



2007 **VITA/TCE** Publication 678-FS

Foreign **Student and Scholar Text**

(for use in preparing Tax Year 2007 Returns for Nonresident Aliens)

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Technical Updates

Tax law changes implemented after this product was published may cause various forms, tables, and worksheets to change. The supplemental changes (if any) are normally available in mid-December on www.irs.gov (keyword: Community Network).

Technical updates are also conveyed in Volunteer Quality Alerts during the filing season on www.irs.gov. Also, consult your course facilitator and/or site coordinator.

The IRS Mission

Provide America's taxpayers top quality service by helping them understand and meet their tax responsibilities and by applying the tax law with integrity and fairness to all.



Confidentiality Statement

All tax information received from taxpayers in your volunteer capacity is strictly confidential and should not, under any circumstances, be disclosed to unauthorized individuals and should be properly safeguarded.

All persons, scenarios and addresses appearing in this product are fictitious. Any resemblance to persons living or dead is purely coincidental.

TABLE OF CONTENTS

Introduction	I-1
Lesson 1 Residency Status for Federal Tax Purposes.....	1-1
Lesson 2 Filing Requirements and What to File.....	2-1
Lesson 3 The Effect of Tax Treaties	3-1
Lesson 4 Family Issues.....	4-1
Lesson 5 Taxation of Nonresidents	5-1
Lesson 6 Form 8843 Filing Requirements.....	6-1
Lesson 7 Finishing the Return.....	7-1
Lesson 8 Social Security Tax Matters.....	8-1
Lesson 9 State Income Tax Issues	9-1
Appendix A Common Questions and Processing Issues.....	A-1
Appendix B Comprehensive Problems	B-1
Test for International Students and Scholars	
U.S. Federal Income Tax Issues	T-1

STUDENT NOTES



INTRODUCTION

This International Student and Scholar Supplement is designed to provide assistance to volunteers who will be working at Volunteer Income Tax Assistance (VITA) sites that assist international students and scholars. This text can be used in conjunction with the on-line tax law training course (**Link and Learn Taxes**) at www.irs.gov (keyword: volunteer training).

Effective for Tax Year 2007, Foreign Students and Scholars on-line course and certification is available on Link and Learn Taxes. We encourage you to reinforce the tax law training in this course at your own pace using the on-line course.

The **Foreign Student and Scholar Volunteer Resource Guide** (Publication 4011) is a training tool and site reference guide for the volunteer return preparation program for foreign students and scholars. This publication features Treaty summaries for code 15 (scholarship or fellowship grant), code 18 (teaching or research income), and code 19 (studying and training income) in addition to other quick reference topics.

The **Nonresident Alien Intake and Interview Sheet** (Form 13614NR) is the starting point for your interview and conversation to assess the taxpayer's tax situation—filing status, number of exemptions, income, adjustments, deductions, credits, etc. Form 13614 NR (see page I-6) can be downloaded from www.irs.gov and photocopied as needed.

The Internal Revenue Service also publishes the **U.S. Tax Guide for Aliens** (Publication 519) that is referenced throughout this course. Publication 519 is revised annually and can be accessed or downloaded from www.irs.gov along with **Publication 678, Volunteer Assistor's Guide—Student Text** (for U.S. citizen and resident alien returns) and **Publication 17, Your Federal Income Tax For Individuals** which also contain information that you may find helpful.

We welcome your comments and suggestions for improving our products and encourage you to complete the course evaluation survey, **Form 6317(FS)**, on the last page of this book.

Over 500,000 international students and scholars are at American colleges and universities to study, teach, and do research. Due to the complexity of the U.S. federal tax laws, many of these individuals have difficulty understanding and meeting their tax obligations. Failure of nonresidents to comply with U.S. tax laws can lead to monetary penalties and immigration problems, and even destroy eligibility for citizenship.

This book is designed to let learners teach themselves and monitor how well they have learned. To do that, read each lesson carefully. Work the exercises as you go along to confirm what you learned.

After completing the chapters, work the comprehensive problems in Appendix B, and compare your answers to those provided. Self-grade using the answers provided. If your answers were not correct, go back to the sections on those topics and find out why.

A comprehensive test and certification begins on page T-1 of this publication. All volunteers who prepare tax returns must be certified and acknowledge receipt and acceptance of the Volunteer Standards of Conduct.

OBJECTIVES OF THIS COURSE

At the end of this course, you will be able to:

1. Distinguish between
 - resident aliens and
 - nonresident aliens.
2. Determine whether a nonresident alien is required to file.
3. Determine the correct form(s) to file.
4. Determine whether a tax treaty applies.
5. Using an applicable treaty, determine which income is
 - taxable, and which is
 - excludable from income.
6. Determine
 - what income is “effectively connected” and what is not,
 - what income must be reported, and
 - where an international taxpayer’s return should be sent.
7. Correctly complete Form 8843.
8. Correctly complete Forms 1040NR and 1040NR-EZ.
9. Establish an International VITA site.

SITE, SPONSOR AND VOLUNTEERS LIABILITY ISSUES

Some colleges and universities are reluctant to sponsor an international VITA site because of the potential liability they feel it causes them. This section is intended to serve as a reference. It does not constitute legal guidance. Legal counsel should be consulted if you have questions.

Volunteers at all VITA sites (including international sites) appear to be covered by the federal Volunteer Protection Act of 1997, Public Law 105-19 (42 U.S. Code sections 14501 et seq.). The Act applies to volunteers who perform services for a nonprofit organization or governmental entity and receive no compensation other than reasonable reimbursement or allowance for expenses actually incurred (or any other thing of value in lieu of compensation over \$500 per year) and to a volunteer serving as a director, officer, trustee, or direct service volunteer.



The Act generally protects volunteers from liability for negligent acts they perform within the scope of their responsibilities in the organization for which they volunteer. The Act excludes conduct that is willful or criminal, grossly negligent, or reckless, or that constitutes a conscious, flagrant indifference to the rights or safety of the individual harmed by the volunteer. The Act does not protect volunteers from liability for harm arising from the operation of a motor vehicle, vessel, aircraft, or other vehicle for which a license and insurance are required or from crimes of violence, hate crimes, sexual offenses, civil rights violations, or acts committed under the influence of alcohol or drugs. Volunteers are not liable for punitive damages for harm caused by acts they perform within the scope of their responsibilities, unless a claimant establishes by clear and convincing evidence that the harm was proximately caused by an action constituting willful or criminal misconduct or a conscious, flagrant indifference to the rights or safety of the individual harmed.

The Act provides that certain conditions imposed in state laws limiting the liability of volunteers will not be considered inconsistent with the Act. In other words, those limitations are not invalidated by the Act and may limit the effects of the Volunteer Protection Act. The state conditions that remain in force are listed in subsection 4(d) of the Act. Most significant among the **conditions that may apply in some states** are: (1) volunteers may be subject to liability if the civil action was brought by a state or local government official pursuant to state or local law; (2) volunteers may be protected only if the sponsoring organization has provided a secure alternate source of compensation for those harmed; and (3) some states waive liability only if sponsors adhere to risk-management procedures, including providing mandatory training of volunteers. State limitations will vary, so protection of volunteers may vary also.

In conclusion, it is the opinion of the Internal Revenue Service that the Volunteer Protection Act of 1997 offers significant protections from liability for those meeting its requirements. The most significant requirement is that the volunteer's sponsor must be a nonprofit organization or governmental entity, and that the act causing harm is performed within the scope of the volunteer's responsibilities. It is also important to note that **the Act's best protection covers only negligent acts**—not willful, criminal, reckless, or conscious, flagrantly indifferent acts; and that state limitations on volunteer protection may apply.

ESTABLISHING INTERNATIONAL VITA SITES

The following information is intended for International VITA site coordinators. If you are just forming your International VITA site, you may have many questions about how to establish the site. You can find out more about partnering with the IRS by visiting



www.irs.gov (keyword: community network). This section provides suggestions and guidance that you may find helpful. Keep in mind that no two sites are exactly the same.

Talk to the School Officials

Possibly the first step that you need to take is to inform the school officials that you plan to offer this service. They can help you with publicity and they may be able to provide the space for the site. The foreign student advisor can help you develop the site. In some schools, the foreign student advisor serves as the site coordinator. If possible, talk to school officials during the summer.

Find a Location

You also need to start searching for a location for your site. Keep in mind that many students have limited transportation. If you cannot find a spot on campus for the site, consider asking a nearby religious organization or library for space. Be prepared to tell them the amount of space that you will need and how long you will need the space. The amount of space will depend on the number of volunteers you will have working at the same time. Don't forget to think about space for people to wait in line. Since international students and scholars have very few places to turn for help on their taxes, you may have a very good turnout at your site.

Find Site Sponsors

It is a good idea to find multiple site sponsors. For example, maybe the local office supply store will sponsor all of your office needs (staplers, pens, paper, and calculator). Try to see if the local pizza places will donate some food for your training class. Better yet, see if the local food places will take turns providing food for your volunteers while they are working at the site. Keep good records of the businesses that have helped you. Make sure that you send them a thank-you note at the end of the season. See if the local paper will run a free thank-you ad for you.

Recruit Volunteers

In the fall, start recruiting volunteers. There are many places that you can look for volunteers. If the school has an accounting club, approach the club president and see if the club would be willing to take on the VITA site as a service project. Explain that training will be provided and that the volunteers do not need to be multi-lingual. You might also want to contact the professor who teaches the Income Tax class in the Accounting Department. Some students from that class may be available to help.

You can look to sources outside of the campus for volunteers. In some communities, all of the international VITA site volunteers are senior citizens. They have a desire to help the international students and scholars and they have the time to volunteer. In other



communities, the local accountants volunteer at the International VITA site. In a couple of locations, the Rotary Club provides the volunteers. Use your connections and don't be afraid to ask.

Not all of your volunteers need to prepare taxes. You could have someone who is the greeter or receptionist at your site. Someone else might watch the children while married students and scholars get help with their returns. If you have people willing to help you, find something for them to do.

Plan for Training

You need to determine what type of training you will offer to the volunteers. The tools that the IRS will provide include this book and all of the forms that you will need for your training.

If you plan to have a class for your volunteers, you will need to recruit an instructor. The IRS does not have the resources to provide instructors for individual VITA sites. You may wish to have the volunteers self-study this book.

Testing and Certification

Testing and certification is mandatory for all volunteers who prepare returns. The comprehensive test that begins on page T-1 of this publication also includes the Volunteer Agreement, which denotes the Volunteer Standards of Conduct and testing and certifications requirements.

Keeping Records

VITA sites are not allowed to keep copies of the returns that they prepare. No records can be kept of social security numbers or income. You should ensure that your volunteers are familiar with the privacy and confidentiality rules for VITA volunteers.

Year-Round Assistance

While the greatest need for International VITA sites is during the filing season, many international students and scholars need tax help throughout the year. If you have the resources available, you might consider keeping your site open after April 15th. Maybe you could provide walk-in assistance on the first Friday of the month from 1–3 p.m., for example.

Link and Learn Taxes

Volunteers can reinforce their understanding of tax law for U.S. citizens and resident aliens by using Link and Learn Taxes online at www.irs.gov (keyword: volunteer training). Actions are underway to move this (foreign student and scholar) course to an e-learning environment.



Nonresident Alien Intake and Interview Sheet

Last or Family Name: _____ First: _____ Middle Initial: _____
 ITIN or Social Security #: _____ Visa #: _____ Passport #: _____
 Date of Birth: (mm/dd/yyyy) / / Telephone #: () e-mail Address: _____

Are you a U.S. citizen or resident alien all year? Yes No Were you ever a U.S. citizen? Yes No

U.S. Local Street Address:
 City: _____ State: _____ Zip Code: _____

Foreign Residence Address:
 Address Line 2: _____
 Postal Code: _____ Province/Region: _____ Foreign Country: _____
 Country of Citizenship: _____ Country that issued Passport: _____

Are you married? Yes No If YES, is your spouse in the U.S.? Yes No

Are you a: U.S. National Yes No Resident of Canada Yes No Resident of Mexico Yes No Resident of Republic of Korea Yes No

Do you have dependents? Yes No If YES, how many? _____ Are they in the United States? Yes No

Dependent Information

First Name	Last Name	Date of Birth (mm/dd/yyyy)	ITIN or SSN	Relationship to you	Months in U.S.	U.S. Citizen, National, Resident of Canada, Mexico, Republic of Korea	Did person file joint return?	Did child provide more than 50% of their own support?	Did you provide more than 50% of their support?	Did the person have Gross Income of \$3400 or more?

What is the date you FIRST entered the United States? / /

Entry Immigration Status - Check one:
 U.S. Immigrant/Permanent Resident F-1 Student F-2 Spouse or child of Exchange Visitor
 H-1 Temporary Employee J-1 Exchange Visitor J-2 Spouse or child of Exchange Visitor
 Other: (List) _____

Current Immigration Status - Check one:
 U.S. Immigrant/Permanent Resident F-1 Student F-2 Spouse or child of Exchange Visitor
 H-1 Temporary Employee J-1 Exchange Visitor J-2 Spouse or child of Exchange Visitor
 Other: (List) _____

On what date did your visa type change? / /

Enter the type of U.S. visa you held during these years:
 2001 _____ 2002 _____ 2003 _____ 2004 _____ 2005 _____ 2006 _____

If Immigration status is J-1, what is the subtype? Check one:
 01 Student 05 Professor 12 Research Scholar
 02 Short Term Scholar Other: (List) _____

What is the actual primary activity of the visit? Check one:
 01 Studying in a Degree Program 04 Lecturing 07 Conducting Research 10 Clinical Activities
 02 Studying in a Non-Degree Program 05 Observing 08 Training 11 Temporary Employment
 03 Teaching 06 Consulting 09 Demonstrating Special Skills 12 Here with Spouse



Were you present in the United States as a teacher, trainee or student for any part of 2 of the 6 prior calendar years?

