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 generally are 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.

Table A, What You Need To Know About U.S. Taxes, provides a list of questions and the chapter or chapters in this publication where you will find the related discussion.

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U.S. Tax Guide for Aliens
For use in preparing 2005 Returns

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

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

The information in this publication is not as comprehensive for resident aliens as it is for nonresident aliens. Resident aliens are generally treated the same as U.S. citizens and can find more information in other IRS publications.

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

You can write to us at the following address:

Internal Revenue Service
Individual Forms and Publications Branch
SE.W.CAR.MP.T:6
1111 Constitution Ave, NW, IR-6406
Washington, DC 20224

We respond to many letters by telephone. Therefore, it would be helpful if you would include your daytime phone number, including the area code, in your correspondence.

You can email us at *taxforms@irs.gov*. (The asterisk must be included in the address.)

Please put “Publications Comment” on the subject line. Although we cannot respond individually to each email, we do appreciate your feedback and will consider your comments as we revise our tax products.

**Tax questions.** If you have a tax question, visit www.irs.gov or call 1-800-829-1040. We cannot answer tax questions at either of the addresses listed above.

**Ordering forms and publications.** Visit www.irs.gov/formspubs to download forms and publications, call 1-800-829-3676, or write to the address shown under *How To Get Tax Help* in the back of this publication.

What’s New for 2005

Dividends paid to nonresident aliens. The following dividends may be exempt from the 30% tax.

- Dividends paid by foreign corporations.
- Interest-related dividends.
- Short-term capital gain dividends.

For more information, see *Dividend Income* in Chapter 3.

IRA deduction expanded. You may be able to deduct up to $4,000 ($4,500 if age 50 or older at the end of 2005). If you were covered by a retirement plan, you may be able to take an IRA deduction if your 2005 modified AGI is less than $60,000 ($80,000 if qualifying widow(er)). See Publication 590 for more information.

Residents of Japan. Beginning in 2005, nonresident aliens who are residents of Japan generally cannot claim the following benefits.

- An exemption for a spouse or a dependent.
- Qualifying widow(er) filing status.
Hurricane tax relief. Emergency tax relief was enacted as a result of Hurricanes Katrina, Rita, and Wilma. The tax benefits provided by this relief include the following:

- **Suspended limits for certain personal casualty losses and cash contributions.**
- **An additional exemption amount if you provided housing for a person displaced by Hurricane Katrina.**
- **Election to use your 2004 earned income to figure your additional child tax credit.**
- **Increased charitable standard mileage rate for using your vehicle for volunteer work related to Hurricane Katrina.**
- **Special rules for time and support tests for people who were temporarily relocated because of Hurricanes Katrina, Rita, and Wilma.**
- **Special rules for withdrawals and loans from IRAs and other qualified retirement plans.**

For more details on these and other tax benefits related to Hurricanes Katrina, Rita, and Wilma, see Publication 4492, Information for Taxpayers Affected by Hurricanes Katrina, Rita, and Wilma.

Domestic production activities deduction. You may be able to deduct up to 3% of your qualified production activities income from certain business activities. See Form 8903 and its instructions.

What’s New for 2006

New exception from the filing requirement for nonresident alien individuals. Generally, the requirement to file a return has been eliminated for nonresident aliens who earn wages effectively connected with a U.S. trade or business that are less than the amount of one personal exemption ($3,300 for 2006). For more information, see Notice 2005-77, 2005-46 I.R.B. 951. You can find Notice 2005-77 on page 951 of Internal Revenue Bulletin 2005-46 at www.irs.gov/pub/irs-irbs/irb05-46.pdf.

Personal exemption and itemized deduction phaseouts reduced. The phaseouts of the limitation on personal exemptions and itemized deductions will be reduced by 1/3.

Residential energy credit — new. You may be able to take a residential energy credit for expenses paid in 2006 to have qualified energy saving items installed in your main home.

Alternative motor vehicles. You may be able to take a credit if you place an energy efficient motor vehicle or alternative fuel vehicle refueling property in service in 2006. You can no longer take a deduction for clean-fuel vehicles.

Clean renewable energy bond credit — new. You may be able to take a credit based on the face amount of any clean renewable energy bond you hold during 2006. The amount of any credit claimed must be included as interest income.

Certain credits no longer allowed against alternative minimum tax (AMT). The credit for child and dependent care expenses, credit for the elderly or the disabled, education credits, mortgage interest credit, and carryforwards of the District of Columbia first-time homebuyer credit are no longer allowed against AMT and a new tax liability limit applies. For most people, this limit is your regular tax minus any tentative minimum tax.

AMT exemption amount decreased. The AMT exemption amount will decrease to $33,750 ($45,000 if married filing jointly or a qualifying widow(er); $22,500 if married filing separately).

Educator expense deduction expires. The deduction for educator expenses from AGI will expire. To deduct educator expenses, you must itemize your deductions.

IRA deduction expanded. If you were covered by a retirement plan, you may be able to take an IRA deduction if your 2006 modified AGI is less than $85,000 if married filing jointly or a qualifying widow(er). You and your spouse, if filing jointly, may each be able to deduct up to $5,000 if age 50 or over at the end of 2006.

Reminders

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, 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 package for details.

Change of address. If you change your mailing address, be sure to notify the Internal Revenue Service using Form 8822, Change of Address.

Nonresident aliens who filed Form 1040NR or Form 1040NR-EZ with the Internal Revenue Service Center, Philadelphia, PA 19255, should send the form to the Internal Revenue Service Center for their old address (addresses for the Service Centers are on the back of the form).

Photographs of missing children. The Internal Revenue Service is a proud partner with the National Center for Missing and Exploited Children. 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. Figure 1-A will help you make this determination.

If you are both a nonresident and resident in the same year, you have a dual status. Dual status is explained later. Also explained later are a choice to treat your nonresident spouse as a resident and some other special situations.

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
- 1040A U.S. Individual Income Tax Return
- 1040NR 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 next under Resident Aliens.

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 the calendar year (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 the calendar year. (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 with the USCIS or U.S. consular officer.

❖ Your application for abandonment.
❖ Your Alien Registration Receipt Card attached to a letter stating your intent to abandon your resident status.

You must file the letter by certified mail, return receipt requested. You must keep a copy of the letter and proof that it was mailed and received.

If the USCIS or a 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.

A long-term resident who ceases to be a lawful permanent resident may be subject to special reporting requirements and tax provisions. See Expatriation Tax in Chapter 22.

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

Substantial Presence Test
You will be considered a U.S. resident for tax purposes if you meet the substantial presence test for the calendar year. To meet this test, you must be physically present in the United States on at least:

1. 31 days during the current year, and
2. 183 days during the 3-year period that includes the current year and the 2 years immediately before that, counting:
   a. All the days you were present in the current year, and
   b. ⅓ of the days you were present in the first year before the current year, and
   c. ⅓ of the days you were present in the second year before the current year.

Example. You were physically present in the United States on 120 days in each of the years 2003, 2004, and 2005. To determine if you meet the substantial presence test for 2005, count the full 120 days of presence in 2005, 40 days in 2004 (⅓ of 120), and 20 days in 2003 (⅓ 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 2005.

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.
❖ Days you are an exempt individual.

The specific rules that apply to each of these categories are discussed next.
**Figure 1-A. Nonresident Alien or Resident Alien?**

*Start here to determine your status for 2005*

1. Were you a lawful permanent resident of the United States (had a "green card") at any time during 2005?
   - Yes
   - No

2. Were you physically present in the United States on at least 31 days during 2005?\(^1\)
   - Yes
   - No

3. Were you physically present in the United States on at least 183 days during the 3-year period consisting of 2003, 2004, and 2005, counting all days of presence in 2005, \(\frac{1}{3}\) the days of presence in 2004, and \(\frac{1}{6}\) the days of presence in 2003?\(^1\)
   - Yes
   - No\(^2\)

   - You are a resident alien for U.S. tax purposes.\(^1,2\)
   - You are a nonresident alien for U.S. tax purposes.

4. Were you physically present in the United States on at least 183 days during 2005?
   - Yes
   - No

   - Can you show that for 2005 you have a tax home in a foreign country and have a closer connection to that country than to the United States?
     - No
     - Yes

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1. If this is your first or last year of residency, you may have a dual status for the year. See Dual-Status Aliens in chapter 1.
2. In some circumstances you may still be considered a nonresident alien under an income tax treaty between the U.S. and your country. Check the provisions of the treaty carefully.
3. See Days of Presence in the United States in this chapter for days that do not count as days of presence in the United States.
4. If you meet the substantial presence test for 2006, you may be able to choose treatment as a U.S. resident alien for part of 2005. For details, see Substantial Presence Test under Resident Aliens and First-Year Choice under Dual-Status Aliens in chapter 1.
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% 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. The period of time 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 on a particular day, that day is a workday. However, this exists 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 2. On June 2, she resumed her employment in Mexico. On 69 days, 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. On 7 days, 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 were less than 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 continuing travel to your foreign destination. For example, if you travel between opportunities in countries that 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 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.

If you qualify to exclude days of presence because of a medical condition, you must file a fully completed Form 8843 with the IRS. See Form 8843, later. You cannot exclude any days of presence in the United States under the following circumstances:

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

Exempt individuals. 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 to anyone in the following categories:

- An individual temporarily present in the United States as a foreign government-related individual.
- A teacher or trainee temporarily present in the United States under a “J” or “Q” visa, who substantially complies with the requirements of that 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 in the United States to compete in a charitable sports event.

The specific rules for each of these four categories 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.

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 referred to 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.

The immediate family of an exempt individual does not include attendants, servants, or personal employees.

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 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 you were exempt as a teacher, trainee, or student for any part of 3 (or fewer) of the 6 preceding calendar years and:

- A foreign employer paid all of your compensation during the current year, and
- 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 past 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 if you have been exempt as a teacher, trainee, or student for any part of more than 5 calendar years unless you establish that you do not intend to reside permanently in the United States and 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 2005 income tax return. If you do not have to file a return, send Form 8843 to the Internal Revenue Service Center, Philadelphia, PA 19055, by the due date for filing Form 1040NR or Form 1040NR-EZ. The due date for filing is discussed in chapter 7. If you do not timely file Form 8843, you can not 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 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 submari- ne areas which are adjacent to the terri- torial waters of the foreign country and over which the foreign country has exclu- sive rights under international law to ex- plore 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:
   a. Your permanent home,
   b. Your family,
   c. Your personal belongings, such as cars, furniture, clothing, and jewelry,
d. Your current social, political, cultural, or religious affiliations,
e. Your business activities (other than those that constitute your tax home),
f. The jurisdiction in which you hold a driver’s license, and
g. The jurisdiction in which you vote.

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.

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, or
- 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, Waiver of Rights, Privileges, Exemptions and Immunities
- Form I-485, Application to Register Permanent Residence or Adjust Status
- Form I-130, Petition for Alien Relative, on your behalf
- Form I-440, Immigrant Petition for Alien Worker, on your behalf
- Form ETA-750, Application for Alien Employment Certification, on your behalf
- Form DS-230, Application for Immigrant Visa and Alien Registration

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

If you do not have to file a return, send the form to the Internal Revenue Service Center, Philadelphia, PA 19255, by the due date for filing Form 1040NR or Form 1040-NR-EZ. The due date for filing is discussed later in chapter 7.

If you do not 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

The rules given here to determine if you are a U.S. resident do not overtake 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 (tie-breaker 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 later under Dual-Status Aliens.

Information to be reported. If you are a dual-resident taxpayer and you claim treaty benefits, you must file a return by the due date (including extensions) using Form 1040NR or Form 1040-NR-EZ, and compute your tax as a nonresident alien. You must also attach a fully completed Form 8333 if you determine your residency under a tax treaty and receive payments or income items totaling more than $100,000. See Reporting Treaty Benefits Claimed in chapter 9 for more information on reporting treaty benefits.

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 Rus-

sia. He came to the United States for the first time on January 6, 2005, to attend a business meeting and returned to Russia on January 10, 2005. His tax home remained in Russia. On March 1, 2005, 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 – March 1. Thus, his resi-
dency starting date is March 1.

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 the 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 (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 tax 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 Internal Revenue Service Center, Philadelphia, PA 19255, on or before the due date for filing Form 1040NR or Form 1040-NR-EZ. 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, 2004, and remained until November 5, 2004, when he returned to Switzerland. Robert came back to the United States on March 5, 2005, as a lawful permanent resident and still resides here. In calendar year 2005, Robert’s U.S. residency is deemed to begin on January 1, 2005, because he qualified as a resident in calendar year 2004.

### First-Year Choice

If you do not meet either the green card test or the substantial presence test for 2004 or 2005, and you did not choose to be treated as a resident for part of 2004, but you meet the substantial presence test for 2005, you can choose to be treated as a U.S. resident for part of 2005. To make this choice, you must:

1. Be present in the United States for at least 31 days in a row in 2005, 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 2005. 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 2005 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, 2005, and was here on 31 consecutive days (from November 1 through December 1, 2005). Juan returned to the Philippines on December 1 and came back to the United States on December 17, 2005. He stayed in the United States for the rest of the year. During 2006, Juan was a resident of the United States under the substantial presence test. Juan can make the first-year choice for 2005 because he was in the United States in 2005 for a period of 31 days in a row (November 1 through December 1) and for at least 75% of the days following (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%). If Juan makes the first-year choice, his residency starting date will be November 1, 2005.

**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 the period from November 1 to 25 days of absence are considered days of presence for purposes of the 75% requirement.

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

- That you are making the first-year choice.
- That you were not a resident in 2004.
- That you are resident under the substantial presence test in 2006.
- The number of days of presence in the United States during 2006.
- The date or dates of your 31-day period of presence and the period of continuous presence in the United States during 2005.
- The date or dates of absence from the United States during 2005 that you are treating as days of presence.

You cannot file Form 1040 or the statement until you meet the substantial presence test for 2006. If you have not met the test for 2006 as of April 17, 2006, you can request an extension of time for filing your 2005 Form 1040 until a reasonable period after you have met that test. To request an extension to file until October 16, 2006, use Form 4868, Application for Automatic Extension of Time To File U.S. Individual Income Tax Return. 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 2005 figured as if you were a nonresident alien the entire year. You can use Form 1040NR or Form 1040NR-EZ 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 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 Internal Revenue Service.

**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.
- 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 this choice.

**Make 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 taxpayer identification number (SSN or 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 also can make the choice by filing Form 1040X, Amended U.S. Individual Income Tax Return. Attach Form 1040, Form 1040A, or Form 1040EZ and print “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 generally must 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 2005 but are not a U.S. resident during any part of 2006, you cease to be a U.S. resident on your residency termination date. Your residency termination date is December 31, 2005, unless you qualify for an earlier date as discussed next.

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 2005 that you are physically present in the United States, if you met the substantial presence test.
2. The first day in 2005 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 2005, your tax home was in a foreign country and you had a closer connection to that foreign country. See Close Connection to a Foreign Country, earlier.

De minimis presence. If you are a U.S. resident because of the substantial presence test and you qualify to use the de minimis presence rules, 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 number of days is 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, 2005, and resided here until August 25, 2005. On December 12, 2005, Lola came to the United States for vacation and stayed here until December 16, 2005, 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 2005 and can establish a closer connection to Malta for the rest of calendar year 2005. Lola is a U.S. resident under the substantial presence test for 2005 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, 2005.

Residency during the next year. If you are a U.S. resident during any part of 2006 and you are a resident during any part of 2005, you will be treated as a resident through the earlier residency termination date for both years. This applies whether you have a closer connection to a foreign country than the United States during 2005, 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. taxpayer identification number (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 tax year.
- Sufficient facts (including copies of relevant documents) to establish your status as a lawful permanent resident or nonresident alien at the end of the period.
- Sufficient facts to establish that your status as a lawful permanent resident has been abandoned or rescinded.
- The date that your status as a lawful permanent resident was abandoned or rescinded.
- The tax year for which the statement applies.
- Sufficient facts to establish that your status as a lawful permanent resident has been abandoned or rescinded.
- The tax year for which the statement applies.

The type and rule above prints on all proofs including departmental reproduction proofs. MUST be removed before printing.

The date that your status as a lawful permanent resident was abandoned or rescinded. A declaration that one spouse was a nonresident alien and the other spouse is a U.S. citizen or resident alien at the beginning of the tax year, and that you choose to be treated as residents 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 is a U.S. citizen or resident alien at the beginning of the tax year, 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 1040X. Attach Form 1040, Form 1040A, or Form 1040EZ and print “Amended” across the top of the correct 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 generally must 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, 2002, and married to Judy, a nonresident alien. They chose to treat Judy as a resident alien and filed joint 2002 and 2003 income tax returns. On January 10, 2004, 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 2004 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 2005, 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 2005. If Dick becomes a resident alien again in 2006, 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 also must 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.

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 Internal Revenue Service 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.

**Special Situations**

If you are a nonresident alien from American Samoa or Puerto Rico, you may be treated as a resident alien.

If you are a nonresident alien from American Samoa or Puerto Rico during the entire tax year, you are taxed as a resident alien. If you are a nonresident alien from American Samoa or Puerto Rico during the entire tax year, you are taxed as a nonresident alien. 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.

**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.
- 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 if for the 3-year period ending with the close of the payer’s tax year.
year preceding the interest payment, at least 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.

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 saving 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.

**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. Exceptions to both of these rules are discussed below.

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

<table>
<thead>
<tr>
<th>Item of Income</th>
<th>Factor Determining Source</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salaries, wages, other compensation</td>
<td>Where services performed</td>
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<tr>
<td>Business income:</td>
<td></td>
</tr>
<tr>
<td>Personal services</td>
<td>Where services performed</td>
</tr>
<tr>
<td>Sale of inventory—purchased</td>
<td>Where sold</td>
</tr>
<tr>
<td>Sale of inventory—produced</td>
<td>Allocation</td>
</tr>
<tr>
<td>Interest</td>
<td>Residence of payer</td>
</tr>
<tr>
<td>Dividends</td>
<td>Whether a U.S. or foreign corporation*</td>
</tr>
<tr>
<td>Rents</td>
<td>Location of property</td>
</tr>
<tr>
<td>Royalties:</td>
<td></td>
</tr>
<tr>
<td>Natural resources</td>
<td>Location of property</td>
</tr>
<tr>
<td>Patents, copyrights, etc.</td>
<td>Where property is used</td>
</tr>
<tr>
<td>Sale of real property</td>
<td>Location of property</td>
</tr>
<tr>
<td>Sale of personal property</td>
<td>Seller's tax home (but see Personal Property, later, for exceptions)</td>
</tr>
<tr>
<td>Pensions</td>
<td>Where services were performed that earned the pension</td>
</tr>
<tr>
<td>Sale of natural resources</td>
<td>Allocation based on fair market value of product at export terminal. For more information, see section 1.863-1(b) of the regulations.</td>
</tr>
</tbody>
</table>

*Exceptions include: a) Dividends paid by a U.S. corporation are foreign source if the corporation elects the Puerto Rico economic activity credit or possesses tax credit. b) 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.

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.

**First exception.** Dividends received from a domestic corporation are not U.S. source income if the corporation elects to take the Puerto Rico economic activity credit or the possession tax credit.

**Second 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.

Foreign corporation’s gross income connected with a U.S. 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.

**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 exception to this rule is discussed in chapter 3, Employees of foreign persons, organizations, or offices.

If your compensation is for personal services performed both inside and outside the United States, you must figure the amount of income that is for services performed in the United States. You usually do this on a time basis. That is, you must include in gross income as U.S. source income the amount that results from multiplying the total amount of compensation by the following fraction.

**Number of days you performed services in the United States**

Total number of days of service for which you receive payment

**Example.** Jean Blanc, a nonresident alien, is a professional hockey player with a U.S. hockey club. Under Jean’s contract, he received $98,500 for 242 days of play during the year. This includes days spent at pre-season training camps, days during the regular season, and playoff games. Off the 242 days, Jean spent 194 days performing services in the United States and 48 days playing hockey in Canada. Jean’s U.S. source income is $78,963, figured as follows:

\[
\frac{194}{242} \times 98,500 = 78,963
\]

**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 engaged in transportation between the United States and a foreign country or U.S. possession is not U.S. source income.

**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, fellowships, grants, prizes, and awards is the residence of the payer regardless of who actu-
ally disburse the funds. However, see Activities to be performed outside the United States, later.

