



Wage & Investment

MEDIA & PUBLICATIONS

Foreign Student and Scholar Volunteer Tax Return Preparation



e-learning Options





Fact-Gathering Process

Effective Interviewing

Steps to Effective Interviews

Interview Tips

Form 13614NR (Nonresident Alien Intake and Interview Sheet).



Standards of Conduct

- Volunteers have a responsibility to provide quality service and to uphold ethical standards
- The Standards of Conduct training and certification must be completed by ALL volunteers
- A signed copy of Form 13615 will be required from all volunteers



Privacy and Confidentiality Guide

- Privacy Act of 1974
- Civil Rights Act of 1964
- IRC 7216 Disclosure or use of Taxpayer Information



Volunteer Testing and Certification

Assist only with:

- Returns,
- Supporting schedules, and
- Forms

...for which you are trained and certified



Residency Status for Federal Tax Purposes



Determination of Residency Status

- **Do not confuse tax residency with:**
 - immigration residency
 - residency requirements for earning a degree, etc.



Resident or Nonresident

- Substantial Presence Test
- Green Card Test
- Residency through Marriage



Substantial Presence Test

- 31 days during the current tax year

AND

- At least 183 days during the three year period ending with the current tax year.

The 183 days are calculated as follows:

- All days of (nonexempt) presence in the current tax year, plus
- One-third of the (nonexempt) days of presence in the first preceding year, plus
- One-sixth of the (nonexempt) days of presence in the second preceding year.



Exempt Individuals

- F, J, M, & Q student status holders
- J & Q teacher or trainee status holders
- **Not** exempt from taxation on U.S. income



Exempt Student (F & J)

- 5 years
- Dependents are generally included
- All must file Form 8843



Closer Connection Election for Students

If the student meets these four requirements:

- 1) does not intend to reside permanently in the United States;
- 2) has substantially complied with the immigration laws and requirements relating to his student nonimmigrant status;
- 3) has not taken any steps to change his nonimmigrant status in the United States toward becoming a permanent resident of the United States; **and**
- 4) has a closer connection to a foreign country than to the United States as evidenced by the factors listed in Treasury Regulation 301.7701(b)-2(d)(1).

The student may elect to continue to be treated as a Nonresident Alien (NRA).

Closer Connection Election for Students

(cont.)

To claim this election, the student must also:

- File Form 8840 with a statement indicating that they are making the election and meet the four conditions.
- Send Form 8840 and the statement with Form 1040NR or 1040NR-EZ filed at the Austin IRS Campus.

This election is **Out-of-Scope**.





Exempt Teacher/Trainee

- Any two years out of a six-year period
- Dependents are generally included
- All must file Form 8843



Establishing a Closer Connection

- Present in the U.S. less than 183 days in the current year
- Have a tax home in a foreign country
- File Form 8840
- Can be used by ALL NRA' s



Green Card Test

- Date of adjustment to status--not the date “green” card issued
- No option--if you are a Permanent Resident, you are a resident for tax purposes



Residency Starting Date

- Passes Substantial Presence Test(SPT)
- Granted permanent residence status or green card test
- When **both** apply, use the earlier of the two dates



Residency through Marriage

Nonresident spouse can be treated as a resident if married to a resident alien or US citizen

- Required to file jointly
- Must report world-wide income

This election is **Out-of-Scope**.



Filing Requirements & What to File



Who Must File?

In the United States,
it is the individual's responsibility
to know what tax forms must be filed with the government.



Resident Aliens

- File using U.S. citizen rules
- IRS Publication 17
- Extensive number of resources, public and private



Dual Status Aliens

- Taxpayer has two residency statuses during the same tax year
- Must file two returns
- Allocate income
- Too complex for this training
- Publication 519

This is **Out-of-Scope**.



How Nonresident is Different

- Most Credits may **not** be available (i.e. EITC, American Opportunity Credit, etc.)
- Generally, pay tax only on US-source income
- Interest may be tax free
- Married Nonresidents cannot file jointly



How Nonresident is Different (cont.)

- One personal exemption
- Standard deduction not allowed (except students from India)



Nonresident Itemized Deductions

Itemized deductions limited to:

- State and local taxes withheld
- Contributions to charity
- Miscellaneous business deductions



Nonresident Alien (NRA) Filing Requirements

Who?

- All F, J, M, and Q status holders must file:
 - Form 8843 to substantiate non-residence, and
 - possibly a tax return



Nonresident Alien (NRA) Filing Requirements (cont.)

Generally, nonresident aliens are not required to file a return if they earn wages (effectively connected with a U.S. trade or business) that are equal to or less than the filing requirement for the tax year.