2001 _____ 2002 _____ 2003 _____ 2004 _____ 2005 _____ 2006 _____

Were you present in the U.S. as a teacher, trainee or student for any part of more than 5 calendar years? Yes No

How many days were you present in the U.S. during 2005 _____ 2006 _____ 2007 _____

List the dates you entered and left the United States during 2007:

Did you file a U.S. income tax return for any year before 2007? Yes No If "Yes", when / / What form? _____

During 2007, did you apply for or take affirmative steps to apply for lawful permanent resident status in the United States?

Yes No

Do you have an application pending to change your status to lawful permanent resident? Yes No

Are you claiming treaty benefits? Yes No If Yes, What country _____

Treaty Article Number: _____

Type & Amount of Income: _____

Information about academic institution you attended in 2007

Name: _____

Telephone Number: _____

Address: _____

Name of the director of your specialized program: _____

Address: _____

Telephone Number: _____

During 2007 did you receive:

Did you have:

Scholarships or Fellowship Grants Yes No

Educator Expenses Yes No

Wages, Salaries or Tips Yes No

Student Loan Interest Yes No

Interest or Dividend Income Yes No

State Income Taxes Yes No

Distributions from IRA, Pension or Annuity Yes No

Charitable Contributions Yes No

Business Income Yes No

Moving Expenses Yes No

Unemployment Compensation Yes No

Business Expenses Yes No

Gambling Winnings Yes No

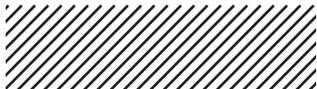
Child/Dependent Care Expenses Yes No

Any Other Income Yes No

IRA Contributions Yes No



STUDENT NOTES



RESIDENCY STATUS FOR FEDERAL TAX PURPOSES

Lesson 1

U.S. immigration laws speak of immigrants, non-immigrants (also called nonresident aliens), and illegal aliens (undocumented aliens), but U.S. tax laws speak of **resident aliens** and **nonresident aliens**.

The basic facts to remember about taxation of aliens are that resident aliens are taxed like U.S. citizens, while nonresident aliens are taxed differently. The tax law applicable to aliens—although based on U.S. immigration law—defines residency for tax purposes differently from how it is defined in immigration law. Under the Internal Revenue Code, even undocumented aliens (sometimes referred to as “illegal aliens”) are treated as resident aliens if they meet the “substantial presence” test in the tax code.

The first step in assisting international students and scholars is to determine their residency status for tax purposes. As described in future chapters, that status affects the amount of income to be reported, the availability of deductions, and treaty benefits.

It is important to emphasize that the following discussion of residency status is for federal income tax purposes **only**. Residency for immigration purposes is determined differently. Some state taxing agencies follow IRS residency determinations; others use their own criteria. If you plan to help international students and scholars with **state** income tax returns, you will need to check with the taxing agency of the state where they live and/or work.

HOW TO DETERMINE RESIDENCY STATUS

All noncitizens of the United States are legally “aliens.” There are three types of aliens for tax purposes: (1) nonresident; (2) dual-status; and (3) resident. Persons in categories (2) and (3) are taxed like U.S. citizens. This book focuses almost entirely on group (1), nonresident aliens (“nonresidents” for short).

Nonresidents become residents for federal tax purposes in one of two major ways. One is by receiving **permanent resident status** from the U.S. Citizenship and Immigration Service (USCIS). The other is by having a **substantial presence** in the United States. For non-resident aliens, having a substantial presence normally means being present for a total of more than 183 days. But most international students and scholars are **exempt individuals** (also described below) for this purpose.

Note: Being an “exempt individual” does not mean that one is exempt from taxation. It merely affects how days of presence are counted.

The charts in this lesson will help you determine the residency status of foreign students and scholars, based on the information they provide. Before using the charts, you must know a few terms used in them.

Permanent Resident Status

A taxpayer is considered a resident for federal tax purposes if he or she is a lawful permanent resident of the United States. This is known as the **green card test**. The taxpayer is a lawful permanent resident of the United States if he or she has been given the privilege, according to immigration laws, of residing permanently in the United States as an immigrant. This status is generally evidenced by an alien registration card, also known as a “green card” (the original color of the registration card).

These individuals have resident status under this test unless the status is taken away from them or is administratively or judicially determined to have been abandoned. Green cards are issued by the USCIS.

Substantial presence

Nonresident aliens meet the **substantial presence test** if they have spent more than 183 days in the United States. To meet the substantial presence test and thus be considered a resident alien for tax purposes, an alien must **at least**:

1. be physically present for 31 days in the current year, **and**
2. be physically present for 183 days (as calculated below) during the 3-year period consisting of the current year and the 2 immediately prior years. The 183 days are calculated as follows:
 - a. all days of presence in the current year;
 - b. 1/3 of days of presence in the year immediately before the current year; and
 - c. 1/6 of days of presence in the year before that.

Exempt individual

An exempt individual is any person who is temporarily exempt from the substantial presence test. Time spent in this category does not count toward the 183 days in the United States that normally will convert a nonresident alien into a resident alien. Being in any of the following categories will temporarily exempt a person from counting days toward the substantial presence test:



Student

A student is anyone who is temporarily in the United States on an F, J, M, or Q visa and substantially complies with the requirements of that visa. A person is considered to be substantially complying who has not engaged in activities prohibited by the immigration law. Immediate family members of a student are also counted as students for this purpose—including a spouse and unmarried children under age 21 who reside with the student. Students are exempt from the substantial presence test for 5 years. But any part of a calendar year in which the student is present in the United States counts as a full year. (See “Counting Years of Exemption” later in this lesson).

Teacher or Trainee

A person who (1) was primarily admitted to the United States to teach or research (not study); (2) is temporarily present with “J” or “Q” visa status; and (3) substantially complies with all requirements of that visa is considered a teacher or trainee—as is the person’s immediate family. Teachers and trainees are exempt from the substantial presence test only if they have been in the United States for no more than 2 out of the last 6 years. As with the student exception, any part of a calendar year in which the person was present counts as a full year. (See “Counting Years of Exemption” later).

Closer Connection to Home Country

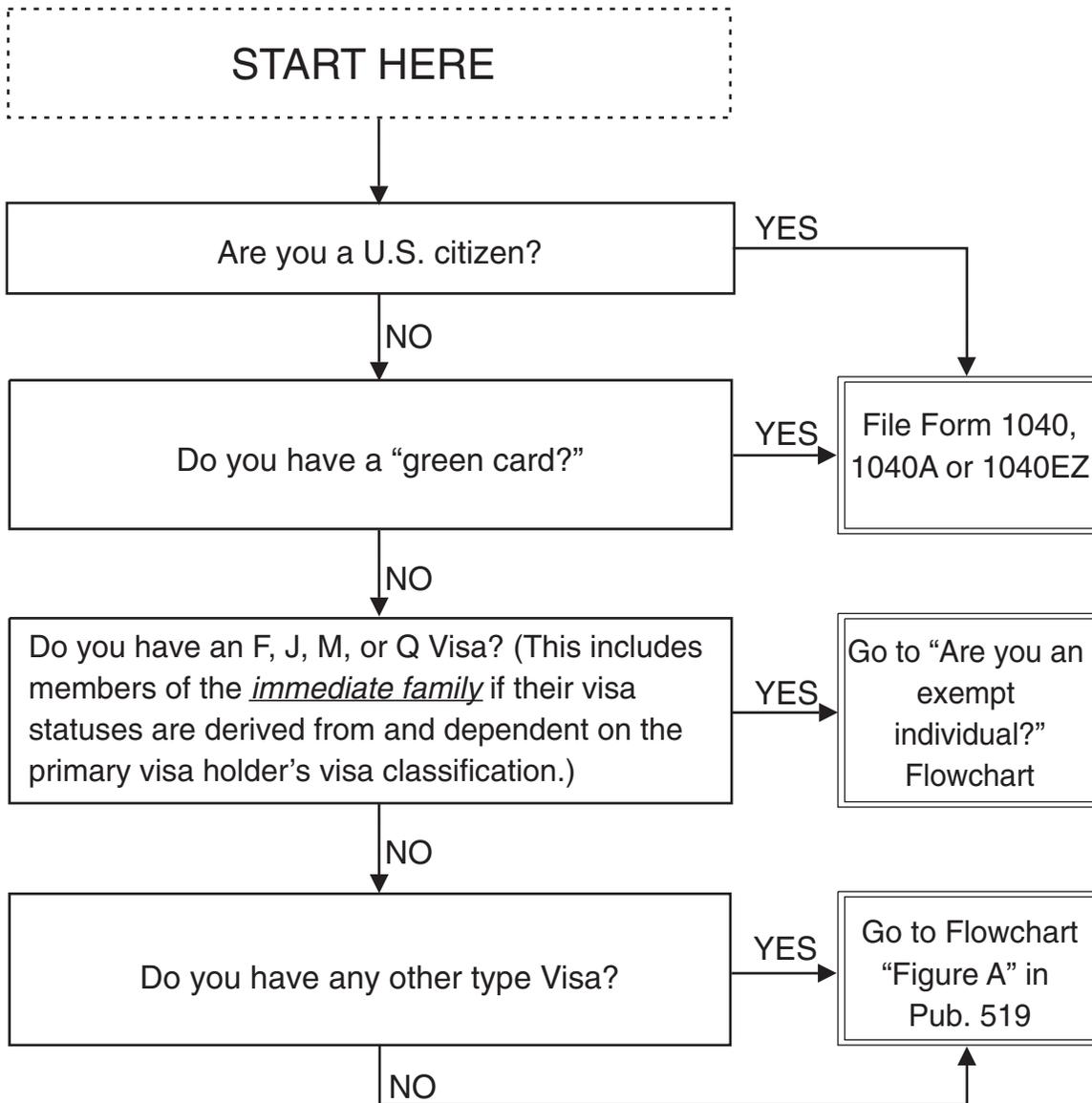
A third exception to the substantial presence test applies if the person can show a closer connection to a foreign country than to the United States. To qualify for this exception, the person must file **IRS Form 8840, Closer Connection Exemption Statement for Aliens** and be able to show that he or she:

1. was present in a non-exempt status for fewer than 183 days during the current year;
2. has a tax home in a foreign country; **and**
3. has a closer connection to that country than to the United States.

Remember to refer taxpayers with tax situations outside of your scope of training, experience, and certification to your site coordinator and/or a paid preparer.

