treaty country, and the treaty article that provides the exemption. Combine this amount with the amounts reported on lines 1 through 7 of Schedule 1 (Form 1040), Part I, and report the total on line 9. Enter this amount on line 8 of Form 1040 or 1040-SR.

Example. Mr. Yu, a citizen of the People's Republic of China, entered the United States as a nonresident alien student on January 1, 2017. He remained a nonresident alien through 2021 and was able to exclude his scholarship from U.S. tax in those years under Article 20 of the U.S.-People's Republic of China income tax treaty. On January 1, 2022, he became a resident alien under the substantial presence test because his stay in the United States exceeded 5 years. Even though Mr. Yu is now a resident alien, the provisions of Article 20 still apply because of the exception to the saving clause in paragraph 2 of the Protocol to the U.S.–People's Republic of China treaty dated April 30, 1984. Mr. Yu should submit Form W-9 and the required statement to the payer.

Reporting Treaty Benefits Claimed

If you claim treaty benefits that override or modify any provision of the Internal Revenue Code, and by claiming these benefits your tax is, or might be, reduced, you must attach a fully completed Form 8833 to your tax return. See *Exceptions* below for the situations where you are not required to file Form 8833.

Form 8833 filing requirement. You must file a U.S. tax return and Form 8833 if you claim the following treaty benefits.

- You claim a reduction or modification in the taxation of gain or loss from the disposition of a U.S. real property interest based on a treaty.
- You claim a credit for a specific foreign tax for which foreign tax credit would not be allowed by the Internal Revenue Code.
- You receive payments or income items totaling more than $100,000 and you determine your country of residence under a treaty and not under the rules for residency discussed in chapter 1.

These are the more common situations for which Form 8833 is required. For additional provisions, see the Form 8833 instructions.

Exceptions. You do not have to file Form 8833 for any of the following situations.

1. You claim a reduced rate of withholding tax under a treaty on interest, dividends, rent, royalties, or other fixed or determinable annual or periodic income ordinarily subject to the 30% rate.
2. You claim that a treaty reduces or modifies the taxation of income from dependent personal services, pensions, annuities, social security and other public pensions, or income of artists, athletes, students, trainees, or teachers. This includes taxable scholarship and fellowship grants.
3. You claim a reduction or modification of taxation of income under an International Social Security Agreement or a Diplomatic or Consular Agreement.
4. You are a partner in a partnership or a beneficiary of an estate or trust and the partnership, estate, or trust reports the required information on its return.
5. The payments or items of income that are otherwise required to be disclosed total no more than $10,000.
6. You are claiming treaty benefits for amounts that are:
   a. Reported to you on Form 1042-S; and
   b. Received by you:
      i. As a related party from a reporting corporation within the meaning of section 6038A (relating to information returns on Form 5472 filed by U.S. corporations that are 25% owned by a foreign person), or
      ii. As a beneficial owner that is a direct account holder of a U.S. financial institution or qualified intermediary, or a direct partner, beneficiary, or owner of a withholding foreign partnership or trust, from that U.S. financial institution, qualified intermediary, or withholding foreign partnership or trust.

The exception described in (6) above does not apply to any amounts for which a treaty-based return disclosure is specifically required by the Form 8833 instructions.

Penalty for failure to provide required information on Form 8833. If you are required to report the treaty benefits but do not, you may be subject to a penalty of $1,000 for each failure.

Additional information. For additional information, see Regulations section 301.6114-1(c).

10. Employees of Foreign Governments and International Organizations

Introduction

Employees of foreign governments (including foreign political subdivisions) may be able to exempt their foreign government wages from U.S. income tax if they satisfy the requirements of any one of the following.

1. The applicable article in the multilateral Vienna Convention on Diplomatic Relations, the multilateral Vienna Convention on Consular Relations, or a bilateral consular convention, if one exists, between the United States and the foreign country;
2. The applicable article in a bilateral tax treaty, if one exists, between the United States and the foreign country; or
3. The requirements for obtaining an exemption from U.S. income tax for foreign government wages provided under U.S. tax law.

Employees of international organizations may be able to exempt their wages under a provision, if one exists, in the international agreement creating the international organization, or by satisfying the requirements for obtaining an exemption for such wages under U.S. tax law.

An "international organization" is an organization designated by the President of the United States through Executive Order to qualify for the privileges, exemptions, and immunities provided in the International Organizations Immunities Act.

The exemption discussed in this chapter applies only to pay received for official services performed for a foreign government or international organization. Other U.S. source income received by persons who qualify for this exemption may be fully taxable or given favorable treatment under an applicable tax treaty provision. The proper treatment of this kind of income (interest, dividends, etc.) is discussed earlier in this publication.

Employees of Foreign Governments

Exemption under Vienna Conventions or a bilateral consular convention. You should first look at the tax exemption provisions under the Vienna Conventions or a bilateral consular convention, if one exists, to see if your wages qualify for exemption from U.S. income tax under those provisions. Generally, you are not entitled to the income tax exemption available under either of the Vienna Conventions or a bilateral consular convention if you are a U.S. citizen or resident alien. For further information regarding the Vienna Conventions and bilateral consular conventions, email the Department of State Office of Foreign Missions at OFMAssistants@state.gov.

Exemption under tax treaty. If you do not qualify for the tax exemption provided under the Vienna Conventions or a bilateral consular convention but are from a country that has a tax treaty with the United States, you should look at the tax treaty to see if there is a provision that exempts your wages from U.S. income tax. If you are a U.S. citizen or resident alien working in the United States for a foreign government, your wages are usually not exempt. For more information, see *Wages and Pensions Paid by a Foreign Government* in Pub. 901.

Exemption under U.S. tax law. Employees of foreign governments who do not qualify under the tax exemption provisions of either of the Vienna Conventions, a bilateral consular convention, or a tax treaty may be able to exempt their foreign government wages from U.S. income tax if they satisfy the following requirements for obtaining an exemption for such wages under U.S. tax law.

CAUTION *The exemption under U.S. tax law applies only to current foreign government employees and not to former employees. Pensions received by former employees of foreign governments living in the United States do not qualify for the exemption discussed here.*

CAUTION *This exemption does not apply to independent contractors. Common law rules apply to determine whether you are an employee or an independent contractor. See Pub. 1779, Independent Contractor or Employee, and Pub. 15-A, Employer's Supplemental Tax Guide.*

CAUTION *Your wages are not eligible for exemption under U.S. tax law if you are employed by a "controlled commercial entity" or your services are primarily in connection with a commercial activity of the foreign government (within or outside the United States). A controlled commercial entity is an entity that is 50% (0.50) or more owned by a foreign government that is engaged in commercial activity within or outside the United States.*

Requirements. If you are not a U.S. citizen (or if you are a U.S. citizen but also a citizen of the Republic of the Philippines) and you work for a foreign government in the United States, your foreign government wages are exempt from U.S. income tax if:

1. You perform services of a similar character to those performed by U.S. Government employees in foreign countries, and
2. The country of your foreign government employer grants an equivalent tax exemption to U.S. Government employees performing similar services in its country.

However, see *Aliens who keep immigrant (lawful permanent resident) status*, later, for a special rule that may affect your qualifying for this exemption.

To claim the tax exemption, you must be able to demonstrate that you satisfy both U.S. tax law requirements.

Certification. A Department of State certification, if one has been issued, is the simplest method to establish that you meet the similar services and equivalent tax exemption requirements but is not required to qualify for the U.S. tax law exemption. For information about whether a certification has been issued and whether such certification is currently valid and applicable to you, email the Department of State Office of Foreign Missions at OFMAssistants@state.gov.

Where no valid certification exists, you must establish with other written evidence that you perform services of a similar character to those performed by U.S. Government employees in foreign countries and that the country of your foreign government employer grants an equivalent exemption to U.S. Government employees performing similar services in its country.

Employees of International Organizations

Exemption under international organization agreement. Many agreements that establish international organizations contain a provision that may exempt your wages from U.S. income tax. If you are employed by an international organization in the United States, first look to see if the international agreement establishing the international organization you work for has such a provision and whether you qualify under it. Generally, these provisions will not exempt wages of U.S. citizen and resident alien employees.

Exemption under U.S. tax law. If the international agreement creating the international organization you work for does not contain a tax exemption provision and you are not a U.S. citizen (or if you are a U.S. citizen but also a citizen of the Republic of the Philippines), you may be able to exempt your wages under U.S. law. However, see *Aliens who keep immigrant (lawful permanent resident) status*, later, for a special rule that may affect your qualifying for this exemption.

CAUTION *The exemption under U.S. tax law applies only to current international organization employees and not to former employees. Pensions received by former employees of international organizations living in the United States do not qualify for the exemption discussed here.*

CAUTION *This exemption does not apply to independent contractors. Common law rules apply to determine whether you are an employee or an independent contractor. See Pub. 1779 and Pub. 15-A.*

To claim the exemption, you must be able to demonstrate that you meet the requirements of either the international organization agreement provision or U.S. tax law. You should know the article number of the international organization agreement tax exemption provision, if one exists, and the number of the Executive Order designating the organization as an international organization.

Aliens who keep immigrant (lawful permanent resident) status. If you sign the waiver provided by section 247(b) of the Immigration and Nationality Act (USCIS Form I-508) to keep your lawful permanent resident status (green card), you no longer qualify for the tax exemption under U.S. tax law from the date of filing the waiver.

CAUTION *If you are an employee of a foreign government or international organization who holds a green card, to claim the exemption under U.S. tax law you must also be able to demonstrate with written evidence from the USCIS that you have not signed and filed USCIS Form I-508.*

Note. The filing of Form I-508 has no effect on a tax exemption that is not dependent upon the provisions of U.S. tax law. You do not lose the tax exemption if you file the waiver and meet either of the following conditions.

- You work for a foreign government and are exempt from U.S. tax under an income tax treaty, consular convention, Vienna Conventions, or any other international agreement between the United States and your foreign government employer.
- You work for an international organization and the international organization agreement creating the international organization provides that alien employees are exempt from U.S. income tax. Two international organizations that have such a provision are the International Monetary Fund (IMF) and the International Bank for Reconstruction and Development (World Bank).

11.

Departing Aliens and the Sailing or Departure Permit

Introduction

Before leaving the United States, all aliens (except those listed under *Aliens Not Required To Obtain Sailing or Departure Permits*) must obtain a certificate of compliance. This document, also popularly known as the sailing permit or departure permit is part of the income tax form you must file before leaving. You will receive a sailing or departure permit after filing a Form 1040-C or Form 2063. These forms are discussed in this chapter.