Personal Property

Personal property is property, such as machin-ery, equipment, or furniture, that is not real prop-erty. Gain or loss from the sale 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 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, 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 partly from sources in the United States and partly from sources outside the United States. For information on making this allocation, see section 1.863-3 of the regulations. These rules apply even if your tax home is not in the United States.

Depreciable property.

Depreciation deductions are useful 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 inter-nationally.

Gain from the sale of depreciable property that is more than the total depreciation adjustment-ments is 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 inter-nationally.

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Community Income

If you are married and you or your spouse is subject to the community property laws of a foreign country, a U.S. state, or a U.S. possession, you generally must 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 chapter 1.

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

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 law.

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
- Publication 523 Selling Your Home

See chapter 12 for information about getting these publications.

Resident Aliens

Resident aliens may be allowed 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 $80,000. 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 Publication 54.

Foreign country. The term “foreign country” means any territory under the sovereignty of a government other than that of the United States. The term also includes territorial waters of the foreign country, the airspace over the foreign country, and the seabed and subsoil of submarine areas adjacent to the territorial waters of the foreign country.

Nonresident Aliens

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

Interest Income

U.S. source 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.

Government obligations. Interest on obligations of a state or political subdivision, the District of Columbia, or a U.S. possession, generally is 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. U.S. source interest income that is not connected with a U.S. trade or business and that is portfolio interest on obligations issued after July 18, 1984, is excluded from income. Portfolio interest is interest (including original issue discount) that is paid on obligations:

- Not in registered form (bearer obligations) that are sold only to foreign investors, and the interest on which is payable only outside the United States and its possessions, and that has on its face a statement that any U.S. person holding the obligation will be subject to limitations under the U.S. income tax laws,
- In registered form that are targeted to foreign markets, if you furnished the payer of the interest (or the withholding agent) a statement that you are not a U.S. person. You should have made this statement on a Form W-8BEN or on a substitute form similar to Form W-8BEN. In either case, the statement should have been signed under penalties of perjury, should have certified that you are not a U.S. citizen or resident, and should have included your name and address.
Portfolio income does not include the following types of interest.

- Interest you receive on an obligation issued by a corporation of which you own, directly or indirectly, 10% or more of the total voting power of all classes of voting stock.
- Interest you receive on an obligation issued by a partnership of which you own, directly or indirectly, 10% or more of the capital or profits interests.
- Contingent interest.

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

1. Interest that is determined by reference to:
   a. Any receipts, sales, or other cash flow of the debtor or related person.
   b. Income or profits of the debtor or related person.
   c. Any change in value of any property of the debtor or a related person.
   d. Any dividend, partnership distributions, or similar payments made by the debtor or a related person.

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

For the definition of "related person" in connection with any contingent interest, and for the exceptions that apply to interest described in item (1), see subparagraphs (B) and (C) of Internal Revenue Code section 871(h)(4).

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 Second exception under Dividends in chapter 2 for how to figure the amount of excludable dividends.
- Certain stock dividends. There is no 30% tax on certain interest-related dividends from sources within the United States that you receive from a mutual fund. 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 of 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 by 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.

A foreign employer is: the United States for a period or periods of identified by the Secretary of the Treasury in regulations.

Foreign employer. A foreign employer is:

- 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, a U.S. partnership, or a 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.

Example 1. During 2005, Henry Smythe, a nonresident alien temporarily present in the United States under a "J" visa, worked for an overseas office of a U.S. partnership. That office paid him a total gross income of $2,875 in 2005, and $1,625 in 2006. During 2005, 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 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.

Students and exchange visitors. Nonresident alien students and exchange visitors present in the United States under a "J" or "Q" visa 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 resident aliens.

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 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 parimutuel pool with respect to a live horse or dog race in the United States. This exclusion does not apply to non-resident aliens who 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 fellowship. The rules discussed here apply to both resident and nonresident aliens. 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 is 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 an 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 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, and
• Income that is not effectively connected with a U.S. trade or business.

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 Form 1040 instructions, 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 certain 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.

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 usually are considered engaged in a trade or business in the United States. 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.

Other Trade or Business Activities

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

Students and trainees. You are considered engaged in a trade or business in the United States if you are temporarily present in the United States as a nonimmigrant under an “F,” “J,” “M,” or “Q” visa. 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. 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.

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 employer 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 next under Investment Income, 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.
   a. Timber, coal, or domestic iron ore with a retained economic interest.
   b. Patents, copyrights, and similar property on which you receive contingent payments after October 4, 1966.
   c. Patents transferred before October 5, 1966.
   d. Original issue discount 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 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:

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• 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 usually are 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 before 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, the income, gain, or loss is effectively connected.

Pensions. If you were a nonresident alien engaged in a U.S. trade or business after 1986 because you performed personal services in the United States, and you later receive a pension or retirement pay attributable to these services, such payments are effectively connected in the year you receive them. This is true whether or not you are engaged in a U.S. trade or business in the year you receive the retirement pay.

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, gain or loss is 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 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 one 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.

Gain or loss on the sale of the stock in any domestic corporation is taxed as if you are engaged in a U.S. trade or business unless you establish that the corporation is not a U.S. real property holding corporation.

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. An interest in a foreign corporation owning U.S. real property generally is not a U.S. real property interest unless the corporation chooses to be treated as a domestic corporation.

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.

Foreign Income

Under limited circumstances, you must treat three kinds of foreign source income as effectively connected with a trade or business in the United States. These circumstances are:
• 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 or interest 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.

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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 in-
      ventory if on hand at the end of the tax
      year, or
   c. Property held primarily for sale to cus-
      tomers in the ordinary course of busi-
      ness.

   Item number (3) will not apply if you sold
   the property for use, consumption, or disposi-
   tion outside the United States and an office or
   other fixed place of business in a foreign coun-
   try 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 busi-
   ness. 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, financial, 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 busi-
   ness 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 con-
   nected income only if you are a nonresident alien
   engaged in trade or business in the United States
during the tax year. However, income you
   receive from the sale or exchange of prop-
   erty, the performance of services, or any other
   transaction in another tax year is treated as
   effectively connected in that year if it would have
   been effectively connected in the year the trans-
   action took place or you performed the services.

**Example.** Ted Richards, a nonresident alien,
   entered the United States in August 2004, to
   perform personal services in the U.S. office of
   his overseas employer. He worked in the U.S.
   office until December 25, 2004, but did not leave
   this country until January 11, 2005. On January
   8, 2005, he received his final paycheck for serv-
   ices performed in the United States during 2004.
   All of Ted's income during his stay here is U.S.
   source income.

   During 2004, Ted was engaged in the trade
   or business of performing personal services in
   the United States. Therefore, all amounts paid
   to him in 2004 for services performed in the
   United States during 2004 are effectively
   connected with that trade or business during
   2004.

   The salary payment Ted received in January
   2005 is U.S. source income to him in 2005. It is
   effectively connected with a trade or business in the
   United States because he was engaged in a
   trade or business in the United States during
   2004 when he performed the services that
   earned the income.

**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 determina-
bale 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 deter-
   minable income are:

- 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 dis-
   count after March 31, 1972, all or part of the
   original issue discount (OID) (other than origi-
   nal issue discount, dividends, rents, premiums, an-
   nuals, salaries, wages, and other compensa-
   tion) is 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 instru-
      ment. In this case, the amount of OID sub-
      ject to tax is the OID that accrued while
      you held the debt instrument minus
      the OID previously taken into account.
      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 instru-
      ment. 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, Foreign Person’s U.S.
   Source Income Subject to Withholding, 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 pre-
  mium 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 se-
  curities).

- The debt instrument is a contingent pay-
  ment or inflation-indexed debt instrument.

For the definition of premium and acquisition
   premium and instructions on how to recompute
   OID, get Publication 1212.

If you held a bond or other debt instrument
   that was issued at a discount before April 1, 1972, or
   contacted the IRS for further information.

**See chapter 12.**

### Social Security Benefits

A nonresident alien must include 85% of any
U.S. social security benefit (and the social se-
curity equivalent part of a tax treaty) of any
U.S. government publications. It does not apply to the sale or
   exchange of a U.S. real property interest or to
   the sale of any property that is effectively con-
   nected 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 busi-
  ness.

- Certain copyrights, literary or musical or
  artistic compositions, letters or memo-
  randa, or similar property.

- Certainly U.S. government publications.

- Certain commodities derivative financial
  instruments held by a commodities deriva-
  tives dealer.

- Hedging transactions.

A capital gain is a gain on the sale or ex-
   change 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 pur-
   pose 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 may want to read Publication 544. How-
   ever, use Publication 544 only 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 5, 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 original issue discount 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 may be deductible on Schedule A (Form 1040NR). See Itemized Deductions in chapter 5.

If you are not engaged in a trade or business in the United States and have not established an income tax 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 effectively connected with a trade or business in the United States on page 4 of Form 1040NR. Report gains and losses from sales or exchanges of capital assets (including real property) that are not effectively connected with a trade or business in the United States on a separate Schedule D (Form 1040), Form 4797, or both.

Attach them to Form 1040NR.

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 held for the production of income, you may 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 minerals, 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 a 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 U.S. tax liability is satisfied by the withholding on your rental income. You do not have to file a U.S. tax return (Form 1040NR) because your U.S. tax liability is satisfied by the withholding tax.

If you make the choice discussed above, you can offset the $10,000 income by certain rental expenses. (See Publication 527, Residential Rental Property, for information on rental expenses.) 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) and attach the schedule to Form 1040NR. For the first year you make the choice, also attach the statement discussed next.

Making the choice. Make the initial choice by the due date of 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 Internal Revenue Code section 871(d) (explained above) 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 1040X, Amended U.S. Individual Income Tax Return, for the year you made the choice and for later tax years. You must file Form 1040X within 3 years from the date your return was filed or 2 years from the date you paid the tax, 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 Regulation section 1.871-10(d)(2).

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 56 of Form 1040NR. Attach a statement to your return that includes the following information (if applicable).

• Your name, taxpayer identification number, 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 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 begin at or end in the United States and a U.S. possession. For personal services of nonresident alien, this only applies to income derived from, or in connection with, an aircraft.

Expatriation Tax

The expatriation tax provisions apply to U.S. citizens who have renounced their citizenship.
and long-term residents who have ended their residency. In 2004, the expatriation rules changed. If you expatriated on or before June 3, one set of rules applies. If you expatriated after June 3, another set of rules applies. These rules are explained later under Expatriation On or Before June 3, 2004 and Expatriation After June 3, 2004.

Long-term resident defined. You are a long-term resident 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 On or Before June 3, 2004

If you expatriated on or before June 3, 2004, the expatriation rules apply if one of the principal purposes of the action is the avoidance of U.S. taxes. You are presumed to have tax avoidance as a principal purpose if:

1. Your average annual net income tax for the last 5 tax years ending before the date of the action is more than $124,000, or
2. Your net worth on the date of the action is $622,000 or more.

Ruling request. If you meet either test (1) or (2) above, you may be eligible to request a ruling from the IRS that you did not expatriate to avoid U.S. taxes. You must request this ruling within one year from the date of expatriation. For information that must be included in your ruling request, see section IV of Notice 97-19 in Cumulative Bulletin 1997-1 and Notice 98-34 in Cumulative Bulletin 1998-2. If you receive this ruling, the expatriation tax provisions do not apply.

Former U.S. citizen. If you are a former U.S. citizen, you are eligible to request a ruling if you are in one of the following categories:

• You became at birth a U.S. citizen and a citizen of another country and continue to be a citizen of that other country.
• You become (within a reasonable period after loss of U.S. citizenship) a citizen of the country in which you, your spouse, or one of your parents were born.
• You were present in the United States for no more than 30 days during each year of the 10-year period ending on the date of expatriation.
• You lost your U.S. citizenship before reaching age 18½.

Former long-term resident. If you are a former long-term resident, you are eligible to request a ruling if you are in one of the following categories:

1. You become (within a reasonable period after your expatriation) a resident fully liable for income tax in one of the following countries.
   a. The country in which you were born.
   b. The country where your spouse was born.
   c. The country where either of your parents was born.
   2. You were present in the United States for no more than 30 days during each year of the 10-year period prior to expatriation.
   3. You ceased to be a long-term resident before reaching age 18½.

You will not qualify under category (1) if you are not domiciled in that country unless your income is taxed in the same manner as a resident domiciled in that country.

Reporting requirements. If you lost your U.S. citizenship, you must file Form 8854 with a consular office or a federal court at the time of loss of citizenship. If you end your long-term residency, you must file Form 8854 with the Internal Revenue Service when you file your dual-status tax return for the year your residency ends.

Your U.S. residency is considered to have ended when you cease to be a lawful permanent resident or you begin to be treated as a resident of another country under a tax treaty and do not waive treaty benefits.

Penalties. If you fail to file Form 8854, you may have to pay a penalty equal to the greater of 5% of the expatriation tax or $1,000. The penalty will be assessed for each year during which your failure to file continues for the 10-year period. The penalty will not be imposed if you can show that the failure is due to reasonable cause and not willful neglect.

Expatriation After June 3, 2004

If you expatriated after June 3, 2004, the expatriation rules apply to you if any of the following statements apply.

1. Your average annual net income tax for the 5 years ending before the date of expatriation or termination of residency is more than:
   a. $124,000 if you expatriated or terminated residency in 2004.
   b. $127,000 if you expatriated or terminated residency in 2005.
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.

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

Dual-citizens. You are a dual-citizen if all of the following apply:

• You became at birth a U.S. citizen and a citizen of another country and you continue to be a citizen of that other country.
• You were never a resident alien of the United States (as defined in chapter 1).
• You never held a U.S. passport.
• You were present in the United States for no more than 30 days during any calendar year that is 1 of the 10 calendar years preceding your loss of U.S. citizenship.

Certain minors. You may qualify for the exception described above if you meet all of the following requirements:

• You became a U.S. citizen at birth.
• Neither of your parents was a U.S. citizen at the time of your birth.
• You expatriated before you were 18½.
• You were not present in the United States for more than 30 days due to the calendar year that is 1 of the 10 calendar years preceding your expatriation.

Tax consequences of presence in the United States. The following rules apply if you do not meet the exception above for dual-citizens and certain minors and the expatriation rules would otherwise apply to you.

The expatriation tax does not apply to any tax year during the 10-year period if you are physically present in the United States for more than 30 days during the calendar year ending in that year. Instead, you are treated as a U.S. citizen or resident and taxed on your worldwide income for that tax year. You must file Form 1040, 1040A, or 1040EZ and figure your tax as prescribed in the instructions for those forms.

When counting the number of days of presence during a calendar year, count any day you were physically present in the United States at any time during the day. However, do not count any days (up to a limit of 30 days) on which you performed personal services in the United States for an employer who is not related to you if either of the following apply.

1. You have ties with other countries. You have ties with other countries if:
   a. You became (within a reasonable period after your expatriation or termination of residency) a citizen or resident of the country in which you, your spouse, or either of your parents were born, and
   b. You became fully liable for income tax in that country.
2. You were physically present in the United States for 30 days or less during each year in the 10-year period ending on the date of expatriation or termination of residency. Do not count any day you were an exempt individual or resident of the United States because of a medical condition that arose while you were in the United States. See Exempt individual and Medical condition in chapter 1 under Substantial Presence Test, but disregard the information about Form 8843.
**Related employer.** If your employer in the United States is any of the following, then your employer is related to you. You must count any days you performed services in the United States for that employer as days of presence in the United States.

- Members of your family. This includes only your brothers and sisters, half-brothers and half-sisters, spouse, ancestors (par- ents, grandparents, etc.), and lineal de- scendants (children, grandchildren, etc.).
- A partnership in which you directly or indi- rectly own more than 50% of the capital interest or the profits interest.
- A corporation in which you directly or indi- rectly own more than 50% in value of the outstanding stock. (See Publication 550, chapter 4, Constructive ownership of stock, for how to determine whether you directly or indirectly own outstanding stock.)
- A tax-exempt charitable or educational or- ganization that is directly or indirectly con- trolled, in any manner or by any method, by you or by a member of your family, whether or not this control is legally en- forceable.

**Date of tax expatriation.** For purposes of U.S. tax rules, the date of your expatriation or termination of residency is the later of the dates on which you perform the following actions:

- You notify either the Department of State or the Department of Homeland Security (whichever is appropriate) of your expatri- ation act or termination of residency.
- You file Form 8854 in accordance with the form instructions.

**Annual return.** If the expatriation tax ap- plies to you, you must file Form 8854 each year during the 10-year period following the date of expatriation. You must file this form even if you owe no U.S. tax.

**Penalty.** If you fail to file Form 8854 for any tax year, fail to include all information required to be shown on the form, or include incorrect infor- mation, you may have to pay a penalty of $10,000. You will not have to pay a penalty if you show that the failure is due to reasonable cause and not to willful neglect.

**How To Figure the Expatriation Tax**

If the expatriation tax applies to you, you are generally 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) unless you would be sub- ject to a higher tax under the 30% tax (discussed earlier) on income not connected with a U.S. trade or business. In making this determination, you may not claim that an income tax treaty in effect on August 21, 1996, reduces your tax liability under the 30% tax on any items of U.S. source income.

For this purpose, U.S. source gross income (defined in chapter 2) includes gains from the sale or exchange of:

- Property (other than stock or debt obliga- tions) located in the United States,
- Stock issued by a U.S. domestic corpora- tion, and
- Debt obligations of U.S. persons or of the United States, a state or political subdivi- sion thereof, or the District of Columbia.

U.S. source income also includes any income or gains derived from stock in certain foreign corporations if you owned, or were con- sidered to own, at any time during the 2-year period ending on the date of expatriation, more than 50% of:

- The total combined voting power of all classes of that corporation’s stock, or
- The total value of the stock.

The income or gain is considered U.S. source income only to the extent of your share of earn- ings and profits earned or accumulated before the date of expatriation and during the periods you met the ownership requirements discussed above.

Any exchange of property is treated as a sale of the property at its fair market value on the date of the exchange and any gain is treated as U.S. source gross income in the tax year of the exchange unless you enter into a gain recogni- tion agreement under Notice 97-19.

**Other information.** For more information on the expatriation tax provisions, including excep- tions to the tax and special U.S. source rules, see section 877 of the Internal Revenue Code.

**Expatriation Tax Return**

If you are subject to the expatriation tax, you must file Form 1040NR for each year of the 10-year period following expatriation. Complete line “P” on page 5 of Form 1040NR. See Special Rules for Former U.S. Citizens and Former U.S. Long-Term Residents in the instructions for Form 1040NR. You must attach a statement to Form 1040NR listing, by category (dividends, interest, etc.), all items of U.S. and foreign source income, whether or not taxable in the United States.

If you do not attach a complete statement in any year you are liable for any U.S. taxes, you will not be considered to have filed a true and accurate return. You will not be entitled to any tax deductions or credits if your tax liability for that year is later adjusted.

**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. resi- dent.
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 the 30% tax (discussed earlier) on income not connected with a U.S. trade or business.

**Example.** John Willow, a citizen of New Zealand, entered the United States on April 1, 2000, as a lawful permanent resident. On Au- gust 1, 2002, John ceased to be a lawful perma- nent 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 three consecutive years (2000, 2001, and 2002). He returned to the United States on Octo- ber 5, 2005, as a lawful permanent resident. He then again became a resident of the United States. (See Publication 550, chapter 4, Long-Term Residents and Related employer.) Therefore, he is subject to tax under the special rule for the period of nonresidence (August 2, 2002, through October 4, 2005) 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 1040NR 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 iden- tifies the source of all of your U.S. and foreign gross income and the items of income subject to this special rule.

**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 complete the information for this chapter. It is not as comprehensive for resident aliens as it is for nonresident aliens. Resident aliens should get publications, forms, and in- structions for U.S. citizens, because the infor- mation 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.