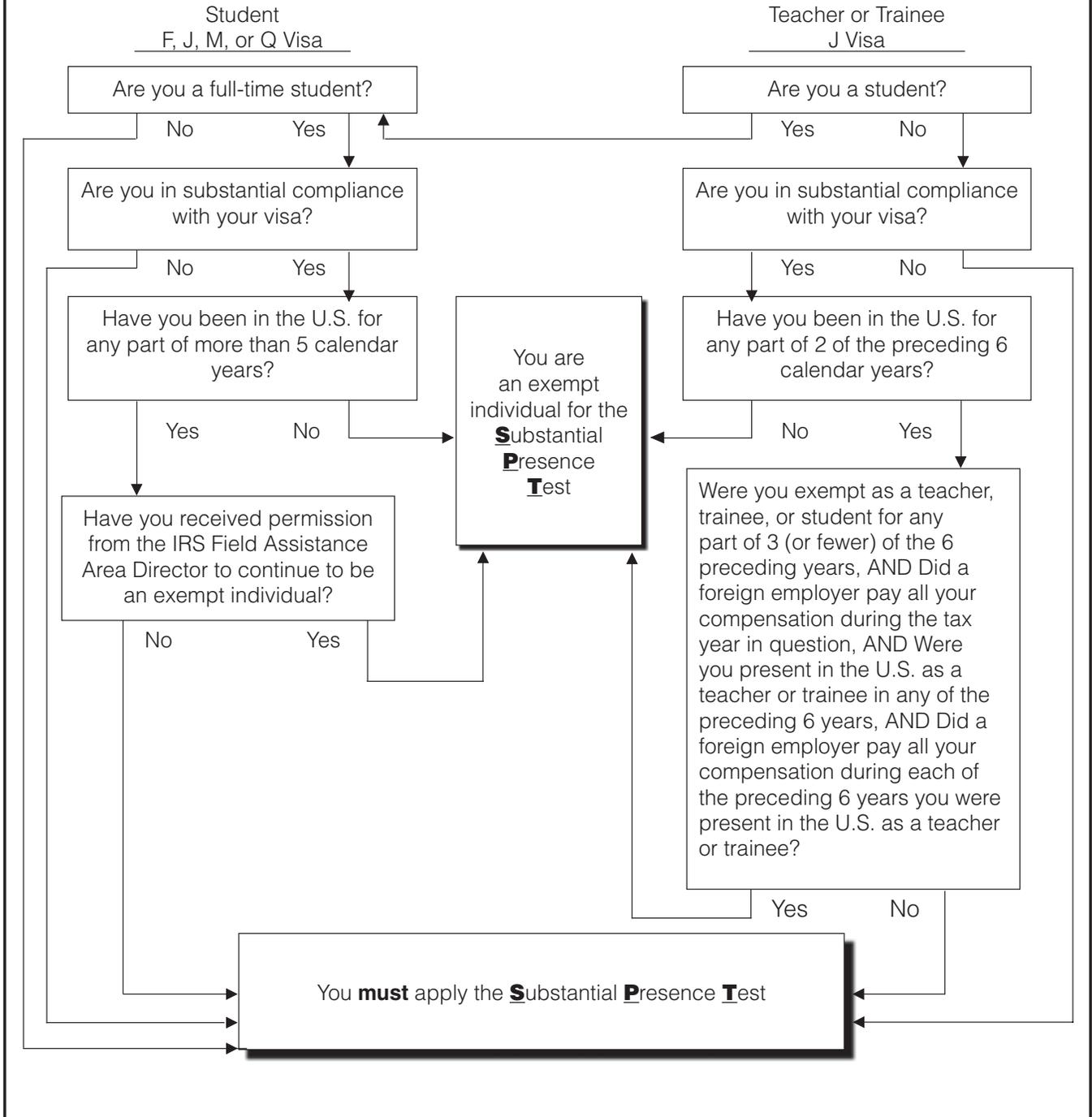


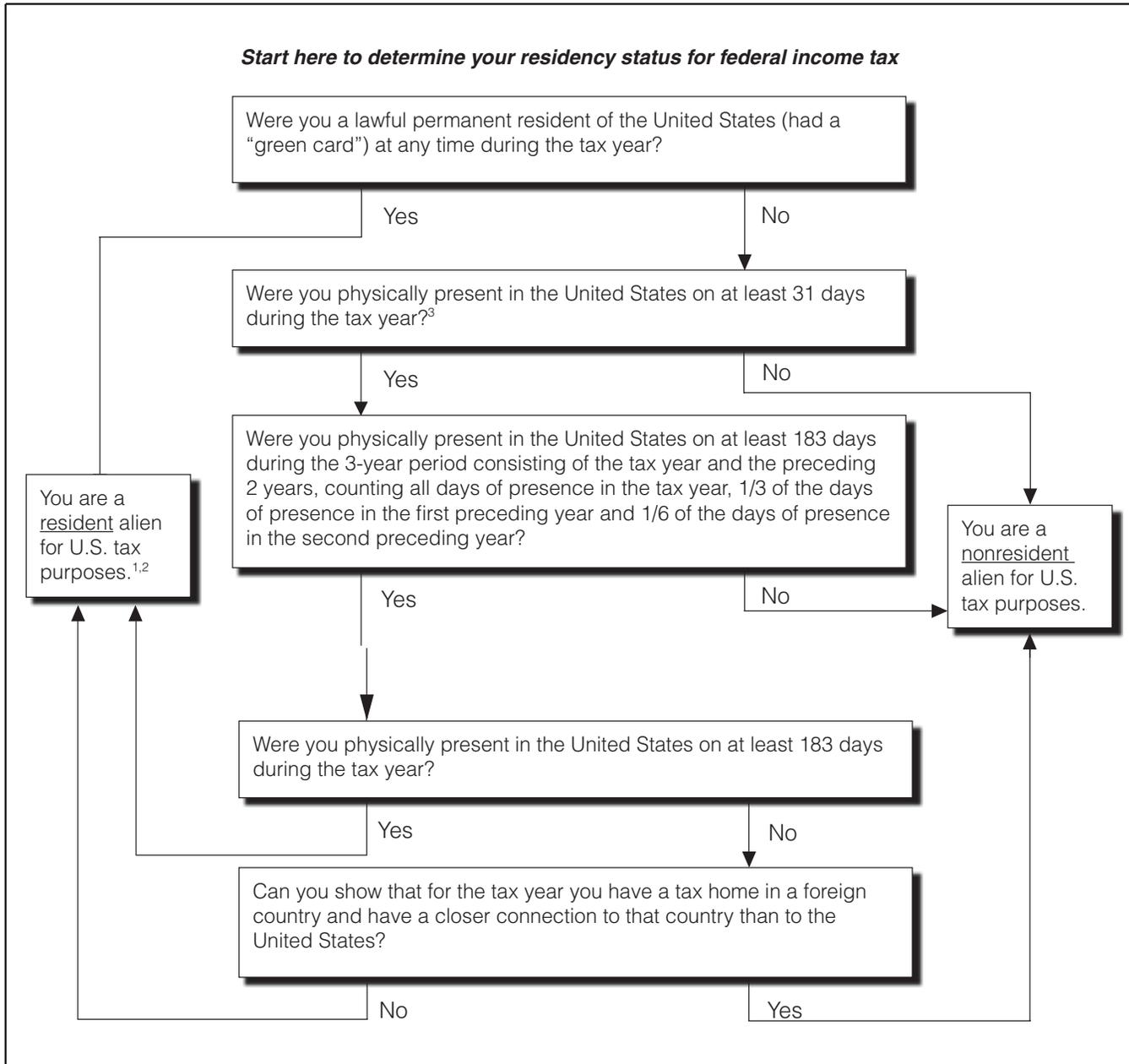
Are you a nonresident alien for U.S. Income Tax Purposes?



Are you an exempt individual?

If you are temporarily present in the United States on an F, J, M, or Q visa, use this chart to determine if you are an exempt individual for purposes of the **Substantial Presence Test (SPT)**.





1 If this is your first or last year of residency, you may have a dual status for the year.
 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 provision of the treaty carefully.
 3 See *Days of Presence in the United States* in Publication 519 for days that do not count as days of presence in the United States.
 4 If you meet the substantial presence test for the year after the tax year, you may be able to choose treatment as a U.S. resident alien for part of the tax year.

COUNTING YEARS OF EXEMPTION

For both the 2-year period during which a scholar can be exempt, and the 5-year period during which a student can be exempt from counting days toward the substantial presence test, the person's presence in the United States for any part of a calendar year counts as a full year's presence. Thus, if a scholar (or student) arrived in the United States in December 2002, the year 2002 was the first of that person's 2 (or 5) years. If the person stayed in the United States into 2003, and is subject to a 2-year limit, that limit was reached at the end of 2003—so the substantial presence test began to apply at the beginning of 2004.

Example 1

Julianna came to the U.S. in an F-1 visa status in October 2002 to study American art history. She had never been in the U.S. before. As a student, she is exempt from counting her days of presence during her first 5 years—which are 2003, 2004, 2005, 2006, and 2007. If she remains in the U.S. beyond July 2, 2008, she will become a resident alien for tax purposes at the beginning of that year, unless she claims a closer connection to her home country.

Example 2

Neeni came to the U.S. in a J-1 visa status in 2006 to teach for 2 years at a state university. She knows that the cultural adjustment will go smoothly because she also taught in the U.S. in 2001 and 2002 in a J visa status. To determine her residency status for 2007, use a 6-year “look-back” period (2002–2007). During that time she had been in the U.S. with a J visa for 2 years. Thus for tax purposes, she is no longer an exempt individual and she must count her days towards the substantial presence test. She will be a resident alien for tax purposes.



Example 3

Eduard is a junior at the local university. He came to the U.S. in 2002 from France as an F-1 student. He studied in the U.S. until the end of 2003 and then returned home. He re-entered the U.S. as a J-1 student in 2007. For federal income tax purposes, he is still a nonresident alien because he has not yet been in the U.S. for 5 years.

Example 4

Xhao came to the U.S. in a J-1 visa status in 2005 to teach at a university for two years. He brought his wife and three children (each in a J-2 visa status). In November 2006, the university contracted with Xhao's wife for her to teach there in fall 2007 (she had received work authorization). It also extended Xhao's original contract. For the year 2007, both Xhao and his wife will be considered resident aliens for tax purposes because they have already spent 2 years as exempt individuals. Their children can be claimed as dependents if they meet all dependency tests (like those for citizens).

Exercise 1

Bridgette arrived in the U.S. as a student in F-1 visa status in December 2003. For tax year 2007, is she a resident or non-resident alien for federal income tax purposes?

Answer: _____

Exercise 2

Guladua came to the U.S. in a J-1 visa status in June 2005 to teach for 2 years, starting in August 2005. For tax year 2007, is he considered a resident or nonresident alien for federal income tax purposes?

Answer: _____

✓ Check your answers at the end of the chapter.



RESIDENCY STARTING DATE

A person who becomes a resident by meeting the 183-day substantial presence test, the start date of residency for tax purposes is the first day the person was present in the United States **in the tax year in which the person met the substantial presence test**. By contrast, for a person who is granted permanent resident status by the USCIS (a “green card”), the starting date of residency for tax purposes is the first day the person was in the United States as a lawful permanent resident. That usually is the day of receipt of notification from the USCIS that the residency application had been approved. For someone who both meets (1) the substantial presence test, **and** (2) has been granted permanent residency, residency begins on the earlier of the two dates.

Example 5

Edem has been in the U.S. continuously since 2002 in an F-1 visa status. He is considered a resident alien for tax purposes as of January 1, 2007.

Example 6

Assume the same facts as in Example 5. Edem also applied for resident alien status in 2007, and was notified by the USCIS on October 20, 2007, that his residency application was approved. He is still considered a resident alien for tax purposes as of January 1, 2007.

Example 7

Zachary who entered the U.S. in F-1 status on August 15, 2006, received notification from USCIS on July 13, 2007, that his application for residency was approved. He is considered a resident alien for tax purposes as of July 13, 2007.

Exercise 3

Mike, a graduate student, is present in the U.S. temporarily on a J-1 visa. He arrived on June 15, 2002, to prepare for his studies that fall. Mike had never been in the U.S. before. When does Mike start counting days toward the substantial presence test?

Answer: _____



Exercise 4

Assume the same facts as in Exercise 3. Mike's wife accompanies him in a J-2 visa status. She is given permission to work by the USCIS and begins working in July. Is she a resident or nonresident alien for federal tax purposes?

Answer: _____

Exercise 5

Wei Wu, a citizen of the People's Republic of China, is temporarily in the U.S. as a graduate student in an F-1 visa status. He has resided continuously in the U.S. since arriving on August 15, 2002. His immigration status has not changed, and he was in the U.S. all of 2007. When did Wei become a resident alien for federal income tax purposes?

Answer: _____

Exercise 6

Kuongeza Muda Mpya, a resident of Kenya, is in the U.S. as a teaching scholar in a J-1 visa status. He arrived in the U.S. on December 17, 2005, and has been here continuously since. On July 7, 2007, Kuongeza was notified by the USCIS that his application for permanent residence was approved and a permanent resident card would be issued by July 20, 2007. What is his residency starting date for federal income tax purposes?

Answer: _____

✓ Check your answers at the end of the chapter.

RESIDENCY THROUGH MARRIAGE

A nonresident alien who does not meet the substantial presence test and does not have a green card may elect to be treated as a resident for tax purposes if the nonresident is married to a U.S. citizen, legal permanent resident, or someone who has met the substantial presence test. This election can be made if:

1. at the end of the year, one spouse is a nonresident alien and the other is a U.S. citizen or resident, **and**
2. both spouses agree to file a joint return and to treat the non-resident alien as a resident alien for the entire tax year.



Example 8

Norman is a student temporarily in the U.S. in an F visa status. He is married to Pat, who is a U. S. citizen. Since Pat is a citizen, she and Norman can elect to treat Norman, who would otherwise be a nonresident alien, as a resident alien for the entire tax year.

To make the election, the married couple must attach a statement to the joint return that is filed for the year of the election. There is no form for this statement; it can be handwritten or typed. It should be attached to the back of the tax return, after all schedules and forms. The statement should contain the following information:

1. A declaration that one spouse was a nonresident alien and the other spouse was a U.S. citizen or resident on the last day of the tax year, and that they choose to be treated as U.S. residents for the entire tax year, **and**
2. Each spouse's name, address, and taxpayer identification number.

For the year of the election to treat the spouse of a U.S. citizen as a resident, the spouses must file a joint return. The election continues into future years; but the spouses can file separately after the first year, if they choose. The election to treat the spouse as a resident is terminated by revocation, the death of either spouse, or their legal separation, or the IRS may terminate it for failure to keep adequate records or failure to allow the IRS access to records. Since a person's status as a resident or nonresident affects the income to be reported, availability of deductions, and treaty benefits, an election to be treated as a resident alien should be considered carefully.

DUAL-STATUS ALIEN

A dual-status alien is a person who is a resident alien and a nonresident alien at different times in the same tax year. This usually occurs in the year a person arrives in the United States or leaves the United States. It may also occur if a person's residency status changes during the year. More information is in IRS Publication 519, *U.S. Tax Guide for Aliens*. Completing dual-status returns is an advanced task and thus not covered by the volunteer program.



- Exercise 1** Bridgette would still be considered a nonresident alien for federal income tax purposes.
- Exercise 2** Guladua is considered a resident alien for federal income tax purposes in 2007. He was in an exempt status in 2005 and 2006. Even though he was not in the U.S. for a full year in 2005, he must count that entire year toward his 2 years of exempt status.
- Exercise 3** Mike will begin counting days of presence as of January 1, 2007.
- Exercise 4** Mike's wife would be a nonresident alien also. Her status depends on her husband's status. While F-2 visitors are not permitted to work, J-2 visitors can. (This information will be covered in a later lesson.) Permission to work does not change her residency status for tax purposes.
- Exercise 5** Wei Wu is a resident alien for federal income tax purposes in 2007. His residency starting date is January 1, 2007. His 5 years of exempt status were 2002, 2003, 2004, 2005, and 2006.
- Exercise 6** Kuongeza will be considered a resident alien for tax purposes as of January 1, 2007. He was in an exempt status in 2005 and 2006. He meets the substantial presence test in 2007. He also received a "green card" in 2007. If both apply, the earlier starting date governs.

FILING REQUIREMENTS AND WHAT TO FILE

Lesson 2

In many countries, the government assesses and collects taxes that are owed. But in the United States, it is each individual's own responsibility to meet his or her tax obligations.

Each student or scholar is responsible for helping his or her employer estimate how much to withhold (deduct) from the student's or scholar's pay for income tax. The employer pays those amounts directly to the U.S. Treasury on the employee's behalf.