To find out if you need a sailing or departure permit, first read *Aliens Not Required To Obtain Sailing or Departure Permits*, later. If you do not fall into one of the categories in that discussion, you must obtain a sailing or departure permit. Read *Aliens Required To Obtain Sailing or Departure Permits*, later.

Topics

This chapter discusses:

- Who needs a sailing permit,
- How to get a sailing permit, and
- Forms you file to get a sailing permit.

Useful Items

You may want to see:

Form (and Instructions)

- ❑ **1040-C** U.S. Departing Alien Income Tax Return
- ❑ **2063** U.S. Departing Alien Income Tax Statement

See chapter 12 for information about getting these forms.

Aliens Not Required To Obtain Sailing or Departure Permits

If you are included in one of the following categories, you do not have to get a sailing or departure permit before leaving the United States.

If you are in one of these categories and do not have to get a sailing or departure permit, you must be able to support your claim for exemption with proper identification or give the authority for the exemption.

Category 1. Representatives of foreign governments with diplomatic passports, whether accredited to the United States or other countries, members of their households, and servants accompanying them. Servants who are leaving, but not with a person with a diplomatic passport, must get a sailing or departure permit. However, they can get a sailing or departure permit on Form 2063 without examination of their income tax liability by presenting a letter from the chief of their diplomatic mission certifying that:

- Their name appears on the "White List" (a list of employees of diplomatic missions); and
- They do not owe to the United States any income tax, and will not owe any tax up to and including the intended date of departure.

The statement must be presented to an IRS office.

Category 2. Employees of international organizations and foreign governments (other than diplomatic representatives exempt under category 1) and members of their households:

- Whose compensation for official services is exempt under U.S. tax law (described in chapter 10), and
- Who receive no other income from U.S. sources.

CAUTION *If you are an alien in category (1) or (2) above who filed the waiver under section 247(b) of the Immigration and Nationality Act, you must get a sailing or departure permit. This is true even if your income is exempt from U.S. tax because of an income tax treaty, consular agreement, or international agreement.*

Category 3. Alien students, industrial trainees, and exchange visitors, including their spouses and children, who enter on an "F-1," "F-2," "H-3," "H-4," "J-1," "J-2," or "Q" visa only and who receive no income from U.S. sources while in the United States under those visas other than:

- Allowances to cover expenses incident to study or training in the United States, such as expenses for travel, maintenance, and tuition;
- The value of any services or food and lodging connected with this study or training;
- Income from employment authorized by the U.S. USCIS; or
- Interest income on deposits that is not effectively connected with a U.S. trade or business. (See *Interest Income* in chapter 3.)

Category 4. Alien students, including their spouses and children, who enter on an "M-1" or "M-2" visa only and who receive no income from U.S. sources while in the United States under those visas, other than:

- Income from employment authorized by the USCIS, or
- Interest income on deposits that is not effectively connected with a U.S. trade or business. (See *Interest Income* in chapter 3.)

Category 5. Certain other aliens temporarily in the United States who have received no taxable income during the tax year up to and including the date of departure or during the preceding tax year. If the IRS has reason to believe that an alien has received income subject to tax and that the collection of income tax is jeopardized by departure, it may then require the alien to obtain a sailing or departure permit. Aliens in this category are:

1. Alien military trainees who enter the United States for training under the sponsorship of the Department of Defense and who leave the United States on official military travel orders;
2. Alien visitors for business on a "B-1" visa, or on both a "B-1" visa and a "B-2" visa, who do not remain in the United States or a U.S. possession for more than 90 days during the tax year;
3. Alien visitors for pleasure on a "B-2" visa;
4. Aliens in transit through the United States or any of its possessions on a "C-1" visa, or under a contract, such as a bond agreement, between a transportation line and the Attorney General; and
5. Aliens who enter the United States on a border-crossing identification card or for whom passports, visas, and border-crossing identification cards are not required, if they are:
   a. Visitors for pleasure,
   b. Visitors for business who do not remain in the United States or a U.S. possession for more than 90 days during the tax year, or
   c. In transit through the United States or any of its possessions.

Category 6. Alien residents of Canada or Mexico who frequently commute between that country and the United States for employment, and whose wages are subject to the withholding of U.S. tax.

Aliens Required To Obtain Sailing or Departure Permits

If you do not fall into one of the categories listed earlier under *Aliens Not Required To Obtain Sailing or Departure Permits,* you must obtain a sailing or departure permit. To obtain a permit, file Form 1040-C or Form 2063 (whichever applies) with your local IRS office before you leave the United States. See *Forms To File*, later. You must also pay all the tax shown as due on Form 1040-C and any taxes due for past years. See *Paying Taxes and Obtaining Refunds*, later.

Getting a Sailing or Departure Permit

The following discussion covers how to get your sailing permit.

When and Where To Get a Sailing or Departure Permit

To get a certificate of compliance, you must go to an IRS office **at least** 2 weeks before you leave the United States and file either Form 2063 or Form 1040-C and any other required tax returns that have not been filed. The certificate may not be issued more than 30 days before you leave. If both you and your spouse are aliens and both of you are leaving the United States, both of you must go to the IRS office.

To find an IRS office, go to *IRS.gov/Help/Contact-Your-Local-IRS-Office*, click on the Taxpayer Assistance Center Office Locator, and find "Services Provided" at the nearest Taxpayer Assistance Center (TAC) to see if the Alien Clearance (Sailing Permits) service is available at that office. Please note that all TACs operate by appointment. Services are limited and not all services are available at every TAC office.

CAUTION *Call 844-545-5640 to schedule an appointment. Remember that you must visit an IRS office **at least** 2 weeks (but no more than 30 days) before you leave the United States, so make sure you call for an appointment well before those time frames. Please be prepared to furnish your anticipated date of departure and bring all necessary documentation with you.*

Documents To Submit

Getting your sailing or departure permit will go faster if you bring to the IRS office documents and papers related to your income and your stay in the United States. Bring the following records with you if they apply.

1. Your passport and alien registration card or visa.
2. Copies of your U.S. income tax returns filed for the past 2 years. If you were in the United States for less than 2 years, bring the income tax returns you filed for that period.
3. Receipts for income taxes paid on these returns.
4. Receipts, bank records, canceled checks, and other documents that prove your deductions, business expenses, and dependents claimed on your returns.
5. A statement from each employer showing wages paid and tax withheld from January 1 of the current year to the date of departure if you were an employee. If you were self-employed, you must bring a statement of income and expenses up to the date you plan to leave.
6. Proof of estimated tax payments for the past year and this year.
7. Documents showing any gain or loss from the sale of personal property and/or real property, including capital assets and merchandise.
8. Documents relating to scholarship or fellowship grants, including:
   a. Verification of the grantor, source, and purpose of the grant.
   b. Copies of the application for, and approval of, the grant.
   c. A statement of the amount paid, and your duties and obligations under the grant.
   d. A list of any previous grants.
9. Documents indicating you qualify for any special tax treaty benefits claimed.
10. Document verifying your date of departure from the United States, such as an airline ticket.
11. Document verifying your U.S. TIN, such as a social security card or an IRS-issued Notice CP 565 showing your ITIN.

Note. If you are married and reside in a community property state, also bring the above-listed documents for your spouse. This applies whether or not your spouse requires a permit.

Forms To File

If you must get a sailing or departure permit, you must file Form 2063 or Form 1040-C. Employees in the IRS office can assist in filing these forms. Both forms have a "certificate of compliance" section. When the certificate of compliance is signed by an agent of the Field Assistance Area Director, it certifies that your U.S. tax obligations have been satisfied according to available information. Your Form 1040-C copy of the signed certificate, or the one detached from Form 2063, is your sailing or departure permit.

Form 2063

This is a short form that asks for certain information but does not include a tax computation. The following departing aliens can get their sailing or departure permits by filing Form 2063.

- Aliens, whether resident or nonresident, who have had no taxable income for the tax year up to and including the date of departure and for the preceding year, if the period for filing the income tax return for that year has not expired.
- Resident aliens who have received taxable income during the tax year or preceding year and whose departure will not hinder the collection of any tax. However, if the IRS has information indicating that the aliens are leaving to avoid paying their income tax, they must file a Form 1040-C.

Aliens in either of these categories who have not filed an income tax return or paid income tax for any tax year must file the return and pay the income tax before they can be issued a sailing or departure permit on Form 2063.

The sailing or departure permit detached from Form 2063 can be used for all departures during the current year. However, the IRS may cancel the sailing or departure permit for any later departure if it believes the collection of income tax is jeopardized by that later departure.

Form 1040-C

If you must get a sailing or departure permit and you do not qualify to file Form 2063, you must file Form 1040-C.

Ordinarily, all income received, or reasonably expected to be received, during the tax year up to and including the date of departure must be reported on Form 1040-C, and the tax on it must be paid. When you pay any tax shown as due on the Form 1040-C, and you file all returns and pay all tax due for previous years, you will receive a sailing or departure permit. However, the IRS may permit you to furnish a bond guaranteeing payment instead of paying the taxes for certain years. See *Bond To Ensure Payment*, later. The sailing or departure permit issued under the conditions in this paragraph is only for the specific departure for which it is issued.

Returning to the United States. If you furnish the IRS with information showing, to the satisfaction of the IRS, that you intend to return to the United States and that your departure does not jeopardize the collection of income tax, you can get a sailing or departure permit by filing Form 1040-C without having to pay the tax shown on it. You must, however, file all income tax returns that have not yet been filed as required, and pay all income tax that is due on these returns.

Your Form 1040-C must include all income received, and reasonably expected to be received, during the entire year of departure. The sailing or departure permit issued with this Form 1040-C can be used for all departures during the current year. However, the IRS may cancel the sailing or departure permit for any later departure if the payment of income tax appears to be in jeopardy.

Joint return on Form 1040-C. Departing husbands and wives who are nonresident aliens cannot file joint returns. However, if both spouses are resident aliens, they can file a joint return on Form 1040-C if:

- Both spouses can reasonably be expected to qualify to file a joint return at the normal close of their tax year, and
- The tax years of the spouses end at the same time.

Paying Taxes and Obtaining Refunds

You must pay all tax shown as due on the Form 1040-C at the time of filing it, except when a bond is furnished, or the IRS is satisfied that your departure does not jeopardize the collection of income tax. You must also pay any taxes due for past years. If the tax computation on Form 1040-C results in an overpayment, there is no tax to pay at the time you file that return. However, the IRS cannot provide a refund at the time of departure. If you are due a refund, you must file either Form 1040-NR at the end of the tax year.

Bond To Ensure Payment

Usually, you must pay the tax shown as due on Form 1040-C when you file it. However, if you pay all taxes due that you owe for prior years, you can furnish a bond guaranteeing payment instead of paying the income taxes shown as due on the Form 1040-C or the tax return for the preceding year if the period for filing that return has not expired.