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Topics
This chapter discusses:

- Identification numbers,
- Filing status,
- Deductions,
- Exemptions,
- 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, Entertainment, Gift, and Car Expenses
- 501 Exemptions, 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
- 1040NR U.S. Nonresident Alien Income Tax Return
- 1040NR-EZ U.S. Income Tax Return for Certain Nonresident Aliens With No Dependents
- 2106 Employee Business Expenses
- 2106-EZ Unreimbursed Employee Business Expenses
- 3903 Moving Expenses
- 4563 Exclusion of Income for Bona Fide Residents of American Samoa

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

Identification Number
A taxpayer identification number 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 taxpayer identification number 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 alien 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 this number, get Form SS-5, Application for a Social Security Card, from your local Social Security Administration (SSA) office or call the SSA at 1-800-772-1213. You can also download Form SS-5 from the SSA’s website at www.socialsecurity.gov/online/ss-5.html. You must visit an SSA office in person and submit Form SS-5 along with original documentation showing your age, identity, immigration status, and authority to work in the United States. If you are an F-1 or M-1 student, you must also show your Form I-20. If you are a J-1 exchange visitor, you will also need to show your Form DS-2019. Generally, you will receive your card about 2 weeks after the SSA has all of the necessary information.

Individual taxpayer identification number (ITIN). 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. It usually takes about 4–6 weeks to get an ITIN. If you already have an ITIN, enter it wherever an SSN is required on your tax return.

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 taxpayer identification number and are not eligible for an SSN, a Form W-7 should be filed for:

- Alien individuals who are claimed as dependents and are not eligible for an SSN, and
- Alien spouses who are claimed as exemptions and are not eligible for an SSN.

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, Application for Employer Identification Number, 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 Publication 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 resident aliens for the entire tax year, or if you make one of the choices discussed in chapter 1 to treat your spouse as a resident alien for the entire tax year.

Qualifying widow(er). If your spouse died in 2003 or 2004, you did not remarry before the end of 2005, and you have a dependent child living with you, 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.

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 you do not make one of the choices discussed in chapter 1 to treat your spouse as a resident alien for the entire tax year.

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. In that case, you will not be entitled to the credit. See Publication 501 for more information.

Nonresident Aliens
If you are a nonresident alien filing Form 1040NR, you may be able to use one of the filing statuses discussed below. If you are filing Form 1040NR-EZ, you can only claim “Single nonresident alien” or “Married nonresident alien” as your filing status.

Married filing jointly. 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 these choices, see chapter 1.

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Qualifying widow(er). You may be eligible to file as a qualifying widow(er) and use the joint return tax rates if all of the following conditions apply.

1. You were a:
   a. Resident of Canada, Mexico, or the Republic of Korea (South Korea), or a U.S. national (defined below), or
   b. Resident of Japan and you are electing to have the old U.S.-Japan income tax treaty apply in its entirety for 2005.

2. Your spouse died in 2003 or 2004 and you did not remarry before the end of 2005.

3. You have a dependent child living with you.

See the instructions for Form 1040NR for the rules for filing as a qualifying widow(er) with a dependent child.

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 Marianas Islanders who chose to become U.S. nationals instead of U.S. citizens.

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 earned income credit. In that case, your spouse will not be entitled to the credit. See Publication 501 for more information.

Married filing separately. Married nonresident aliens generally must file a separate return if they are not married or residents generally must 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. They can 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:

1. Married resident of Canada, Mexico, the Republic of Korea (South Korea), or are a married U.S. national, or
2. Married resident of Japan and you elect to have the old U.S.-Japan income tax treaty apply in its entirety for 2005.

See the instructions for Form 1040NR or Form 1040NR-EZ to see if you qualify. U.S. national was defined earlier in this section under Qualifying widow(er).

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. For information on these choices, see chapter 1. If you do not make the choice to file jointly, use the Tax Table column or the Tax Computation Worksheet for married individuals filing separately.

A nonresident alien estate or trust using Form 1040NR must use Tax Rate Schedule W in the Form 1040NR 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 read 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 generally can 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 that follows contains some of the same general rules and guidelines that apply to you, it is specifically directed toward nonresident aliens. You should get Form 1040 and instructions 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 personal exemptions, and 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. The deduction for travel expenses while in the United States is discussed under Itemized Deductions, later. For information about other business expenses, see Publication 535.

Losses. You can deduct losses resulting from transactions that you engaged in during the last 6 months of the tax year and you are a: home. You generally cannot deduct losses related to income that is not effectively connected with a U.S. trade or business in the United States.

Educator expenses. If you were an eligible educator in 2005, you can deduct as an adjustment to income up to $250 in unreimbursed qualified expenses you paid during 2005 for books, supplies (other than nonathletic supplies for courses of instruction in health or physical education), computer equipment, and other equipment and materials used in the classroom. For more information, see your tax form instructions.

Individual retirement arrangement (IRA). If you made contributions to a traditional IRA for 2005, 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 statement should be sent to you by May 31, 2006, that shows all contributions to your IRA for 2005. If you were covered by a retirement plan (qualified pension, profit-sharing, or similar plans) and have the old U.S.-Japan income tax treaty apply in its entirety for 2005, you may be able to take an IRA deduction.

For more information, see Publication 590, Reporting Your Income.

Moving expenses. If you are a nonresident alien temporarily in the United States earning taxable income for performing personal services, you can deduct moving expenses to the United States if you meet both of the following tests:

• You are a full-time employee for at least 39 weeks during the 12 months right after you move, or if you were self-employed, you work full time for at least 39 weeks during the first 12 months and 78 weeks during the second 12 months.
• Your new job location is at least 50 miles farther (by the shortest commonly traveled route) from your former home than your former job location was. If you had no former job location, the new job location must be at least 50 miles from your former home.

You cannot deduct the moving expense you have when returning to your home abroad or moving to a foreign job site.

Figure your deductible moving expenses to the United States on Form 3903, and deduct them on line 26 of Form 1040NR. For more information on the moving expense deduction, see Publication 521.

Reimbursments. If you were reimbursed by your employer for allowable moving ex-
penses, your employer should have excluded these reimbursements from your income. You can only deduct allowable moving expenses that were not reimbursed by your employer or that were reimbursed but the reimbursement was included in your income. For more information, see Publication 261.

Moving expense or travel expense. If you deduct moving expenses to the United States, you cannot also deduct travel expenses (discussed later under Itemized Deductions) while temporarily away from your tax home in a foreign country. Moving expenses are based on a change in your principal place of business while travel expenses are based on your temporary absence from your principal place of business.

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 Publication 560, Retirement Plans for Small Business (SEP, SIMPLE, and Qualified Plans), for further information.

Penalty on early withdrawal of savings. You must include in income all effectively connected interest income you receive or that is year.

Student loan interest expense. If you paid interest on a student loan in 2005, you may be eligible to claim a deduction for the student loan interest expense. Generally, if you are a nonresident alien engaged in a trade or business in the United States, you can claim only one personal exemption for the interest you paid. If you claim the exemption for your spouse, you are subject to the phase-out of the exemption for the spouse if your modified adjusted gross income is more than $100,000, or if you are a married couple filing separately, more than $50,000. See Publication 501 for more information.

Exemptions

Resident aliens can claim personal exemptions and exemptions for dependents in the same way as U.S. citizens. However, nonresident aliens generally can claim only a personal exemption for themselves on their U.S. tax return.

Resident Aliens

You can claim personal exemptions and exemptions for dependents according to the dependency rules for U.S. citizens. You can claim an exemption for your spouse on a separate return if your spouse had no gross income for U.S. tax purposes and was not the dependent of another taxpayer. You can claim this exemption even if your spouse has not been a resident alien for a full tax year or an alien who has not come to the United States.

You can claim an exemption for each person who qualifies as a dependent according to the trade or business of a U.S. citizen. A dependent must be a citizen or national (defined earlier) of the United States or be a resident of the United States, Canada, or Mexico for some part of the calendar year in which your tax year begins. Get Publication 501 for more information.

Phase-out of exemptions. If the adjusted gross income on your tax return is more than the amount shown below for your filing status, your deduction for exemptions may be reduced or eliminated. Use the worksheet in your income tax return instructions to figure the amount, if any, you can deduct.

Your spouse and each dependent for whom you claim an exemption must have either an SSN or an ITIN. See Identification Number, earlier.

Phase-out of exemptions.

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<th>Filing Status</th>
<th>Exemption Amount</th>
</tr>
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<tbody>
<tr>
<td>Single</td>
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</tr>
<tr>
<td>Married Spouse</td>
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<tr>
<td>Married Joint</td>
<td>$20,500</td>
</tr>
<tr>
<td>Head of Household</td>
<td>$25,500</td>
</tr>
</tbody>
</table>

Nonresident Aliens

Generally, if you are a nonresident alien engaged in a trade or business in the United States, you can claim only one personal exemption for your spouse if your spouse has considerable income. You may be able to claim an exemption for a spouse and a dependent if you are described in any of the following discussions.

Your spouse and each dependent for whom you claim an exemption must have either an SSN or an ITIN. See Identification Number, earlier.

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 (delineated earlier), you may also claim a personal exemption for your spouse if you are the joint beneficiary of a taxable income of U.S. tax purposes and cannot be claimed as the dependent on another U.S. taxpayer’s return. In addition, you can claim exemptions for your dependents who meet certain tests. Residents of Mexico, Canada, or nationals of the United States must use the same rules as U.S. citizens to determine who is a dependent and for which dependents exemptions can be claimed. See Publication 501 for these rules.

For purposes of these rules, dependents who are U.S. nationals meet the citizenship test discussed in Publication 501.

Residents of Japan or the Republic of Korea (South Korea). Nonresident aliens who are residents of Japan or the Republic of Korea (South Korea) may be able to claim exemptions for a spouse and children. Beginning in 2005, nonresident aliens who were residents of Japan generally cannot claim these benefits. This is because the new U.S.-Japan income tax treaty, which became effective on January 1, 2005, does not allow them. However, residents of Japan who elect to have the old U.S.-Japan income tax treaty apply in its entirety for 2005, may claim exemptions for a spouse and children for 2005. The old income tax treaty with Japan and the income tax treaty with the Republic of Korea (South Korea) impose two additional requirements on Japanese or Korean residents:

1. The spouse and all children claimed must live with the alien in the United States at some time during the tax year, and
2. The additional deduction for the exemptions must be prorated based on the ratio of the alien’s U.S. source gross income effectively connected with a U.S. trade or business for the tax year to the alien’s entire income from all sources during the tax year.

Example. Mr. Park, a nonresident alien who is a resident of Korea, lives temporarily in the United States with his wife and two children. During the tax year he receives U.S. compensation of $9,000. He also receives $3,000 of income from sources outside the United States that is not effectively connected with his U.S. trade or business. Thus, his total income for the year is $12,000. Mr. Park meets all requirements for claiming exemptions for his spouse and two children. The additional deduction for 2005 is $7,200 figured as follows:

\[
\frac{9,000}{12,000} \times \frac{3,000}{12,000} = \frac{9,000}{12,000}
\]

*3 = $3,200

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 may be able to claim exemptions for their spouse and dependents.

You can claim an exemption for your spouse if he or she had no gross income during the year and cannot be claimed as a dependent on another U.S. taxpayer’s return.

You can claim exemptions for each of your dependents not admitted to the United States on Form 8840, “(F-2),” “J-2,” or “M-2” visas if they meet the same rules that apply to U.S. citizens. See Publication 501 for these rules.

List your spouse and dependents on line 7c of Form 1040NR. Enter the total on the appropriate line to the right of line 7c.

Phase-out of exemptions. If the adjusted gross income shown on line 36 of Form 1040NR...
or line 10 of Form 1040NR-EZ is more than the amount shown below for your filing status, your deduction for exemptions may be reduced or eliminated. Use the worksheet in the Form 1040NR or 1040NR-EZ instructions to figure the amount, if any, you can deduct.

- $109,475, if married filing separately
- $145,950, if single
- $218,950, if a qualifying widow(er) with dependent child

**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. Resident and nonresident aliens may not be able to claim all of their itemized deductions. If your adjusted gross income is more than $145,950 ($72,975 if married filing separately), use the worksheet in your income tax return instructions to figure the amount you can deduct.

**Resident Aliens**

You can claim the same itemized deductions as U.S. citizens, using Schedule A of Form 1040. These deductions include certain medical and dental expenses, state and local income taxes, real estate taxes, interest you paid on a home mortgage, charitable contributions, casualty and theft losses, and miscellaneous deductions. If you do not itemize your deductions, you can claim the standard deduction for your particular filing status. For further information, see Form 1040 and instructions.

**Nonresident Aliens**

You can deduct certain itemized deductions if you receive income effectively connected with your U.S. trade or business. These deductions include state and local income taxes, charitable contributions to U.S. organizations, casualty and theft losses, and miscellaneous deductions. Use Schedule A of Form 1040NR to claim itemized deductions.

If you are filing Form 1040NR-EZ, you can only claim a deduction for state or local income taxes. If you are claiming any other itemized deduction, you must file Form 1040NR.

**Standard deduction.** Nonresident aliens cannot claim the standard deduction. However, see Students and business apprentices from India, next.

**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 Table 7, 8, or 9 in Publication 501 to figure your standard deduction. If you are married and your spouse files a return and itemizes deductions, you cannot take the standard deduction.

If you are filing Form 1040NR, enter the standard deduction on line 37 of Form 1040NR. In the space to the left of line 37, print, “Standard Deduction Allowed Under U.S.-India Income Tax Treaty.” If you are filing Form 1040NR-EZ, enter the amount on line 11.

**State and local income taxes.** If during the tax year, you receive income that is connected with a trade or business in the United States, you can deduct state and local income taxes you paid on that 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.

**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.

For more information about organizations that qualify to receive charitable contributions, see Publication 526, Charitable Contributions.

**Contributions from which you benefit.** If you receive a benefit as a result of making a contribution to a qualified organization, you can deduct only the amount of your contribution that is more than the value of the benefit you receive. If you pay more than the fair market value to a qualified organization for merchandise, goods, or services, the amount you pay that is more than the value of the item can be a charitable contribution. For the excess amount to qualify, you must pay it with the intent to make a charitable contribution.

**Contributions of $250 or more.** You may deduct a contribution of $250 or more only if you have a written statement from the charitable organization showing:

1. The amount of any money contributed and a description (but not value) of any property donated.
2. Whether the organization gave you any goods or services in return for your contribution, and
3. A description and estimate of the value of any goods or services described in (2).

If you received only intangible religious benefits, the organization must state this, but it does not have to describe or value the benefit.

**Noncash contributions.** If you make a noncash contribution and the amount of your deduction is more than $500, you must complete and attach to your tax return Form 8283, Noncash Charitable Contributions. If the donated property is valued at more than $5,000, you must obtain a qualified appraisal. You generally must attach to your tax return an appraisal of any property if your deduction for the property is more than $500,000. See Form 8283 and its instructions for details.

**Contributions of appreciated property.** If you contribute property to a qualified organization, the amount of your charitable contribution is generally the fair market value of the property at the time of the contribution. However, if you contribute property with a lower market value that is more than your basis in it, you may have to reduce the fair market value by the amount of appreciation (increase in value) when you figure your deduction. Your basis in the property is generally what you paid for it. If you need more information about basis, get Publication 551, Basis of Assets.

Different rules apply to figuring your deduction, depending on whether the property is:

- Ordinary income property, or
- Capital gain property.

For information about these rules, see Publication 526.

**Limit.** The amount you can deduct in a tax year is limited in the same way it is for a citizen or resident of the United States. For a discussion of limits on charitable contributions and other information, get Publication 526.

**Casualty and theft losses.** You can deduct your loss from fire, storm, shipwreck, or other casualty, or theft of property even though your property is not connected with a U.S. trade or business. The property can be personal 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.

The amount of the loss is the fair market value of the property immediately before the casualty or theft less its fair market value immediately after the casualty or theft (but not more than the cost or adjusted basis of the property). Any insurance or other reimbursement is included in the amount you can deduct as a casualty or theft loss.

If your property is covered by insurance, you should file a timely insurance claim for reimbursement. If you do not file a claim, you cannot deduct this loss as a casualty or theft loss.

Figure your deductible casualty and theft losses on Form 4684, Casualties and Thefts.

**Losses from personal use property.** You cannot deduct the first $100 of each casualty or theft loss to property held for personal use. You can deduct only the total of these losses for the year (reduced by the $100 limit) that is more than 10% of your adjusted gross income (line 36, Form 1040NR) for the year.

**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.

**Job expenses and other miscellaneous deductions.** You can deduct job expenses, such as allowable unreimbursed travel expenses (discussed next), and other miscellaneous deductions. Generally, the allowable
deductions must be related to effectively con-
nected income. Deductible expenses include:
- Union dues,
- Safety equipment and small tools needed
  for your job,
- Dues to professional organizations,
- Subscriptions to professional journals,
- Tax return preparation fees, and
- Casualty and theft losses of property
  used in performing services as an employee
  (employee property).

Most miscellaneous itemized deductions are
deductible only if they are more than 2% of your
adjusted gross income (line 38, Form 1040NR).
For more information on miscellaneous
deductions, see the instructions for Form 1040NR.

Travel expenses. You may be able to
deduct your ordinary and necessary travel expenses
while you are temporarily performing personal
services in the United States. Generally, a tem-
porary assignment in a single location is one that
is realistically expected to last (and does in fact
last) for one year or less. You must be able to
show that you were present in the United States on
an activity that required your temporary absence
from your regular place of work.

For example, if you have established a “tax home”
through regular employment in a foreign
country, and intend to return to similar employ-
ment in the same country at the end of your
temporary stay in the United States, you can
deduct reasonable travel expenses you pay.
You cannot deduct travel expenses for other
members of your family or party.

Deductible travel expenses. If you qualify,
you can deduct your expenses for:
- Transportation—airfare, local transporta-
tion, including train, bus, etc.,
- Lodging—rent paid, utilities (do not in-
clude telephone), hotel or motel room ex-
penses, and
- Meal expenses—actual expenses allowed
  if you keep records of the amounts, or,
  if you do not wish to keep detailed records,
you are generally allowed a standard meal
allowance amount depending on the date
and area of your travel. You can deduct
only 50% of unreimbursed meal expenses.
The standard meal allowance rates for
high-cost areas are in Publication 1542.
Per Diem Rates (For Travel Within the
Continental United States), which is avail-
able only on the Internet at www.irs.gov/ pub/irs-pdf/p1542.pdf. The rates for other
areas are in Publication 463.
Use Form 2106 or 2106-EZ to figure your
allowable expenses that you claim on line 9 of
Schedule A (Form 1040NR).

Expenses allocable to U.S. tax-exempt
income. You cannot deduct an expense, or
part of an expense, that is allocable to U.S.
tax-exempt income, including income exempt by
tax treaty.

Example. Irina Oak, a citizen of Poland, re-
sided in the United States for part of the year to
acquire business experience from a U.S. com-
pany. During her stay in the United States, she
received a salary of $8,000 from her Polish em-
ployer. She received no other U.S. source in-
come. She spent $3,000 on travel expenses, of
which $1,000 were for meals. None of these
expenses were reimbursed. Under the tax treaty
with Poland, $5,000 of her salary is exempt from
U.S. income tax. In filling out Form 2106-EZ, she
must reduce her deductible meal expenses by
half ($500). She must reduce the remaining
$2,500 of travel expenses by 62.5% ($1,563)
because 62.5% ($5,000 - $8,000) of her salary is
exempt from tax. She enters the remaining
total of $937 on line 9 of Schedule A (Form
1040NR). She completes the remaining lines
according to the instructions for Schedule A.

More information. For more information
about deductible expenses, reimbursements,
and recordkeeping, get Publication 463.
Valid for Employment and the number was is- sued so that you (or your spouse or your qualify- ing child) could receive a federally funded benefit, you cannot claim the earned income
credit. 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.

Advance earned income credit. You may be able to get advance payments of part of the
credit for one child in 2006 instead of waiting until you file your 2006 tax return. Fill out the
2006 Form W-5, Earned Income Credit Advance Payment Certificate. If you expect to qualify for
the credit in 2006, give the bottom part of the form to your employer. Your employer will in- clude part of the credit regularly in your pay- check for 2006:

If you received advance payments of the earned income credit in 2005, you must file a
2005 tax return to report the payments. Your Form W-2 will show the amount you received.

Other information. There are other eligi- bility rules that are not shown on Form W-5 for more information, get Publication 596, Earned Income Credit.

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

Credits
Credits are allowed only if you receive effec- tively 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 ac- crued 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 busi- ness, 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 tax resident of the
foreign country or possession.

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

Child and dependent care credit. You may
qualify for this credit if you pay someone to care
for your dependent who is under age 13, or your
disabled dependent or disabled spouse, so that
you can work or look for work. Generally, you
must be able to claim an exemption for your
dependent.