A student's or scholar's yearly tax return must reconcile the amounts withheld with actual tax liability for that year. If too much was withheld from pay, the Treasury will refund the excess after receiving the return. If too little is withheld, the student or scholar will have a balance due to be paid in full when the return is filed.

In Lesson 1 you learned that all non-citizen taxpayers fall into one of three statuses for tax purposes: resident alien, nonresident alien, or dual-status alien. Each status has different filing requirements. This lesson will give information on filing requirements for **nonresident** aliens. But first will be a brief discussion of filing requirements for resident and dual-status aliens.

RESIDENT ALIENS

Resident aliens are subject to the same federal income tax filing requirements as U.S. citizens. Whether they must file depends on their filing status and income. Filing requirements for U.S. citizens and resident aliens are described in IRS Publication 678, *VITA Assistor's Guide*, and Publication 17, *Your Federal Income Tax Guide*.

DUAL-STATUS ALIENS

As mentioned in Lesson 1, international VITA site volunteers do not assist with filing dual-status returns. The following information is for reference only. Completed examples are available in IRS Publication 519, *U.S. Tax Guide for Aliens*.

A taxpayer who is a **resident** alien at the end of the calendar year must file Form 1040 if the person is a dual-status taxpayer who became a resident during the year. Write the words "Dual-Status" across the top of the return. Also, attach a statement to the return showing the income for the part of the year when the taxpayer was a nonresident. Form 1040NR or 1040NR-EZ can be used as that statement; write the words "Dual-Status Statement" across its top.

A taxpayer who is a **nonresident** alien at the end of the year must file Form 1040NR or 1040NR-EZ if he or she is a dual-status taxpayer who gave up residency during the year. Write the words “Dual-Status” across the top of the return. Also, attach a statement to the return showing the income for the part of the year when the taxpayer was a resident. Form 1040NR can be used as that statement; you must write “Dual-Status Statement” across its top. Do not sign Form 1040NR. File your return and statement with the Internal Revenue Service Center, Austin TX, 73301-0125, USA.

NONRESIDENT ALIENS

General Rule

Generally, the requirement to file a return has been eliminated for nonresident aliens who earn wages effectively connected with a trade or business that are less than the amount of one personal exemption (\$3,400 for 2007).

Notice 2005-77, 2005-46 IRB 951

Students and Scholars

Nonresident aliens who are students, teachers, or trainees, and are temporarily present in the United States in F, J, M, or Q immigration status, must file a return if they have income that is subject to withholding, even if no tax was withheld. (**Note:** Even if they are exempt from filing a return, they must file a tax form. See Lesson 6.) But even students and scholars who are not required to file a return should do so if they are eligible for a refund.

Example 1

Pedro is a junior at the state university. He is in F-1 visa status. In 2007 he had wages of \$213 from his job on campus. His wage statement shows that \$14 of federal income tax was withheld. He is not required to file a return, since his wages are less than \$3,400. Pedro should file a return to receive a \$14 refund.



Example 2

Jose, who is from Peru, worked on campus last year. He earned \$4,142 and had no withholding. He must file a return because his wages are over the filing requirement amount of \$3,400 for 2007.

FORM 1040NR OR 1040NR-EZ

Once you have determined that a nonresident needs to file a return, you should choose the best form to use. Nonresident aliens file either Form 1040NR or Form 1040NR-EZ. Form 1040NR is 5 pages long and can accommodate all types of income and expenses. Form 1040NR-EZ is only 2 pages long and is limited to specific situations. Nonresidents cannot file joint returns and are very limited in claiming dependents. You should choose the simplest and shortest form that will accommodate all the taxpayer's income and deductions.

You can use Form 1040NR-EZ instead of Form 1040NR if **all nine** of the following statements are true:

1. No dependents are claimed (rules for this are covered in Lesson 4).
2. The taxpayer cannot be claimed as a dependent on another U.S. tax return.
3. The only sources of income were wages, salaries, tips, taxable refunds of state and local income taxes, and scholarship or fellowship grants.
4. Taxable income is under \$100,000.
5. The only adjustment to income is the student loan interest deduction or scholarship exclusion.
6. No tax credits are claimed.
7. No exemption is claimed for the spouse.
8. The only itemized deduction is state and local income tax.
9. The only taxes owed are income tax.



Example 3

Joy is a married student from China. She can't be claimed as a dependent on any U.S. return. Her only income is \$8,390 that she earned on campus. Her only deduction is \$96 of state income tax. She can file Form 1040NR-EZ.

Example 4

Peter is a married student from Canada. His wife meets all the requirements to be claimed as a personal exemption. His only income was \$11,000 he earned from his assistantship. He should file Form 1040NR. He can take an exemption for his wife on that form if she has a U.S. taxpayer identification number.

Example 5

Lee is a single student from China. He tells you that he gave a local church \$10 every week. His total income was \$7,950. His state income tax withholding was \$65. He can still file a Form 1040NR-EZ, because his treaty benefit and allowable deductions (both covered in later chapters) reduce his income below \$0 even without considering his charitable contributions.

Income	\$ 7,950
Minus:	
Treaty benefit	– 5,000
Personal exemption	– 3,400
State tax	– <u>65</u>
Total income:	\$ (515)

Example 6

Olga does not know which form to file. She had no wages, but she sold \$50,000 of stock online. She made only \$70 after expenses. You should tell Olga to file Form 1040NR. She will also need a Schedule D (the same as used on domestic returns) to report the stock sales.



WHEN AND WHERE TO FILE

A nonresident who received any wages must file a tax return by April 15, 2008. If the only income was from scholarships or other income not subject to withholding, the return must be filed by June 16, 2008.

All Forms 1040NR and 1040NR-EZ must be mailed to:

Internal Revenue Service
Austin TX 73301-0125
USA

FAILURE TO FILE

Many students and scholars who are required to file returns either don't file or file incorrectly. Many of them would be eligible for a refund if they filed the required forms. Some would rather forgo the refund than try to figure out what form they should file and when. Part of your job is to inform them whether they need to file.

If they have no tax liability, the IRS will not penalize them for not filing (although they must still file Form 8843). However, the terms of students' and scholars' visas require that they stay in compliance with all laws of the United States, including income tax filing. If they want to apply for residency at a later date, they may be asked to show proof of tax compliance. Therefore, they should file a tax return, even if they are not interested in or eligible for a refund.

ALTERNATIVE METHODS OF FILING

You can use software to help you prepare nonresident returns, but the forms cannot be filed electronically. Very little software is available for preparing foreign students' and scholars' tax returns. If you can use such software (some colleges provide it), it can be of great help in preparing returns. The VITA program does not currently furnish software to international VITA sites. The TaxWise[®] software used in Form 1040 preparation does have Form 1040NR on it, but it does not help you with calculations. If you have access to TaxWise[®], you can use it as a template and type in the information for Form 1040NR, but you must still do the calculations and know the treaties. If you have additional software questions, talk to your VITA coordinator or the foreign student advisor.

Note: Returns cannot be faxed to the IRS.



STUDENT NOTES



Many countries have **tax treaties** with the United States that allow their residents to earn some money while temporarily in the United States without being subject to income tax on those earnings in both countries. These treaties will have a large impact on your volunteer work with international students and scholars. The texts of the treaties are posted on the IRS Web site (www.irs.gov), but understanding them can be a challenge. **IRS Publication 901, U.S. Tax Treaties**, has an overview of them. **This chapter provides very general treaty information and is not intended to replace the governing rules of the treaties.** The Publication 901 overview appears at the end of this lesson.

India is the only country whose international **students** are allowed to use the **standard deduction** in the United States. On the other hand, all international students and scholars are entitled to the **personal exemption** for themselves and, in some cases, for family members. (See Lesson 4 for more information.)

International students and scholars may complete **Form 8233, Exemption From Withholding on Compensation for Independent (and Certain Dependent) Personal Services of a Nonresident Alien Individual** annually and give it to their employer. This allows the employer to avoid withholding federal income tax on their earnings or other payments until the applicable treaty benefit amount is exceeded. It also enables the employer to issue the correct type of wage statement at the end of the year. But the students and scholars are entitled to claim their treaty benefits on their tax returns even if they did not give the proper forms to their employer or college. The individual is also allowed to claim the treaty benefit even if the employer did not issue the correct reporting document.

Each type of income that an alien can earn is identified by a numeric code on Form 1042-S (which international students and scholars should receive in lieu of Form W-2 for any income that is covered by a treaty). A code often seen is “19”— wage income for a student. The codes are helpful in determining the application of the treaty benefits. Table 1 on page 3-3 lists these codes and their meanings.

The pages following the income codes give a quick guide to treaty benefits. However, they do not list all the restrictions on treaty benefits. Publication 901 provides additional information. Tables 2 through 4 summarize treaty benefits applicable to each of the three major kinds of income (codes 15, 18, and 19) of students and scholars from each country for which a treaty gives benefits for that code. Countries not listed in the tables had no treaty benefits for their students or scholars when this publication went to press.

However, new treaties are ratified from time to time. Students can often tell you what they think their treaty benefit should be. If you don't see information for their country listed in Tables 2 through 4, you can check the IRS Web site (www.irs.gov) to see whether a new treaty has been ratified. Treaty benefits are tied to the residency of the individual immediately before entering the United States, not the country that issued the passport.

TAX RESIDENCY

As noted in lesson 1, you must determine the residency status for U.S. income tax purposes. You also learned that the residency status for tax purposes could be different than the residency status for immigration. Now we need to introduce one more residency status.

For an individual to be eligible for treaty benefits, the individual must be a resident in the treaty country at the time designated by the treaty. This requires that you determine the tax residence for the individual. Most of the time, the person will be both a citizen and resident in the treaty country. However, as we become a more mobile society, students who are citizens of one country may have been residents of a different country immediately before coming to the United States. The application of the treaty benefit is usually determined by where the person resided immediately before entering the United States. This is illustrated in the following example.

Example 1

Suigita is a citizen of India. In 2003 she received her undergraduate degree from the University of Toronto. In April 2004, she entered the U.S. from Canada to begin work on her graduate degree. Since she was a resident of Canada immediately before entering the United States, she is governed by the Canada treaty not the India treaty.



Table 1**Income Codes for Aliens**

(This is a comprehensive list. The codes most often applying to international students and scholars are in **boldface**. Many codes rarely apply to students and scholars, but are shown here for reference.)

Code Description

01	Interest paid by U.S. obligors—general
02	Interest on real property mortgages
03	Interest paid to controlling foreign companies
04	Interest paid by foreign corporations
05	Interest on tax-free covenant bonds
06	Dividends paid by U.S. corporations—general
07	Dividends qualifying for direct dividend rate
08	Dividends paid by foreign corporations
09	Capital gains
10	Industrial royalties
11	Motion picture or television copyright royalties
12	Other royalties
13	Real property income and natural resources income
14	Pensions, annuities, alimony, and/or insurance premiums
15	Scholarship or fellowship grants
16	Compensation for independent personal services
17	Compensation for dependent personal services
18	Compensation for teaching and researching
19	Compensation during study and training
20	Earnings as an artist or athlete
	...
24	Real estate investment trust (REIT) distributions of capital gains
25	Trust distributions subject to Code section 1445
26	Growing crops and timber income
27	Publicly traded partnership distributions
28	Gambling winnings
29	Deposit interest
30	Original issue discount (OID)
31	Short-term OID
32	Notional principal contract income
	...
50	Other income



International students and scholars often receive scholarships, fellowships, grants, and assistantships from U.S. sources. Regardless of the term used, the taxability of such payments (or waivers of charges) depends on their nature, as described below. All such grants and waivers fall into one of three categories:

- a.** Money received for (or a waiver of charges for) tuition, fees, books, and/or supplies. This money is not taxable if it was spent for the purpose intended and there was no requirement to perform services. (The same is true for domestic students.) This rule applies whether the payer is foreign or domestic.
- b.** Money received from a domestic payer for (or a waiver of charges for) room and board—again, if paid with no requirement to perform services. This money is normally taxable, but some countries have treaty provisions making it nontaxable. These countries are listed on the next page. Usually there is a maximum number of years of presence in the United States during which such money will be nontaxable. If those years are exceeded, the treaty benefit ends. The maximum years are listed in Table 2, along with the article number containing the provision in the treaty.
- c.** Money received (or a waiver of charges) on condition that the recipient perform services such as teaching or research. This money is treated as wages and is considered code 18 or 19 income. Its taxation is discussed later.



**Table 2 Countries With Treaty Benefits for Scholarship Income
(income code 15)**

<i>Country</i>	<i>Maximum years in U.S.</i>	<i>Amount</i>	<i>Treaty article</i>
Bangladesh	2	Unlimited	21(2)
Belgium	5	Unlimited	21(1)
China, People's Rep. of	No limit	Unlimited	20(b)
C.I.S.	5	Limited†	VI(1)
Cyprus	5	Unlimited	21(1)
Czech Republic	5	Unlimited	21(1)
Egypt	5	Unlimited	23(1)
Estonia	5	Unlimited	20(1)
France	5	Unlimited	21(1)
Germany	No limit	Unlimited	20(3)
Iceland	5	Unlimited	22(1)
Indonesia	5	Unlimited	19(1)
Israel	5	Unlimited	24(1)
Kazakhstan	5	Unlimited	19
Korea, Republic of	5	Unlimited	21(1)
Latvia	5	Unlimited	20(1)
Lithuania	5	Unlimited	20(1)
Morocco	5	Unlimited	18
Netherlands	3	Unlimited	22(2)
Norway	5	Unlimited	16(1)
Philippines	5	Unlimited	22(1)
Poland	5	Unlimited	18(1)
Portugal	5	Unlimited	23(1)
Romania	5	Unlimited	20(1)
Russia	5	Unlimited	18
Slovak Republic	5	Unlimited	21(1)
Slovenia	5	Unlimited	20(1)
Spain	5	Unlimited	22(1)
Thailand	5	Unlimited	22(1)
Trinidad and Tobago	5	Unlimited	19(1)
Tunisia	5	Unlimited	20
Ukraine	5	Unlimited	20
Venezuela	5	Unlimited	21(1)

† The annual income limit under the tax treaty with the C.I.S. is less than \$10,000 if that amount is spent for the purposes for which the person is in the United States.