The bond must equal the tax due plus interest to the date of payment as figured by the IRS. Information about the form of bond and security on it can be obtained from your IRS office.

Filing Annual U.S. Income Tax Returns

Form 1040-C is not an annual U.S. income tax return. If an income tax return is required by law, that return must be filed even though a Form 1040-C has already been filed. Chapter 5 and chapter 7 discuss filing an annual U.S. income tax return. The tax paid with Form 1040-C should be taken as a credit against the tax liability for the entire tax year on your annual U.S. income tax return.

12.

How To Get Tax Help

Assistance for overseas taxpayers is available in the U.S and certain foreign locations.

Taxpayer Assistance Inside the United States

If you have questions about a tax issue; need help preparing your tax return; or want to download free publications, forms, or instructions, go to *IRS.gov* to find resources that can help you right away.

Preparing and filing your tax return. After receiving all your wage and earnings statements (Forms W-2, W-2G, 1099-R, 1099-MISC, 1099-NEC, etc.); unemployment compensation statements (by mail or in a digital format) or other government payment statements (Form 1099-G); and interest, dividend, and retirement statements from banks and investment firms (Forms 1099), you have several options to choose from to prepare and file your tax return. You can prepare the tax return yourself, see if you qualify for free tax preparation, or hire a tax professional to prepare your return.

CAUTION *For 2021, if you received an Economic Impact Payment (EIP), refer to your Notice 1444-C, Your 2021 Economic Impact Payment. If you received Advance Child Tax Credit payments, refer to your Letter 6419.*

Free options for tax preparation. Go to *IRS.gov* to see your options for preparing and filing your return online or in your local community, if you qualify, which include the following.

- **Free File.** This program lets you prepare and file your federal individual income tax return for free using brand-name tax-preparation-and-filing software or Free File fillable forms. However, state tax preparation may not be available through Free File. Go to *IRS.gov/FreeFile* to see if you qualify for free online federal tax preparation, e-filing, and direct deposit or payment options.
- **VITA.** The Volunteer Income Tax Assistance (VITA) program offers free tax help to people with low-to-moderate incomes, persons with disabilities, and limited-English-speaking taxpayers who need help preparing their own tax returns. Go to *IRS.gov/VITA*, download the free IRS2Go app, or call 800-906-9887 for information on free tax return preparation.
- **TCE.** The Tax Counseling for the Elderly (TCE) program offers free tax help for all taxpayers, particularly those who are 60 years of age and older. TCE volunteers specialize in answering questions about pensions and retirement-related issues unique to seniors. Go to *IRS.gov/TCE*, download the free IRS2Go app, or call 888-227-7669 for information on free tax return preparation.
- **MilTax.** Members of the U.S. Armed Forces and qualified veterans may use MilTax, a free tax service offered by the Department of Defense through Military OneSource. For more information, go to *MilitaryOneSource (MilitaryOneSource.mil/MilTax)*.

  Also, the IRS offers Free Fillable Forms, which can be completed online and then filed electronically regardless of income.

Using online tools to help prepare your return. Go to *IRS.gov/Tools* for the following.

- The *Earned Income Tax Credit Assistant* (*IRS.gov/EITCAssistant*) determines if you're eligible for the earned income credit (EIC).
- The *Online EIN Application* (*IRS.gov/EIN*) helps you get an employer identification number (EIN) at no cost.
- The *Tax Withholding Estimator* (*IRS.gov/W4app*) makes it easier for everyone to pay the correct amount of tax during the year. The tool is a convenient, online way to check and tailor your withholding. It's more user-friendly for taxpayers, including retirees and self-employed individuals. The features include the following.
  - Easy to understand language.
  - The ability to switch between screens, correct previous entries, and skip screens that don't apply.
  - Tips and links to help you determine if you qualify for tax credits and deductions.
  - A progress tracker.
  - A self-employment tax feature.
  - Automatic calculation of taxable social security benefits.
- The *First Time Homebuyer Credit Account Look-up* (*IRS.gov/HomeBuyer*) tool provides information on your repayments and account balance.
- The *Sales Tax Deduction Calculator* (*IRS.gov/SalesTax*) figures the amount you can claim if you itemize deductions on Schedule A (Form 1040).

Getting answers to your tax questions. On IRS.gov, you can get up-to-date information on current events and changes in tax law.

- *IRS.gov/Help*: A variety of tools to help you get answers to some of the most common tax questions.
- *IRS.gov/ITA*: The Interactive Tax Assistant, a tool that will ask you questions and, based on your input, provide answers on a number of tax law topics.
- *IRS.gov/Forms*: Find forms, instructions, and publications. You will find details on 2021 tax changes and hundreds of interactive links to help you find answers to your questions.
- You may also be able to access tax law information in your electronic filing software.

Need someone to prepare your tax return? There are various types of tax return preparers, including tax preparers, enrolled agents, certified public accountants (CPAs), attorneys, and many others who don't have professional credentials. If you choose to have someone prepare your tax return, choose that preparer wisely. A paid tax preparer is:

- Primarily responsible for the overall substantive accuracy of your return,
- Required to sign the return, and
- Required to include their preparer tax identification number (PTIN).

Although the tax preparer always signs the return, you're ultimately responsible for providing all the information required for the preparer to accurately prepare your return. Anyone paid to prepare tax returns for others should have a thorough understanding of tax matters. For more information on how to choose a tax preparer, go to *Tips for Choosing a Tax Preparer* on IRS.gov.

Advance child tax credit payments. From July through December 2021, advance payments were sent automatically to taxpayers with qualifying children who met certain criteria. The advance child tax credit payments were early payments of up to 50% of the estimated child tax credit that taxpayers may properly claim on their 2021 returns. Go to *IRS.gov/AdvCTC* for more information about these payments and how they can affect your taxes.

Coronavirus. Go to *IRS.gov/Coronavirus* for links to information on the impact of the coronavirus, as well as tax relief available for individuals and families, small and large businesses, and tax-exempt organizations.

Employers can register to use Business Services Online. The Social Security Administration (SSA) offers online service at *SSA.gov/employer* for fast, free, and secure online W-2 filing options to CPAs, accountants, enrolled agents, and individuals who process Form W-2, Wage and Tax Statement, and Form W-2c, Corrected Wage and Tax Statement.

IRS social media. Go to *IRS.gov/SocialMedia* to see the various social media tools the IRS uses to share the latest information on tax changes, scam alerts, initiatives, products, and services. At the IRS, privacy and security are our highest priority. We use these tools to share public information with you. **Don't** post your social security number (SSN) or other confidential information on social media sites. Always protect your identity when using any social networking site.

The following IRS YouTube channels provide short, informative videos on various tax-related topics in English, Spanish, and ASL.

- *Youtube.com/irsvideos*.
- *Youtube.com/irsvideosmultilingua*.
- *Youtube.com/irsvideosASL*.

Watching IRS videos. The IRS Video portal (*IRSVideos.gov*) contains video and audio presentations for individuals, small businesses, and tax professionals.

Online tax information in other languages. You can find information on *IRS.gov/MyLanguage* if English isn't your native language.

Free Over-the-Phone Interpreter (OPI) Service. The IRS is committed to serving our multilingual customers by offering OPI services. The OPI Service is a federally funded program and is available at Taxpayer Assistance Centers (TACs), other IRS offices, and every VITA/TCE return site. The OPI Service is accessible in more than 350 languages.

Accessibility Helpline available for taxpayers with disabilities. Taxpayers who need information about accessibility services can call 833-690-0598. The Accessibility Helpline can answer questions related to current and future accessibility products and services available in alternative media formats (for example, braille, large print, audio, etc.).

Getting tax forms and publications. Go to *IRS.gov/Forms* to view, download, or print all of the forms, instructions, and publications you may need. Or, you can go to *IRS.gov/OrderForms* to place an order.

Getting tax publications and instructions in eBook format. You can also download and view popular tax publications and instructions (including the Instructions for Form 1040) on mobile devices as eBooks at *IRS.gov/eBooks*.

Note. IRS eBooks have been tested using Apple's iBooks for iPad. Our eBooks haven't been tested on other dedicated eBook readers, and eBook functionality may not operate as intended.

Access your online account (individual taxpayers only). Go to *IRS.gov/Account* to securely access information about your federal tax account.

- View the amount you owe and a breakdown by tax year.
- See payment plan details or apply for a new payment plan.
- Make a payment or view 5 years of payment history and any pending or scheduled payments.
- Access your tax records, including key data from your most recent tax return, your EIP amounts, and transcripts.
- View digital copies of select notices from the IRS.
- Approve or reject authorization requests from tax professionals.
- View your address on file or manage your communication preferences.

Tax Pro Account. This tool lets your tax professional submit an authorization request to access your individual taxpayer *IRS online account*. For more information, go to *IRS.gov/TaxProAccount*.

Using direct deposit. The fastest way to receive a tax refund is to file electronically and choose direct deposit, which securely and electronically transfers your refund directly into your financial account. Direct deposit also avoids the possibility that your check could be lost, stolen, or returned undeliverable to the IRS. Eight in 10 taxpayers use direct deposit to receive their refunds. If you don't have a bank account, go to *IRS.gov/DirectDeposit* for more information on where to find a bank or credit union that can open an account online.

Getting a transcript of your return. The quickest way to get a copy of your tax transcript is to go to *IRS.gov/Transcripts*. Click on either "Get Transcript Online" or "Get Transcript by Mail" to order a free copy of your transcript. If you prefer, you can order your transcript by calling 800-908-9946.

Reporting and resolving your tax-related identity theft issues.

- Tax-related identity theft happens when someone steals your personal information to commit tax fraud. Your taxes can be affected if your SSN is used to file a fraudulent return or to claim a refund or credit.
- The IRS doesn't initiate contact with taxpayers by email, text messages, telephone calls, or social media channels to request personal or financial information. This includes requests for personal identification numbers (PINs), passwords, or similar information for credit cards, banks, or other financial accounts.
- Go to *IRS.gov/IdentityTheft*, the IRS Identity Theft Central webpage, for information on identity theft and data security protection for taxpayers, tax professionals, and businesses. If your SSN has been lost or stolen or you suspect you're a victim of tax-related identity theft, you can learn what steps you should take.
- Get an Identity Protection PIN (IP PIN). IP PINs are six-digit numbers assigned to taxpayers to help prevent the misuse of their SSNs on fraudulent federal income tax returns. When you have an IP PIN, it prevents someone else from filing a tax return with your SSN. To learn more, go to *IRS.gov/IPPIN*.

Ways to check on the status of your refund.

- Go to *IRS.gov/Refunds*.
- Download the official IRS2Go app to your mobile device to check your refund status.
- Call the automated refund hotline at 800-829-1954.