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
chapter 1, or if they qualify as certain married
individuals living apart (see Joint Return Test in
Publication 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 in- come from the United States for that tax year.
Earned income generally means wages, sala- ries, and professional fees for personal services performed.

For more information, get Publication 503.

Education credits. If you are a nonresident alien for any part of the year, you generally
cannot claim the education credits. However, if you pay someone to care for your child with a
U.S. citizen or resident spouse as dis- cussed in chapter 1, you may be eligible for these credits.

Retirement savings contributions credit.
You may qualify for this credit if you made eligi- ble contributions to an employer-sponsored re- tirement plan or to an individual retirement arrangement (IRA) in 2005. You cannot claim this credit if:

• You were born after January 1, 1988,
• You are a full-time student,
• Your exemption is claimed by someone else on his or her tax return, or
• Your adjusted gross income is more than $25,000.

Use Form 8880 to figure the credit. For more information, see Publication 960.

Child tax credit. You may be able to take this credit if you have a qualifying child. For this
credit, a qualifying child:

1. Is a U.S. citizen, national, or resident alien
(or, if you are a U.S. national, your adopted child who lived with you all year as a member of your household),

2. Is your son, daughter, stepchild, foster
child, brother, sister, stepbrother, stepsis-
ter, or a descendant of any of them (for example, your grandchild), and

3. Was under age 17 at the end of the year.

See your form instructions for additional details.

Adoption credit. You may qualify to take a tax credit of up to $10,630 for qualifying expenses paid to adopt an eligible child. This amount may be allowed for the adoption of a child with spe- cial needs regardless of whether you have quali- fying expenses. To claim the adoption credit, file Form 8839 with your Form 1040NR.

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 chapter 1, or if they qualify as certain married
individuals living apart (see Married Persons Filing Separate Returns in the Form 8839 in- structions).

Credit for prior year minimum tax. If you paid alternative minimum tax in a prior year, get
Form 8801, Credit for Prior Year Minimum Tax—Individuals, Estates, and Trusts, to see if you qualify for this credit.

Earned income credit. If you are a nonresi- dent alien for any part of the tax year, you gener- ally cannot get the earned income credit. However, if you are married and choose to file a
joint return with a U.S. citizen or resident spouse as discussed in chapter 1, you may be eligible for the credit.

You, your spouse, and any qualifying child must have valid SSNs to claim this credit.
You cannot claim the credit using an ITIN. If a social security card has a legen
d credit for your spouse or you, the number was issued so that you (or your spouse or your qualifying child) could receive a federally funded benefit or the earned income credit. 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 Publication 596 for more information on the credit.

Tax Withheld
You can claim the tax withheld during the year as a payment against your U.S. tax. You claim it in the "Payments" section on page 2 of Form 1040NR or on line 18 of Form 1040NR-EZ. The tax withheld reduces any tax you owe with Form 1040NR or Form 1040NR-EZ.

Withholding from wages. Any federal in- come 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 the same year. You cannot claim the social security tax withheld on wages paid to an individual from more than one employer. For more information, see Social Security and Medicare Taxes in chapter 8 for more informa-

Tax paid on undistributed long-term capital gains. If you are a shareholder in a mutual fund or real estate investment trust, you can claim a credit for any income taxes paid or accrued to any foreign country or U.S. possession that is effectively connected with the company on its undistributed long-term capital gains. You will receive information on Form 2439. Notice to Shareholder cannot claim a credit for any capital gains tax on long-term capital gains, which you must att-
tach 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 an-
nual or periodic income paid to you. Fixed or determinable income includes interest, divi-
dend, 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 usually are subject to with- holding 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 part- nership will withhold tax on your share of effec-
tively connected taxable income from the...
### 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 generally are taxed the same as resident aliens. You should file Form 1040 and report all income from sources both in and outside the United States.

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, file your return and pay your tax by June 15. You must also make your first payment of estimated tax by June 15. 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 due is on April 15. Your first payment of estimated tax is also due by April 15. For information on withholding and estimated tax, see chapter 8.

You cannot claim exemptions for dependents who are residents of Puerto Rico unless the dependents are citizens of the United States.

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). For more information about this exclusion, get Form 4563 and Publication 570, Tax Guide for Individuals With Income From U.S. Possessions.

### Location of Tax Withheld

<table>
<thead>
<tr>
<th>Form Number</th>
<th>Location of Tax Withheld</th>
</tr>
</thead>
<tbody>
<tr>
<td>RRB-1042S</td>
<td>Box 12</td>
</tr>
<tr>
<td>SSA-1042S</td>
<td>Box 9</td>
</tr>
<tr>
<td>W-2</td>
<td>Box 2</td>
</tr>
<tr>
<td>W-2c</td>
<td>Box 2</td>
</tr>
<tr>
<td>1042-S</td>
<td>Box 7</td>
</tr>
<tr>
<td>8805</td>
<td>Line 10</td>
</tr>
<tr>
<td>8288-A</td>
<td>Box 2</td>
</tr>
</tbody>
</table>

### 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, 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 treated as a U.S. resident for the entire year, 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,
- Exemptions,
- 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:

<table>
<thead>
<tr>
<th>Publication</th>
</tr>
</thead>
<tbody>
<tr>
<td>503</td>
</tr>
<tr>
<td>514</td>
</tr>
<tr>
<td>524</td>
</tr>
<tr>
<td>575</td>
</tr>
</tbody>
</table>

**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. If you earn 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 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.

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

2. Exemptions. Your total deduction for the exemptions for your spouse and allowable dependent(s) cannot be more than your taxable income (figured without deducting personal exemptions) for the period you are a resident alien.

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

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

5. Tax rates. If you are married and a nonresident alien 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 or 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:

   1. Married resident of Canada, Mexico, or the Republic of Korea (South Korea).
   2. Married resident of Japan and you elect to have the old U.S.-Japan income tax treaty apply in its entirety for 2005.

See the instructions for Form 1040NR 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.

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

   • You are married, and
   • You choose to be treated as a resident for all of 2005 by filing a joint return with your spouse who is a U.S. citizen or resident, as discussed in chapter 1.

Exemptions

As a dual-status taxpayer, you usually will be able to claim your own personal exemption. Subject to the general rules for qualification, you can claim exemptions for your spouse and dependents when you figure taxable income for the part of the year you are a resident alien. The amount you can claim for these exemptions is limited to your taxable income (figured before subtracting exemptions) for the part of the year you are a resident alien. You cannot use exemptions (other than your own) to reduce taxable income to less than zero for that period.

Special rules apply to exemptions for the part of the tax year you are a nonresident alien if you are a:

   1. Resident of Canada, Mexico, or the Republic of Korea (South Korea).
   2. Resident of Japan and you elect to have the old U.S.-Japan income tax treaty apply in its entirety for 2005.
   3. U.S. national, or
   4. Student or business apprentice from India.

For more information, see Exemptions in chapter 4.

How To Figure Tax

When you figure your U.S. tax for a dual-status tax 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 effectively connected with a trade or business in the United States for your period of nonresidence, after allowable deductions, is 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 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.)

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

Use the Social Security Benefits Worksheet in the Form 1040 instructions 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 Social Security Administration 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 determine 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 generally can 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.

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 generally must file Form 1116 with your income tax return. For more information, see the instructions for Form 1116 or get Publication 514.

Child and dependent care credit. You may qualify for this credit if you pay someone to care for your dependent who is under age 13 or your disabled dependent or disabled spouse so that you can work or look for work. Generally, you must be able to claim an exemption for your dependent.

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, get Publication 503 and Form 2441.

Retirement savings contributions credit. If you make eligible contributions to an employer-sponsored retirement plan or to an individual retirement arrangement (IRA), you may be able to take a tax credit. However, you cannot claim the credit if any of the following apply:

   • You were born after January 1, 1988.
   • You are a full-time student.
   • Someone else claims an exemption for you on his or her tax return.
   • Your adjusted gross income is more than $25,000.

Use Form 8880, Credit forQualified Retirement Savings Contributions, to figure the credit. For more information, see Publication 590.
Child tax credit. You may be able to take this credit if you have a qualifying child. For this credit, a qualifying child:
1. Is a U.S. citizen, national, or resident alien (or, if you are a U.S. national, your adopted child who lived with you all year as a member of your household),
2. Is your son, daughter, stepchild, foster child, brother, sister, stepbrother, stepsis-
ter, or a descendant of any of them (for example, your grandchild), and
3. Was under age 17 at the end of the year.

See your form instructions for additional details.

Adoption credit. You may qualify to take a tax credit of up to $10,630 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 this credit only if they choose to file a joint return with a U.S. citizen or resident spouse as discussed in chapter 1, or if they qualify as certain married individuals living apart.

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.

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.

If you report your income in 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 the United States. In either case, file your return with the Internal Revenue Service Center, Philadelphia, PA 19255.

If you are a nonresident 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 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, file your return with the Internal Revenue Service Center, Philadelphia, PA 19255.

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.

Illustration of Dual-Status Return

The Major Product Co. later offered Sam a permanent job, and he returned to the United States with a permanent visa on September 10, 2005.

During Sam’s temporary assignment in the United States, the Major Product Co. paid him $6,500. He accounted to his employer for his expenses for travel, meals, and lodging while on temporary assignment, and was reimbursed for his expenses. This amount was not included on his wage statement, Form W-2, given to him when he left the United States.

After Sam became permanently employed, his wages for the rest of the year were $21,800, including reimbursement of his moving expenses. He received a separate Form W-2 for this period. His other income received in 2005 was:
- Interest income paid by the U.S. Bank (not effectively connected):
  - March 31 ..................... $45
  - June 30 .......................... $48
  - September 30 ..................... $68
  - December 31 ..................... $89

Dividend income paid by Major Product Co. (not effectively connected):
- April 3 .......................... $120
- July 3 ............................ $120
- October 2 .......................... $120

Interest income (in U.S. dollars) paid by the U.K. Bank:
- March 31 .......................... $ 90
- June 30 ............................. $110
- September 30 ..................... $118
- December 31 ..................... $120

Sam paid the following expenses while he was in the United States:
- Moving expenses incurred and paid in September .......................... $8,300
- VA State income tax .......................... $ 612
- Contributions to U.S. charities ................................................. $ 310

Before Sam left the United States in May, he filed Form 1040-C (see chapter 11). He owed no tax when he left the United States.

Form 1040NR
Sam completes Form 1040NR as follows.

Pages 1, 2, and 3. Sam prints his name, ad-

dress, and social security number on page 1 of Form 1040NR. He prints “Dual-Status State-
ment” across the top of the form.

On line 8, Sam enters his salary while he was a nonresident alien. He enters the state income tax withheld from his salary on line 37 (carried from page 3, line 17, Schedule A) and the federal income tax withheld ($536) from his salary on line 59. He also carries these amounts to Form 1040 (discussed later).

Page 4. Sam also reports the not effectively connected U.S. income received while he was a nonresident alien. He reports the April and July dividends from the Major Product Co. in column (c) of line 75a, page 4. He figures the tax on his dividend income on lines 87 and 88 and carries it forward to page 2, line 53 on Form 1040NR. (The rate of tax on this income is limited to 15% by Article 10 of the U.S.-U.K. income tax treaty. Treaty rates vary from country to country, so be sure to check the provisions in the treaty you are claiming.)
The type and rule above prints on all proofs including departmental reproduction proofs. MUST be removed before printing.

Sam also reports $36, the amount of tax withheld at source by the Major Product Co. in column (a) of line 75a, Form 1040NR, and carries it forward to page 2, line 66. Later he will report the amount on Form 1040.

Page 5. Sam is not required to report the interest credited to his account by the U.S. Bank during the period he was a nonresident alien. Interest on deposits with U.S. banks that is not effectively connected with a U.S. trade or business generally is treated as income from sources in the United States but is not taxable to a nonresident alien. He checks the "Yes" box on page 5, item L, of Form 1040NR, and explains why this income is not included on his return.

The interest income received from the U.K. Bank while Sam was a nonresident alien is foreign source income and not taxable on his U.S. return.

Sam completes all applicable items on page 5 of Form 1040NR. This provides the dates of arrival and departure, types of visas, and information concerning tax treaty benefits that he has claimed.

Form 1040

Sam completes Form 1040 as follows.

Page 1. Sam prints his name, social security number, and address on page 1 of Form 1040. He checks the "You" box for the Presidential Election Campaign Fund and "Single" under filing status. He also checks the exemption block for himself and prints "Dual-Status Return" across the top of the form.

Sam reports on line 7, Form 1040, all wages received during the period he was a resident of the United States ($21,800) and the wages received during the period he was a nonresident alien ($6,500) that was effectively connected with his U.S. trade or business. This income is taxed at the graduated rates.

Sam reports on Form 1040 the interest income credited to his account by the U.S. Bank and the U.K. Bank in September and December, while he was a U.S. resident. If any of the interest income received while he was a nonresident alien was effectively connected with his U.S. trade or business, he would also report these amounts on Form 1040. If he had paid foreign income tax on the interest income received from the U.K. Bank, he would claim a foreign tax credit.

The dividend income includes only the October dividend, which was received while Sam was a U.S. resident. The dividend income received during his period of nonresidence was not effectively connected with his U.S. trade or business and, therefore, not taxed at the graduated rates.

Sam completes Form 3903 (not illustrated) to figure his moving expense deduction and reports the total on Form 1040, line 26.

Schedule A (Form 1040). Sam cannot claim the standard deduction because he has a dual-status tax year. He reports his itemized deductions on Schedule A (Form 1040). The only itemized deduction he had while he was a nonresident alien was the state income tax withheld from his pay. For information purposes, he lists this amount on Schedule A, line 1, Form 1040NR, in addition to including it on Schedule A, Form 1040.

Sam totals his itemized deductions on line 28, Schedule A (Form 1040).

Page 2. Sam checks box 39b and reports the amount from line 28 of Schedule A (Form 1040) on line 40, Form 1040.

Sam enters $3,200 for one personal exemption on Form 1040, line 42. He subtracts the amount on line 42 from the amount on line 41 to figure his taxable income, line 43.

Sam is now ready to figure the tax on his income taxed at the graduated rates. He uses the column in the Tax Table for single individuals. He enters $2,091 on line 44. Because he had no alternative minimum tax to add, he enters $2,091 again on line 46.

Sam also enters $2,091 on line 57 because he had no credits to subtract.

To this tax he must add the tax on the income taxed at the 30% or lower treaty rate. Because there is no line on Form 1040 for this tax, he reports the amount ($36) on the dotted line next to line 63 and includes it in the total tax on line 63.

Sam reports the total amount of tax withheld ($2,700) from his wages on Form 1040, line 64. He includes in this amount the tax withheld at source ($36 from Form 1040NR, line 66) on dividends paid to him while he was a nonresident alien. He also writes a brief explanation.

Sam compares the total tax on Form 1040, line 63 to the total payments on line 71, to see if he has overpaid his tax or if he owes an additional amount. Because the amount of tax withheld and the amount of tax paid at source are more than his total tax, he has overpaid his tax. He subtracts the amount on line 63 from the amount on line 71 to figure his refund. He draws a line through the boxes on lines 73b and 73d because he does not want his refund directly deposited into his account.

Sam checks to be sure that he has completed all parts of Form 1040 that apply to him. He also checks to see if he has completed the necessary parts of the Form 1040NR that he is attaching as a statement. He then signs and dates the return and enters his occupation.

Sam mails the return to the following address.

Internal Revenue Service Center
Philadelphia, PA 19255
**Form 1040 U.S. Individual Income Tax Return**

**Income**

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<tr>
<th>Line</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Wages, salaries, tips, etc. (see page 2)</td>
<td>(28,815)</td>
</tr>
<tr>
<td>2</td>
<td>Tax-exempt interest (see page 29)</td>
<td>(0)</td>
</tr>
<tr>
<td>3</td>
<td>Taxable interest (see page 29)</td>
<td>(25,759)</td>
</tr>
<tr>
<td>4</td>
<td>Ordinary dividends (see page 28)</td>
<td>(0)</td>
</tr>
<tr>
<td>5</td>
<td>Qualified dividends (see page 23)</td>
<td>(0)</td>
</tr>
<tr>
<td>6a</td>
<td>Social security and Medicare tax on wages</td>
<td>(2,091)</td>
</tr>
<tr>
<td>6b</td>
<td>Self-employment tax (see page 26)</td>
<td>(8,300)</td>
</tr>
<tr>
<td>6c</td>
<td>Total from Form 1040NR</td>
<td>(0)</td>
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<tr>
<td>7</td>
<td>Total of lines 1 through 6c</td>
<td>(56,273)</td>
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</table>

**Adjusted Gross Income**

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<th>Line</th>
<th>Description</th>
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<tr>
<td>25</td>
<td>Educator expenses (see page 26)</td>
<td>(0)</td>
</tr>
<tr>
<td>26</td>
<td>Other expenses (see page 25)</td>
<td>(0)</td>
</tr>
<tr>
<td>27</td>
<td>Total of lines 25 and 26</td>
<td>(0)</td>
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</tbody>
</table>

**Credits**

<table>
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<th>Line</th>
<th>Description</th>
<th>Amount</th>
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<tr>
<td>28</td>
<td>Earned income credit</td>
<td>(1,025)</td>
</tr>
<tr>
<td>29</td>
<td>Add the credit to your tax liability</td>
<td>(1,025)</td>
</tr>
</tbody>
</table>

**Total Tax**

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<thead>
<tr>
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<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>36</td>
<td>Total from line 35, line 36a, and line 36b</td>
<td>(2,091)</td>
</tr>
<tr>
<td>37</td>
<td>Add the amounts in the far right column for lines 7 through 21. This is your total income</td>
<td>(56,273)</td>
</tr>
<tr>
<td>38</td>
<td>Subtract line 40 from line 38</td>
<td>(2,091)</td>
</tr>
</tbody>
</table>

**Taxable Income**

<table>
<thead>
<tr>
<th>Line</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>42</td>
<td>Taxable income</td>
<td>(24,182)</td>
</tr>
<tr>
<td>43</td>
<td>Subtract line 40 from line 42</td>
<td>(2,091)</td>
</tr>
</tbody>
</table>

**Other Income**

<table>
<thead>
<tr>
<th>Line</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>46</td>
<td>Credit for child and dependent care expenses (see page 41)</td>
<td>(0)</td>
</tr>
<tr>
<td>47</td>
<td>Add lines 44 and 45</td>
<td>(0)</td>
</tr>
<tr>
<td>48</td>
<td>Credit for the elderly or the disabled (see page 43)</td>
<td>(0)</td>
</tr>
<tr>
<td>49</td>
<td>Add lines 44, 45, and 47</td>
<td>(0)</td>
</tr>
<tr>
<td>50</td>
<td>Add lines 44, 45, 48, and 49</td>
<td>(0)</td>
</tr>
</tbody>
</table>

**Refund**

<table>
<thead>
<tr>
<th>Line</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>62</td>
<td>Add line 57 through line 62 to your total income</td>
<td>(2,091)</td>
</tr>
<tr>
<td>63</td>
<td>Subtract line 57 from line 62</td>
<td>(2,091)</td>
</tr>
<tr>
<td>64</td>
<td>Add line 57 through line 63 to your total income</td>
<td>(0)</td>
</tr>
</tbody>
</table>

**Other Taxes**

<table>
<thead>
<tr>
<th>Line</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>93</td>
<td>Estimated tax for 2006</td>
<td>(0)</td>
</tr>
</tbody>
</table>

**Form 1040-V**

<table>
<thead>
<tr>
<th>Line</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>65</td>
<td>Total from Form 1040-V</td>
<td>(0)</td>
</tr>
</tbody>
</table>

**Sign Here**

<table>
<thead>
<tr>
<th>Line</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>77</td>
<td>Sign Here</td>
<td>()</td>
</tr>
</tbody>
</table>