Example 2

Aseye is from Ghana, Africa. She is an F-1 student in the U.S. She receives a tuition waiver from her college. She is not required to work to get the waiver. She also received a \$250 scholarship from a local group to help cover her books. She pays her own room and board with monies from her home country. She has no taxable scholarship or fellowship income.

Example 3

Birgit is from Sweden. She is an F-1 student at a graduate school in the U.S. She receives a tuition waiver in exchange for services as a graduate assistant. Her waiver is taxable to the extent it equals the value of her services.

Example 4

Reinhard, who is from Germany, is a student with an F-1 visa. He receives a tuition waiver from his college. He is not required to perform any services to get this waiver. The tuition waiver is not taxable. He has another scholarship that covers all his room and board. It would normally be taxable, but his treaty provision makes it nontaxable.

INCOME CODE 18: COMPENSATION FOR TEACHING AND RESEARCHING

Pay of professors and teachers may be exempt from U.S. income taxes for either 2 or 3 years if they are temporarily in the United States to teach or do research. Table 3 lists the countries with treaty benefits for this type of income. These exemptions by treaty apply to pay earned by the visiting professor or teacher only—not to any earnings of a spouse or dependents.

The treaty exemption for teaching or research income is counted from the day of arrival in the United States. Some countries, including Germany, India, Netherlands, Thailand, and the United Kingdom have treaty clauses saying that if the maximum years of presence are exceeded, the **entire** treaty benefit is lost. This could require the teacher to file amended returns and pay tax on past years. Thus a taxpayer who expects to stay more than the limit on years of presence should avoid claiming the treaty benefit for any years.



Example 5

Deepak is from India. He is on a J-1 visa and is teaching engineering at a local university. He has been offered an 18-month contract with that university and fully expects to return to India when it ends. He should claim his treaty benefit when filing his return.

Example 6

Assume the same facts as in Example 5, except that Deepak renews his contract for an additional year in its second year. Now all of his earnings from the university will be taxable from the beginning of his employment. He will have to file amended returns for the tax years he claimed the treaty benefit.

Example 7

Assume that Deepak was hired on a 4-year contract to teach at the university. Since he expects to stay beyond the maximum years of presence allowed by treaty, he should not claim the treaty benefit for any year.

Example 8

Assume the same facts as in Example 7, except that Deepak stays only 1 year and then returns to India. He is entitled to the treaty benefit, even though his original contract exceeded the limit on years of presence.



**Table 3 Countries With Treaty Benefits for Income From Teaching
(income code 18)**

<i>Country</i>	<i>Maximum years in U.S.</i>	<i>Amount</i>	<i>Treaty article</i>
Bangladesh	2	Unlimited	21(1)
Belgium	2	Unlimited	20
China, People's Rep. of	3	Unlimited	19
C.I.S.	2	Unlimited	VI(1)
Czech Republic	2	Unlimited	21(5)
Egypt	2	Unlimited	22
France	2	Unlimited	20
Germany	2	Unlimited	20(1)
Greece	3	Unlimited	XII
Hungary	2	Unlimited	17
Iceland	2	Unlimited	21
India	2	Unlimited	22
Indonesia	2	Unlimited	20
Israel	2	Unlimited	23
Italy	2	Unlimited	20
Jamaica	2	Unlimited	22
Japan	2	Unlimited	20
Korea, Republic of	2	Unlimited	20
Luxembourg	2	Unlimited	21(2)
Netherlands	2	Unlimited	21(1)
Norway	2	Unlimited	15
Pakistan	2	Unlimited	XII
Philippines	2	Unlimited	21
Poland	2	Unlimited	17
Portugal	2	Unlimited	22
Romania	2	Unlimited	19
Slovak Republic	2	Unlimited	21(5)
Slovenia	2	Unlimited	20(3)
Thailand	2	Unlimited	23
Trinidad and Tobago	2	Unlimited	18
Turkey	2	Unlimited	20(2)
United Kingdom	2	Unlimited	20(A)
Venezuela	2	Unlimited	21(3)



INCOME CODE 19: COMPENSATION DURING STUDY AND TRAINING

Students and trainees from many countries are allowed to earn some money tax-free in the United States. Table 4 lists these amounts, which vary by country.

Immigration restrictions usually bar students from working **off-campus** during their first year in the United States. Even after that year, special BCIS permission is needed to work off-campus. Most international students earn money from the college or university they attend. If they work for the campus food service but it is managed by an outside company, their wage statements will show the name of that company. That is considered on-campus work for immigration purposes.

A spouse or dependent of an F-1 student is not permitted to work while in the United States on an F-2 visa. A spouse who acquires his or her own F-1 visa may be granted permission to work on campus.

Sometimes, students earn more wages than their treaty benefit. If that happens, the excess must be reported on their tax return. As you will see later, international students are allowed only limited deductions against their income.

Example 9

Yumiko is an international student from Korea. She earned \$4,516 last year working in the campus library. She had \$118 of federal income tax withheld. This is her second year in the U.S. Her treaty allows her to earn \$2,000 tax-free. Her taxes would be computed as follows:

Wages	\$ 4,516
Treaty benefit	– 2,000
Wages subject to tax	2,516
Personal deduction	– 3,400
Taxable income	0
Refund	\$ 118

Note: She must file an income tax return (Form 1040NR or Form 1040NR-EZ) to receive the refund.



**Table 4 Countries With Treaty Benefits for Student Wages
(income code 19)**

<i>Country</i>	<i>Maximum years in U.S.</i>	<i>Amount</i>	<i>Treaty article</i>
Bangladesh	2	\$8,000	21(2)
Belgium	5	2,000	21(1)
China, People's Rep. of	No limit	5,000	20 (c)
Cyprus	5	2,000	21(1)
Czech Republic	5	5,000	21(1)
Egypt	5	3,000	23(1)
Estonia	5	5,000	20(1)
France	5	5,000	21(1)
Germany	4	5,000	20(4)
Iceland	5	2,000	22(1)
Indonesia	5	2,000	19(1)
Israel	5	3,000	24(1)
Korea, Republic of	5	2,000	21(1)
Latvia	5	5,000	20(1)
Lithuania	5	5,000	20(1)
Morocco	5	2,000	18
Netherlands	No limit	2,000	22(1)
Norway	5	2,000	16(1)
Pakistan	No limit	5,000	XIII(1)
Philippines	5	3,000	22(1)
Poland	5	2,000	18(1)
Portugal	5	5,000	23(1)
Romania	5	2,000	20(1)
Slovak Republic	5	5,000	21(1)
Slovenia	5	5,000	20(1)
Spain	5	5,000	22(1)
Thailand	5	3,000	22(1)
Trinidad and Tobago	5	2,000	19(1)
Tunisia	5	4,000	20
Venezuela	5	5,000	21(1)



DEPENDENT AND INDEPENDENT PERSONAL SERVICES

Students and scholars sometimes try to make use of the treaty benefits for dependent and independent personal service income (income codes 16 and 17). Generally, this is an incorrect interpretation of the treaties, except for Canadian students. Treaties often do not permit students and scholars to earn those types of income. They are allowed to engage only in employment that is related to the reason they were admitted to the country. Students are not admitted to be performers or have dependent service income. The immigration laws usually do not allow a student to engage in independent personal services in the United States.

UNUSUAL TREATY PROVISIONS

Although every treaty is unique, most have very similar rules for students and scholars. However, three countries have unusual provisions for students and scholars. The following information is a summary of those provisions.

Canada Treaty

The Canadian treaty has some provisions that are unique to it. **Publication 597, Information on the United States–Canada Income Tax Treaty** is a good reference tool on its benefits to students and scholars from Canada. Residents of other countries often go to Canada, establish residency there, and then come to the United States to study. Generally, they follow the treaty provisions of the country in which they were most recently residents.

The U.S.–Canada tax treaty contains no specific benefits for either students or visiting scholars who are residents of Canada. The treaty does, however, contain a benefit that will apply to some students and scholars for Canada. The students and scholars are permitted to use article 15 of the tax treaty, which applies to dependent personal services. As we noted earlier, generally international students and scholars can't use the treaty benefits for dependent personal services. Canada is an exception to the general rule.

The tax treaty with Canada is different from all other tax treaties because it (1) exempts all earned income if the nonresident earned no more than \$10,000 in the tax year, but (2) taxes all income if the nonresident earned over \$10,000. This treaty benefit is lost if the nonresident becomes a resident for tax purposes.



Example 10

Henry LaRue is an international student from Canada. He entered the U.S. on an F-1 visa in 2006. In 2007 he earned \$5,600 from on-campus employment. His federal tax withholding was \$593. He must file either Form 1040NR or Form 1040NR-EZ. In either form's question-and-answer section, he will provide the following information: "Tax treaty article XV exempts all earned income from tax. I earned \$5,600 in 2007." Henry will receive a refund of \$593.

If Henry had earned more than \$10,000, he could not use the earned income treaty benefit. He would owe federal taxes on all his earnings that year.

India Treaty

The IRS issued procedures for a new tax treaty with India in 1994. The treaty's benefits apply to tax years beginning on or after January 1, 1993.

An Indian **student** may take a **standard deduction** equal to the amount allowable on Form 1040 and may claim the personal exemptions for a nonworking spouse and U.S.-born children.

Treaty benefits for a **scholar** from India are very different from those for a **student**. The **scholar** benefit for income code 18 is lost retroactively if the visit exceeds 2 years.

Example 11

Kumar Dali arrived in the U.S. in 2005 on a J-1 visa. He had a 1-year contract to teach agriculture at the local university. His teaching was well received, and he was asked to stay and teach until the fall of 2008. In 2005 and 2006 he excluded all his earnings from tax by using the Indian treaty benefit. In 2007, all of his earnings will be taxable. He also must file amended returns for 2005 and 2006, changing his income from non-taxable to taxable.

China Treaty

Almost all U.S. tax treaties are limited to a specific number of years and may not be available for residents for tax purposes. But the U.S. treaty with China is different. Many of its provisions are available to both nonresident **and** resident aliens.

The treaty provides that a scholar is exempt from tax on earned income for 3 years. After 2 years, a scholar will become a resident alien for tax purposes but is still entitled to 1 more year of tax benefits under the treaty.



Example 12

Joy Chen came to the U.S. in 2005 to teach for 3 years at the local university. She was paid \$38,000 per year for her full-time “Art as Clothing” program. For 2005 and 2006 she filed Form 1040NR-EZ, reporting no taxable income because her treaty benefit exempted all her income. In 2006, she is a resident alien for federal income tax purposes. She will file a Form 1040, but her earnings are still exempt from tax. She will attach Form 8833, Treaty-Based Return Disclosure Under Section 6114 or 7701(b), to her Form 1040.

A student from China is entitled to the \$5,000 exemption for the amount of time reasonably necessary to complete education or training. A student will become a resident alien for tax purposes after 5 years but is still entitled to the treaty benefit as long as he or she remains a student.

Example 13

Kia came to the U.S. in 2000 on an F-1 visa to study bio-engineering. She has not left the U.S. except for short visits home. In 2007 she earned \$10,700 as a graduate assistant. She must file a Form 1040. She can exclude \$5,000 of her wages under her treaty benefit. The remaining \$5,700 will be her adjusted gross income. She will attach Form 8833, Treaty-Based Return Disclosure Under Section 6114 or 7701(b), to her Form 1040.

Exercise 1

Determine the treaty benefit available for the following **students**. Assume that all money was earned in the U.S. Use Table 4 to help you answer these questions.

<i>Country</i>	<i>Years in U.S.</i>	<i>Earned income</i>	<i>Treaty benefit</i>
China	6	\$6,200	_____
Germany	2	5,400	_____
Ghana	3	4,700	_____
Nigeria	1	2,100	_____
Poland	4	7,600	_____
Israel	6	5,800	_____
Russia	2	7,300	_____

What form should be given to the university payroll office to claim exemption from withholding on the amount of income covered by the treaty? _____



Exercise 2

Determine how much of the following **scholars'** income from U.S. universities will be exempt from U.S. taxation. Use Table 3 to help you answer these questions.

<i>Country</i>	<i>Years in U.S.</i>	<i>Salary</i>	<i>Nontaxable portion</i>
India	1	\$34,000	_____
China, People's Rep. of	1	34,000	_____
China, People's Rep. of	3	34,000	_____
South Africa	1	34,000	_____
Sweden	2	34,000	_____

Exercise 3

Determine how much of the following **scholars'** income from U.S. universities will be exempt from U.S. taxation in 2007. They each entered the U.S. on August 1, 2005, and were still here in 2008. Use Table 3 to help you answer these questions.

<i>Country</i>	<i>Salary</i>	<i>Nontaxable portion</i>
India	\$34,000	_____
China, People's Rep. of	34,000	_____
South Africa	34,000	_____
Sweden	34,000	_____



Exercise 4

Did the following students have any taxable scholarships? Assume that their tuition was equal to the tuition scholarship. Also assume that each student arrived in the U.S. for the first time in 2004, and that all scholarships are provided by U.S. institutions. Use Table 2 to help you answer these questions.