Note. The IRS can't issue refunds before mid-February 2022 for returns that claimed the EIC or the additional child tax credit (ACTC). This applies to the entire refund, not just the portion associated with these credits.

Making a tax payment. Go to *IRS.gov/Payments* for information on how to make a payment using any of the following options.

- *IRS Direct Pay*: Pay your individual tax bill or estimated tax payment directly from your checking or savings account at no cost to you.
- *Debit or Credit Card*: Choose an approved payment processor to pay online or by mobile device.
- *Electronic Funds Withdrawal*: Schedule a payment when filing your federal taxes using tax return preparation software or through a tax professional.
- *Electronic Federal Tax Payment System*: Best option for businesses. Enrollment is required.
- *Check or Money Order*: Mail your payment to the address listed on the notice or instructions.
- *Cash*: You may be able to pay your taxes with cash at a participating retail store.
- *Same-Day Wire*: You may be able to do same-day wire from your financial institution. Contact your financial institution for availability, cost, and time frames.

Note. The IRS uses the latest encryption technology to ensure that the electronic payments you make online, by phone, or from a mobile device using the IRS2Go app are safe and secure. Paying electronically is quick, easy, and faster than mailing in a check or money order.

What if I can't pay now? Go to *IRS.gov/Payments* for more information about your options.

- Apply for an *online payment agreement* (*IRS.gov/OPA*) to meet your tax obligation in monthly installments if you can't pay your taxes in full today. Once you complete the online process, you will receive immediate notification of whether your agreement has been approved.
- Use the *Offer in Compromise Pre-Qualifier* to see if you can settle your tax debt for less than the full amount you owe. For more information on the Offer in Compromise program, go to *IRS.gov/OIC*.

Filing an amended return. You can now file Form 1040-X electronically with tax filing software to amend 2019 Forms 1040 and 1040-SR. To do so, you must have e-filed your original

2019 or 2020 return. Amended returns for all prior years must be mailed. Go to *IRS.gov/Form1040X* for information and updates.

Checking the status of your amended return. Go to *IRS.gov/WMAR* to track the status of Form 1040-X amended returns.

Note. It can take up to 3 weeks from the date you filed your amended return for it to show up in our system, and processing it can take up to 16 weeks.

Understanding an IRS notice or letter you've received. Go to *IRS.gov/Notices* to find additional information about responding to an IRS notice or letter.

You can use Schedule LEP, Request for Change in Language Preference, to state a preference to receive notices, letters, or other written communications from the IRS in an alternative language, when these are available. Once your Schedule LEP is processed, the IRS will determine your translation needs and provide you translations when available. If you have a disability requiring notices in an accessible format, see Form 9000.

Contacting your local IRS office. Keep in mind, many questions can be answered on IRS.gov without visiting an IRS TAC. Go to *IRS.gov/LetUsHelp* for the topics people ask about most. If you still need help, IRS TACs provide tax help when a tax issue can't be handled online or by phone. All TACs now provide service by appointment, so you'll know in advance that you can get the service you need without long wait times. Before you visit, go to *IRS.gov/TACLocator* to find the nearest TAC and to check hours, available services, and appointment options. Or, on the IRS2Go app, under the Stay Connected tab, choose the Contact Us option and click on "Local Offices."

The Taxpayer Advocate Service (TAS) Is Here To Help You

What Is TAS?

TAS is an ***independent*** organization within the IRS that helps taxpayers and protects taxpayer rights. Their job is to ensure that every taxpayer is treated fairly and that you know and understand your rights under the *Taxpayer Bill of Rights*.

What Can TAS Do for You?

TAS can help you resolve problems that you can't resolve with the IRS. And their service is free. If you qualify for their assistance, you will be assigned to one advocate who will work with you throughout the process and will do everything possible to resolve your issue. TAS can help you if:

- Your problem is causing financial difficulty for you, your family, or your business;
- You face (or your business is facing) an immediate threat of adverse action; or
- You've tried repeatedly to contact the IRS but no one has responded, or the IRS hasn't responded by the date promised.

How Can You Reach TAS?

TAS has offices *in every state, the District of Columbia, and Puerto Rico*. Your local advocate's number is in your local directory and at *TaxpayerAdvocate.IRS.gov/Contact-Us*. You can also call them at 877-777-4778.

How Else Does TAS Help Taxpayers?

TAS works to resolve large-scale problems that affect many taxpayers. If you know of one of these broad issues, please report it to them at *IRS.gov/SAMS*.

TAS for Tax Professionals

TAS can provide a variety of information for tax professionals, including tax law updates and guidance, TAS programs, and ways to let TAS know about systemic problems you've seen in your practice.

Low Income Taxpayer Clinics (LITCs)

LITCs are independent from the IRS. LITCs represent individuals whose income is below a certain level and need to resolve tax problems with the IRS, such as audits, appeals, and tax collection disputes. In addition, LITCs can provide information about taxpayer rights and responsibilities in different languages for individuals who speak English as a second language. Services are offered for free or a small fee for eligible taxpayers. To find an LITC near you, go to *TaxpayerAdvocate.IRS.gov/about-us/Low-Income-TaxpayerClinics-LITC* or see IRS Pub. 4134, *Low Income Taxpayer Clinic List*.

Taxpayer Assistance Outside the United States

If you are outside the United States, you can call 267-941-1000 (English-speaking only). This number is not toll free.

If you wish to write instead of calling, please address your letter to:

Internal Revenue Service
International Accounts
Philadelphia, PA 19255-0725
U.S.A.

Additional contacts for taxpayers who live outside the United States are available at *IRS.gov/uac/Contact-My-Local-Office-Internationally*.

Taxpayer Advocate Service (TAS). If you live outside the United States, you can call TAS at 787-522-8601 in English or 787-522-8600 in Spanish. You can contact the Taxpayer Advocate at:

Internal Revenue Service
Taxpayer Advocate Service
City View Plaza, 48 Carr 165,
Guaynabo, P.R. 00968-8000

You can call TAS toll free at 877-777-4778. For more information on TAS and contacts if you are outside of the United States, go to *IRS.gov/Advocate/Local-Taxpayer-Advocate/Contact-Your-Local-Taxpayer-Advocate*.

Frequently Asked Questions

This section answers tax-related questions commonly asked by aliens.

What is the difference between a resident alien and a nonresident alien for tax purposes?

For tax purposes, an alien is an individual who is not a U.S. citizen. Aliens are classified as resident aliens and nonresident aliens. Resident aliens are taxed on their worldwide income, the same as U.S. citizens. Nonresident aliens are taxed only on their U.S. source income and certain foreign source income that is effectively connected with a U.S. trade or business.

What is the difference between the taxation of income that is effectively connected with a trade or business in the United States and income that is not effectively connected with a trade or business in the United States?

The difference between these two categories is that effectively connected income, after allowable deductions, is taxed at graduated rates. These are the same rates that apply to U.S. citizens and residents. Income that is not effectively connected is taxed at a flat 30% (or lower treaty) rate.

I am a student with an F-1 visa. I was told that I was an exempt individual. Does this mean I am exempt from paying U.S. tax?

The term "exempt individual" does not refer to someone exempt from U.S. tax. You were referred to as an "exempt individual"because as a student temporarily in the United States on an F visa, you do not have to count the days you were present in the United States as a student during the first 5 years in determining if you are a resident alien under the substantial presence test. See chapter 1.

I am a resident alien. Can I claim any treaty benefits?

Generally, you cannot claim tax treaty benefits as a resident alien. However, there are exceptions. See *Effect of Tax Treaties* in chapter 1. See also *Resident Aliens* under *Some Typical Tax Treaty Benefits* in chapter 9.

I am a nonresident alien with no dependents. I am working temporarily for a U.S. company. What return do I file?

You must file Form 1040-NR if you are engaged in a trade or business in the United States, or have any other U.S. source income on which tax was not fully paid by the amount withheld.

I came to the United States on June 30th of last year. I have an H-1B visa. What is my tax status, resident alien or nonresident alien? What tax return do I file?

You were a dual-status alien last year. As a general rule, because you were in the United States for 183 days or more, you have met the substantial presence test and you are taxed as a resident. However, for the part of the year that you were not present in the United States, you are a nonresident. File Form 1040 or 1040-SR. Enter "Dual-Status Return" across the top. Attach a statement showing your U.S. source income for the part of the year you were a nonresident. You may use Form 1040-NR as the statement. Enter "Dual-Status Statement" across the top. See *First Year of Residency* in chapter 1 for rules on determining your residency starting date.

When is my Form 1040-NR due?

If you are an employee and you receive wages subject to U.S. income tax withholding, you must generally file by the 15th day of the 4th month after your tax year ends. If you file for the 2021 calendar year, your return is due April 18, 2022.

If you are not an employee who receives wages subject to U.S. income tax withholding, you must file by the 15th day of the 6th month after your tax year ends. For the 2021 calendar year, file your return by June 15, 2022. For more information on when to file and where to file, see chapter 7.

My spouse is a nonresident alien. Does he need a social security number?

A social security number (SSN) must be furnished on returns, statements, and other tax-related documents. If your spouse does not have and is not eligible to get an SSN, he must apply for an individual taxpayer identification number (ITIN).

If you are a U.S. citizen or resident and you choose to treat your nonresident spouse as a resident and file a joint tax return, your nonresident spouse needs an SSN or an ITIN. Alien spouses who are claimed as dependents are also required to furnish an SSN or ITIN.

See *Identification Number* in chapter 5 for more information.

I am a nonresident alien. Can I file a joint return with my spouse?

Generally, you cannot file as married filing jointly if either spouse was a nonresident alien at any time during the tax year.

However, nonresident aliens married to U.S. citizens or residents can choose to be treated as U.S. residents and file joint returns. For more information on this choice, see *Nonresident Spouse Treated as a Resident* in chapter 1.

I have an H-1B visa and my husband has an F-1 visa. We both lived in the United States all of last year and had income. What kind of form should we file? Do we file separate returns or a joint return?

Assuming both of you had these visas for all of last year, you are a resident alien. Your husband is a nonresident alien if he has not been in the United States as a student for more than 5 years. You and your husband can file a joint tax return on Form 1040 or 1040-SR if he makes the choice to be treated as a resident for the entire year. See *Nonresident Spouse Treated as a Resident* in chapter 1. If your husband does not make this choice, you must file a separate return on Form 1040 or 1040-SR. Your husband must file Form 1040-NR.

Is a "dual-resident taxpayer" the same as a "dual-status taxpayer"?

