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Tax Information for Visitors to the United States



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Introduction

This publication is for visitors to the United States. If you have income from sources within the United States, you may have to file a U.S. income tax return even if you are only visiting this country. For purposes of this publication, a "visitor to the United States" is a "nonresident alien." This publication summarizes the requirements of U.S. income tax law relating to nonresident aliens and is for nonresident aliens only.

You are a nonresident alien unless you are either a U.S. citizen or a resident of the United States. To be a resident of the United States, you must meet either the **substantial presence** test or the **green card** (Alien Registration Receipt Card) test.

Substantial presence test. You meet the substantial presence test if you are 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) 1/3 of the days you were present in the first year before the current year, and
 - c) 1/6 of the days you were present in the second year before the current year.

For more information about the substantial presence test, see Publication 519.

Green card test. You generally are a resident of the United States if you have been issued an alien registration card, also known as a "green card." You continue to be a resident under this test unless the status is taken away from you or is determined to have been abandoned. For more information about the green card test, see Publication 519.

Dual-status alien. You can be both a nonresident alien and a resident of the United States 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 of Publication 519 for information on filing a return for a dual-status tax year.



Under U.S. immigration law most visitors who come to the United States are not allowed to work here. You must check with the Immigration and Naturalization Service or its successor before getting a job.

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

You can e-mail us while visiting our web site at www.irs.gov.

You can write to us at the following address:

Internal Revenue Service
Tax Forms and Publications
W:CAR:MP:FP
1111 Constitution Ave. NW
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.

Useful Items

You may want to see:

Publication

- 519** U.S. Tax Guide for Aliens

Form

- W-4** Employee's Withholding Allowance Certificate
- W-7** Application for IRS Individual Taxpayer Identification Number
- 1040-C** U.S. Departing Alien 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
- 1040-ES (NR)** U.S. Estimated Tax for Nonresident Alien Individuals
- 2063** U.S. Departing Alien Income Tax Statement
- 4868** Application for Automatic Extension of Time To File U.S. Individual Income Tax Return

Who Must File an Income Tax Return

If you are a nonresident alien visiting the United States only for pleasure, receive no income from U.S. sources, and are not **engaged or considered to be engaged in a trade or business** in the United States, you do not have to file a U.S. income tax return.

Table 1 can help you determine whether you have U.S. source income.

Whether you are engaged in a trade or business in the United States depends on the nature of your activities. If you are in doubt whether or not you are engaged in a trade or business, see *Trade or Business in the United States* in Publication 519.

If, in 2002, you work in the United States, you must file a U.S. income tax return even if:

- 1) Your income did not come from a trade or business conducted in the United States,
- 2) You have no income from U.S. sources, or
- 3) Your income is exempt from U.S. income tax.

Considered to be engaged in a trade or business. If you perform personal services (work) 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. For an exception to this rule, see *Employees of foreign persons, organizations, or offices*, next.

Employees of foreign persons, organizations, or offices. If you are paid for working in the United States, that income (pay) is not considered to be from U.S. sources if all three of the following conditions are met.

- 1) The pay is for work you do as an employee of or under contract with:
 - a) Any nonresident alien, foreign partnership, or foreign corporation that is not engaged in a trade or business in the United States, or
 - b) Any U.S. citizen, resident, partnership, or corporation if you work for an office or place of business maintained by your employer in a foreign country or a possession of the United States.
- 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 such services is not more than \$3,000.

If all three conditions are not met, your pay for work done in the United States is generally U.S. source income.

Crew members. Compensation for services you perform in connection with your 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.

Others who must file. Even if you are not engaged in a trade or business in the United States, you must file a return if you have U.S. income and not enough income tax was withheld to pay the tax that is due.

You must file a return if you are claiming a refund of overwithheld or overpaid tax. Also, you must file a return if you want to claim the benefit of any deductions or credits. For example, if you do not have a job or trade or business in the United States, but you do have rental or royalty income from an interest in U.S. real property, you may choose to treat that activity as a U.S. trade or business. To claim a deduction for any allowable expenses related to that business, you must timely file a true and accurate return.

With certain exceptions, you must file a return when you take the position that a U.S. tax treaty overrules or modifies a U.S. tax law. You must provide special information with the return, including a statement of facts supporting your position. For details, see *Reporting Treaty Benefits Claimed* in chapter 9 of Publication 519.

