



Taxpayer Services

**STAKEHOLDER PARTNERSHIPS,
EDUCATION & COMMUNICATION**

Foreign Student and Scholar Volunteer Tax Return Preparation



e-learning Options





Fact-Gathering Process

Effective Interviewing

- Steps to Effective Interviews
- Interview Tips
- Form 13614-NR, Nonresident Alien Intake and Interview Sheet
- Form 14446, Virtual VTA/TCE Taxpayer Consent (as necessary according to virtual plan)



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
- IRC 7216 Disclosure or use of Taxpayer Information
- Taxpayers can report site/volunteer misconduct through VolTax



Volunteer Testing and Certification

Assist only with:

- Returns,
- Forms, and
- Supporting schedules

...for which you are trained and certified

RESIDENCY STATUS FOR FEDERAL TAX PURPOSES



Determination of Residency Status

Do not confuse residency for federal tax purposes with:

- immigration residency
- residency requirements for earning a degree, etc.
- residency requirements for state taxes



Resident or Nonresident

- Substantial Presence Test (SPT)
- 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.

* 183 days or more being 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

- Student on F, J or M Visa
- Teacher on J or Q Visa
- Trainee on J Visa
- **Not** exempt from taxation on U.S. income



Exempt Student (F, J or M Visa)

- Arrived in the U.S. for primary purpose of studying
- 5 years
- Dependents are generally included
- All must file Form 8843



Closer Connection Election for Students (OUT-OF-SCOPE)

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 1040-NR at the Austin IRS Campus.

This election is **OUT-OF-SCOPE**.



Establishing a Closer Connection

(OUT-OF-SCOPE)

- 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 nonresident aliens



Exempt Teacher/Trainee

Teachers and trainees can be exempt from counting their days of presence for two out of six years. In their “look-back” calculation for the six years, they must consider any time spent in an exempt status as a student.

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



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 alien 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** for the Foreign Student and Scholar certification.

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
- Two married Nonresidents cannot file jointly



How Nonresident is Different (cont.)

- Standard deduction not allowed
(except as allowed by treaty for students from India)



Nonresident Itemized Deductions

Itemized deductions limited to:

- State and local taxes withheld (\$10,000 limit)
- Contributions to U.S. charities



Nonresident Alien (NRA) Filing Requirements

Who?

- All exempt 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.)

What to File

- **Form 8843**, *Statement for Exempt Individuals and Individuals with a Medical Condition* (**mandatory** for all nonresidents), **and possibly**
- **Form 1040-NR**, *U.S. Nonresident Alien Income Tax Return*



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 1040-NR)
- 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
USA

If you are enclosing a payment:

Internal Revenue Service
P.O. Box 1303
Charlotte, N.C. 28201-1303
USA



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
- People's Republic of China

FAMILY ISSUES



Family Issues

- Generally Nonresident Aliens do not have qualifying dependents
- Exceptions for nonresidents from Canada, India, Republic of Korea (S. Korea) and Mexico



Filing Status & Marital Status

- Single
- Married Filing Separately
- Exceptions for nonresidents from Canada, Mexico, India and Republic of Korea (S. Korea)
- Qualifying Surviving Spouse



Filing Status & Dependents

- Even though the nonresident alien may have family members in the U.S., they generally will not qualify as dependents for tax credits.



Spouse, Children, and Other Accompanying Family Members

- 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 1040-NR



Form 8843 (cont.)

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

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
- Advise the taxpayer to keep copies
- Mail 8843 and tax 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.)

- Individuals in F-2 or J-2 immigration status are **never** exempt from FICA (Social Security and Medicare Taxes)



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

- Although many states base their state returns on the federal adjusted gross income, some states DO NOT honor federal income tax treaty provisions.
- Contact your state's tax department for guidance



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