No. A dual-resident taxpayer is one who is a resident of both the United States and another country under each country's tax laws. See *Effect of Tax Treaties* in chapter 1. You are a dual-status alien when you are both a resident alien and a nonresident alien in the same year. For information on determining the U.S. income tax liability for a dual-status tax year, see chapter 6.

I am a nonresident alien and invested money in the U.S. stock market through a U.S. brokerage company. Are the dividends and the capital gains taxable? If yes, how are they taxed?

The following rules apply if the dividends and capital gains are not effectively connected with a U.S. trade or business.

- Capital gains are generally not taxable if you were in the United States for less than 183 days during the year. See *Sales or Exchanges of Capital Assets* in chapter 4 for more information and exceptions.
- Dividends are generally taxed at a 30% (or lower treaty) rate. The brokerage company or payer of the dividends should withhold this tax at source. If tax is not withheld at the correct rate, you must file Form 1040-NR to receive a refund or pay any additional tax due.

If the capital gains and dividends are effectively connected with a U.S. trade or business, they are taxed according to the same rules and at the same rates that apply to U.S. citizens and residents.

I am a nonresident alien. I receive U.S. social security benefits. Are my benefits taxable?

If you are a nonresident alien, 85% of any U.S. social security benefits (and the equivalent portion of tier 1 railroad retirement benefits) you receive is subject to the flat 30% tax, unless exempt, or subject to a lower treaty rate. See *The 30% Tax* in chapter 4.

Do I have to pay taxes on my scholarship?

If you are a nonresident alien and the scholarship is not from U.S. sources, it is not subject to U.S. tax. See *Scholarships, Grants, Prizes, and Awards* in chapter 2 to determine whether your scholarship is from U.S. sources.

If your scholarship is from U.S. sources or you are a resident alien, your scholarship is subject to U.S. tax according to the following rules.

- If you are a candidate for a degree, you may be able to exclude from your income the

part of the scholarship you use to pay for tuition, fees, books, supplies, and equipment required by the educational institution. However, the part of the scholarship you use to pay for other expenses, such as room and board, is taxable. See *Scholarships and Fellowship Grants* in chapter 3 for more information.

- If you are not a candidate for a degree, your scholarship is taxable.

I am a nonresident alien. Can I claim the standard deduction?

Nonresident aliens cannot claim the standard deduction. However, see *Students and business apprentices from India*, under *Itemized Deductions* in chapter 5, for an exception.

I am a dual-status taxpayer. Can I claim the standard deduction?

You cannot claim the standard deduction allowed on Form 1040 or 1040-SR. However, you can itemize any allowable deductions.

I am filing Form 1040-NR. Can I claim itemized deductions?

Nonresident aliens can claim some of the same itemized deductions that resident aliens can claim. However, nonresident aliens can claim itemized deductions only if they have income effectively connected with their U.S. trade or business. See *Itemized Deductions* in chapter 5.

I am single with a dependent child. I was a dual-status alien in 2021. Can I claim the earned income credit on my 2021 tax return?

If you are a nonresident alien for any part of the year, you cannot claim the earned income credit. See chapter 6 for more information on dual-status aliens.

I am a nonresident alien student. Can I claim an education credit on my Form 1040-NR?

If you are a nonresident alien for any part of the year, you generally cannot claim the education credits. However, if you are married and choose to file a joint return with a U.S. citizen or resident spouse, you may be eligible for these credits. See *Nonresident Spouse Treated as a Resident* in chapter 1.

I am a nonresident alien, temporarily working in the U.S. under a J visa. Am I subject to social security and Medicare taxes?

Generally, services you perform as a nonresident alien temporarily in the United States as a nonimmigrant under subparagraph (F), (J), (M), or (Q) of section 101(a)(15) of the Immigration and Nationality Act are not covered under the social security program if you perform the services to carry out the purpose for which you were admitted to the United States. See *Social Security and Medicare Taxes* in chapter 8.

I am a nonresident alien student. Social security taxes were withheld from my pay in error. How do I get a refund of these taxes?

If social security or Medicare taxes were withheld in error from pay that is not subject to these taxes, contact the employer who withheld the taxes for a refund. If you are unable to get a full refund of the amount from your employer, file a claim for refund with the IRS on Form 843. Do not use Form 843 to request a refund of Additional Medicare Tax. See *Refund of Taxes Withheld in Error* in chapter 8.

I am an alien who will be leaving the United States. What forms do I have to file before I leave?

Before leaving the United States, aliens must generally obtain a certificate of compliance. This document, also popularly known as the "sailing permit" or "departure permit," is part of the income tax form you must file before leaving. You will receive a sailing or departure permit after filing a *Form 1040-C* or *Form 2063*. These forms are discussed in chapter 11.

I filed a Form 1040-C when I left the United States. Do I still have to file an annual U.S. tax return?

Form 1040-C is not an annual U.S. income tax return. If an income tax return is required by law, you must file that return even though you already filed a Form 1040-C. Chapter 5 and chapter 7 discuss filing an annual U.S. income tax return. ■

Appendix A—Tax Treaty Exemption Procedure for Students

This appendix contains the statements nonresident alien students and trainees must file with Form 8233 to claim a tax treaty exemption from withholding of tax on compensation for dependent personal services. For treaty countries not listed, attach a statement in a format similar to those for other treaties. See chapter 8 for more information on withholding.

Belgium

1. I was a resident of Belgium on the date of my arrival in the United States. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.
2. I am present in the United States for the purpose of my education or training.
3. I will receive compensation for personal services performed in the United States. This compensation qualifies for exemption from withholding of federal income tax under the tax treaty between the United States and Belgium in an amount not in excess of $9,000 for any tax year.
4. I arrived in the United States on _____ *[insert the date of your last arrival in the United States before beginning study or training]*. For a trainee who is temporarily present in the United States for the purpose of securing training required to practice a profession or professional specialty, the treaty exemption is available only for compensation paid during a period of 2 years.

Bulgaria

1. I was a resident of Bulgaria on the date of my arrival in the United States. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.
2. I am temporarily present in the United States for the primary purpose of studying at _____ *[insert the name of the university or other recognized educational institution at which you study]* or securing training to practice a profession or professional specialty.
3. I will receive compensation for personal services performed in the United States. This compensation qualifies for exemption from withholding of federal income tax under the tax treaty between the United States and Bulgaria in an amount not in excess of $9,000 for any tax year.
4. I arrived in the United States on _____ *[insert the date of your last arrival in the United States before beginning study or training]*. The treaty exemption for training is available only for compensation paid during a period of 2 years.

China, People's Republic of

1. I was a resident of the People's Republic of China on the date of my arrival in the United States. I am not a U.S. citizen.
2. I am present in the United States solely for the purpose of my education or training.
3. I will receive compensation for personal services performed in the United States. This compensation qualifies for exemption from withholding of federal income tax under the tax treaty between the United States and the People's Republic of China in an amount not in excess of $5,000 for any tax year.
4. I arrived in the United States on _____ *[insert the date of your last arrival in the United States before beginning study or training]*. I am claiming this exemption only for such period of time as is reasonably necessary to complete the education or training.

Cyprus

1. I was a resident of Cyprus on the date of my arrival in the United States. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.
2. I am temporarily present in the United States for the primary purpose of studying at _____ *[insert the name of the university or other recognized educational institution at which you study]*.
3. I will receive compensation for personal services performed in the United States. This compensation qualifies for exemption from withholding of federal income tax under the tax treaty between the United States and Cyprus in an amount not in excess of $2,000 ($10,000 if you are a participant in a government sponsored program of study not exceeding 1 year) for any tax year. I have not previously claimed an income tax exemption under that treaty for income received as a student before the date of my arrival in the United States.
4. I arrived in the United States on _____ *[insert the date of your last arrival in the United States before beginning study at the U.S. educational institution]*. The $2,000 treaty exemption is available only for compensation paid during a period of 5 tax years beginning with the tax year that includes my arrival date, and for such additional period of time as is necessary to complete, as a full-time student, educational requirements as a candidate for a postgraduate or professional degree from a recognized educational institution.

Czech Republic, Estonia, Latvia, Lithuania, and Slovak Republic

1. I was a resident of _____ *[insert the name of the country under whose treaty you claim exemption]* on the date of my arrival in the United States. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.
2. I am temporarily present in the United States for the primary purpose of studying or training at _____ *[insert the name of the university or other recognized educational institution at which you study]*; or, I am temporarily present in the United States as a recipient of a grant, allowance, or award from _____ *[insert the name of the nonprofit organization or government institution providing the grant, allowance, or award]*.
3. I will receive compensation for services performed in the United States. This compensation qualifies for exemption from withholding of federal income tax under the tax treaty between the United States and _____ *[insert the name of the country]* in the amount not in excess of $5,000 ($10,000 if you are a participant in a government sponsored program of study not exceeding 1 year) for any tax year.
4. I arrived in the United States on _____ *[insert the date of your last arrival in the United States before beginning study at the U.S. educational institution]*. The $5,000 treaty exemption is available only for compensation paid during a period of 5 tax years beginning with the tax year that includes my arrival date.

Egypt

1. I was a resident of Egypt on the date of my arrival in the United States. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.
2. I am temporarily present in the United States for the primary purpose of studying at _____ *[insert the name of the university or other recognized educational institution at which you study]*.
3. I will receive compensation for personal services performed in the United States. This compensation qualifies for exemption from withholding of federal income tax under the tax treaty between the United States and Egypt in an amount not in excess of $3,000 ($10,000 if you are a participant in a government sponsored program of study not exceeding 1 year) for any tax year. I have not previously claimed an income tax exemption under that treaty for

income received as a teacher, researcher, or student before the date of my arrival in the United States.

4. I arrived in the United States on _____ *[insert the date of your last arrival in the United States before beginning study at the U.S. educational institution]*. The $3,000 treaty exemption is available only for compensation paid during a period of 5 tax years beginning with the tax year that includes my arrival date, and for such period of time as is necessary to complete, as a full-time student, educational requirements as a candidate for a postgraduate or professional degree from a recognized educational institution.

France

1. I was a resident of France on the date of my arrival in the United States. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.
2. I am temporarily present in the United States for the primary purpose of studying at _____ *[insert the name of the accredited university, college, school or other educational institution]*.
3. I will receive compensation for personal services performed in the United States. This compensation qualifies for exemption from withholding of federal income tax under the tax treaty between the United States and France in an amount not in excess of $5,000 for any taxable year. I have not previously claimed an income tax exemption under this treaty for income received as a teacher, researcher, or student before the date of my arrival in the United States.
4. I will be present in the United States only for such period of time as may be reasonably or customarily required to effectuate the purpose of this visit.
5. I arrived in the United States on _____ *[insert the date of your last arrival in the United States before beginning study at the U.S. educational institution]*. The treaty exemption is available only for compensation paid during a period of 5 tax years.