**Preparer's Signature**

<table>
<thead>
<tr>
<th>Line</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>79</td>
<td>Preparer's Signature</td>
<td>()</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Line</th>
<th>Description</th>
<th>Form</th>
<th>Amount</th>
<th>Form</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>36</td>
<td>Amount from line 35 (adjusted gross income)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>37</td>
<td>Itemized deductions from page 3, Schedule A, line 17</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>38</td>
<td>Subtract line 37 from line 36</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>39</td>
<td>Exemptions (see page 11)</td>
<td></td>
<td>2</td>
<td></td>
<td></td>
</tr>
<tr>
<td>40</td>
<td>Taxable income. Subtract line 39 from line 38. If line 39 is more than line 38, enter 0</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>41</td>
<td>Tax (see page 17). Check if any tax is from: a. Form 8814 b. Form 4022</td>
<td></td>
<td>195</td>
<td></td>
<td></td>
</tr>
<tr>
<td>42</td>
<td>Alternative minimum tax (see page 18, Attach Form 6251)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>43</td>
<td>Add lines 41 and 42</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>44</td>
<td>Foreign tax credit. Attach Form 1114, if required</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>45</td>
<td>Credit for child and dependent care expenses. Attach Form 2441</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>46</td>
<td>Retirement savings contributions credit. Attach Form 8889</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>47</td>
<td>Child tax credit. See page 19, Attach Form 8814 if required</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>48</td>
<td>Adoption credit. Attach Form 8835</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>49</td>
<td>Credits from: a. Form 656-A b. Form 656-B</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>50</td>
<td>Other credits. Check applicable boxes.</td>
<td></td>
<td>0</td>
<td></td>
<td></td>
</tr>
<tr>
<td>51</td>
<td>Add lines 41 through 50. These are your total credits and credits</td>
<td></td>
<td>0</td>
<td></td>
<td></td>
</tr>
<tr>
<td>52</td>
<td>Subtract line 51 from line 36. If more than line 51, enter 0</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>53</td>
<td>Tax on income not effectively connected with a U.S. trade or business from page 4, line 88</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>54</td>
<td>Social security and Medicare tax on tip income not reported to employer. Attach Form 4137</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>55</td>
<td>Add lines 4a, 5, and 6</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>56</td>
<td>Estate tax paid. Attach Form 5329 if required</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>57</td>
<td>Theft losses. Attach Form 4684. See page 25</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>58</td>
<td>Add lines 52 through 57. This is your total tax</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>59</td>
<td>Federal income tax withheld from Forms W-2, 1099, 1042-S, etc.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>60</td>
<td>2005 estimated tax payments and amount applied from 2004 return</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>61</td>
<td>Divorce social security and tier 1 RRF-A tax withheld from line 20.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>62</td>
<td>Additional child tax credit. Attach Form 8812</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>63</td>
<td>Amount paid with Form 4952 (request for extension)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>64</td>
<td>Other payments. a. Form 1043 b. Form 1045 c. Form 6069</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>65</td>
<td>Credit for amount paid with Form 1043</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>66</td>
<td>U.S. tax withheld at source on line 4, Form 1121</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>67</td>
<td>U.S. tax withheld at source by partnerships under section 1448</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>68</td>
<td>From Form(s) 8805</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>69</td>
<td>From Form(s) 1042-S</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>70</td>
<td>Total payments</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>71</td>
<td>For Form 1040NR, line 36, over $145,950 (over $72,975 if you checked filing status on Form 1040NR, line 36)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>72</td>
<td>Multiply line 13 by 2% (.02)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>73</td>
<td>Enter the amount from Form 1040NR, line 36 overpaid</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>74</td>
<td>Amount paid with Form 4868 (request for extension)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>75</td>
<td>Other payments from: a. Form 2439 b. Form 4137 c. Form 8853</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>76</td>
<td>Credit for amount paid with Form 2439</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>77</td>
<td>U.S. tax withheld on dispositions of U.S. real property interests: a. Form 8805 b. Form 8812</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>78</td>
<td>From Form(s) 8805</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>79</td>
<td>From Form(s) 1042-S</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>80</td>
<td>U.S. tax withheld on dispositions of U.S. real property interests</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>81</td>
<td>Add lines 77 through 79. These are your total payments</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>82</td>
<td>Subtract line 81 from line 70. If line 81 is more than line 70, enter -0-</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>83</td>
<td>Estimated tax penalty. Also include on line 73</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>84</td>
<td>Total miscellaneous deductions</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>85</td>
<td>Enter the amount from Form 1040NR, line 35, over $145,950 or $72,975 if you checked filing status on Form 1040NR, line 35</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>86</td>
<td>Enter the amount from Form 1040NR, line 35, over $145,950 or $72,975 if you checked filing status on Form 1040NR, line 35</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>87</td>
<td>Enter the amount from Form 1040NR, line 35, over $145,950 or $72,975 if you checked filing status on Form 1040NR, line 35</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### Tax on Income Not Effectively Connected With a U.S. Trade or Business

Attach Forms 1042-S, SSA-1042S, RRB-1042S, or similar form.

**Nature of income**

<table>
<thead>
<tr>
<th>Description</th>
<th>(a) U.S. tax withheld at source</th>
<th>Enter amount of income under the appropriate rate of tax [see page 27]</th>
<th>(b) 10%</th>
<th>(c) 15%</th>
<th>(d) 30%</th>
<th>(e) Other (specify)</th>
</tr>
</thead>
</table>

#### 75 Dividends paid by:
- a. U.S. corporations
- b. Foreign corporations
- c. Other

#### 76 Interest:
- a. Mortgage
- b. Paid by foreign corporations
- c. Other

#### 77 Industrial royalties
- a. Patent, trademark, etc.

#### 78 Motion picture or T.V. copyright royalties

#### 79 Other royalties (copyrights, recording, publishing, etc.)

#### 80 Real property income and natural resources royalties

#### 81 Pensions and annuities

#### 82 Social security benefits

#### 83 Gains (include capital gain from line 91 below)

#### 84 Other (specify)

#### 85 Total U.S. tax withheld at source. Add column (a) of lines 75a through 84. Enter the total here and on Form 1040NR, line 66

#### 86 Add lines 75a through 84 in columns (b)–(e)

#### 87 Multiply line 86 by rate of tax at top of each column

#### 88 Tax on income not effectively connected with a U.S. trade or business. Add columns (b)–(e) of line 87. Enter the total here and on Form 1040NR, line 53

---

#### Capital Gains and Losses From Sales or Exchanges of Property

**Enter only the capital gains and losses from property sales or exchanges that are effectively connected with U.S. business sources within the United States and not effectively connected with a U.S. business. Do not include a gain or loss on disposing of a U.S. real property interest; report these gains and losses on Schedule D (Form 1040).**

**Important property sales or exchanges include: a. Non-carryover sales of real property connected with a U.S. business on Schedule D (Form 1040), Form 4797, or both.**

- **89 (f) Kind of property and description (if necessary, attach statement of descriptive details not shown below)**
- **89 (g) Date acquired (mo., day, yr.)**
- **89 (h) Date sold (mo., day, yr.)**
- **89 (i) Sales price**
- **89 (j) Cost or other basis**
- **89 (k) LOSS**
- **89 (l) GAIN**

- **90 Add columns (f) and (g) of line 89**

- **91 Capital gain. Combine columns (f) and (g) of line 90. Enter the net gain here and on line 83 above (if a loss, enter -0-)**
Other Information (If an item does not apply to you, enter “N/A.”)

A What country issued your passport? United Kingdom

B Were you ever a U.S. citizen? Yes No

C Give the purpose of your visit to the United States

D Type of entry visa H-1 B Temporary assignment, and current nonimmigrant status and date of change (see page 27) Permanent

E Date you entered the United States (see page 27) 3-18-05

F Did you give up your permanent residence as an immigrant in the United States this year? Yes No

G Dates you entered and left the United States during the year. Residents of Canada or Mexico entering and leaving the United States at frequent intervals, give name of country only. Enter March 15, 2004 Departed May 26, 2004 Entered Sept 10, 2004

H Give number of days (including vacation and nonworkdays) you were present in the United States during: 2003 0 2004 0 2005 0

I If you are a resident of Canada, Mexico, the Republic of Korea (South Korea), or Japan (and you elect to have the old U.S.-Japan income tax treaty apply in its entirety for 2000) or a U.S. national, did your spouse contribute to the support of any child claimed on Form 1040NR, line 7c? Yes No

J If “Yes,” enter amount $ N/A

K If you were a resident of the Republic of Korea (South Korea) or Japan (and you elect to have the old U.S.-Japan income tax treaty apply in its entirety for 2005) for any part of the tax year, enter in the space below your total foreign source income not effectively connected with a U.S. trade or business. This information is needed so that the exemption for your spouse and dependents residing in the United States (if applicable) may be allowed in accordance with Article 4 of the Income tax treaty between the United States and the Republic of Korea (South Korea), or Article 4 of the old income tax treaty between the United States and Japan. Total foreign source income not effectively connected with a U.S. trade or business $ N/A

L Did you file a U.S. income tax return for any year before 2005? Yes No

M If “Yes,” give the latest year and form number

N If you file this return to report community income, give your spouse’s name, address, and identifying number.

O If you file this return for a trust, does the trust have a U.S. business? Yes No

P Is this an “expatriation return” (see page 28)? Yes No

Q During 2005, did you apply for, or take other affirmative steps to apply for, lawful permanent resident status in the United States or have an application pending to adjust your status to that of a lawful permanent resident of the United States? Yes No

R If “Yes,” explain

S Have you excluded any gross income other than foreign source income not effectively connected with a U.S. trade or business? Yes No

T If “Yes,” show the amount, nature, and source of the excluded income. Also, give the reason it was excluded. (Do not include amounts shown in item M.)

U Do not include amounts shown in item M.

V Form 1040NR (2005)
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,
- Amended returns and claims for refund, and
- Transportation of currency or monetary instruments.

Useful Items

You may want to see:

Forms (and Instructions)

- 1040 U.S. Individual Income Tax Return
- 1040A U.S. Individual Income Tax Return
- 1040EZ Income Tax Return for Single and Joint Filers With No Dependents
- 1040NR U.S. Nonresident Alien Income Tax Return
- 1040NR-EZ U.S. Income Tax Return for Certain Nonresident Aliens With No Dependents

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, depends on your status at the end of the tax year as a resident or nonresident alien.

Resident Aliens

Resident aliens should file Form 1040EZ, 1040A, or 1040 at the address shown in the instructions for that form. The due date for filing the 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, later).

You are allowed an automatic extension to June 15 to file if your main place of business and the home you live in are outside the United States and Puerto Rico on April 15. You can get an extension of time to October 15 to file your return if you get an extension by April 15 (June 15 if you qualify for the June 15 extension). Use Form 4868 to get the extension to October 15.

TIP

If the due date for filing falls on a Saturday, Sunday, or legal holiday, the due date is the next day which is not a Saturday, Sunday, or legal holiday. You may be able to file your return electronically. See IRS e-file in your form instructions.

Nonresident Aliens

Nonresident aliens who are required to file an income tax return should use Form 1040NR or, if qualified, Form 1040NR-EZ. 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 2005. (But see the Note below.) 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.

Note. If 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, you must file Form 1040NR or Form 1040NR-EZ only if you have income that is subject to tax, such as wages, tips, scholarship and fellowship grants, dividends, etc. 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.

Even if you have left the United States and filed a Form 1040-C, U.S. Depart-ing Alien Income Tax Return, on de-pature, you still must 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.

Form 1040NR-EZ

You can use Form 1040NR-EZ if all of the following conditions are met.

1. You do not claim any dependents.

2. You cannot be claimed as a dependent on someone else's U.S. tax return.

3. If you were married, you cannot claim an exemption for your spouse.

4. Your taxable income is less than $100,000.

5. You are not claiming any itemized deducti-ons (other than for state and local income taxes).

6. Your only U.S. source income is from wages, salaries, tips, taxable scholarships or fellowships (other than for state and local income taxes, and scholarship or fellowship grants. (If you had taxable interest or dividend income, you cannot use this form.)

7. You are not claiming any adjustments to income other than the student loan interest deduction or scholarship and fellowship grants excluded.

8. You are not claiming any tax credits.

9. This is not an "expatriation return." See Expatriation Tax in chapter 4.

10. The only taxes you owe are:

a. The income tax from the Tax Table.

b. The social security and Medicare tax on taxable income not reported to your employer.

11. You are not claiming a credit for excess social security and fer 1 RRTA tax withheld.

If you do not meet all of the above conditions, you must file Form 1040NR.

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. If you file for the 2005 calendar year, your return is due April 17, 2006.

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 2005 calendar year, file your return by June 15, 2006. If you cannot file your return by the due date, file Form 4868 or use one of the electronic filing options explained in the Form 4868 instructions. For the 2005 calendar year, this will extend the due date to October 16, 2006 (December 15, 2006, if the regular due date of your return is June 15, 2006). You must file the extension by the regular due date of your return.

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
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 1040NR) 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.

You can file a protective return if you believe you have no U.S. tax liability because of a U.S. tax treaty. Be sure to complete all items L and M on page 5 of Form 1040NR.

Aliens from Guam and the Commonwealth of the Northern Mariana Islands. If you are a bona fide resident of Guam or the Commonwealth of the Northern Mariana Islands (CNMI) during your entire tax year, you must file your return 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
GMF, GU 96921

If you believe you have income from Guam, you should file a protective return 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 complete all items L and M on page 5 of Form 1040NR.

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

File Form 1040NR-EZ and Form 1040NR at the following address:

Internal Revenue Service Center
Philadelphia, PA 19255
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 substantial 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, or
2. Adequate disclosure and a reasonable basis.

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, 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 2004-73 (or later update) are considered adequately disclosed on your return without filing Form 8275.

Use Form 8275-R, Regulation Disclosure Statement, to disclose items or positions contrary to regulations.

**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.

**Frivolous return.** You may have to pay a penalty of $500 if you file a frivolous return. A frivolous 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.

You will have to pay the penalty if you filed this kind of return because of a frivolous position on your part or a delay to delay or interfere with the administration of federal income tax laws. This includes altering or striking out the preprinted language above the space provided for the information.

This penalty is added to any other penalty provided by law. The penalty must be paid in full upon notice and demand from IRS even if you protest the penalty.

**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 taxpayer identification number.** If you do not include your social security number (SSN) or individual taxpayer identification number (ITIN) on your return, statement, or other document, you will be subject to a penalty of $50 for each failure. You will 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 also may 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.

**Amended Returns and Claims for Refund.**

If you find changes in your income, deductions, or credits after you mail your return, file Form 1040X, Amended U.S. Individual Income Tax Return. Also use Form 1040X if you should have filed Form 1040, 1040A, or 1040EZ instead of Form 1040NR or 1040NR-EZ, or vice versa. If you amend Form 1040NR or Form 1040NR-EZ or file the correct return, attach the corrected return (Form 1040, Form 1040NR, etc.) to Form 1040X. Print “Amended” across the top. 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.

**Transportation of Currency or Monetary Instruments.**

FinCEN Form 105 (formerly Customs Form 4790), Report of International Transportation of Currency or Monetary Instruments, must be filed by each person who physically transports, mails, or ships, or causes to be physically transported, mailed, or shipped, currency or other monetary instruments in a total amount of 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. The filing requirement also applies to each person who receives in the United States currency or monetary instruments totaling more than $10,000 at one time from any place outside of the United States.

The term “monetary instruments” means the following:

- Coin and currency of the United States or of any other country.
- Travelers’ checks in any form.
- Investment securities or stock in bearer form or otherwise in such form that title to them passes upon delivery.
- Negotiable instruments (including checks, promissory notes, and money orders) in bearer form, endorsed without restriction, made out to a fictitious payee, or otherwise in such form that title to them passes upon delivery;
- Checks, promissory notes, and money orders which are signed but on which the name of the payee has been omitted.

However, the term does not include:

- Checks or money orders made payable to the order of a named person which have not been endorsed or which contain restrictive endorsements;
- Warehouse receipts, or
- Bills of lading.

A transfer of funds through normal banking procedures (wire transfer) that does not involve the physical transportation of currency or bearer monetary instruments is not required to be reported on FinCEN Form 105.

**Filing requirements.** FinCEN Form 105 filing requirements follow.

**Recipients.** Each person who receives currency or other monetary instruments in the United States must file FinCEN Form 105 within 15 days after receipt, with the Customs officer in charge at any port of entry or departure, or by mail to the following address:

Commissioner of Customs Attention: Currency Transportation Reports Washington, DC 20229

**Shippers or mailers.** If the currency or other monetary instrument does not accompany the person entering or departing the United States, FinCEN Form 105 can be filed by mail at the above address on or before the date of entry, departure, mailing, or shipping.

**Travelers.** Travelers must file FinCEN Form 105 with the Customs officer in charge at any Customs port of entry or departure, when entering or departing the United States.

**Penalties.** Civil and criminal penalties are provided for failing to file a report, filing a report containing material omissions or misstatements, or failing a false or fraudulent report. Also, the entire amount of the currency or monetary instrument may be subject to seizure and forfeiture.

More information regarding the filing of FinCEN Form 105 can be found in the instructions on the back of the form.
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 generally will 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
  - W-8BEN Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding
  - 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

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. A fill-in form W-4 for a scholarship or fellowship grant to the extent it represents payment for past, present, or future services 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 should fill out Form W-4 using the following instructions instead of the instructions on the Form W-4. This is because of the restrictions on a nonresident alien’s filing status, the limited number of personal exemptions a nonresident alien is allowed, and because a nonresident alien cannot claim the standard deduction.

1. Check only “Single” marital status on line 3 (regardless of your actual marital status).
2. Claim only one allowance on line 5, unless you are a resident of Canada, Mexico, or the Republic of Korea (South Korea), or a U.S. national.
3. Write “Nonresident Alien” or “NRA” on the dotted line on line 6. You can request additional withholding on line 6 at your option.
4. Do not claim “Exempt” withholding status on line 7.

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 Marianas Islanders who choose to become U.S. nationals instead of U.S. citizens.

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 your spouse only if your spouse will have no gross income for 2006 and cannot be claimed as a dependent on another U.S. taxpayer’s 2006 return. You may also claim an additional withholding allowance for each of your dependents not admitted to the United States on “F-2,” “J-2,” or “M-2” visas if they meet the same rules that apply to U.S. citizens.

Household employees. If you work as a household employee, your employer does not have to withhold income tax. However, you may agree to voluntary income tax withholding by filling 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.
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 Form Entitled to Tax Treaty Benefits, later.

Wages paid to aliens who are residents of 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.

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, which ever 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 the penalties of perjury.

Residents of Puerto Rico. If you are a nonresident alien employee who is a resident of Puerto Rico, wages for services performed in Puerto Rico are generally not subject to withholding unless you are an employee of the United States or any of its agencies in Puerto Rico.

Residents of the U.S. Virgin Islands. Nonresident aliens who are bona fide residents of the 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 Virgin Islands. To avoid having tax withheld on income earned in the United States, bona fide residents of the Virgin Islands should write a letter, in duplicate, to their employers, stating that they are bona fide residents of the Virgin Islands and expect to pay tax on all income to the Virgin Islands.

Withholding on Pensions

If you receive a pension as a result of personal services performed in the United States, the pension income is 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 December 31, 1986. You must fill out Form W-8BECI 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 Internal Revenue Service on the amount of withholding required. Also, the final payment to you during the tax year for independent personal services may be entirely or partly exempt from withholding if you are engaged in a trade or business in the United States during the year and you file the forms and provide the information required by the IRS.

Withholding Agreement

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. 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 withholding agreement 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.

Nonresident alien entertainers or athletes requesting a central withholding agreement must submit the following information:

1. A list of the names and addresses of the nonresident aliens to be covered by the arrangement.
2. Copies of all contracts that the aliens or their agents and representatives have entered into regarding the time period and performances or events to be covered by the agreement including, but not limited to, contracts with:
   a. Employers, agents, and promoters,
   b. Exhibition halls,
   c. Persons providing lodging, transportation, and catering, and
   d. Accompanying personnel, such as band members or trainers.

3. An itinerary of dates and locations of all events or performances scheduled during the period to be covered by the agreement.

4. A proposed budget containing itemized estimates of all gross income and expenses for the period covered by the agreement, including any documents to support these estimates.

5. The name, address, and telephone number of the person the IRS should contact if additional information or documentation is needed.

6. The name, address, and employer identification number of the agent or agents who will be the central withholding agents for the aliens and who will enter into a contract with the IRS. A central withholding agent ordinarily receives contract payments, keeps books of account for the aliens covered by the agreement, and pays expenses (including tax liabilities) for the aliens during the period covered by the agreement.