<i>Country</i>	<i>Tuition scholarship</i>	<i>Room & board scholarship</i>	<i>Amount subject to tax</i>
Australia	\$4,950	\$5,000	_____
China	5,000	4,600	_____
Guyana	4,400	2,950	_____
India	3,150	4,900	_____
Pakistan	3,700	7,300	_____
Poland	3,800	6,700	_____
Russia	4,600	5,900	_____



Exercise 1	China, People's Rep. of	\$5,000
	Germany	\$5,000
	Ghana (No tax treaty)	0
	Israel	\$3,000
	Nigeria (No tax treaty)	0
	Poland	\$2,000
	Russia (No treaty benefit)	0

Form 8233 should be used to inform the university payroll office of the treaty benefit being claimed.

Exercise 2	China (1 year)	\$34,000
	China (3 years)	\$34,000
	India	\$34,000
	South Africa (No treaty benefit)	0
	Sweden (No treaty benefit)	0

Exercise 3	China, People's Rep. of	\$34,000
	China is \$34,000 because the treaty allows the benefit for 3 years even though the scholar must file Form 1040. In 2008, the benefit will have to be prorated to July 31st.	
	India	0
	India is zero because the scholar exceeded two years in the U.S.	
	South Africa (No treaty benefit)	0
	Sweden (No treaty benefit)	0

Exercise 4 None of the tuition scholarship money would be taxed to any of these students. That is because the Internal Revenue Code allows any recipient of tuition, fees, and books scholarships to exclude them from income.

Australia	\$5,000
China, People's Rep. of	0
Guyana	\$2,950
India	\$4,900
Pakistan	\$7,300
Poland	0
Russia	0

IDENTIFICATION NUMBERS

Most nonresident students and scholars cannot claim family members as dependents. Any family member who **can** be claimed as a dependent must have a Taxpayer Identification Number (TIN). If the dependent has been issued a social security number (SSN), that is the TIN. But most family members do not have work authorization, so the Social Security Administration will not issue them social security numbers.

Family members who are not eligible for a social security number can apply for an identification number from the IRS. The IRS issues Individual Taxpayer Identification Numbers (ITINs) to individuals who are required to have a U.S. taxpayer identification number (TIN) but who do not have and are not eligible to obtain an SSN. The ITIN is a nine-digit number that begins with the number 9 and is formatted like an SSN (NNN-NN-NNNN). The fourth and fifth digits of an ITIN falls within the range of 70–89. The ITIN was created for use on tax returns only.

The issuance of an ITIN **does not:**

- Entitle the recipient to social security benefits or the Earned Income Credit (EIC),
- Create an inference regarding the individual's immigration status, or
- Give the individual the right to work in the United States.

The IRS has taken several steps to strengthen controls over the issuance of ITINs. For the most current information, go to www.irs.gov (keyword: ITIN).

ALERT



Incorrect SSN/ITIN Usage

The incorrect use of SSNs/ITINs can delay a taxpayer's refund. There are two types of incorrect usage:

- Using a SSN/ITIN that was not assigned to the taxpayer (i.e., using some other person's SSN/ITIN)
- Usage of a correct SSN/ITIN by more than one taxpayer (i.e., two taxpayers filing separately and claiming the same dependents)

FILING STATUS AND SPOUSAL EXEMPTION

All unmarried nonresidents must use the Single filing status. Married nonresidents must use one of the Married filing statuses even if the spouse is not present in the United States. Nonresidents **cannot** use the Head of Household status.

The filing status determines what tax rate schedule will be used, so you should be careful when marking the filing status on the return.

Nonresidents from Canada, Mexico, the Republic of Korea (South Korea), or India may be able to claim an exemption for their spouse. (This is not the same as claiming their spouse as a dependent. The term “dependent” is reserved for family members other than the spouse.) The following rules apply:

Canada and Mexico: Residents of Canada or Mexico can claim a personal exemption for a spouse if the spouse had no gross income for U.S. tax purposes and was not a dependent on another U.S. return.

Republic of Korea (South Korea): Residents of the Republic of Korea (South Korea), may be able to claim a personal exemption for a spouse. The spouse must live with the taxpayer. If the student or scholar also has income from outside the United States, the exemption will have to be prorated. See IRS Publication 519 for more information.

India: Some nonresidents from India are eligible to claim a personal exemption for a spouse. The deduction applies only to students and business apprentices. A student can claim an exemption for a spouse if the spouse had no gross income during the year and cannot be claimed on someone else’s U.S. return. When completing Form 1040NR, write the spouse’s information on line 7c.

Example 1

Zenobia, a married scholar from Nigeria, arrived in the U.S. on a J-1 visa in 2006. Her husband and child live with her in the U.S. Her husband, Kentaznib, has a J-2 visa and works for a local computer company. Zenobia must file a tax return for herself and mark the Married box, but her deductions and taxes must be calculated at the Married Filing Separately rate. Kentaznib must file his own return using the same filing status. Neither of them can claim the child or any child-related tax credits.



Example 2

Ming, a married student from the Republic of Korea (South Korea), came to the U.S. in February of 2005 as an F-1 student. Her husband came with her. Her only income was from her on-campus job. Her husband had no income. As a nonresident, she cannot file a joint return with him. She can claim him on her return. He will need to have a tax identification number (either an SSN or an ITIN).

DEPENDENTS

Most nonresidents cannot claim an exemption for their dependents. Even if the dependents are U.S. citizens, usually they cannot be claimed on a nonresident return.

Exceptions apply to persons from Canada, Mexico, the Republic of Korea (South Korea), and India, as follows:

Canada and Mexico: Dependents can be claimed if they meet all of the tests for dependency listed in Publication 678, *VITA/TCE Volunteer Student Guide*, and Publication 17, *Your Federal Income Tax Guide*.

Republic of Korea (South Korea): Dependents must live with the nonresident in the United States at least part of the year. The dependency exemption will need to be prorated if the nonresident has both U.S.-source income and foreign income.

India: Dependents can be claimed if they were not admitted to the United States on an F-2, J-2, or M-2 visa. They must also meet the tests for dependency listed in Publication 678, *VITA/TCE Volunteer Student Guide*, and Publication 17, *Your Federal Income Tax Guide*.



Example 3

Dehni and Aschuma are married international students at the local university. They are both on F-1 visas from India. They have been in the U.S. since 2004. In 2007 they had a baby girl. Dehni earned \$4,300 in 2007 and Aschuma earned \$5,027. Normally, the person who provided most of a child's support can claim the exemption. But Dehni and Aschuma each earned less than the amount of their deductions (which are covered in a later chapter), so they owe no federal income tax. Thus, neither of them needs to claim the child. Each of them can file Form 1040NR-EZ and report his or her earnings.

Example 4

Jesus and Maria are married international students from Mexico. They arrived here in December 2005 and Maria had a baby boy (Jose) in February 2007. Maria did not work in 2007. She was busy with her full-time classes and taking care of Jose. Jesus's mother came to help them in late December 2006, and was in the U.S. all of 2007. Jesus maintained his full-time class schedule in pre-med and worked to support his family. He worked at the health center on campus and earned \$7,800. He should file a Form 1040NR and claim an exemption for his wife and baby. He may also be entitled to claim his mother, but because of his low income he will not benefit from doing so.

Exercise 1:

Jenny is from Australia. She arrived in the U.S. in 2007 with her husband and son. She had an F-1 visa, and her husband and son were on F-2 visas. She earned \$4,100 from an on-campus job.

What is Jenny's filing status? _____

Can she claim her husband and son? _____

Can she use Form 1040NR-EZ? _____



Exercise 2:

Devesh is from India. He arrived on an F-1 visa in 2004. In 2006, his wife and two children joined him in the U.S. and obtained identification numbers. In 2007, his wife had a third child while in the U.S. Devesh earned \$7,850 from on-campus work in 2007. He provided all support for his family. His wife is on an F-2 visa and is not permitted to work.

What is Devesh's filing status? _____

Can he claim an exemption for his wife? _____

Can he claim exemptions for his two children born in India?

Can he claim an exemption for his child born in 2007? _____

QUALIFYING CHILD

A "qualifying child" may enable a nonresident to claim several tax benefits, such as the exemption for a dependent, the child tax credit, and the child and dependent care credit. Prior to 2005, each of these items defined a qualifying child differently, leaving many taxpayers confused.

The Working Families Tax Relief Act of 2004 set a uniform definition of a qualifying child, beginning for Tax Year 2005. This standard definition applies to all of the tax benefits noted above, with each benefit having some additional rules.

In general, to be a taxpayer's **qualifying child**, a person must satisfy the following tests:

- **Relationship**—the taxpayer's child or stepchild (whether by blood or adoption), foster child, sibling or stepsibling, or a descendant of one of these.
- **Residence**—has the same principal residence as the taxpayer for more than half the tax year. Exceptions apply, in certain cases, for children of divorced or separated parents, kidnapped children, temporary absences, and for children who were born or died during the year.
- **Age**—must be under the age of 19 at the end of the tax year, or under the age of 24 if a full-time student for at least five months of the year, or be permanently and totally disabled at any time during the year.
- **Support**—did not provide more than one-half of his or her own support for the year.



■ **Special Test for a Qualifying Child of More than One Person**—If a child meets the relationship, age, residency, and support tests to be a qualifying child of more than one person, only one person can actually treat the child as a qualifying child. If the taxpayer and another person have the same qualifying child, the taxpayer and the other person may decide who will treat the child as a qualifying child. That person can take all of the following tax benefits (if eligible for each benefit) based on the qualifying child:

- Dependency Exemption
- Head of Household
- Child Tax Credit
- Earned Income Tax Credit
- Child and Dependency Care Expense Credit
- Exclusion from income for Dependent Care Benefits

The other person cannot take any of these benefits based on the qualifying child. Thus, the benefits cannot be divided between the taxpayer and the other person. If the taxpayer and the other person cannot agree on who will claim the child, and more than one person files a return claiming the same child, the IRS will use the tiebreaker rule.

Additional Rules

While the above qualifying child tests generally apply, there are some additions or variations for particular provisions:

Dependent—a qualifying child must also meet these tests:

- Nationality—be a U.S. citizen or national or a resident of the United States, Canada or Mexico. There is an exception for certain adopted children.

Credit for Child and Dependent Care Expenses—a qualifying child must be under the age of 13 or permanently and totally disabled. A qualifying child is determined without regard to the exception for children of divorced or separated parents and the exception for kidnapped children.

Child Tax Credit—a qualifying child must be under age 17 and a U.S. citizen or national or a U.S. resident.

CHILD AND DEPENDENT CARE CREDIT

Generally, nonresident aliens do **not** qualify for this credit. To qualify for the credit, a nonresident alien must do **all four** of the following:

1. Pay someone to care for your dependent under age 13 or your disabled dependent (any age) or disabled spouse, **and**
2. Pay for care provided during the hours when the student or scholar was working (or looking for work) rather than attending classes or studying, **and**



3. If married, file a joint return with a spouse who is a U.S. citizen or resident alien, under an election for the nonresident spouse to be treated as a resident, **and**
4. Not claim an expense for the credit in an amount exceeding earned income.

For more information, see Publication 519.

CHILD TAX CREDIT

Few nonresident aliens can claim this credit either. To claim it, a nonresident alien must have a qualifying child who:

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, **and**
2. Is a son, daughter, adopted child, grandchild, stepchild, or foster child, brother, sister, stepbrother, stepsister, or a descendant of any of them (for example, niece, nephew), **and**
3. Is under age 17 at the end of the tax year.

For additional information, see Form 8901, Information on Qualifying Children Who Are Not Dependents (For Child Tax Credit).

EARNED INCOME TAX CREDIT

A student or scholar who is a nonresident for any part of the tax year **generally does not qualify for** the Earned Income Tax Credit (EITC). However, a student or scholar who was married and chose to file a joint return with a U.S. citizen or resident spouse may be eligible for the credit. See **Publication 596, Earned Income Credit** for more information.

SPOUSE AND DEPENDENT FILING REQUIREMENTS

Immigration regulations do not allow spouses and dependents on F-2 visas to work. The amount of U.S.-source income those persons are allowed to have is extremely limited. Spouses and dependents in the United States under F-2 visas are generally not required to file Form 1040NR or 1040NR-EZ. However, they do need to file Form 8843.

Spouses and some dependents on J-2 visas can be authorized to work. They need to file Form 8843, and either Form 1040NR or Form 1040NR-EZ. Their visa status does not exempt them from paying social security tax nor can they file claims to get social security tax refunded to them.



Exercise 1

Jenny's filing status is married filing separately. She cannot claim her husband and son on her return.

She can file Form 1040NR-EZ.

Exercise 2

Devesh's filing status is married filing separately.

He can claim a personal exemption for his wife.

He cannot claim dependency exemptions for his two children born in India.

He can claim a dependency exemption for his child born in the United States.

Many international students and scholars believe that since they are not U.S. citizens, they are not subject to U.S. taxes. This is a mistaken belief. Indeed, international students and scholars are normally entitled to fewer exemptions from U.S. tax than are U.S. students. International students and scholars can claim a personal exemption, but they cannot normally use the standard deduction or take exemptions for dependents.

Let's review the U.S. federal income tax return filing requirements for foreign students and foreign scholars.

There is a minimum dollar amount of income that triggers a filing requirement for a nonresident alien, including foreign students or foreign scholars. The dollar limit threshold that triggers a filing requirement is \$3,400 for 2007.