Germany

1. I was a resident of Germany on the date of my arrival in the United States. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.
2. I am temporarily present in the United States as a student or business apprentice for the purpose of full-time study or training at _____ *[insert the name of the accredited university, college, school or other educational institution]*; or, I am temporarily present in the United States as a recipient of a grant, allowance, or award from _____ *[insert the name of the nonprofit organization or government institution providing the grant, allowance, or award]*.
3. I will receive compensation for dependent personal services performed in the United States. This compensation qualifies for exemption from withholding of federal income tax under the tax treaty between the United States and Germany in an amount not in excess of $9,000 for any tax year, provided that such services are performed for the purpose of supplementing funds otherwise available for my maintenance, education, or training.
4. I arrived in the United States on _____ *[insert the date of your last arrival in the United States before beginning study at the U.S. educational institution]*. The treaty exemption is available only for compensation paid during a period of 4 tax years beginning with the tax year that includes my arrival date.

Iceland

1. I was a resident of Iceland on the date of my arrival in the United States. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.
2. I am temporarily present in the United States for the primary purpose of studying at _____ *[insert the name of the university or other recognized educational institution at which you study]*; or, I am temporarily present in the United States to obtain professional training or to study or do research as a recipient of a grant, allowance, or award from _____ *[insert the name of the nonprofit organization or government institution providing the grant, allowance, or award]*.
3. I will receive compensation for services performed in the United States. This compensation qualifies for exemption from withholding of federal income tax under the tax treaty between the United States and Iceland in the amount not in excess of $9,000 for any tax year.
4. I arrived in the United States on _____ *[insert the date of your last arrival in the United States before beginning study at the U.S. educational institution]*. The treaty exemption is available only for compensation paid during a period of 5 tax years beginning with the tax year that includes my arrival date.

Indonesia

1. I was a resident of Indonesia on the date of my arrival in the United States. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.
2. I am temporarily present in the United States solely for the purpose of study at _____ *[insert the name of the university or other accredited educational institution at which you study]*; or, I am temporarily present in the United States as a recipient of a grant, allowance or award from _____ *[insert the name of the nonprofit organization or government institution providing the grant, allowance, or award]* for the primary purpose of study, research, or training.
3. I will receive compensation for services performed in the United States. This compensation qualifies for exemption from withholding of federal income tax under the tax treaty between the United States and Indonesia in an amount not in excess of $2,000 for my tax year, provided such services are performed in connection with my studies or are necessary for my maintenance.
4. I arrived in the United States on _____ *[insert the date of your last arrival in the United States before beginning study at the U.S. educational institution]*. The treaty exemption is available only for compensation paid during a period of 5 tax years beginning with the tax year that includes my arrival date.

Israel, Philippines, and Thailand

1. I was a resident of the _____ *[insert the name of the country under whose treaty you claim exemption]* on the date of my arrival in the United States. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.
2. I am temporarily present in the United States for the primary purpose of studying at _____ *[insert the name of the university or other recognized educational institution at which you study]*.
3. I will receive compensation for personal services performed in the United States. This compensation qualifies for exemption from withholding of federal income tax under the tax treaty between the United States and _____ *[insert the name of the country under whose treaty you claim exemption]* in an amount not in excess of $3,000 for any tax year. I have not previously claimed an income tax exemption under that treaty for income received as a teacher, researcher, or student before the date of my arrival in the United States.
4. I arrived in the United States on _____ *[insert the date of your last arrival in the United States before beginning study at the U.S. educational institution]*. The treaty exemption is available only for compensation paid during a period of 5 tax years beginning with the tax year that includes my arrival date.

Korea, Norway, Poland, and Romania

1. I was a resident of _____ *[insert the name of the country under whose treaty you claim exemption]* on the date of my arrival in the United States. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.
2. I am temporarily present in the United States for the primary purpose of studying at _____ *[insert the name of the university or other recognized educational institution at which you study]*.
3. I will receive compensation for personal services performed in the United States. This compensation qualifies for exemption from withholding of federal income tax under the tax treaty between the United States and _____ *[insert the name of the country under whose treaty you claim exemption]* in an amount not in excess of $2,000 for any tax year. I have not previously claimed an income tax exemption under this treaty for income received as a teacher, researcher, or student before the date of my arrival in the United States.
4. I arrived in the United States on _____ *[insert the date of your last arrival in the United States before beginning study at the U.S. educational institution]*. The treaty exemption is available only for compensation paid during a period of 5 tax years beginning with the tax year that includes my arrival date.

Morocco

1. I was a resident of Morocco on the date of my arrival in the United States. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.
2. I am temporarily present in the United States for the primary purpose of studying at _____ *[insert the name of the university or other recognized educational institution at which you study]*.
3. I will receive compensation for personal services performed in the United States. This compensation qualifies for exemption from withholding of federal income tax under the tax treaty between the United States and Morocco in an amount not in excess of $2,000 for any tax year. I have not previously claimed an income tax exemption under that treaty for income received as a student before the date of my arrival in the United States.
4. I arrived in the United States on _____ *[insert the date of your last arrival in the United States before beginning study at the U.S. educational institution]*. The treaty exemption is available only for compensation paid during a period of 5 tax years, beginning with the tax year that includes my arrival date.

Netherlands

1. I was a resident of the Netherlands on the date of my arrival in the United States. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.
2. I am temporarily present in the United States for the primary purpose of full time study at _____ *[insert the name of the recognized university, college, or school in the United States at which you study]*.
3. I will receive compensation for personal services performed in the United States. This compensation qualifies for exemption from withholding of federal income tax under the tax treaty between the United States and the Netherlands in an amount not in excess of $2,000 for any tax year.
4. I arrived in the United States on _____ *[insert the date of your last arrival in the United States before beginning study at the U.S. educational institution]*. I am claiming this exemption only for such period of time as is reasonably necessary to complete my education.

Pakistan

1. I am a resident of Pakistan. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant and would not otherwise be considered a resident alien for the relevant tax year.
2. I am temporarily present in the United States solely as a student at _____ *[insert the name of the recognized university, college, or school in the United States at which you study]*.
3. I will receive compensation for personal services performed in the United States. This compensation qualifies for exemption from withholding of federal income tax under the tax treaty between the United States and Pakistan in an amount not in excess of $5,000 for any tax year.

Portugal and Spain

1. I was a resident of _____ *[insert the name of the country under whose treaty you claim exemption]* on the date of my arrival in the United States. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.
2. I am temporarily present in the United States for the primary purpose of studying or training at _____ *[insert the name of the university or other recognized educational institution at which you study]*; or, I am temporarily present in the United States as a recipient of a grant, allowance, or award from _____ *[insert the name of the nonprofit organization or government institution providing the grant, allowance, or award].*
3. I will receive compensation for services performed in the United States. This compensation qualifies for exemption from withholding of federal income tax under the tax treaty between the United States and _____ *[Insert the name of the country]* in the amount not in excess of $5,000 for any tax year.
4. I arrived in the United States on _____ *[insert the date of your last arrival in the United States before beginning study at the U.S. educational institution]*. The treaty exemption is available only for compensation paid during a period of 5 tax years beginning with the tax year that includes my arrival date.

Slovenia and Venezuela

1. I was a resident of _____ *[insert the name of the country under whose treaty you claim exemption]* on the date of my arrival in the United States. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.
2. I am temporarily present in the United States for the primary purpose of studying or training at _____ *[insert the name of the university or other accredited educational institution at which you study or train]*.
3. I will receive compensation for services performed in the United States. This compensation qualifies for exemption from withholding of federal income tax under the tax treaty between the United States and _____ *[insert the name of the country under whose treaty you claim exemption]* in an amount not in excess of $5,000 for any tax year.
4. I arrived in the United States on _____ *[insert the date of your last arrival in the United States before beginning study at the U.S. educational institution]*. The treaty exemption is available only for compensation paid during a period of 5 tax years beginning with the tax year that includes my arrival date, and for such period of time as is necessary to complete, as a full-time student, educational requirements as a candidate for a postgraduate or professional degree from a recognized educational institution.

Trinidad and Tobago

1. I was a resident of Trinidad and Tobago on the date of my arrival in the United States. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.

2. I am temporarily present in the United States for the primary purpose of studying at _____ *[insert the name of the university or other accredited educational institution at which you study]*.
3. I will receive compensation for personal services performed in the United States. This compensation qualifies for exemption from withholding of federal income tax under the tax treaty between the United States and Trinidad and Tobago in an amount not in excess of $2,000 (or, if you are securing training required to qualify you to practice a profession or a professional specialty, not in excess of $5,000) for any tax year. I have not previously claimed an income tax exemption under this treaty for income received as a teacher, researcher, or student before the date of my arrival in the United States.
4. I will be present in the United States only for such period of time as may be reasonably or customarily required to effectuate the purpose of this visit.
5. I arrived in the United States on _____ *[insert the date of your last arrival in the United States before beginning study at the U.S. educational institution]*. The treaty exemption is available only for compensation paid during a period of 5 tax years.

Tunisia

1. I was a resident of Tunisia on the date of my arrival in the United States. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.
2. I am temporarily present in the United States for the purpose of full-time study, training, or research at _____ *[insert the name of the university or other accredited educational institution at which you study, train, or perform research]*.
3. I will receive compensation for services performed in the United States. This compensation qualifies for exemption from withholding of federal income tax under the tax treaty between the United States and Tunisia in an amount not in excess of $4,000 for any tax year.
4. I arrived in the United States on _____ *[insert the date of your last arrival in the United States before beginning study at the U.S. educational institution]*. The treaty exemption is available only for compensation paid during a period of 5 tax years beginning with the tax year that includes my arrival date.

Appendix B—Tax Treaty Exemption Procedure for Teachers and Researchers

This appendix contains the statements nonresident alien teachers and researchers must file with Form 8233 to claim a tax treaty exemption from withholding of tax on compensation for dependent personal services. For treaty countries not listed, attach a statement in a format similar to those for other treaties. See chapter 8 for more information on withholding.

Belgium

1. I am a resident of Belgium. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.
2. I am visiting the United States for the purpose of teaching or engaging in research at _____ *[insert the name of the educational or research institution at which you teach or perform research]* for a period not exceeding 2 years. I will receive compensation for my teaching or research activities.
3. The teaching or research compensation received during the entire tax year (or during the period from _____ to _____) for these activities qualifies for exemption from withholding of federal tax under the tax treaty between the United States and Belgium.
4. Any research I perform will be undertaken in the public interest and not primarily for the private benefit of a specific person or persons.
5. I arrived in the United States on _____ *[insert the date of your last arrival in the United States before beginning the teaching or research for which exemption is claimed]*. The treaty exemption is available only for compensation received during a period of 2 years beginning on that date.