Identification number. You must furnish a taxpayer identification number on returns, statements, and other tax-related documents. You can get a taxpayer identification number by filing Form W-7, *Application for IRS Individual Taxpayer Identification Number*, with the IRS.

Table 1. Summary Rules for Income of Nonresident Aliens

Item of Income	Factor Determining Source
Salaries, wages, other compensation	Where services performed
Business income:	
Personal services	Where services performed
Sale of inventory—purchased	Where sold
Sale of inventory—produced	Allocation
Interest	Residence of payer
Dividends	Whether a U.S. or foreign corporation*
Rents	Location of property

Royalties: Natural resources Patents, copyrights, etc.	Location of property Where property is used
Sale of real property	Location of property
Sale of personal property	Seller's tax home (but see <i>Personal Property</i> , in Publication 519, for exceptions)
Pensions	Where services were performed that earned the pension
Sale of natural resources	Allocation based on fair market value of product at export terminal. For more information, see section 1.863-1(b) of the regulations
*Exceptions include: a) Dividends paid by a U.S. corporation are foreign source if the corporation elects the Puerto Rico economic activity credit or possessions 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.	

What Income Is Taxed

A nonresident alien usually is subject to U.S. income tax only on U.S. source income. Under limited circumstances, certain foreign source income is subject to U.S. tax. See *Foreign Income* in chapter 4 of Publication 519.

Taxable income from U.S. sources includes, but is not limited to, the following.

- 1) Wages, salaries, commissions, fees, tips, etc., for services performed in the United States. For exceptions, see *Employees of foreign persons, organizations, or offices*, and *Crew members*, earlier.
- 2) Interest, with the following exceptions.
 - a) Interest paid by certain resident aliens or domestic corporations if at least 80% of the payer's gross income for the 3 preceding years was from sources outside the United States.

- b) Interest on certain amounts paid by a foreign branch of a domestic corporation or a domestic partnership.
 - c) 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.
- 3) Dividends, with the following exceptions.
- a) Dividends received from a domestic corporation if the corporation elects to take the Puerto Rico economic activity credit or the possession tax credit.
 - b) Part of the dividends received from certain foreign corporations.
- 4) Rents and royalties from property located in the United States or from any interest in such property.
- 5) Gains, profits, and income from the sale or exchange of inventory in the United States you purchased outside the United States and its possessions.
- 6) Gains, profits, and income from the sale or other disposition of a U.S. real property interest.

A U.S. real property interest is any interest in real property (including natural deposits) located in the United States or the Virgin Islands or any interest (other than as a creditor) in certain domestic corporations holding U.S. real property interests.

For more information, see Publication 519.

What Tax Forms You May Need

If you are a nonresident alien and you must file an income tax return, use Form 1040NR, *U.S. Nonresident Alien Income Tax Return*, unless you qualify to use Form 1040NR-EZ, *U.S. Income Tax Return for Certain Nonresident Aliens With No Dependents*.

If you have income from which no (or not enough) U.S. tax is withheld, you also may need to file Form 1040-ES(NR), *U.S. Estimated Tax for Nonresident Alien Individuals*.

Before leaving the United States, you may have to file Form 1040-C, *U.S. Departing Alien Income Tax Return* or Form 2063, *U.S. Departing Alien Income Tax Statement*.

These forms are briefly discussed later. Be sure to get Publication 519, which is a complete tax guide for aliens.

Income Tax Withholding

If you are an employee, your employer will usually take income tax out of your wages and pay it to the U.S. Treasury in your name. This is called withholding. The rate of withholding depends on the amount of your income and the information you give your employer on Form W-4, *Employee's Withholding Allowance Certificate*. The amount withheld is credited against the tax you owe when you file your U.S. tax return.

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 filing a Form W-4 with your employer. The agreement goes into effect when your employer accepts the agreement by beginning the withholding. You or your employer may end the agreement by letting the other know in writing.

30% flat rate. If you do not work as an employee, any pay you receive for your services is subject to withholding at a 30% flat rate. Income tax must be withheld at a flat rate of 30% on the following types of income from U.S. sources unless they are connected with the conduct of a U.S. trade or business, or the rate has been lowered by tax law or income tax treaty.

- Interest (other than interest on bank deposits, savings and loan, credit union, or similar accounts, amounts held by insurance companies under agreements to pay interest, or certain portfolio debt obligations).
- Dividends.
- Rents.
- 85% of social security benefits paid to nonresident aliens.
- Annuities (payments from pensions, trusts, etc.).
- Royalties.