1. Filing **is** required by nonresident alien students and scholars who have:
 - a. A scholarship or fellowship that is not partially or totally a tax free scholarship or fellowship as described in Chapter 1 of **Publication 970, Tax Benefits for Education**;
 - b. Income partially or totally exempt from tax under the terms of a tax treaty; and/or
 - c. Any other income that is taxable under the Internal Revenue Code.
2. Filing **is not** required by nonresident alien students and scholars who have income **only** from:
 - a. Foreign sources,
 - b. Interest income from:
 - i. A U.S. bank
 - ii. A U.S. savings and loan institution
 - iii. A U.S. credit union
 - iv. A U.S. insurance company
 - v. An investment that generates portfolio interest (described in section "Exclusions From Gross Income – Interest Income – Portfolio interest" of Publication 519, *U.S. Tax Guide for Aliens*)
 - c. A scholarship or fellowship that is entirely a tax free scholarship or fellowship as described in Chapter 1 of Publication 970, *Tax Benefits for Education*; and/or

- d. Any other income that is nontaxable under the Internal Revenue Code. However, income that is not taxable because of an income tax treaty must be reported on a U.S. income tax return even though no income tax is due on the U.S. income tax return.

This lesson deals with taxation of **nonresident** aliens only. If an international student or scholar is a **resident** alien and your site does not prepare returns for resident aliens, you should direct the student or scholar to a conventional VITA site.

You must first determine the source of each kind of income. That is necessary because **the U.S. does not tax nonresident aliens' foreign-source income**. Table 1 summarizes how to determine the source of each kind of income.

Table 1

Types and Sources of Income

<i>Income type</i>	<i>Source is determined by</i>
Dividends	Where payer is incorporated
Interest	Payer's place of residence
Pension payments attributable to:	
Contributions (employer or employee, pretax)	Where the services were performed
Earnings of domestic (U.S.) trusts	The U.S. is the source
Rents	Where property is located
Royalties from natural resources	Where property is located
Royalties from patents, copyrights, etc.	Where property is used
Salaries, wages, and other compensation for personal services	Where services are performed
Sale of inventory that was purchased	Where the inventory is sold (where title passes)
Sale of personal property (except inventory)	Tax home of seller
Sale of real property	Where the property is located
Scholarships and fellowships	Residence of grantor
Social Security benefits	Residence of payer



Is THE INCOME “EFFECTIVELY CONNECTED” WITH U.S. TRADE OR BUSINESS?

As noted above, the United States does not tax **foreign-source** income received by **nonresident** aliens. If income does have a U.S. source, the United States taxes it—but at different rates depending on whether it is “effectively connected” with a U.S. trade or business. A nonresident alien who is a student or scholar is considered to be engaged in a U.S. trade or business: studying, teaching, or doing research. Thus, income from such activities is “effectively connected” with a U.S. trade or business—along with income from other employment that has been authorized by the USCIS. Income that is effectively connected must be reported on either Form 1040NR or 1040NR-EZ, and is taxed at the same rates as apply to U.S. citizens and resident aliens.

Income that is **not** effectively connected is treated quite differently. It must be reported on Form 1040NR (it cannot be reported on Form 1040NR-EZ), no deductions can be taken against it, and it is taxed at a flat rate—either 30 percent or at a lower treaty rate.

Most investment income is treated as not effectively connected with a U.S. trade or business. This includes dividends, capital gains, rental income, and interest—with one exception, **bank interest**. Interest received on deposits held in the “banking business” is excluded from nonresident aliens’ income; they need not even report it. (The “banking business” includes commercial banks, mutual savings banks, cooperative banks, credit unions, domestic building and loan associations, and other savings institutions chartered and supervised as savings and loans or similar associations under federal or state law.)

Note: The exemption of bank interest applies only if it is not connected with a U.S. trade or business. Thus the exemption may be lost if a nonresident holds large sums in a bank for the purpose of earning money.

Example 1

Jose is a junior at a state university. He is in F-1 immigration status. When he came to the U.S. to study, his parents gave him \$20,000 for expenses. He lent \$5,000 to his cousin, a U.S. resident. His cousin paid him \$1,050 in 2007 (\$1,000 of principal repayment and \$50 interest). He deposited the remaining \$15,000 in the college credit union and earned \$600 interest. The \$50 from his cousin is not from the banking business nor is it connected to his trade or business (studying). Therefore it must be reported on Form 1040NR, page 4. The \$600 interest from the credit union is excluded from income.



Wages are generally subject to tax withholding by the employer. Upon being hired, an employee files Form W-4 to advise the employer of the employee's status for withholding. Due to the restrictions on deductions that can be claimed by nonresidents, a nonresident should check the "Single" box on Form W-4 even if married, and should claim only one withholding allowance—unless the nonresident is from Canada, Mexico, the Republic of Korea (South Korea), or a student from India and can claim a spouse or child as an exemption.

Example 2

Sean, an international student from South Africa, is temporarily present in the U.S. as a student in F-1 status. His wife and daughter accompanied him to the U.S. He will be paid every two weeks. He should mark Form W-4 as Single with one withholding allowance.

Some tax treaties provide for a limited exemption from tax for wages earned while temporarily studying in the United States. To avoid withholding on wages eligible for such an exemption, a student to whom one of those treaties applies should fill out IRS Form 8233, *Exemption From Withholding on Compensation for Independent Personal Services of Nonresident Alien Individual*, and give it to the employer in duplicate. A new Form 8233 must be given to the employer each year. Pay earned but not subject to withholding because of a treaty is reported on Form 1042-S, which the employer is required to provide by March 15 each year. If a student either fails to give Form 8233 to the employer or earns more than the treaty exemption amount, federal tax will be withheld and amounts earned will be reported on Form W-2.



Example 3

Assume the same facts as in Example 2. Sean is from Belgium and is entitled to a \$2,000 treaty exemption for wages. He didn't know about Form 8233 and never filed it. He earned \$4,600 during 2007, all of which was reported on Form W-2. Sean will enter \$2,600 (\$4,600 minus the \$2,000 treaty exemption) on Form 1040NR, line 8, or Form 1040NR-EZ, line 3.

The following worksheet can help you determine the correct amount of wages to report on Form 1040NR or Form 1040NR-EZ. Some of the lines may not apply to the student or scholar you are assisting. If the student or scholar has more than one W-2, add the box 1 amounts together before completing this worksheet.

Wages from Form W-2, box 1	_____
Code 18 income from Form 1042-S	+ _____
Code 19 income from Form 1042-S	+ _____
Code 18 treaty benefit	- _____
Code 19 treaty benefit	- _____
Wages to be entered on return	=====

INTEREST INCOME

As mentioned earlier, interest paid to a nonresident alien by an entity in the banking business is not taxable. Many banks erroneously report this income on Form 1099-INT because they have not been informed that the student or scholar is a nonresident alien. For purposes of Form 1042-S, generally no reporting is required on deposits if the interest is not effectively connected with the conduct of a trade or business in the United States. If the nonresident alien individual uses Form 1040NR to report his income, then such nontaxable interest income shall not be reported anywhere on Form 1040NR except in response to question L on page 5 of Form 1040NR. If the nonresident alien individual uses Form 1040NR-EZ to report his income, then such nontaxable interest income shall not be reported anywhere on Form 1040NR-EZ. The erroneous reporting of such interest income on Form 1099 by one of the institutions listed above shall not cause such interest income to be included in the gross income of the nonresident alien recipient if such recipient has filed the proper income tax return.



DIVIDEND INCOME

If a nonresident alien student or scholar invests in the stock market and receives dividend income, it is not considered effectively connected with the person's trade or business. This income must be reported on Form 1040NR, page 4.

Example 4

Jason, from South Africa, has been in the U.S. since 8/1/04 in F-1 immigration status. In March 2007, he bought some stock. The stock generated \$26 of dividend income, as reported to him on Form 1099-DIV. He must report this income on Form 1040NR, page 4.

SCHOLARSHIPS AND FELLOWSHIPS

Income in the form of a scholarship or fellowship is treated in one of three ways:

1. **Excludable** under the Internal Revenue Code (called the Section 117 exclusion),
2. **Exempt** by treaty, or
3. **Taxable.**

Under section 117 of the Internal Revenue Code, a student who is a candidate for a degree may be able to exclude from income some or all amounts received under a "qualified" scholarship. (The same is true of students who are U.S. citizens.) A qualified scholarship is any amount received as a scholarship or fellowship grant and used for tuition, fees, books, supplies, and equipment that the student is required to buy. Amounts received but used for other purposes, such as room and board or travel, are not excludable. Section 117 does not apply if the student must perform services to receive the money (i.e., teaching assistant).

Some treaties also exempt amounts received as scholarship or fellowship grants. To prevent withholding on the amount of scholarship money that is exempt by treaty, the student must file **Form W-8BEN, Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding**, with the educational institution or other provider of the scholarship.



SCHOLARSHIP AND FELLOWSHIP GRANT REPORTING BY PAYERS

Schools are not required to report the nontaxable portion of scholarships and fellowships on Form 1042-S.

Example 5

Daniela, an international student from Brazil, received a \$6,000 scholarship from Mountain State University. She used \$4,700 of it for tuition, fees, and books. The other \$1,300 was used for living expenses. The university will issue Form 1042-S for \$1,300; Daniela must report \$1,300 on either Form 1040NR, line 12 or Form 1040NR-EZ, line 5.

CAPITAL GAIN OR LOSS

This is discussed below, under “Income Not Effectively Connected With a U.S. Trade or Business.”

OTHER INCOME

Any other income received by a nonresident alien student or scholar is generally classified as “not effectively connected with a U.S. trade or business” and reported on Form 1040NR, page 4.



INCOME NOT EFFECTIVELY CONNECTED WITH A U.S. TRADE OR BUSINESS

Dividend Income

If a nonresident alien student or scholar invests in the stock market and receives dividend income, the earnings are not considered to be effectively connected with the student's trade or business. Therefore, it should be reported on Form 1040NR, page 4. The brokerage firm **should** have reported that income to the taxpayer on Form 1042-S and have withheld a percentage of it (varying with the taxpayer's country) for income tax. But if the student or scholar did not tell the brokerage firm that he or she is a nonresident alien, it may have been reported on a Form 1099-DIV. If it was, probably nothing will have been withheld from it.

Interest Income

Interest received on deposits held by persons in the banking business is **excluded** from nonresident aliens' income. (The banking business includes commercial banks, mutual savings banks, cooperative banks, credit unions, domestic building and loan associations, and other savings institutions chartered and supervised as savings and loans or similar associations under federal or state law.)

If a nonresident alien received interest from another source, it must be reported on Form 1040NR, page 4.

Gambling Income

Some international students and scholars receive income from gambling. This income is not effectively connected with the reason for their visit to the United States and must be reported on Form 1040NR, line 84. On the dotted lines after the arrow, the type of income must be specified. The racetrack or casino should report it to the taxpayer on Form 1042-S; but as with dividends, such income may erroneously be reported on Form W-2G.

Capital Gains and Loss

Nonresident alien students and scholars are subject to 30 percent taxation of their U.S. capital gains unless a tax treaty allows a lower rate. This should be reported on page 4 of the 1040NR.



Example 6

Nabil, a resident of Iran, entered the U.S. in 2004 on an F-1 visa to study engineering. He invested the money that he brought with him in the stock market. In 2007, he sold some stock to pay tuition and fees. The sale of that stock is reportable on Form 1040NR, page 4, line 83. Any gain is taxable at 30%; any loss is not deductible.

ADJUSTED GROSS INCOME

Nonresident alien students and scholars are allowed some adjustments to their “effectively connected” income. One such adjustment is deduction of student loan interest.

Example 7

Dino came to the U.S. in 2004 for postgraduate study. He borrowed \$1,500 from the college credit union for his last semester’s fees and books. Dino graduated in December 2006 but remained in the U.S. for one year of practical training. He began repaying the loan on July 1, 2007 and paid \$45 in interest during 2007. He can deduct that on Form 1040NR, line 32 or Form 1040NR-EZ, line 9.

ITEMIZED DEDUCTIONS

Nonresident aliens (**except students from India**) are not permitted to take the standard deduction. Therefore, they must itemize deductions. They are further limited in the type of expenses they can deduct even as itemizers. They can’t claim a deduction for medical costs, mortgage interest, or investment interest. Below is a summary of the types of expenses they **can** itemize.

State and Local Taxes

State and local income taxes are fully deductible in the year paid, no matter to which state they were paid. They will normally be listed on the student’s or scholar’s Form W-2 or 1042S. A student or scholar may also have a cancelled check or receipt for additional state or local income taxes paid during the tax year.

Charitable Contributions

New recordkeeping requirements for cash contributions. You cannot deduct a cash contribution, regardless of the amount, unless you keep as a record of the contribution a bank record (such as a canceled check, a bank copy of a canceled check, or a bank statement containing the name of the charity). The written communication must include the name of the charity, date of the contribution, and amount of the contribution. For more information, see Publication 526.



Nonresidents can deduct charitable contributions to U.S. charities and nonprofit organizations. Those generally include religious, charitable, educational, scientific, and literary organizations, and organizations that work to prevent cruelty to children or animals.

Contributions made directly to a foreign organization are not deductible. But contributions made to a U.S. organization that transfers funds to a foreign organization may be deductible. To be deductible, the U.S. organization must control use of the funds.

If a contribution exceeds \$250, the student or scholar must have a receipt for it. Also, if the student or scholar benefited from making the contribution, the deduction will be limited.

Casualty or Theft Loss

Nonresident students and scholars can deduct losses from fire, storm, shipwreck, or other casualty, or theft of property, if the property was located in the United States at the time of the loss.

The loss is limited to the lower of (1) the decline in the fair market value of the property or (2) the cost of the property. The loss must be reduced by any insurance or other compensation received. If the property was covered by insurance, a loss cannot be claimed unless a timely insurance claim was filed.

The first \$100 of a loss is not deductible. A nonresident's loss is further limited to 10 percent of his or her income. These limitations are reflected in **Form 4884, Casualty and Thefts**.