Bulgaria

1. I was a resident of Bulgaria on the date of my arrival in the United States. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.
2. I am visiting the United States for the purpose of teaching or conducting research at _____ *[insert the name of the university, college, or other recognized educational or research institution]*. I will receive compensation for my teaching or research activities.
3. The teaching or research compensation received during the entire tax year (or during the period from _____ to _____) for these activities qualifies for exemption from withholding of federal tax under the tax treaty between the United States and Bulgaria.
4. Any research I perform will be undertaken in the public interest and not primarily for the private benefit of a specific person or persons.
5. I arrived in the United States on _____ *[insert the date of your last arrival into the United States before beginning the services for which the exemption is claimed]*. The treaty exemption is available only for compensation paid during a period of 2 years beginning on that date.

China, People's Republic of

1. I was a resident of the People's Republic of China on the date of my arrival in the United States. I am not a U.S. citizen.
2. I am visiting the United States for the primary purpose of teaching, giving lectures, or conducting research at _____ *[insert the name of the educational institution or scientific research institution at which you teach, lecture, or conduct research]*, which is an accredited educational institution or scientific research institution. I will receive compensation for my teaching, lecturing, or research activities.
3. The teaching, lecturing, or research compensation received during the entire tax year (or during the period from _____to _____) qualifies for exemption from withholding of federal tax under the tax treaty between the United States and the People's Republic of China. I have not previously claimed an income tax exemption under that treaty for income received as a teacher, lecturer, researcher, or student before the date of my arrival in the United States.
4. Any research I perform will be undertaken in the public interest and not primarily for the private benefit of a specific person or persons.
5. I arrived in the United States on _____ *[insert the date of your last arrival in the United States before beginning your teaching, lecturing, or research activities]*. The treaty exemption is available only for compensation received during a maximum aggregate period of 2 years.

Commonwealth of Independent States

The treaty with the former Union of Soviet Socialist Republics remains in effect for the following countries: Armenia, Azerbaijan, Belarus, Georgia, Kyrgyzstan, Moldova, Tajikistan, Turkmenistan, and Uzbekistan.

1. I am a resident of _____ *[insert the name of country]*. I am not a U.S. citizen.
2. I have accepted an invitation by a governmental agency or institution in the United States, or by an educational or scientific research institution in the United States, to come to the United States for the primary purpose of teaching, engaging in research, or participating in scientific, technical, or professional conferences at _____ *[insert the name of governmental agency or institution, educational or scientific institution, or organization sponsoring professional conference]*, which is a governmental agency or institution, an educational or scientific institution, or an organization sponsoring a professional conference. I will receive compensation for my teaching, research, or conference activities.
3. The teaching, research, or conference compensation received the entire tax year (or for the period from _____to _____) qualifies for exemption from withholding of federal tax under the tax treaty between the United States and the former Union of Soviet Socialist Republics. I have not previously claimed an income tax exemption under that treaty for income received as a teacher, researcher, conference participant, or student before the date of my arrival in the United States.
4. Any research I perform will not be undertaken primarily for the benefit of a private person or commercial enterprise of the United States or a foreign trade organization of _____ *[insert the name of country]*, unless the research is conducted on the basis of intergovernmental agreements on cooperations.
5. I arrived in the United States on _____ *[insert the date of your last arrival in the United States before beginning the teaching or research services for which exemption is claimed]*. The treaty exemption is available only for compensation received during a period of 2 years beginning on that date.

Czech Republic and Slovak Republic

1. I was a resident of the _____ *[insert the name of the country under whose treaty you claim exemption]* on the date of my arrival in the United States. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.
2. I am visiting the United States for the primary purpose of teaching or conducting research at _____ *[insert the name of the educational or scientific institution]*, which is an accredited educational or research institution. I will receive compensation for my teaching or research activities.
3. The teaching or research compensation received during the entire tax year (or during the period from _____to

_____) qualifies for exemption from withholding of federal tax under the tax treaty between the United States and the _____ *[insert the name of the country under whose treaty you claim exemption]*. I have not previously claimed an income tax exemption under that treaty for income received as a teacher, researcher, or student before the date of my arrival in the United States.

4. Any research I perform will be undertaken in the public interest and not primarily for the private benefit of a specific person or persons.
5. I arrived in the United States on _____ *[insert the date of your last arrival in the United States before beginning the teaching, research, or conference services for which exemption is claimed]*. The treaty exemption is available only for compensation received during a period of 2 years beginning on that date.

Egypt, Hungary, Korea, Philippines, Poland, and Romania

1. I was a resident of _____ *[insert the name of the country under whose treaty you claim exemption]* on the date of my arrival in the United States. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.
2. I have accepted an invitation by the U.S. Government (or by a political subdivision or local authority thereof), or by a university or other recognized educational institution in the United States for a period not expected to exceed 2 years for the purpose of teaching or engaging in research at _____ *[insert the name of the educational institution]*, which is a recognized educational institution. I will receive compensation for my teaching or research activities.
3. The teaching or research compensation received during the entire tax year (or for the portion of the year from _____to _____) qualifies for exemption from withholding of federal tax under the tax treaty between the United States and _____ *[insert the name of the country under whose treaty you claim exemption]*. I have not previously claimed an income tax exemption under this treaty for income received as a teacher, researcher, or student before the date of my arrival in the United States.
4. Any research I perform will be undertaken in the public interest and not primarily for the private benefit of a specific person or persons.
5. I arrived in the United States on _____ *[insert the date of your last arrival in the United States before beginning the teaching or research services for which exemption is claimed]*. The treaty exemption is available only for compensation received during a period of 2 years beginning on that date.

France

1. I was a resident of France on the date of my arrival in the United States. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.
2. I have accepted an invitation by the U.S. Government, or by a university or other recognized educational or research institution in the United States for the primary purpose of teaching or engaging in research at _____ *[insert the name of the educational or research institution]*. I will receive compensation for my teaching or research activities.
3. The teaching or research compensation received during the entire tax year (or for the portion of the year from _____to _____) qualifies for exemption from withholding of federal tax under the tax treaty between the United States and France. I have not previously claimed an income tax exemption under this treaty for income received as a teacher, researcher, or student before the date of my arrival in the United States.
4. Any research I perform will be undertaken in the public interest and not primarily for the private benefit of a specific person or persons.
5. I arrived in the United States on _____ *[insert the date of your last arrival in the United States before beginning the teaching or research services for which exemption is claimed]*. The treaty exemption is available only for compensation received during a period of 2 years beginning on that date.

Germany

1. I am a resident of Germany. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.
2. I am a professor or teacher visiting the United States for the purpose of advanced study, teaching, or research at _____ *[insert the name of the accredited university, college, school, or other educational institution, or a public research institution or other institution engaged in research for the public benefit]*. I will receive compensation for my teaching, research, or study activities.
3. The compensation received during the entire tax year (or during the period from _____to _____) for these activities qualifies for exemption from withholding of federal tax under the tax treaty between the United States and Germany. I have not previously claimed an income tax exemption under that treaty for income received as a student, apprentice, or trainee during the immediately preceding period. (If, however, following the period in which the alien claimed benefits as a student, apprentice, or trainee, that person returned to Germany and resumed residence and physical presence before returning to the United States as a teacher or researcher, that person may claim the benefits of this treaty.)
4. Any research I perform will be undertaken in the public interest and not primarily for the private benefit of a specific person or persons.
5. I arrived in the United States on _____ *[insert the date of your last arrival into the United States before beginning the services for which the exemption is claimed]*. The treaty exemption is available only for compensation paid during a period of 2 years beginning on that date.

Greece

1. I am a resident of Greece. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant (and would not otherwise be considered a resident alien for the relevant tax year).
2. I am a professor or teacher visiting the United States for the purpose of teaching at _____ *[insert the name of the other educational institution at which you teach]*, which is an educational institution. I will receive compensation for my teaching activities.
3. The teaching compensation received during the entire tax year (or during the period from _____to _____) qualifies for exemption from withholding of federal tax under the tax treaty between the United States and Greece. I have not previously claimed an income tax exemption under that treaty for income received as a teacher or student before the date of my arrival in the United States.
4. I arrived in the United States on _____ *[insert the date of your last arrival in the United States before beginning the teaching services for which exemption is claimed]*. The treaty exemption is available only for compensation received during a period of 3 years beginning on that date.

India

1. I was a resident of India on the date of my arrival in the United States. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.
2. I am visiting the United States for the purpose of teaching or conducting research at _____ *[insert the name of the university, college, or other recognized educational institution]*. I will receive compensation for my teaching or research activities.
3. The teaching or research compensation received

during the entire tax year (or during the period from _____to _____) for these activities qualifies for exemption from withholding of federal tax under the tax treaty between the United States and India.

4. Any research I perform will be undertaken in the public interest and not primarily for the private benefit of a specific person or persons.
5. I arrived in the United States on _____ *[insert the date of your last arrival into the United States before beginning the services for which the exemption is claimed]*. The treaty exemption is available only for compensation paid during a period of 2 years beginning on that date.

Indonesia

1. I was a resident of Indonesia on the date of my arrival in the United States. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.
2. I have accepted an invitation by _____ *[insert the name of the university, college, school, or other similar educational institution]* to come to the United States solely for the purpose of teaching or engaging in research at that educational institution. I will receive compensation for my teaching or research activities.
3. The teaching or research compensation received during the entire tax year (or during the period from _____ to _____) qualifies for exemption from withholding of federal tax under the tax treaty between the United States and Indonesia. I have not previously claimed an income tax exemption under that treaty for income received as a teacher or researcher before the date specified in the next paragraph.
4. I arrived in the United States on _____ *[insert the date of your arrival into the United States before beginning the teaching or research services for which the exemption is claimed]*. The treaty exemption is available only for compensation paid during a period of 2 years beginning on that date.
5. Any research I perform will be undertaken in the public interest and not primarily for the private benefit of a specific person or persons.

Israel

1. I was a resident of Israel on the date of my arrival in the United States. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.
2. I have accepted an invitation by the U.S. Government (or by a political subdivision or local authority thereof), or by a university or other recognized educational institution in the United States, to come to the United States for a period not expected to exceed 2 years for the purpose of teaching or engaging in research at _____ *[insert the name of the educational institution]*, which is a recognized educational institution. I will receive compensation for my teaching or research activities.
3. The teaching or research compensation received during the entire tax year (or for the portion of the year from _____to _____) qualifies for exemption from withholding of federal tax under the tax treaty between the United States and Israel. I have not previously claimed an income tax exemption under this treaty for income received as a teacher, researcher, or student before the date of my arrival in the United States.
4. Any research I perform will be undertaken in the public interest and not primarily for the private benefit of a specific person or persons.
5. I arrived in the United States on _____ *[insert the date of your last arrival in the United States before beginning the teaching or research services for which exemption is claimed]*. The treaty exemption is available only for compensation received during a period of 2 years beginning on that date.