When and Where To File

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 2002 calendar year, your return is due April 15, 2003. (If you have not previously established a tax year other than the calendar year, you **must** use the calendar year as your tax year.)

If you did not receive 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 2002 calendar year, file your return by June 16, 2003 because June 15, 2003 is a Sunday.



Form 1040NR-EZ or Form 1040NR must be sent to the following address.

Internal Revenue Service Center
Philadelphia, PA 19255

If you cannot file your return by the due date, file Form 4868, *Application for Automatic Extension of Time To File U.S. Individual Income Tax Return*, or use one of the electronic filing options explained in the Form 4868 instructions. This will extend the due date to August 15. 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 information on what is considered timely for this purpose, see chapter 7 in Publication 519.

Penalties. The law imposes penalties for filing your tax return late or for late payment of any tax due. However, a penalty is not charged if you can show that there was reasonable cause for your filing or paying late.

Estimated Tax Payments

You may have income from which no U.S. income tax is withheld. Or, the amount of tax withheld may not equal the income tax you estimate you will owe at the end of the year. If this is true, and if you have income effectively connected with a trade or business in the United States, you may have to pay estimated tax and file Form 1040-ES(NR). A penalty may be charged if you underpay your estimated tax by a certain amount.

Income effectively connected with a trade or business includes pay received as an employee that is subject to withholding. It does not, however, include pay subject to withholding at a flat 30% rate or lower treaty rate.

Generally, there will be no penalty for the underpayment of estimated tax if the total income tax to be withheld from your 2003 income is at least:

- 1) 90% of the tax to be shown on your 2003 U.S. income tax return, or
- 2) 100% of the tax shown on your 2002 income tax return (if your 2002 return covered all 12 months of the year).

Also, you will not have to pay a penalty if the tax due (after subtracting withheld tax) for 2003 is less than \$1,000.



If your adjusted gross income for 2002 (Form 1040NR, line 34) was more than \$150,000 (\$75,000 if your filing status for 2003 is married filing separately), see Publication 505, Tax Withholding and Estimated Tax.

When to pay estimated tax. Generally, you must make your first payment of estimated tax by the due date for filing the previous year's Form 1040NR or Form 1040NR-EZ.

Additional information. For more information refer to the instructions for Form 1040-ES(NR) and see *Estimated Tax Form 1040-ES(NR)* in chapter 8 of Publication 519.

Residents of Puerto Rico. If you expect to be a resident of Puerto Rico during the entire year, use Form 1040-ES.

Departing Aliens and the Sailing or Departure Permit

Before leaving the United States, you must come to an IRS office to file Form 1040-C or Form 2063. You must file these forms to get a certificate of compliance or clearance (known as a sailing permit or departure permit) from the Internal Revenue Service. However, see *Aliens Not Required To Obtain Sailing or Departure Permits*, later.



A certificate of compliance certifies that you have satisfied the U.S. income tax laws. **This is not your final tax return.**

If you are required to file a U.S. income tax return for the year, file Form 1040NR or Form 1040NR-EZ after the end of the year. You have to file this form whether or not you owe more tax or are entitled to a refund of tax paid. Treat the tax you paid with Form 1040-C as a credit against the tax on your income tax return.

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.

Category 2. Employees of international organizations and foreign governments (other than diplomatic representatives covered under category (1)) and members of their households:

- 1) Whose compensation for official services is exempt from U.S. tax under U.S. tax laws, and
- 2) 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 though you filed the waiver and your income is exempt from U.S. tax because of an income tax treaty, consular agreement, or an international agreement.

Category 3. Alien students, industrial trainees, or exchange visitors, including their spouses and children, who come to the United States on "F-1," "F-2," "H-3," "H-4," "J-1," "J-2," or "Q" visas only and who receive no income from U.S. sources while in the United States under those visas other than:

- 1) Allowances to cover expenses incident to study or training in the United States, such as expenses for travel, maintenance, and tuition,
- 2) The value of any services or food and lodging connected with this study or training,
- 3) Income from employment authorized by the Immigration and Naturalization Service (INS) or its successor, or
- 4) Interest income on deposits that is not effectively connected with a U.S. trade or business.

Category 4. Alien students, including their spouses and children, who come to the United States on an "M-1" or "M-2" visa only and who receive no income from U.S. sources while in the United States on those visas, other than:

- 1) Income from employment authorized by the Immigration and Naturalization Service (INS) or its successor, or
- 2) Interest income on deposits that is not effectively connected with a U.S. trade or business.