When the IRS approves the estimated budget and the designated central withholding agents, the Associate Chief Counsel (International) will prepare a withholding agreement. The agreement must be signed by each withholding agent, nonresident alien covered by the agreement, and the Commissioner of the Internal Revenue Service or his delegate.

Generally, each withholding agent must agree to withhold income tax from payments made to the nonresident alien, to pay over the withheld tax to the IRS on the dates and in the amounts specified in the agreement, and to have the IRS apply the payments of withheld tax to the withholding agent’s Form 1042 account. Each withholding agent must be required to file Form 1042 and Form 1042-S for each tax year in which income is paid to a nonresident alien covered by the withholding agreement. The IRS will credit the withheld tax payments, posted to the withholding agent’s Form 1042 account, in accordance with the Form 1042-S. Each nonresident alien covered by the withholding agreement must agree to file Form 1040NR or, if he or she qualifies, Form 1040NR-EZ.

A request for a central withholding agreement should be sent to the following address at least 90 days before the agreement is to take effect.

Chef, Special Programs (International)
Internal Revenue Service
S:SE:CLD:SL:HQ:SP
1111 Constitution Ave., N.W., NCFB
C2:233
Washington, DC 20224
Final payment exemption. Your final pay- ment of compensation during the tax year for independent personal services may be entirely or partly exempt from withholding. This exemp- tion is available only once during your tax year and applies to a maximum of $5,000 of compen- sation. To obtain this exemption, you or your agent must give the following statements and information to the Commissioner or his dele- gate:

- A statement by each withholding agent from whom you have received gross in- come 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 pay- ment of compensation, showing the amount of the payment and the amount of tax that would be withheld if a final pay- ment exemption was not granted. This statement must also be signed by the withholding agent and verified by a decla- ration 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 liabili- ties, if any, including interest and penal- ties, from the current tax year or prior tax years.

- Any provision of an income tax treaty under which a partial or complete exemp- tion from withholding may be claimed, the country of your residence, and a state- ment of sufficient facts to justify an exemp- tion under the treaty.

- A statement signed by you, and verified by a declaration that it is made under penal- ties 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 current year and gross income effectively connected with your trade or business in the United States. Ordinary and necessary busi- ness 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.

Allowance for Personal Exemption

Withholding on payments for independent per- sonal services is generally based on the amount of your compensation payment minus the value of one exemption ($3,300 for 2006).

To determine the income for independent personal services performed in the United States to which the 30% (or lower treaty) rate will apply, you are allowed one personal exemption if you are a U.S. national or a resident of Canada, Mexico, or the Republic of Korea (South Korea). For purposes of 30% with- holding, the exemption is prorated at $9.04 per day in 2006 for the period that labor or personal services are performed in the United States. To claim and revoke an exemption from withholding personal exemption, fill out the applicable parts of Form 8233 and give it to the withholding agent.

Example. Eric Schmidt, who is a resident of Germany, worked under a contract with a U.S. firm that employed an employee (in the United States) for 100 days during 2006 before returning to his country. He earned $6,000 for the services per- formed (not considered wages) in the United States. Eric is married and has three dependent children. His wife is not employed and has no income subject to U.S. tax. The amount of the personal exemption to be allowed against the income for his personal services performed within the United States in 2006 is $904 (100 days × $9.04), and withholding at 30% is applied against the balance. Thus, $1,528.80 in tax is withheld from Eric’s earnings (30% of $5,096 ($6,000 – $904)).

U.S. nationals or residents of Canada, Mex- ico, or the Republic of Korea (South Korea); if you are a nonresident alien who is a resident of Canada, Mexico, or the Republic of Korea (South Korea), or who is a national of the United States, you are subject to the same 30% with- holding on your compensation for independent personal services performed in the United States. However, if you are a U.S. national or a resident of Canada or Mexico, you are allowed the same personal exemptions as U.S. citizens. For the 30% (or lower treaty rate) withholding, you can take $9.04 per day for each allowable exemption in 2006. If you are a resident of the Republic of Korea (South Korea), you are al- lowed personal exemptions for yourself and for your spouse and children who live with you in the United States at any time during the tax year. However, the additional exemptions for your spouse and children must be further prorated as explained in chapter 5 under Exemptions.

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 are allowed an exemption for your spouse only if your spouse will have no gross income for 2006 and cannot be claimed as a dependent on another U.S. taxpayer’s 2006 return. You are also allowed an exemption for each dependent not admitted to the United States on “F-2,” “J-2,” or “M-2” visas if they meet the same rules that apply to U.S. citizens. For

the 30% (or lower treaty rate) withholding on compensation for independent personal serv- ices performed in the United States, you are allowed $9.04 per day for each allowable ex- emption in 2006.

Withholding From Other Income

Other income subject to 30% withholding gener- ally includes fixed or determinable income such as interest (other than portfolio interest), divi- dends, 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.

Refund of taxes withheld in error on social security benefits paid to resident aliens. Social security benefits paid to a lawful perma- nent resident (green card holder) are not subject to 30% withholding. For U.S. income tax pur- poses, green card holders continue to be resi- dent aliens until their lawful permanent resident status under immigration laws is either taken away or is administratively or judicially deter- mined 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 for- eign address, the withholding tax is refundable by the Social Security Administration (SSA) or the IRS. SSA will refund taxes erroneously with- held if the refund can be processed during the same calendar year in which the tax was with- held. If SSA cannot refund the taxes withheld, you must file a Form 1040 or 1040A with the Internal Revenue Service Center, Philadelphia, PA 19255 to determine if you are entitled to a refund. You must also attach the following to the following to your Form 1040 or 1040A.

- A copy of Form SSA-10425, Social Secur- ity Benefit Statement.
- A copy of the “green card.”

A signed declaration that includes the fol- lowing statements: The SSA should not have withheld income tax from my social security benefits because I am a U.S. law- ful permanent resident and my green card has been neither revoked nor administra- tively 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.

Other income not subject to withholding of 30% (or lower treaty) rate. The following in- come 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 effectively connected taxable income from the partnership. The partnership will give you a statement on Form 8805, Foreign Partner’s Information Statement of Section 1446 Withholding Tax, 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, Foreign Person’s U.S. Source Income Subject to Withholding. The withholding rate on your share of effectively connected income is generally the highest rate of tax that applies to you (35% for 2005). However, the partnership to which the final regulations under section 1446 apply, 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 (generally, Form W-8BEN). Long-term capital gain is an example of a particular type of income to which a highest tax rate applies. Claim the tax withheld as a credit on line 67a or 67b of Form 1040NR, as appropriate.

**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 grantees 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 and the Personal Allowances Worksheet (attached to Form W-4). Use the following instructions instead of the Form W-4 instructions to complete the worksheet.

**Line A.** Enter the total of the following amounts on line A.

**Personal exemption.** Include the prorated part of your allowable personal exemption. Figure the amount by multiplying the number of days you expect to be in the United States in 2006 by the daily exemption amount ($9.04).

**Expenses.** Include expenses that will be deductible on your return. These include away-from-home expenses (meals, lodging, and transportation), certain state and local income taxes, charitable contributions, and casualty losses, discussed earlier under Itemized Deductions in chapter 5. They also include business expenses, moving expenses, and the IRA deduction discussed under Deductions in chapter 5.

The amount of away-from-home expenses should be the anticipated actual amount, if known. If you do not know the amount of actual expenses at the time you complete Form W-4, you can claim the current per diem allowance for participants in the Career Education Program under the Federal Travel Regulations. The per diem allowance is $18 per day.

**Nontaxable grant or scholarship.** Include the part of your grant or scholarship that is not taxable under U.S. law or under a tax treaty.

**Line B.** Enter -0- unless the following paragraph applies to you.

If you are a student who qualifies under Article 21(2) of the United States–India income tax treaty, and you are not claiming deductions for away-from-home expenses or other itemized deductions (discussed earlier), enter the standard deduction amount on line B. The standard deduction amount for 2006 is $5,150.

**Lines C and D.** Enter -0- on both lines unless the following paragraphs apply to you.

If you are a resident of Canada, Mexico, the Republic of Korea (South Korea), or a U.S. national, an additional daily exemption amount may be allowed for your spouse and each of your dependents.

If you are a resident of India who is eligible for the benefits under Article 21(2) of the United States–India income tax treaty, you can claim an additional daily exemption amount for your spouse only if your spouse will have no gross income for 2006 and cannot be claimed as a dependent on another U.S. taxpayer’s 2006 return. You can also claim an additional amount for each of your dependents not admitted to the United States on “F-2,” “J-2,” or “M-2” visas if they meet the same rules that apply to U.S. residents.

Enter any additional amount for your spouse on line C. Enter any additional amount for your dependents on line D.

**Lines E, F, and G.** No entries should be made on lines E, F, and G.

**Line H.** Add the amounts on lines A through D and enter the total on line H.

**Form W-4.** Complete lines 1 through 4 of Form W-4. Sign and date the form and give it with the Personal Allowances Worksheet 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 the exemptions and deductions you claimed on that form. If you are in the United States during more than one 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 amount on line H of the work sheet and the withholding tax is figured on the remainder.

You will receive a Form 1042-S from the withholding agent (and you are a payee of your grant) showing the gross amount of your taxable scholarship or fellowship grant less the withhold allowances amount (if any), and the amount of tax withheld. Use this form to prepare your annual U.S. income tax return.

**Income Entitled to Tax Treaty Benefits**

If a tax treaty between the United States and your country provides an exemption from, or a reduced rate of, tax for certain items of income, you should notify the payor 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.

**Employees and independent contractors.** If you perform personal services as an employee or an independent contractor and 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 1040NR (or Form 1040NR-EZ if you qualify) 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 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 and 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 rock music festivals, boxing promotions, and other entertainment or sporting events.
events, unless the withholding agent has been specifically advised otherwise by letter from the IRS. This is true 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.

The required letter should be requested from:

Chief, Special Programs (International)
Internal Revenue Service
S:SE:OLD:SLI:HQ:SP
1111 Constitution Ave., N.W., NCFP C2 233
Washington, DC 20224

Entertainers and athletes can also apply for reduced withholding on the basis of their net income after expenses. See Central withholding agreements under Withholding From Compensation, earlier.

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 Publication 901.

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Tax Withheld on Real Property Sales

If you are a nonresident alien and you dispose of a U.S. real property interest, the transferee (buyer) of the property generally must withhold a tax equal to 10% of the amount realized on the disposition. Withholding is also required on certain distributions and other transactions by domestic or foreign corporations, partnerships, trusts, and estates. These rules are covered in Publication 515 under U.S. Real Property Interests.

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, Foreign Partner’s Information Statement of Section 1446 Withholding Tax, or Form 1042-S, Foreign Person’s U.S. Source Income Subject to Withholding (in the case of a publicly traded partnership).

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 (sales price) is not more than $300,000.
2. The property disposed of is an interest in a U.S. corporation if any class of stock of the corporation is 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.
3. The buyer receives a 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 Director, Philadelphia Service Center, FIPRA Unit, P.O. Box 21086, Philadelphia, PA 19114-0586. You must verify the notice as true and sign it under penalties of perjury. The notice must contain the following information:
   a. A statement that the notice is a statement of nonrecognition under regulation section 1.1445-2(d)(2).
   b. Your name, taxpayer identification number, and home address.
   c. A statement that you are not required to recognize any gain or loss on the transfer.
   d. A brief description of the transfer.
   e. A brief summary of the law and facts supporting your claim that recognition of gain or loss is not required.

You may not give the buyer a written notice for any of the following transfers: the sale of your main home on which you exclude gain, a like-kind exchange that does not qualify for nonrecognition treatment in its entirety, or a deferred like-kind exchange that has not been completed at the time the buyer must file Form 8288. Instead, a withholding certificate (described next) must be obtained.

7. The amount of tax withheld on a disposition can be reduced or eliminated under a withholding certificate issued by the IRS. Either you or the buyer can request a withholding certificate.

Withholding certificates. The tax required to be withheld on a disposition can be reduced or eliminated under a withholding certificate issued by the IRS. 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 be more than 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.
3. You or the buyer enter into an agreement for the payment of tax providing security for the tax liability.

Get Publication 515 and Form 8288-B for information on procedures to request a withholding certificate.

Credit for tax withheld. The buyer must report and withhold the tax within 20 days after the transfer using Form 8288, U.S. Withholding Tax Return for Dispositions by Foreign Persons of U.S. Real Property Interests. This form is filed with the IRS with copies A and B of Form 8288-A. Statement of Withholding on Dispositions by Foreign Persons of U.S. Real Property Interests. A stamped copy of Form 8288-A will be provided to you if your TIN is not included on that form. In this case, to get credit for the tax withheld, you must attach to your U.S. income tax return substantial evidence of withholding (for example, closing documents) and a statement that contains all of the following information:
   - Your name and TIN.
   - The buyer’s name, address, and TIN.
   - A description and location of the property.
   - The date of the transfer.
   - The amount realized on the transfer.
   - The amount of tax withheld.

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 $90,000 of taxable wages received in 2005 for services performed in the United States is subject to social security and Medicare 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 report your income. Social security and Medicare benefits are subject to Withholding (in the case of a publicly traded partnership).

You may not give the buyer a written notice for any of the following transfers: the sale of your main home on which you exclude gain, a like-kind exchange that does not qualify for nonrecognition treatment in its entirety, or a deferred like-kind exchange that has not been completed at the time the buyer must file Form 8288. Instead, a withholding certificate (described next) must be obtained.

Withholding certificates. The tax required to be withheld on a disposition can be reduced or eliminated under a withholding certificate issued by the IRS. 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 be more than 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.
3. You or the buyer enter into an agreement for the payment of tax providing security for the tax liability.

Get Publication 515 and Form 8288-B for information on procedures to request a withholding certificate.

Credit for tax withheld. The buyer must report and withhold the tax within 20 days after the transfer using Form 8288, U.S. Withholding Tax Return for Dispositions by Foreign Persons of U.S. Real Property Interests. This form is filed with the IRS with copies A and B of Form 8288-A. Statement of Withholding on Dispositions by Foreign Persons of U.S. Real Prop-
Paying Tax Through Withholding or Estimated Tax

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 and Medicare 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 generally are not required to work for a wage or salary 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.

Students in “F-1” status may be permitted to participate in a curricular practical training program that is an integral part of an established curriculum. Curricular practical training includes work/study programs, internships, and cooperative education programs. In this case, the educational institution endorses the Form I-20. Social security and Medicare taxes are not withheld from pay for this work unless the student is considered a resident alien.

Employment due to severe economic necessity and for optional practical training is sometimes permitted for students in “F-1” status. Students granted permission to work due to severe economic necessity or for optional practical training will be issued Form I-868B or Form I-766 by the USCIS. Social security and Medicare taxes are not withheld from pay for this work unless the student is considered a resident alien.

In all other cases, any 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

Nonresident aliens are temporarily admitted to the United States as nonimmigrant exchange visitors under section 101(a)(15)(J) of the Immigration and Nationality Act through the sponsor of approved organizations and institutions that are responsible for establishing a program of exchange visitors and for any later modification of that program. Generally, an exchange visitor who has the permission of the sponsor can work for the same reasons as the students discussed above. In these cases, permission is granted by a letter from the exchange visitor’s sponsor or by endorsement from the program sponsor on Form DS-2019, Certificate of Eligibility.

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.

In all other cases, 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.

If you are a “J-1” visa holder, your spouse or child may be permitted to work in the United States with the prior approval of the USCIS and issuance of Form I-868B or Form I-766.

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. “Q-1,” “Q-2,” and “Q-3” visa holders are aliens whose employment or training affords the opportunity for culture-sharing with the American public. They are allowed to work in the United States for a specific employer in an approved cultural exchange program. 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. Aliens with “Q” visas are not permitted to engage in employment outside the exchange program activities.

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 Internal Revenue Service on Form 843, Claim for Refund and Request for Abatement. 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 (Arrival-Departure Record).
- If you have an F-1 visa, Form I-20.
- If you have a J-1 visa, Form DS-2019.
- If you are engaged in optional practical training, Form I-766 or Form I-868B.
- 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.

File Form 843 (with attachments) with the IRS office where your employer’s returns were filed. If you do not know where your employer’s returns were filed, file Form 843 with the Internal Revenue Service Center, Philadelphia, PA 19255.

Self-Employment Tax

Self-employment tax is the social security and Medicare taxes for individuals who are self-employed. Nonresident aliens who are not subject to self-employment tax. Residents of the Virgin Islands, Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, or American Samoa are considered U.S. residents for this purpose and are subject to the self-employment tax.

Self-employment tax under the same rules that apply to U.S. citizens. However, a resident alien employed by an international organization, a foreign govern-
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 engaged in the business of writing books. Bill had several books published in a foreign country while he was a citizen and resident of that country. During 2005, 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 2005 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 Form 1040, line 58, and attach Schedule SE to Form 1040.

Deduction for one-half of self-employment tax. If you must pay self-employment tax, you can deduct one-half of the self-employment tax paid in figuring your adjusted gross income.


International Social Security Agreements

The United States has entered into social security 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. These agreements are commonly referred to as totalization agreements. 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. Agreements are in effect with the following countries.

- Argentina
- Austria
- Belgium
- Canada
- Chile
- Finland
- France
- Germany
- Greece
- Ireland
- Italy
- Japan (effective October 1, 2005)
- The Republic of Korea (South Korea)
- Luxembourg
- The Netherlands
- Norway
- Portugal
- Spain
- Sweden
- Switzerland
- The United Kingdom

Agreements with other countries are expected to enter into force in the future.

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. You can get more information on any agreement by contacting the U.S. Social Security Administration at the address given earlier. Attach a photocopy of every agreement you have to your tax return (if your 2005 return covered the entire year or after the effective date of the agreement). For more information, see Exempt, under self-employment tax on the line for the United States.

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.

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. Social Security Administration at the address given earlier. This certificate will establish your exemption from foreign social security taxes.

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. Social Security Administration at the address given earlier. Attach a photocopy of every agreement you have to your tax return (if your 2005 return covered the entire year or after the effective date of the agreement). For more information, see Exempt, under self-employment tax on the line for the United States.

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 2006 if you expect to owe at least $1,000 in tax and you expect your withholding and credits to be less than the smaller of:

1. 90% of the tax to be shown on your 2006 income tax return, or
2. 100% of the tax shown on your 2005 income tax return (if your 2005 return covered all 12 months of the year).

If your estimated tax for 2006 was more than $150,000 ($75,000 if your filing status for 2006 is married filing separately), substitute 110% for 100% in (2) above if you are not a farmer or fisherman. Item (2) also does not apply if you did not file a 2005 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 the “United States Treasury.”

How to estimate your tax for 2006. If you filed a 2005 return on Form 1040NR or Form 1040NR-EZ and expect your income, number of exemptions, and total deductions for 2006 to be nearly the same, you should use your 2005 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 2005, or if your income, exemptions, deductions, or credits will be different for 2006, you must estimate these amounts. Figure your estimated tax liability using the Tax Rate Schedule in the 2006 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 Form 1040-ES (Español).

When to pay estimated tax. Make your first estimated tax payment by the due date for filing the previous year’s Form 1040NR or Form 1040NR-EZ. If you have wages subject to the same withholding rules that apply to U.S. citizens, you must file Form 1040NR or Form 1040NR-EZ and make your first estimated tax payment by the due date for filing the previous year’s Form 1040NR or Form 1040NR-EZ.
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 country in which the treaty is to be regarded. However, some treaties require that the nonresident alien be a national or a citizen of the treaty country.

See Table 9-1 for a list of tax treaty countries.

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.

Useful Items

You may want to see:
- Publication 901 U.S. Tax Treaties
- Form (and Instructions) 1040NR U.S. Nonresident Alien Income Tax Return
- 1040NR-EZ U.S. Income Tax Return for Certain Nonresident Aliens With No Dependents
- 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%. Nonresident 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 nonresident 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 non-treaty income, but cannot be more than the tax liability figured as if the 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 $25,500 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. $2,984

Total gross income $25,500

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 other than his own personal exemption.