Italy

1. I was a resident of Italy on the date of my arrival in the United States. I am not a U.S. citizen. I have not been accorded the privilege of residing permanently in the United States as an immigrant.
2. I am a professor or teacher visiting the United States for the purpose of teaching or performing research at _____ *[insert the name of the educational institution or medical facility at which you teach or perform research]*, which is a recognized educational institution or a medical facility primarily funded from governmental sources. I will receive compensation for my teaching or research activities.
3. The compensation received during the entire tax year (or during the period from _____ to _____) qualifies for exemption from withholding of federal tax under the tax treaty between the United States and Italy. I have not previously claimed an income tax exemption under that treaty for income received as a teacher, researcher, or student before the date of my arrival in the United States.
4. Any research I perform will be undertaken in the general interest and not primarily for the private benefit of a specific person or persons.
5. I arrived in the United States on _____ *[insert the date of your last arrival in the United States before beginning the teaching or research services for which exemption is claimed]*. The treaty exemption is available only for compensation received during a period of 2 years beginning on that date.

Jamaica

1. I was a resident of Jamaica on the date of my arrival in the United States. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.
2. I am visiting the United States for the purpose of teaching or conducting research for a period not expected to exceed 2 years at _____ *[insert the name of the educational institution at which you teach or conduct research]*, which is a recognized educational institution. I will receive compensation for my teaching or research activities.
3. The teaching or research compensation received during the entire tax year (or during the period from _____to _____) qualifies for exemption from withholding of federal tax under the tax treaty between the United States and Jamaica. I have not previously claimed an income tax exemption under that treaty for income received as a teacher, researcher, or student before the date of my arrival in the United States.
4. I arrived in the United States on _____ *[insert the date of your last arrival in the United States before beginning the teaching or research services for which exemption is claimed]*. The treaty exemption is available only for compensation paid during a period of 2 years beginning on that date.

Luxembourg

1. I am a resident of Luxembourg. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.
2. I have accepted an invitation by _____ *[insert the name of the educational institution at which you teach or perform research]*, which is a recognized educational institution, to come to the United States for the purpose of teaching or engaging in research at that institution. I will receive compensation for my teaching or research activities.
3. The teaching or research compensation received during the entire tax year (or during the period from _____to _____) qualifies for exemption from withholding of federal tax under the tax treaty between the United States and Luxembourg. I have not previously claimed an income tax exemption under that treaty for income received as a teacher, researcher, or student before the date of my arrival in the United States.

4. Any research I perform will not be carried on for the benefit of any person using or disseminating the results for purposes of profit.
5. I arrived in the United States on _____ *[insert the date of your last arrival into the United States before beginning the teaching services for which exemption is claimed]*. The treaty exemption is available only for compensation received during a period of 2 years beginning on that date.

Netherlands

1. I am a resident of the Netherlands. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.
2. I am visiting the United States for the purpose of teaching or engaging in research at _____ *[insert the name of the educational institution at which you teach or perform research]* for a period not exceeding 2 years. I will receive compensation for my teaching or research activities.
3. The compensation received during the entire tax year (or during the period from _____ to _____) for these activities qualifies for exemption from withholding of federal tax under the tax treaty between the United States and the Netherlands. I have not previously claimed an income tax exemption under that treaty for income received as a teacher, researcher, or student before the date of my arrival in the United States.
4. Any research I perform will be undertaken in the public interest and not primarily for the benefit of a specific person or persons.
5. I arrived in the United States on _____ *[insert the date of your last arrival into the United States before beginning the teaching or research services for which exemption is claimed]*. The treaty exemption is available for compensation received during a period of 2 years beginning on that date only if my visit does not exceed 2 years.

Norway

1. I was a resident of Norway on the date of my arrival in the United States. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.
2. I have accepted an invitation by the U.S. Government, or by a university or other recognized educational institution in the United States for a period not expected to exceed 2 years for the purpose of teaching or engaging in research at _____ *[insert the name of the educational institution]*, which is a recognized educational institution. I will receive compensation for my teaching or research activities.
3. The teaching or research compensation qualifies for exemption from withholding of federal tax under the tax treaty between the United States and Norway. I have not previously claimed an income tax exemption under this treaty for income received as a teacher, researcher, or student before the date of my arrival in the United States.
4. Any research I perform will not be undertaken primarily for the private benefit of a specific person or persons.
5. I arrived in the United States on _____ *[insert the date of your last arrival in the United States before beginning the teaching or research services for which exemption is claimed]*. The treaty exemption is available only for compensation received during a period of 2 years beginning on that date.

Pakistan

1. I am a resident of Pakistan. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant and would not otherwise be considered a resident alien for the relevant tax year.
2. I am a professor or teacher visiting the United States for the purpose of teaching at _____ *[insert the name of the educational institution at which you teach]*, which is a recognized educational institution. I will receive compensation for my teaching activities.
3. The teaching compensation received during the entire tax year (or during the period from _____to _____) qualifies for exemption from withholding of federal tax under the tax treaty between the United States and Pakistan. I have not previously claimed an income tax exemption under this treaty for income received as a teacher or student before the date of my arrival in the United States.
4. I arrived in the United States on _____ *[insert the date of your last arrival into the United States before beginning the teaching services for which exemption is claimed]*. The treaty exemption is available only for compensation paid during a period of 2 years beginning on that date.

Portugal

1. I was a resident of Portugal on the date of my arrival in the United States. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.
2. I have accepted an invitation by _____ *[insert the name of the university, college, school, or other similar educational institution]* to come to the United States solely for the purpose of teaching or engaging in research at that educational institution. I will receive compensation for my teaching or research activities.
3. The teaching or research compensation received during the entire tax year (or during the period from _____ to _____) qualifies for exemption from withholding of federal tax under the tax treaty between the United States and Portugal. I have not previously claimed an income tax exemption under that treaty for income received as a teacher or researcher before the date specified in paragraph 5.
4. Any research I perform will be undertaken in the public interest and not primarily for the private benefit of a specific person or persons.
5. I arrived in the United States on _____ *[insert the date of your arrival into the United States before beginning the teaching or research services for which the exemption is claimed]*. The treaty exemption is available only for compensation paid during a period of 2 years beginning on that date.

Slovenia and Venezuela

1. I was a resident of _____ *[insert the name of the country under whose treaty you claim exemption]* on the date of my arrival in the United States. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.
2. I am temporarily present in the United States for the purpose of teaching or carrying on research at _____ *[insert the name of the educational or research institution]*, which is a recognized educational or research institution. I will receive compensation for my teaching or research activities.
3. The teaching or research compensation received during the entire tax year (or during the period from _____to _____) qualifies for exemption from withholding of federal tax under the tax treaty between the United States and _____ *[insert the name of the country under whose treaty you claim exemption]*. I have not previously claimed an income tax exemption under this treaty for income received as a teacher, researcher, or student before the date of my arrival in the United States.
4. Any research I perform will be undertaken in the general interest and not primarily for the private benefit of a specific person or persons.
5. I arrived in the United States on _____ *[insert the date of your last arrival in the United States before beginning the teaching or research services for which exemption is claimed]*. The treaty exemption is available only for compensation received during a period of 2 years beginning on that date. In no event have I claimed an exemption under

this treaty for income received as a teacher or researcher for more than 5 years.

Thailand

1. I was a resident of Thailand on the date of my arrival in the United States. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.
2. I am visiting the United States for the purpose of teaching or engaging in research at _____ *[insert the name of the educational or research institution at which you teach or perform research]* for a period not exceeding 2 years. I will receive compensation for my teaching or research activities.
3. The compensation received during the entire tax year (or during the period from _____ to _____) for these activities qualifies for exemption from withholding of federal tax under the tax treaty between the United States and Thailand. I have not previously claimed an income tax exemption under that treaty for income received as a teacher, researcher, or student before the date of my arrival in the United States.
4. Any research I perform will be undertaken in the public interest and not primarily for the benefit of a specific person or persons.
5. I arrived in the United States on _____ *[insert the date of your last arrival into the United States before beginning the teaching or research services for which exemption is claimed]*. The treaty exemption is available only for compensation received during a period of 2 years beginning on that date.

Trinidad and Tobago

1. I was a resident of Trinidad and Tobago on the date of my arrival in the United States. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.
2. I have accepted an invitation by the U.S. Government, or by a university or other educational institution in the United States, to come to the United States for the purpose of teaching or engaging in research at _____ *[insert the name of the educational institution]*, which is an educational institution approved by an appropriate governmental education authority. No agreement exists between the government of the United States and the government of Trinidad and Tobago for the provision of my services. I will receive compensation for my teaching or research services.
3. The teaching or research compensation received during the entire tax year (or for the period from _____to _____) qualifies for exemption from withholding of federal tax under the tax treaty between the United States and Trinidad and Tobago. I have not previously claimed an income tax exemption under that treaty for income received as a teacher, researcher, or student before the date of my arrival in the United States.
4. Any research I perform will be undertaken in the public interest and not primarily for the private benefit of a specific person or persons.
5. I arrived in the United States on _____ *[insert the date of your last arrival in the United States before beginning the teaching or research services for which exemption is claimed]*. The treaty exemption is available only for compensation received during a period of 2 years beginning on that date.

United Kingdom

1. I was a resident of the United Kingdom on the date of my arrival in the United States. I am not a U.S. citizen. I have not been accorded the privilege of residing permanently in the United States as an immigrant.
2. I am a professor or teacher visiting the United States for a period of not more than 2 years for the purpose of teaching or engaging in research at _____ *[insert the name of the educational institution]*, which is a recognized educational institution. I will receive compensation for my teaching or research activities.
3. The teaching or research compensation received during the entire tax year (or during the period from _____to _____) qualifies for exemption from withholding of federal tax under the tax treaty between the United States and the United Kingdom. I have not previously claimed an income tax exemption under that treaty for income received as a teacher, researcher, or student before the date of my arrival in the United States.
4. Any research I perform will be undertaken in the public interest and not primarily for the benefit of any private person or persons.
5. I arrived in the United States on _____ *[insert the date of your last arrival in the United States before beginning the teaching or research services for which exemption is claimed]*. The treaty exemption is available only for compensation received during a period of 2 years beginning on that date. The entire treaty exemption is lost retroactively if my stay in the United States exceeds 2 years.

■

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To help us develop a more useful index, please let us know if you have ideas for index entries. See "Comments and Suggestions" in the "Introduction" for the ways you can reach us.

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