Nonresident Alien (NRA) Filing Requirements (cont.)

What to File

- **Form 8843**, *Statement for Exempt Individuals and Individuals with a Medical Condition* (**mandatory** for all nonresidents), **and possibly**
- **Form 1040NR**, *U.S. Nonresident Alien Income Tax Return* **or 1040NR-EZ**, *U.S. Income Tax Return for Certain Nonresident Aliens with No Dependents*



Nonresident Alien (NRA) Filing Requirements (cont.)

When to File

- Tax returns by April 15th of the year following the close of the tax year.
(Form 1040NR or Form 1040NR-EZ)
- Form 8843 only by June 15th of the year following the close of the tax year.



Nonresident Alien (NRA) Filing Requirements (cont.)

Where to File

If you are not enclosing a payment:

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

If you are enclosing a payment:

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



1040NR-EZ Use?

- No dependents
- Cannot be claimed as a dependent
- Under 65



1040NR-EZ Use?

(cont.)

Types of income limited to:

- Wages, salaries, tips
- Taxable refunds of state/local income taxes, and
- Scholarships or fellowships



Additional Limitations of Form 1040NR-EZ

- Taxable income less than \$100,000
- Cannot claim any adjustment to income (*except scholarship and fellowship grants and student loan interest*)
- Cannot claim tax credits



Additional Limitations of From 1040NR-EZ (cont.)

- No exemption claimed for spouse
- If itemizing, can only claim state income tax deductions
- The only taxes owed are income taxes



Consequences of Failure to File

- If no taxes are **owed** there is no late filing penalty from the IRS
- However, nonimmigrant alien status requires that the individual not violate **any** U.S. laws, including tax laws



The Effect of Tax Treaties



Treaty Overview

- IRS Publication 901, *U.S. Tax Treaties*
- www.irs.gov
 - Search for “tax treaties”



Points to Consider

- Purpose of visit to the U.S.
- Current and past VISA status
- Tax residency immediately prior to coming to U.S.
- Type of Income



Form 1042-S

Common Income Codes

- Scholarship or Fellowship grants *Code 16*
- Compensation for teaching and research *Code 19*
- Compensation during studying and training *Code 20*



Unique Treaty Provisions

- India Students
- Canada
- China



Family Issues



Family Issues

- Deduction for dependents generally **not** allowed
- Exceptions for nonresidents from Canada, India, Korea and Mexico



Filing Status & Martial Status

- Unmarried
- Married
- Exceptions for nonresidents from Canada, Mexico, India and Republic of Korea(S. Korea).



Filing Status & Dependents

- Most nonresidents cannot claim their dependents—even if the dependent is a U.S. citizen or resident.



Spouse and Dependent

- Each file their own Form 8843
- All U.S. source income must be reported



Taxation of Nonresidents



Taxation of Nonresidents

- Source of Income
- Type of Income



Interest Income

- Is usually excluded from income



Qualified Scholarships/Fellowships

- Candidate for a Degree
- Qualified Expenses
 - tuition and mandatory fees
 - required fees, books, supplies & equipment



Other Income

- Income Not Effectively Connected
 - 30% (or reduced treaty rate, if applicable)



Form 8843 Filing Requirement



Form 8843

- Name & TIN—must match the identification documents of the taxpayer
- U.S. address only if not filing with 1040NR or 1040NR-EZ



Form 8843 (cont.)

- Part II, Scholars
- Part III, Students
- Signature--only if not filed with 1040NR or 1040NR-EZ



Finishing the Return



Finishing the Return

FIRST, Cover with the taxpayer,

- Direct Deposit
- Split refund
- Method of Payment (if balance due)
- QUALITY REVIEW the return

- **THEN**,
- Taxpayer signs the form(s)



Finishing the Return (cont.)

- Attach W-2s and 1042-S's
- Have the taxpayer keep copies
- Mail 8843 and return together



Social Security Tax Matters



Social Security Tax

- Exemption from FICA (Social Security and Medicare taxes)
- If resident for tax purposes, usually subject to FICA taxes



Social Security Tax (cont.)

- Dependents in F-2 or J-2 status are **never** exempt from FICA



FICA Refunds

When withheld in error:

- FIRST, ask the employer to refund
- If not refunded by the employer, use IRS Form 843 to request a refund



State Income Tax Issues



State Income Tax Issues

- Some states do not honor income tax treaties
- Some states base their state returns on the federal adjusted gross income



Questions?

- Refer to the publications and forms that have been mentioned in this presentation.
- www.irs.gov



Thank You

For agreeing to help others with their tax returns.



Department of the Treasury
Internal Revenue Service
www.irs.gov