His tax liability, figured as though the tax treaty had not come into effect, is $3,194 determined as follows:

- Total compensation $24,100
- Less: Personal exemption 3,200

Taxable income $20,900

Tax determined by graduated rate (taxpayers) $2,774

Plus: Tax on gross dividends ($1,400 x 30%) 420

Tax determined as though treaty had not come into effect $3,194

Arthur’s tax liability, figured by taking into account the reduced rate on dividend income as provided by the tax treaty, is $2,984 determined as follows:

- Tax determined by graduated rate (same as figured above) $2,774
- Plus: Tax on gross dividends ($1,400 x 15%) 210
- Tax on compensation and dividends $2,984

His tax liability, therefore, is limited to $2,984, 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, see Publication 901. Or, you may download the complete text of most U.S. tax treaties at www.irs.gov. Technical explanations for many of those treaties are also available at that site.

Treaty benefits also cover income such as dividends, interest, rentals, royalties, pensions, and annuities. These types of income may be either from U.S. sources or subject to a reduced rate of tax. For more information, see Publication 901 or the applicable tax treaty.

Personal Services

Nonresident aliens from treaty countries who are in the United States for a short stay and also meet certain other requirements may be exempt from tax on their compensation received for personal services performed in the United States. Many tax treaties require that the nonresident alien claiming this exemption be present in the United States for a total of not more than 183 days during the tax year. Other tax treaties specify different periods of maximum presence in the United States, such as 180 days or 90 days. Spending part of a day in the United States counts as a day of presence.

Taxes may also require that:

- The compensation cannot be more than a specific amount (frequently $3,000), and
- The individual have a foreign employer; that is, an individual, corporation, or entity of a foreign country.

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 of their U.S. stay. However, for many of those treaties are also available at that site. 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 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 admitted to the United States for permanent residence do not qualify. Under most treaties, aliens who are not nationals 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 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 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.

U.S. Residency Under Tax Treaty “Tie-Breaker” Rule

In certain circumstances, individuals who are treated as residents of the United States under an income tax treaty (usually following the so-called “tie-breaker” rule) will be entitled to treaty benefits. (The “tie-breaker” rule is explained in chapter 1 under Effect of Tax Treaties.) If this applies to you, you generally will not need to file a Form 8833 for the income for which treaty benefits are claimed. This is because the income will typically be of a category for which disclosure on a Form 8833 is waived. See Exclusions, later, under Reporting Treaty Benefits Claimed.

In most cases, you also will not need to report the income on your Form 1040 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 (for example, line 7 in the case of wages or salaries). Enter the amount for which treaty benefits are claimed in parentheses on Form 1040, line 21. Next to the amount write “Exempt income,” the name of the treaty country, and the treaty article that provides the exemption. On Form 1040, subtract this amount from your income to arrive at total income on Form 1040, line 22.

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 showing a computation of the tax at the reduced rate, the name of the treaty country, and the treaty article that provides for the reduction. Enter the amount of the tax on Form 1040, line 63. On the dotted line next to line 63, write “Tax from attached statement” and the amount of the tax.

Example. Jacques Dubois, who is a resident of the United States under Article 4 of the U.S.–France income tax treaty, receives French social security benefits. Under Article 18(1)(b) of the treaty, French social security benefits are not taxable by the United States. Mr. Dubois is not required to file a Form 8833 for his French social security benefits or report the benefits on Form 1040.

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 for purposes of determining the taxable amount to be reported on Form 1040, line 20b or Form 1040-A, line 14b. 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 generally can no longer claim a tax treaty exemption for this income.

However, if you entered the United States as a nonresident alien, but 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 later) provides for it and you otherwise meet the requirements for the treaty exemption (including any time limit, explained later). This is true even if you are a nonresident alien electing to file a joint return as explained in chapter 1.
Some exceptions to the saving clause apply to all resident aliens (for example, under the U.S.-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).

If you qualify under an exception to the treaty’s saving clause, you can avoid income tax withholding by giving the payor a Form W-9 with the statement required by the Form W-9 instructions.

**Saving clause.** Most tax treaties have a saving clause. A saving clause preserves or “saves” the right of each country to tax its own residents as if no tax treaty were in effect. Thus, once you become a resident alien of the United States, you generally lose any tax treaty benefits that relate to your income. However, many tax treaties have an exception to the saving clause, which may allow you to continue to claim certain treaty benefits when you become a resident alien. Read the treaty to find out if it has a saving clause and an exception to it.

**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 research- ers, the limit is usually 2–3 years. Once you reach this limit, you can no longer claim the treaty exemption. See the treaty or Publication 901 for the time limits that apply.

**How to report income on your tax return.** In most cases, you also will not need to report the income on your Form 1040 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 (for example, line 7 in the case of wages, salaries, scholarships, or fellowships). Enter the amount for which treaty benefits are claimed in parentheses on Form 1040, line 21. Next to the amount write “Exempt income,” the name of the treaty country, and the treaty article that provides the exemption. On Form 1040, subtract this amount from your income to arrive at total income on Form 1040, line 22.

**Example.** Mr. Yu, a citizen of the People’s Republic of China, entered the United States as a nonresident alien student on January 1, 2001. He remained a nonresident alien through 2005 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, 2006, 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 payor.

**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.

You must file a U.S. tax return and Form 8833 if you claim the following treaty benefits.

- 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.
- A credit for a specific foreign tax for which foreign tax credit would not be allowed by the Internal Revenue Code.

You must also file Form 8833 if 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.

**Exceptions.** You do not have to file Form 8833 for any of the following situations.

- 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.
- You claim 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.
- You claim a reduction or modification of taxation of income under an International Social Security Agreement or a Diplomatic or Consular Agreement.
- 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.
- The payments or items of income that are otherwise required to be disclosed total no more than $10,000.

**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 section 301.6114-1(c) of the Income Tax Regulations.
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1 TIAS — Treaties and Other International Act Series.
2 The U.S.-Australia income tax treaty covers Ashmore and Cartier Islands, Christmas Island (Indian Ocean), the Cocos (Keeling) Islands, the Coral Sea Islands Territory and Norfolk Island.
3 Information on the treaty can be found in Publication 597, Information on the United States-Canada Income Tax Treaty.
4 The U.S.-U.S.S.R. income tax treaty applies to the countries of Armenia, Azerbaijan, Belarus, Georgia, Kyrgyzstan, Moldova, Tajikistan, Turkmenistan, and Uzbekistan.
5 The general effective date for the area that was the German Democratic Republic is January 1, 1991.
6 You can elect to have the old treaty apply in its entirety for a 12-month period from the date the new treaty would otherwise apply.
7 The U.S.-U.K. income tax treaty covers Northern Ireland.
Exemption Under U.S. Tax Law

Employees of foreign governments who do not qualify under a tax treaty provision and employees of international organizations may qualify for exemption by meeting the following requirements of U.S. tax law.

The exemption under U.S. tax law applies only to current employees and not to former employees. Pensions received by former employees living in this country do not qualify for exemption.

Employees of foreign governments. If you are not a U.S. citizen, or if you are a U.S. citizen but also a citizen of the Philippines, your salary from that organization is exempt from U.S. tax if you perform services similar to those performed by employees of the United States in your country. However, see Aliens who keep immigrant status. later, for a special rule that may affect your qualifying for this exemption.

Employees of international organizations. If you work for an international organization in the United States and you are not a U.S. citizen but also a citizen of the Philippines, your salary from that organization is exempt from U.S. tax. However, see Aliens who keep immigrant status. later, for a special rule that may affect your qualifying for this exemption.

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.

You should find out if you have been made known to, and have been accepted by, the Secretary of State as an officer or an employee of that organization, or if you have been designated by the Secretary of State, before formal notification and acceptance, as a prospective officer or employee.

If you are claiming exemption, you should know the number of the Executive Order covering the international organization and should have some written evidence of your acceptance or designation by the Secretary of State.

The exemption is denied when, because the Secretary of State determines your presence in the United States is no longer desirable, you leave the United States (or after a reasonable time allowed for leaving the United States). The exemption is also denied when a foreign country does not allow similar exemptions to U.S. citizens. The exemption is also denied when a foreign country grants an equivalent exemption.

Aliens who keep immigrant status. If you file the waiver provided by section 247(b) of the Immigration and Nationality Act to keep your immigrant status, you no longer qualify for the exemption from U.S. tax under U.S. tax law from the date of filing the waiver with the Attorney General.

However, you do not lose the exemption if you file the waiver and meet either of the following conditions.

- You are exempt from U.S. tax by an income tax treaty, consular agreement, or international agreement between the United States and your country.
- You work for an international organization and the international 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).

Exemption Under U.S. Tax Treaty

If you are from a country that has a tax treaty with the United States, you should first look at the treaty to see if there is a provision that exempts your income. The income of U.S. citizens resident aliens working for foreign governments usually is not exempt. However, in a few instances, the income of a U.S. citizen with dual citizenship may qualify. Often the exemption is limited to the income of persons who also are nationals of the foreign country involved.

Resident aliens from France. The United States and France have an agreement to relieve double taxation of U.S. permanent residents who receive wages and pensions for governmental services performed for the government of France. Generally, this income is taxable in the United States and France. However, the United States will allow a credit for taxes paid to France on this income.
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 from U.S. tax under U.S. tax laws (described in chapter 10), and
- Who receive no other income from U.S. sources.

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. Citizenship and Immigration Services (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 U.S. Citizenship and Immigration Services (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 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.

If you try to leave the United States without a sailing or departure permit, and cannot show that you qualify to leave without it, you may be subject to an income tax examination by an IRS employee at the point of departure. You must then complete the necessary income tax returns and statements and, ordinarily, pay any taxes due.

Getting a Sailing or Departure Permit

The following discussion covers when and where to get your sailing permit.

Where to get a sailing or departure permit. If you have been working in the United States, you should get the permit from an IRS office in the area of your employment, or you may obtain one from an IRS office in the area of your departure.

When to get a sailing or departure permit. You should get your sailing or departure permit at least 2 weeks before you plan to leave. You cannot apply earlier than 30 days before your planned departure date. Do not wait until the last minute in case there are unexpected problems.

Papers to submit. Getting your sailing or departure permit will go faster if you bring to the IRS office papers and documents 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.

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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, 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. taxpayer identification number, such as a social security card or an IRS issued CP 565 showing your individual taxpayer identification number (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 or an employer letter guaranteeing payment instead of paying the taxes for certain years. See Bond or Employer Letter To Ensure Payment, discussed later. The sailing or departure permit issued under the conditions in this paragraph is only for the specific departure for which it is issued.

If you submit an employer letter guaranteeing payment of tax with your Form 1040-C, you do not need to fill out the form in detail. Just fill out the identifying information on the form, check the “Yes” box on line A, sign it, and attach the letter. The IRS office where you submit the form will then issue your sailing or departure permit.

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 Service 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.

Payments 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 or an employer letter 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 1040NR or Form 1040NR-EZ at the end of the tax year.

Bond or Employer Letter 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 or an employer letter 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. Chapters 5 and 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

You can get help with unresolved tax issues, order free publications and forms, ask tax questions, and get information from the IRS in several ways. By selecting the method that is best for you, you will have quick and easy access to tax help.

Contacting your Taxpayer Advocate. If you have attempted to deal with an IRS problem unsuccessfully, you should contact your Taxpayer Advocate.

The Taxpayer Advocate independently represents your interests and concerns within the IRS by protecting your rights and resolving problems that have not been fixed through normal channels. While Taxpayer Advocates cannot change the tax law or make a technical tax decision, they can clear up problems that resulted from previous contacts and ensure that your case is given a complete and impartial review.

To contact your Taxpayer Advocate:
- Call the Taxpayer Advocate toll free at 1-877-777-4778.
- Call, write, or fax the Taxpayer Advocate office in your area.
- Call 1-800-829-4059 if you are a TTY/TDD user.

For more information, see Publication 1546, How To Get Help With Unresolved Tax Problems (now available in Chinese, Korean, Russian, and Vietnamese, in addition to English and Spanish).

Free tax services. To find out what services are available, get Publication 910, IRS Guide to Free Tax Services. It contains a list of free tax publications and an index of tax topics. It also describes other free tax information services, including tax education and assistance programs and a list of TeleTax topics.

Internet. You can access the IRS website 24 hours a day, 7 days a week, at www.irs.gov.
- E-file your return. Find out about commercial tax preparation and e-file services available free to eligible taxpayers.
- Check the status of your 2005 refund. Click on Where’s My Refund? Be sure to wait at least 6 weeks from the date you filed your return (3 weeks if you filed electronically). Have your 2005 tax return available because you will need to know your social security number, your filing status, and the exact whole dollar amount of your refund.
- Download forms, instructions, and publications.
- Order IRS products online.
- Research your tax questions online.
- Search publications online by topic or keyword.
- View Internal Revenue Bulletins (IRBs) published in the last few years.
- Figure your withholding allowances using our Form W-4 calculator.
- Sign up to receive local and national tax tips by email.
- Get information on starting and operating a small business.

Phone. Many services are available by phone.
- Ordering forms, instructions, and publications. Call 1-800-829-3676 to order current-year forms, instructions, and publications and prior-year forms and instructions. You should receive your order within 10 days.
- Asking tax questions. Call the IRS with your tax questions at 1-800-829-1040.
- Solving problems. You can get face-to-face help solving tax problems every business day in IRS Taxpayer Assistance Centers. An employee can explain IRS letters, request adjustments to your account, or help you set up a payment plan. Call your local Taxpayer Assistance Center for an appointment. To find the number, go to www.irs.gov/localcontacts or look in the phone book under Internal Revenue Service.
- TTY/TDD equipment. If you have access to TTY/TDD equipment, call 1-800-829-4059 to ask tax questions or to order forms and publications.
- TeleTax topics. Call 1-800-829-4477 and press 2 to listen to pre-recorded messages covering various tax topics.
- Refund information. If you would like to check the status of your 2005 refund, call 1-800-829-4477 and press 1 for automated refund information or call 1-800-829-1954. Be sure to wait at least 6 weeks from the date you filed your return (3 weeks if you filed electronically). Have your 2005 tax return available because you will need to know your social security number, your filing status, and the exact whole dollar amount of your refund.

Evaluating the quality of our telephone services. To ensure that IRS representatives give accurate, courteous, and professional answers, we use several methods to evaluate the quality of our telephone services. One method is for a second IRS representative to sometimes listen in on or record telephone calls. Another is to ask some callers to complete a short survey at the end of the call.

Walk-in. Many products and services are available on a walk-in basis.
- Products. You can walk in to many post offices, libraries, and IRS offices to pick up certain forms, instructions, and publications. Some IRS offices, libraries, grocery stores, copy centers, city and county government offices, credit unions, and office-supply stores have a selection of products available to print from a CD-ROM or photocopy from reproducible proofs. Also, some IRS offices and libraries have the Internal Revenue Code, regulations, Internal Revenue Bulletins, and Cumulative Bulletins available for research purposes.

Services. You can walk in to your local Taxpayer Assistance Center every business day for personal, face-to-face tax help. An employee can explain IRS letters, request adjustments to your tax account, or help you set up a payment plan. If you need to resolve a tax problem, you have questions about how the tax law applies to your individual tax return, or you’re more comfortable talking with someone in person, visit your local Taxpayer Assistance Center where you can spread out your records and talk with an IRS representative face-to-face. No appointment is necessary, but if you prefer, you can call your local center and leave a message requesting an appointment to resolve a tax account issue. A representative will call you back within 2 business days to schedule an in-person appointment at your convenience. To find the number, go to www.irs.gov/localcontacts or look in the phone book under United States Government, Internal Revenue Service.

Mail. You can send your order for forms, instructions, and publications to the address below and receive a response within 10 business days after your request is received.

National Distribution Center
P.O. Box 8903
Bloomington, IL 61702-8903

CD-ROM for tax products. You can order Publication 1796, IRS Tax Products CD-ROM, and obtain:
- A CD that is released twice so you have the latest products. The first release ships in late December and the final release ships in late February.
- Current-year forms, instructions, and publications.
- Prior-year forms, instructions, and publications.
- Tax Map: an electronic research tool and finding aid.
- Tax law frequently asked questions (FAQs).
- Tax Topics from the IRS telephone response system.
- Fill-in, print, and save features for most tax forms.
- Internal Revenue Bulletins.
- Toll-free and email technical support. Buy the CD-ROM from National Technical Information Service (NTIS) at www.ntis.gov/cdorders for $25 (no handling fee) or call 1-877-233-6767 toll free to buy the CD-ROM for $25 (plus a $5 handling fee).

Chapter 12 How To Get Tax Help
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CD-ROM for small businesses. Publication 3207, The Small Business Resource Guide CD-ROM for 2005, has a new look and enhanced navigation features. This year’s CD includes:

- Helpful information, such as how to prepare a business plan, find financing for your business, and much more.
- All the business tax forms, instructions, and publications needed to successfully manage a business.
- Tax law changes for 2005.
- IRS Tax Map to help you find forms, instructions, and publications by searching on a keyword or topic.
- Web links to various government agencies, business associations, and IRS organizations.

- “Rate the Product” survey—your opportunity to suggest changes for future editions.

An updated version of this CD is available each year in early April. You can get a free copy by calling 1-800-829-3676 or by visiting www.irs.gov/smallbiz.

Services Available Outside the United States

During the filing period (January to mid-June), you can get the necessary federal tax forms and publications from U.S. Embassies and consulates. Also during the filing season, the IRS conducts an overseas taxpayer assistance program. To find out if IRS personnel will be in your area, you should contact the consular office at the nearest U.S. Embassy.

Phone. You can also call your nearest U.S. Embassy, consulate, or IRS office listed below to find out when and where assistance will be available. These IRS telephone numbers include the country and city codes required if you are outside the local dialing area. The IRS office in Berlin, Germany, has closed.

- London, England (44) (20) 7408 – 8077
- Paris, France (33) (1) 4312 – 2555

Overseas taxpayers can also call the U.S. for help at (215) 516-2000.

- If you are in Guam, the Bahamas, U.S. Virgin Islands, or Puerto Rico, you can call 1-800-829-1040.

Mail. For answers to technical or accounting questions, you can write to:

Internal Revenue Service
International Section
P.O. Box 920
Bensalem, PA 19020-8518.

Personal computer. With your personal computer and modem, you can access the IRS on the Internet at www.irs.gov. For more information on the website, see Personal computer under Services Available Inside the United States, earlier.

Contacting your Taxpayer Advocate

If you have attempted to deal with an IRS problem unsuccessfully, you should contact your Taxpayer Advocate.

The Taxpayer Advocate represents your interest and concerns within the IRS by protecting your rights and resolving problems that have not been fixed through normal channels. While Taxpayer Advocates cannot change the tax law or make a technical tax decision, they can clear up problems that resulted from previous contacts and ensure that your case is given a complete and impartial review.

Mail. Persons living outside the United States may contact the Taxpayer Advocate at:

Internal Revenue Service
Taxpayer Advocate
P.O. Box 193479
San Juan, PR 00919-3479.

You can also contact one of the IRS offices located abroad, listed earlier.

Phone. You can call the Taxpayer Advocate at (787) 622-8940 in English or (787) 622-8930 in Spanish.

Fax. You can fax the Taxpayer Advocate at (787) 622-8933.
Questions and Answers

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.

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 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 in a U.S. company. What return do I file?

You must file Form 1040NR 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.

You can use Form 1040NR-EZ instead of Form 1040NR if you meet all 11 conditions listed under Form 1040NR-EZ in chapter 7.

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, Print “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 1040NR as the statement. Print “Dual-Status Statement” across the top. See First Year of Residence in chapter 1 for rules on determining your residency starting date. An example of a dual-status return is in chapter 6.

When is my Form 1040NR 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 2005 calendar year, your return is due April 17, 2006.

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 2005 calendar year, file your return by June 15, 2006. For more information on when 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 exemptions or dependents are also required to furnish an SSN or an 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, 1040A, or 1040EZ 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 Form 1040A. Your husband must file Form 1040NR or 1040NR-EZ.

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 taxpayer when you are both a resident alien and a nonresident alien in the same 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 payor of the dividends should withhold this tax at source. If tax is not withheld at the correct withholding percentage you must file Form 1040NR 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 when scholarship is from U.S. sources.

If your scholarship is from U.S. sources and 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 Fellowships 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. However, you can itemize any allowable deductions.

I am filing Form 1040NR. 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 not a U.S. citizen. What exemptions can I claim?