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 covered by this paragraph are:

- 1) Alien military trainees who come to 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. These aliens must be visitors for pleasure, 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 visitors 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.

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 the United States. The clearance, however, may not be issued more than 30 days before you leave. If both you and your spouse are aliens and are leaving together, both of you must go to the IRS office.

What Is Needed To Get a Sailing or Departure Permit

Please be prepared to give your planned date of departure and 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 copies of the income tax returns you filed for that period.

- 3) Receipts for income taxes paid on these returns.
- 4) Receipts, bank records, canceled checks, and other documents that prove your deductions, business expenses, and dependents claimed on the returns.
- 5) A statement from each employer you worked for this year, 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 are 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 or real property, including capital assets and merchandise.
- 8) Documents relating to scholarships or fellowship grants, including verification of the grantor, source, and purpose of the grant, and date the grant was made.
- 9) Documents indicating you qualify for any special tax treaty benefits claimed.

Note. In community property states, a married taxpayer must bring the above-listed documents for their spouse also. This applies whether or not the spouse requires a clearance.

How To Get Tax Help

You can get help with unresolved tax issues, order free publications and forms, ask tax questions, and get more 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 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 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, *The Taxpayer Advocate Service of the IRS*.

Free tax services. To find out what services are available, get Publication 910, *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.



Personal computer. With your personal computer and modem, you can access the IRS on the Internet at **www.irs.gov**. While visiting our web site, you can:

- See answers to frequently asked tax questions or request help by e-mail.
- Download forms and publications or search for forms and publications by topic or keyword.
- Order IRS products on-line.
- View forms that may be filled in electronically, print the completed form, and then save the form for recordkeeping.
- View Internal Revenue Bulletins published in the last few years.
- Search regulations and the Internal Revenue Code.
- Receive our electronic newsletters on hot tax issues and news.
- Learn about the benefits of filing electronically (IRS e-file).
- Get information on starting and operating a small business.

You can also reach us with your computer using File Transfer Protocol at **ftp.irs.gov**.



TaxFax Service. Using the phone attached to your fax machine, you can receive forms and instructions by calling **703-368-9694**. Follow the directions from the prompts. When you order forms, enter the catalog number for the form you need. The items you request will be faxed to you.

For help with transmission problems, call the FedWorld Help Desk at **703-487-4608**.



Phone. Many services are available by phone.

- *Ordering forms, instructions, and publications.* Call **1-800-829-3676** to order current and prior year forms, instructions, and publications.
- *Asking tax questions.* Call the IRS with your tax questions at **1-800-829-1040**.
- *Solving problems.* Take advantage of Everyday Tax Solutions service by calling your local IRS office to set up an in-person appointment at your convenience. Check your local directory assistance or **www.irs.gov** for the numbers.
- *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** to listen to pre-recorded messages covering various tax topics.

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 governments, credit unions, and office supply stores have an extensive collection 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 IRS office to ask tax questions or get help with a tax problem. Now you can set up an appointment by calling your local IRS office number and, at the prompt, leaving a message requesting Everyday Tax Solutions help. A representative will call you back within 2 business days to schedule an in-person appointment at your convenience.



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CD-ROM for tax products. You can order IRS Publication 1796, *Federal Tax Products on CD-ROM*, and obtain:

- Current tax forms, instructions, and publications.
- Prior-year tax forms and instructions.
- Popular tax forms that may be filled in electronically, printed out for submission, and saved for recordkeeping.
- Internal Revenue Bulletins.

The CD-ROM can be purchased from National Technical Information Service (NTIS) by calling **1-877-233-6767** or on the Internet at **<http://www.irs.gov/cdorders>**. The first release is available in early January and the final release is available in late February.



CD-ROM for small businesses. IRS Publication 3207, *Small Business Resource Guide*, is a must for every small business owner or any taxpayer about to start a business. This handy, interactive CD contains all the business tax forms, instructions and publications needed to successfully manage a business. In addition, the CD provides an abundance of other helpful information, such as how to prepare a business plan, finding financing for your business, and much more. The design of the CD makes finding information easy and quick and incorporates file formats and browsers that can be run on virtually any desktop or laptop computer.

It is available in March. You can get a free copy by calling **1-800-829-3676** or by visiting the website at **www.irs.gov/smallbiz**.