Resident aliens can claim personal exemptions and exemptions for dependents in the same way as U.S. citizens. However, nonresident aliens generally can claim only a personal exemption for themselves on their U.S. tax return. There are special rules for residents of Mexico, Canada, Japan, and the Republic of Korea (South Korea); for U.S. nationals; and for students and business apprentices from India. See Exemptions in chapter 5.

What exemptions can I claim as a dual-status taxpayer?

As a dual-status taxpayer, you usually will be able to claim your own personal exemption. Subject to the general rules for qualification, you can claim exemptions for your spouse and dependents when you figure taxable income for the part of the year you are a resident alien. The amount you can claim for these exemptions is limited to your taxable income (figured before subtracting exemptions) for the part of the year you are a resident alien. You cannot use exemptions (other than your own) to reduce taxable income to less than zero for that period.

I am single with a dependent child. I was a dual-status alien in 2005. Can I claim the earned income credit on my 2005 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 1040NR?

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 Internal Revenue Service on Form 843, Claim for Refund and Request for Abatement. 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 generally 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 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. Chapters 5 and 7 discuss filing an annual U.S. income tax return.
Appendix A

This appendix contains the statements of nonresident alien students who must file with Form 8233, Exemption From Withholding on Compensation for Independent (and Certain Dependent) Personal Services of a Nonresident Alien Individual, to claim a tax treaty exemption from withholding 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, Iceland, Japan, Korea, Norway, Poland, and Romania

Note. Residents of Japan should use the following statement only if they are continuing to apply Article 20 of the old treaty because they were entitled to benefits under that article as of March 30, 2004.

1. I was a resident of

2. I am temporarily present in

3. I will receive compensation for

4. I arrived in the United States

People's Republic of China

1. I was a resident of the People's Republic of China on

2. I am present in the United States solely for the purpose of

3. I will receive compensation for

4. I arrived in the United States on

Czech Republic, Estonia, Latvia, Lithuania, Portugal, Slovak Republic, and Spain

1. I was a resident of

2. I am temporarily present in

3. I will receive compensation for

4. I arrived in the United States on

Egypt

1. I was a resident of Egypt on

2. I am temporarily present in

3. I will receive compensation for

4. I arrived in the United States on

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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, 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].

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].

6. I will be present in the United States only for the purpose of study, research, or training.

7. 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 $2,000 for any tax year, provided such services are performed in connection with my studies or are necessary for my maintenance.

8. 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 five 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 accredited 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 the Philippines 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 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].

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].

6. 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.

7. 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].

8. 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].

9. 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].

10. 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].

11. 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].

12. 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].

13. 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].

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38. 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].

39. 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].

40. 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].

41. 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].

42. 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].

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56. 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].

57. 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].

58. 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].

59. 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].

60. 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].
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.

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**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.

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.

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**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 Slovenia and Venezuela in an amount not in excess of $5,000 for any tax year.

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 five tax years beginning with the taxable 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.

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**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 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 five tax years beginning with the taxable year that includes my arrival date.

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**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 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 Tunisia in an amount not in excess of $4,000 for any taxable 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 five tax years beginning with the tax year that includes my arrival date.
Appendix B

This appendix contains the state-
ments nonresident alien teachers
and researchers must file with Form 
8233, Exemption From With-
holding on Compensation for Inde-
pendent (and Certain Dependent)
Personal Services of a Nonresident 
Alien Individual, to claim a tax 
treaty exemption from withholding 
of tax on compensation for depen-
dent personal services. For treaty 
countries not listed, attach a state-
ment 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 law-
fully accorded the privilege of 
residing permanently in the 
United States as an immi-
grant.

2. I have accepted an invitation 
by the U.S. government, or by 
a university or other recogn-
ized educational institution 
in the United States, to come to 
the United States for the pur-
pose of teaching or engaging 
in research at [insert the name 
of the educational institution], 
which is a recog-
nized educational institution. I 
will receive compensation for 
my teaching or research activi-
ties.

3. The teaching or research 
compensation received during 
the entire tax year (or during 
the portion of the year from 
[ ] to [ ]) qualifies for exemption from 
withholding of federal tax under 
the treaty between the United States 
and Belgium. I have 
not previously claimed an in-
come 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 inter-
est 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 the exemption is 
claimed). The treaty exemp-
tion is available only for com-
ensation received during a 
period of two years beginning on 
that date.

People’s Republic of 
China

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. I have not been law-
fully accorded the privilege of 
residing permanently in the 
United States as an immi-
grant.

2. I am a visitor to the United States 
for the purpose of teaching, 
giving lectures, or conducting research. 
I will receive compensation for 
my teaching, lecturing, or re-
search activities.

3. The teaching, lecturing, or re-
search compensation received 
during the entire tax year 
(or during the period from 
[ ] to [ ]) qualifies for exemption from 
withholding of federal tax 
under the treaty between the 
People’s Republic of China and 
the United States. 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 inter-
est 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 the exemption is 
claimed). The treaty exemp-
tion is available only for com-
ensation received during a 
period of two years beginning on 
that date.

Commonwealth of 
Independent States

The treaty with former Union of So-
 viet 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 country). 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 a governmental agency or 
institution in the United States, 
or by an educational or 
scientific research institu-
tion, for the purpose of teaching, 
giving lectures, or attending 
scientific, technical, or professional conferences. 
I will receive compensation for 
my teaching, lecturing, or 
conference activities.

3. The teaching, research, or 
conference compensation re-
ceived during the entire tax 
year (or for the period from 
[ ] to [ ]) qualifies for exemp-
tion from withholding of fed-
eral tax under the treaty 
to the United States between 
the United States and 
the Commonwealth of 
Independent States.

4. Any research I perform will 
be undertaken in the public inter-
est 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 the exemption is 
claimed). The treaty exemp-
tion is available only for com-
ensation received during a 
period of two years beginning on 
that date.

Czech Republic 
and Slovak Republic

1. I was a resident of the 
[ ] (Insert the country). I 
am not a U.S. citizen. 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.

2. I am a visitor to the United States 
for the purpose of teaching, 
giving lectures, or conducting research. 
I will receive compensation for 
my teaching, lecturing, 
research, or conference activities.

3. The teaching, research, or 
conference compensation received 
during the entire tax year (or the period from 
[ ] to [ ]) qualifies for exemp-
tion from withholding of fed-
eral tax under the treaty 
to the United States between 
the United States and 
the Commonwealth of 
Independent States.

4. Any research I perform will 
be undertaken in the public inter-
est 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 the exemption is 
claimed). The treaty exemp-
tion is available only for com-
ensation received during a 
period of two 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 university or other recognized educational institution in the United States for a period not expected to exceed two 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 [insert the date of your last arrival in the United States]) 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 two 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 [insert the date of your last arrival in the United States]) 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 two 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 teaching compensation received during the entire tax year (or during the period from [insert the date of your last arrival in the United States]) qualifies for exemption from withholding of federal tax under the tax treaty between the United States and Germany.

Iceland and Norway

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 university or other recognized educational institution in the United States for a period not expected to exceed two years for the purpose of teaching or engaging in research at [insert the name of the educational or research institution], or a public research institution, or a public 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 [insert the date of your last arrival in the United States]) qualifies for exemption from withholding of federal tax under the tax treaty between the United States and Iceland.

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 three 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.

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 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 [insert the date of your last arrival in the United States]) 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 this treaty for income received as a teacher 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 services for which exemption is claimed. The treaty exemption is available only for compensation received during a period of two years beginning on that date.
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 \(\text{to}\) \(\text{to}\)) qualifies for exemption from withholding of federal tax under the tax treaty between the United States and India. 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 \(\text{insert the date of your last arrival in the United States before beginning the teaching or research services for which exemption is claimed}\). The treaty exemption is available only for compensation received during a period of two years beginning on that date.

India

1. I was a resident of India on the date of my last 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 an institution of higher education or a related governmental authority. I will receive compensation for my teaching or study activities.

3. The teaching or research compensation received during the entire tax year (or during the period from \(\text{to}\) \(\text{to}\)) qualifies for exemption from withholding of federal tax under the tax treaty between the United States and India. I have not previously claimed an income tax exemption under this 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 \(\text{insert the date of your last arrival in the United States before beginning the teaching or research services for which exemption is claimed}\). The treaty exemption is available only for compensation paid during a period of two 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.

The treaty exemption is available only for compensation paid during a period of two years beginning on that date.

Indonesia

1. I was a resident of Indonesia on the date of my last 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 \(\text{insert the name of the university, college, school, or other similar educational institution}\) to come to the United States for a period not expected to exceed two years for the purpose of teaching or engaging in research at \(\text{insert the name of the educational institution}\), 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 \(\text{to}\) \(\text{to}\)) 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 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 \(\text{insert the date of your last arrival in the United States before beginning the teaching or research services for which exemption is claimed}\). The treaty exemption is available only for compensation received during a period of two years beginning on that date.

Jamaica

1. I was a resident of Jamaica on the date of my last 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 two years. \(\text{insert the name of the educational institution at which you teach or conduct research}\), 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 \(\text{to}\) \(\text{to}\)) 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. Any research I perform will be undertaken in the general interest and not primarily for the private benefit of a specific person or persons.

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 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 private benefit of a specific person or persons.

5. I arrived in the United States on __________, which is the date of my 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 two years beginning on that date only if my visit does not exceed 2 years.

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 __________, which is 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 two 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 five years.

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 two years. I will receive compensation for my teaching or research 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 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 private benefit of a specific person or persons.

5. I arrived in the United States on __________, which is 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 paid during a period of two 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.

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 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 __________, which is 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 two years beginning on that date.

Slovenia and Venezuela

1. I was a resident of Slovenia and Venezuela 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 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 two 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 \( \text{to} \) 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 \( \text{[insert the date of your last arrival into the United States before beginning the teaching or research services for which exemption is claimed]} \). The treaty exemption is available only for compensation received during a period of two 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 \( \text{[insert the name of the educational institution]} \), 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 \( \text{to} \) ) 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 benefit of a specific person or persons.

5. I arrived in the United States on \( \text{[insert the date of your last arrival in the United States before beginning the teaching or research services for which exemption is claimed]} \). The treaty exemption is available only for compensation received during a period of not more than two years for the purpose of teaching or engaging in research at \( \text{[insert the name of the educational institution]} \), which is a recognized educational institution. I will receive compensation for my teaching or research activities.

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 two years for the purpose of teaching or engaging in research at \( \text{[insert the name of the educational institution]} \), 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 \( \text{to} \) ) 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.
Income from U.S. sources:
- Dividends: 12
- Interest: 11
- Pensions and annuities: 13
- Personal property: 13
- Personal services: 12
- Real property: 13
- Rents or royalties: 13
- Independent contractors:
  - Withholding exemption under tax treaty: 1
  - Withholding rules: 1

India, students and business apprentices from:
- Exemptions: 43
- Exemptions for spouse and children: 25
- Standard deduction: 26

Individual retirement arrangement (IRA):
- 24

Individual taxpayer identification number (ITIN):
- 23

Intangible property:
- 13

Interest income:
- 11

Interpretation:
- 13

Investment income:
- 17

Itemized deductions:
- 26

J
Japan:
- Exemptions: 25, 30
- Married filing separately: 24
- Qualifying widow filing status: 24
- Job expenses: 26

K
Korea (See Republic of Korea):

L
Last year of residency:
- 10

Long-term U.S. resident:
- Defined: 21
- Expiration tax: 21

Losses:
- Business: 18
- Capital Assets: 19
- Casualty and theft: 26
- Of nonresident aliens: 24
- Real property: 18

M
Married filing jointly:
- Nonresident alien: 23
- Resident alien: 23
- Medical condition: 6
- Medicare tax: 45

Mexico:
- Commuters: 6
- Exempt: 30
- Married filing separately: 24
- Personal exemption: 25
- Qualifying widow filing status: 24
- Residents of: 25
- Transportation-related employment: 42
- Withholding tax: 43

Miscellaneous:
- 26

Money instruments, transporting:
- 40

More information (See Tax help): 40

Moving expenses:
- A: 24
- Municipal bonds: 41

National of the United States:
- 24, 30, 41

Natural resources (See Real property):

Nonresident alien:
- Annuity income: 15
- Business expenses: 24
- Casualty and theft losses: 26
- Charitable contributions: 26
- Child care credit: 28
- Child tax credit: 28
- Credit for excess social security tax withheld: 28
- Credit for income tax withheld: 28
- Credit for prior year minimum tax: 28
- Defined: 4
- Earned income credit: 28
- Education credits: 28
- Effectively connected income, tax on: 19
- Filing Form 1040NR: 22
- Filing Form 1040NR-EZ: 22
- Foreign tax credit: 28
- Gambling winnings, dog or horse racing: 16
- Head of household: 24
- How income is taxed: 17
- Individual retirement arrangement (IRA): 24
- Interest income: 11
- Job expenses: 26
- Losses: 24
- Married filing jointly: 23
- Married filing separately: 24
- Miscellaneous deductions: 26
- Moving expenses: 24
- Personal exemptions: 25
- Qualifying widow(er): 24
- Standard deduction: 26
- State and local income taxes: 26
- Students: 46
- Tax paid on undistributed long-term capital gains: 28
- Tax withheld at source: 28
- Travel expenses: 27
- Withholding from partnership income: 28
- Withholding tax: 41

Nonresident spouse treated as a resident:
- 10

O
Original issue discount:
- 19

P
Partnership Income, tax withheld on:
- 44

Partnerships:
- 17

Payment against U.S. tax:
- Tax withheld at the source: 28
- Withholding from wages: 28

Penalties:
- 39, 40

Personal exemption:
- Accuracy-related:
- 39
- Failure to file: 39
- Failure to pay: 39
- Failure to supply taxpayer identification number: 40
- Fraud: 40
- Frivolous return: 40
- Natural resources: 39
- Substantial understatement of income tax: 40

Penalty for failure to pay estimated income tax:
- 48

Penalty on early withdrawal of savings:
- 25

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Tax Publications for Individual Taxpayers

See How To Get Tax Help for a variety of ways to get publications, including by computer, phone, and mail.

### General Guides
- 1 Your Rights as a Taxpayer
- 17 Your Federal Income Tax (For Individuals Who Use Schedule C or C-EZ)
- 334 Tax Guide for Small Business (For Individuals Who Use Schedule C or C-EZ)
- 509 Tax Calendars for 2006
- 553 Highlights of 2005 Tax Changes
- 910 IRS Guide to Free Tax Services

### Specialized Publications
- 3 Armed Forces' Tax Guide
- 54 Tax Guide for U.S. Citizens and Residents Abroad
- 225 Farmer's Tax Guide
- 463 Travel, Entertainment, Gift, and Car Expenses
- 501 Exemptions, Standard Deduction, and Filing Information
- 502 Medical and Dental Expenses (Including the Health Coverage Tax Credit)
- 503 Child and Dependent Care Expenses
- 504 Divorced or Separated Individuals
- 505 Tax Withholding and Estimated Tax
- 514 Foreign Tax Credit for Individuals
- 516 U.S. Government Civilian Employees Stationed Abroad
- 517 Social Security and Other Information for Members of the Clergy and Religious Workers
- 519 U.S. Tax Guide for Aliens
- 521 Moving Expenses
- 523 Selling Your Home
- 524 Credit for the Elderly or the Disabled
- 525 Taxable and Nontaxable Income
- 526 Charitable Contributions
- 527 Residential Rental Property
- 529 Miscellaneous Deductions
- 530 Tax Information for First-Time Homeowners
- 531 Reporting Tip Income
- 536 Net Operating Losses (NOLs) for Individuals, Estates, and Trusts
- 537 Installment Sales
- 541 Partnerships
- 544 Sales and Other Dispositions of Assets
- 547 Casualties, Disasters, and Thefts
- 550 Investment Income and Expenses
- 551 Basis of Assets
- 552 Recordkeeping for Individuals
- 554 Oiler Americans' Tax Guide
- 555 Community Property
- 556 Examination of Returns, Appeal Rights, and Claims for Refund
- 559 Survivors, Executors, and Administrators
- 561 Determining the Value of Donated Property
- 564 Mutual Fund Distributions
- 570 Tax Guide for Individuals With Income From U.S. Possessions
- 571 Tax-Sheltered Annuity Plans (403(b) Plans)
- 575 Pension and Annuity Income
- 584 Casualty, Disaster, and Theft Loss Workbook (Personal-Use Property)
- 587 Business Use of Your Home (Including Use by Daycare Providers)
- 590 Individual Retirement Arrangements (IRAs)
- 593 Tax Highlights for U.S. Citizens and Residents Going Abroad
- 594 What You Should Know About the IRS Collection Process
- 596 Earned Income Credit (EIC)
- 721 Tax Guide to U.S. Civil Service Retirement Benefits
- 901 U.S. Tax Treaties
- 907 Tax Highlights for Persons with Disabilities
- 908 Bankruptcy Tax Guide
- 915 Social Security and Equivalent Railroad Retirement Benefits
- 919 How Do I Adjust My Tax Withholding?
- 925 Passive Activity and At-Risk Rules
- 926 Household Employer's Tax Guide
- 929 Tax Rules for Children and Dependents
- 936 Home Mortgage Interest Deduction
- 946 How To Depreciate Property
- 947 Practice Before the IRS and Power of Attorney
- 950 Introduction to Estate and Gift Taxes
- 967 The IRS Will Figure Your Tax
- 969 Health Savings Accounts and Other Tax-Favored Health Plans
- 970 Tax Benefits for Education
- 971 Innocent Spouse Relief
- 972 Child Tax Credit
- 1542 Per Diem Rates
- 1544 Reporting Cash Payments of Over $10,000 (Received in a Trade or Business)
- 1546 The Taxpayer Advocate Service—How to Get Help With Unresolved Problems

### Spanish Language Publications
- 1SP Derechos del Contribuyente
- 590SP Como Preparar la Declaración de Impuesto Federal
- 594SP Que es lo que Debemos Saber sobre el Proceso de Cobro del IRS
- 596SP Crédito por Ingreso del Trabajo
- 850 English-Spanish Glossary of Words and Phrases Used in Publications Issued by the Internal Revenue Service
- 1544SP Informe de Pagos en Efectivo en Exceso de $10,000 (Residuos en una Ocupación o Negocio)

### Commonly Used Tax Forms
See How To Get Tax Help for a variety of ways to get forms, including by computer, phone, and mail.

#### Form Number and Title
- **1040** U.S. Individual Income Tax Return
  - Sch A&B Itemized Deductions & Interest and Other Ordinary Dividends
  - Sch C Profit or Loss From Business
  - Sch C-EZ Net Profit From Business
  - Sch D Capital Gains and Losses
  - Sch D-1 Continuation Sheet for Schedule D
  - Sch E Supplemental Income and Loss
  - Sch EIC Earned Income Credit
  - Sch F Profit or Loss From Farming
  - Sch H Household Employment Taxes
  - Sch J Income Averaging for Farmers and Fishermen
  - Sch R Credit for the Elderly or the Disabled
  - Sch SE Self-Employment Tax
- **1040A** U.S. Individual Income Tax Return
  - Sch 1 Interest and Ordinary Dividends for Form 1040A Filers
  - Sch 2 Child and Dependent Care Expenses for Form 1040A Filers
  - Sch 3 Credit for the Elderly or the Disabled for Form 1040A Filers
- **1040EZ** Income Tax Return for Single and Joint Filers With No Dependents
- **1040-ES** Estimated Tax for Individuals
- **1040X** Amended U.S. Individual Income Tax Return
- **2106** Employee Business Expenses
- **2106-EZ** Unreimbursed Employee Business Expenses
- **2210** Underpayment of Estimated Tax by Individuals, Estates, and Trusts
- **2441** Child and Dependent Care Expenses
- **2848** Power of Attorney and Declaration of Representative
- **2872** Per Diem Rates
- **2903** Moving Expenses
- **4562** Depreciation and Amortization
- **4868** Application for Automatic Extension of Time To File U.S. Individual Income Tax Return
- **4952** Investment Interest Expense Deduction
- **5329** Additional Taxes on Qualified Plans (Including IRAs and Other Tax-Favored Accounts
- **6231** Alternative Minimum Tax—Individuals
- **8283** Charitable Contributions
- **8582** Passive Activity Loss Limitations
- **8606** Nondeductible IRA
- **8812** Additional Child Tax Credit
- **8822** Change of Address
- **8829** Expenses for Business Use of Your Home
- **8863** Education Credits
- **9465** Installment Agreement Request

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