Job Expenses

Students and scholars can deduct their job expenses such as:

- unreimbursed travel costs required for the job
- union dues
- safety equipment
- small tools
- dues to professional organizations
- subscriptions to trade journals

These deductions are subject to a limit: only the amount over 2 percent of adjusted gross income can be deducted.

Educational Costs as Itemized Deductions

Most students **cannot** deduct the cost of their education from taxable income. Educational costs are deductible only by a person who has already worked in the field being studied, and only if the current studies will not prepare the person for a new line of work.

If a student's course of study is less than a year and his or her educational expenses are deductible, the student can treat the education as a business trip and deduct costs of transportation, meals, and lodging.



Most students will receive a **Form 1098T, Tuition Payments Statement** from their school. The purpose of this form is to substantiate that the recipient was a student during the year. Further, the form can be used to provide information for possible education credits. Non-resident aliens are not entitled to any of the educational credits and do not need to do anything with Form 1098T.

Example 8

Richard comes to the U.S. as a student on a J-1 visa to attend a 3-month course on advanced radiology techniques in cardiac care. While in the U.S., he will work part-time in a hospital since he is already a licensed, practicing, cardiac radiologist. The hospital will pay him \$5,000 per month. Richard paid \$1,890 to fly here from England. He rented an apartment for \$800 per month. He spends about \$20 a day for food. His course cost \$1,600. His books cost \$250, and he had to pay a university fee of \$40.

Richard will report wages of \$15,000 on his Form 1040NR. He can deduct all his travel, lodging, food, tuition, books, and fees as itemized employee business expenses.

PREPARING THE 1040NR-EZ

The following information is provided to help you understand how to complete Form 1040NR-EZ. The information is presented in the order it appears on the return.

Information Section

It is advisable to have the student or scholar complete the top section of the form, although you can provide guidance. Remind the filer about the importance of listing his or her name in the exact order it appears on the social security card or ITIN letter.

Filing Status

As discussed earlier, generally the only two filing statuses available to nonresident aliens are single and married filing separately. If the student is married, the “Married nonresident alien” box must be marked—even if the spouse is not in this country.



Wages

The amount to list on the wage line should be computed as follows:

	Amount in Form W-2, box 1
plus:	Code 18 income in Form 1042-S, box 2
plus:	Code 19 income in Form 1042-S, box 2
minus:	Treaty benefit
equals:	Amount to list on wage line of tax return

Example 9

Choi, a student from China, received a Form 1042-S showing code 19 income of \$5,000. Choi also received a W-2 with \$3,900 in box 1. Choi would report \$3,900 on the wage line, calculated as follows.

Form W-2, box 1	\$ 3,900
Plus: Code 19 income	5,000
Less: Treaty benefit	5,000
Equals: Amount to be listed on return	\$ 3,900

Example 10

Christiane, from Germany, worked part of the year at the local university in California. She gave the university Form 8233 and they properly applied her treaty benefit. In August she moved to Illinois and began the fall semester at a local university. She also gave this university a Form 8233. The Illinois university was not aware that Christiane had already exempted part of her income in California. At the end of the year, Christiane's taxable wages are calculated as follows:

W-2 California university	\$ 380
1042-S Code 19 California university	5,000
W-2 Illinois university	1,685
1042-S Code 19 Illinois university	5,000
Total wages	12,065
Allowable treaty benefit	5,000
Taxable wages	\$ 7,065

Most likely, Christiane will have a significant balance due on her tax return. The only income from which money was withheld was the \$2,065 reported on her Forms W-2. If she had filed the correct paperwork at both universities, she would have had tax withheld on \$7,065.



Taxable Refunds of State and Local Taxes

Students, except from India, may have received taxable refunds of state and/or local taxes. Remember that nonresident students, except from India, must itemize their deductions. This can include state and local income taxes paid.

They deduct the full amount of the taxes in the year in which they are paid or withheld. If they get a refund of part of those taxes, they may need to include the refund in their return filed the next year. Students from India are allowed a standard deduction, therefore, do not include the amount of their state or local tax refund in taxable income.

Example 11

Arthur, from England, had \$348 of state income tax withheld in 2006. His total income was \$5,800 in 2006. The deduction of his state income taxes helped reduce his taxable income, as illustrated below.

Wages	\$5,800
Personal exemption	3,300
State income tax	348
Taxable income	\$2,352

He received a \$22 state income tax refund in 2007 on his 2006 state return. That \$22 must be listed as income on his 2007 federal return.

Example 12

Sari, from India, had \$269 of state income tax withheld in 2006. On her federal return for 2006 she claimed the standard deduction; thus she did not get to deduct her state income tax.

In 2007 she received a \$56 state income tax refund from her 2006 state return. She does not have to include this refund on her federal return for 2007, because she claimed a standard deduction in 2006 and did not receive a deduction for the state income tax.



Example 13

Alexander from Russia earned \$3,643 in 2006. He had \$189 withheld for state income taxes. Even though he listed the taxes as a deduction on his federal return for 2006, they did not help lower his taxable income for 2006. The personal exemption of \$3,300 was more than enough to lower his taxable income to zero. Alexander received a state refund of \$34 in 2007. He would not include this on his 2007 federal return because he did not receive any tax benefit from his state income tax deduction.

Scholarship and Fellowship Grants

Nonresident alien students must report all scholarships they receive for room and board and living expenses that are not exempted by their treaty. Scholarships that cover only tuition, books, and fees are not reported. Scholarships from outside the United States are not reported either.

If the student uses part of a reportable scholarship to pay for tuition, books, fees or supplies, he or she can deduct those expenses on Form 1040NR-EZ, line 8.

Example 14

Emmanuel from New Zealand received the following scholarships:

Tuition waiver	\$3,600
Science Scholar Scholarship	\$2,000
Abbott Scholarship	\$1,000
Merrill Scholarship	\$1,000

Emmanuel is not required to report the tuition waiver on his tax return. He must report the other \$4,000 of scholarships. He spent \$750 on books and \$250 on required fees other than health insurance. (The fee for health insurance is not a deductible fee even if the school requires it.) He can take a deduction of \$1,000 on line 8. He will have to attach a written statement showing how he arrived at this amount.



Student Loan Interest Deduction

Many foreign students and scholars incur interest charges while temporarily in the United States. However, very few of their interest charges are tax-deductible. The only type of interest they can deduct is qualified student loan interest. All of the following conditions must be met for interest to be qualified student loan interest:

1. The interest must have been paid during the tax year,
2. The interest repayment must have been required to be paid,
3. Filing status must be single,
4. The loan must have been issued to pay for educational expenses, and
5. The recipient of the loan must be at least a half-time student.

Itemized Deductions

The only allowable itemized deduction on Form 1040NR-EZ is the state and local income tax deduction. If a student or scholar has any other deductions and they would help lower taxable income, Form 1040NR should be filed instead of 1040NR-EZ. Students from India can take the standard deduction on either form. For 2007, the standard deduction for single students is \$5,350. The deduction for married students is \$5,350.

Personal Exemptions

All taxpayers who complete Form 1040NR-EZ are entitled to claim a personal exemption for themselves unless they are being claimed as a dependent on another U.S. income tax return. Students and scholars who are eligible to claim family members must file Form 1040NR. The personal exemption for tax year 2007 is \$3,400.

Tax

If a positive number is on line 14, the student or scholar has some income subject to tax. Since all of the income on Form 1040NR-EZ is considered “effectively connected” income, you can use the standard tax tables to determine the correct amount of tax. Be sure to use only the “Married filing separately” column for married students.



Social Security and Medicare Tax on Tip Income

Students and scholars are exempt from the social security and Medicare tax as long as they are nonresidents. Therefore, they will not have an entry on Form 1040NR-EZ, line 16. But a nonresident with a J-2 visa is liable for these taxes, and must complete line 16 if he or she worked for tips and has not paid the full amount of the social security and Medicare taxes. This is an advanced issue, so you may prefer to let a tax professional handle it. See Lesson 8 if the student or scholar has had social security or Medicare tax withheld.

Federal Income Tax Withheld

A student or scholar may have federal income tax withholding listed in one of two places: Form W-2, box 2 and Form 1042-S, box 7. If a student or scholar has income from more than one payor, add all the federal withholding amounts together.

Estimated Tax and Overpayment from Prior Year

For most students and scholars, this line will be blank. Very few nonresidents make estimated tax payments, especially if their only income is from wages and scholarships (all that is allowed on Form 1040NR-EZ). Also, very few of them elect to have their refunds applied to next year's taxes. If a student or scholar had either of those types of payments, list the amount on line 19.



FORM 8843

FILING REQUIREMENTS

Any alien who excludes days of presence from the substantial presence test must file Form 8843, *Statement For Exempt Individuals and Individuals with a Medical Condition*. This applies to many of the international students and scholars you will be assisting. Form 8843 is shown on page 6-3.

Even a student or scholar who had no income must still file Form 8843. Form 8843 must be filed for every family member who is in the United States on an F-2 or J-2 visa. There is no monetary penalty for failure to file, but days of presence can't be excluded from the substantial presence test unless Form 8843 is filed.

Generally, students complete Parts 1 and 3 of Form 8843, and scholars complete Parts 1 and 2. The VITA program does not deal with Parts 4 or 5 of the form. Professional athletes and people with medical conditions should be referred to tax professionals.

Canadian Students and Form 8843

Canadian students need to complete Form 8843 as long as they are exempt individuals. If a Canadian resident does not have a visa, you should use the information from his or her work authorization papers when completing Form 8843.

Tips for Completing Form 8843

Form 8843 asks for information on why the student or scholar is in this country. Information on the student's educational institution is also requested. Most of the information needed is self-explanatory. Some tips on completing the form are given below.

- When listing the name on the top portion of the form, be careful to list the family name and personal name in the correct places.
- The space for taxpayer identification number should be filled in if the alien has either a social security number (SSN) or an individual tax identification number (ITIN). If the alien has neither kind of number, this area can be left blank.
- The address area should be completed only if the alien is filing this form by him or herself. If the alien is filing the form along with a tax return, the address section need not be completed.
- Questions 1a and 1b often confuse students and scholars. Students may enter the United States in F-2 status and then change to F-1 immigration status. But unless they leave the United States, they will not actually have F-1 visas. What questions 1a and 1b really ask is what immigration status they

are in. Also, there is not complete agreement on what number to use as the “visa number.” Generally, the control number is now considered the VISA number.

- Question 2 asks for country of citizenship. Some countries allow dual citizenship, so the student or scholar may be a citizen of more than one country. The country listed on this line should be the foreign country with which the filer has the closest connection.
- Question 3 asks for the country that issued the passport and the passport number. Some passports are in foreign languages. Ask the student or scholar to help you interpret the passport.
- Questions 4a and 4b ask the number of days that the student or scholar spent in the United States. Some students and scholars may ask you if they actually have to count the days. The answer is yes. In many cases, the answer to question 4a for the current year will also be the answer to 4b.
- Questions 5 and 6 are for scholars, teachers, and trainees. These questions ask about the academic institution these persons “attended” and about the director of their academic program. They often think this means where they went to school and attended classes. Since most of them did not attend any classes during the year, they leave the question blank. Another way to word the question would be: “At what academic institution were you employed or trained during the year?” If they were at more than one place, report the most recent place.
- Question 7 asks for the visa type held during the year. Again, this may confuse scholars because their immigration status may have changed during the year although they do not have a new visa. If the status changes during the year, you need to attach an explanation. The explanation can be handwritten on plain paper.
- Question 8 is self-explanatory.

Exercise 1:

Using the blank form on the next page, prepare a Form 8843 for Dr. Wolfgang Marzolf, from Germany. He will be filing a Form 1040NR also. His address in his home country, where he is a citizen, is 34 Spiegelstrasse, 21144 Hamburg, Germany. He entered in J-1 status as a guest professor at the University of Higher Learning, 426 Main Street, Anytown, IL 60000. He works under the direction of Dr. Friederich Heilreich at the same address. Dr. Heilreich’s phone number is (999) 555-5555. Dr. Marzolf has a social security number (XXX-XX-XXXX) and did not change immigration status during the year. His visa number is 2001345678. His German passport number is 97415826. He arrived on August 16, 2006, and has not left the U.S. nor changed immigration status since then. He had never been to the U.S. before. His visa was issued on August 1, 2006.



Form **8843**
Department of the Treasury
Internal Revenue Service

**Statement for Exempt Individuals and Individuals
With a Medical Condition**
For use by alien individuals only.

OMB No. 1545-0074

2007

For the year January 1—December 31, 2007, or other tax year
beginning , 2007, and ending , 20

Attachment
Sequence No. **102**

Your first name and initial Last name Your U.S. taxpayer identification number, if any

Fill in your addresses only if you are filing this form by itself and not with your tax return
Address in country of residence Address in the United States

Part I General Information

- 1a Type of U.S. visa (for example, F, J, M, Q, etc.) and date you entered the United States ▶
b Current nonimmigrant status and date of change (see instructions) ▶
2 Of what country were you a citizen during the tax year?
3a What country issued you a passport?
b Enter your passport number ▶
4a Enter the actual number of days you were present in the United States during:
2007 2006 2005
b Enter the number of days in 2007 you claim you can exclude for purposes of the substantial presence test ▶

Part II Teachers and Trainees

- 5 Enter the name, address, and telephone number of the academic institution you attended during 2007 ▶
6 Enter the name, address, and telephone number of the director of the academic or other specialized program you participated in during 2007 ▶
7 Enter the type of U.S. visa (J or Q) you held during: 2001 2002 2003 2004 2005 2006 . If the type of visa you held during any of these years changed, attach a statement showing the new visa type and the date it was acquired.
8 Were you present in the United States as a teacher, trainee, or student for any part of 2 of the 6 prior calendar years (2001 through 2006)? Yes No
If you checked the "Yes" box on line 8, you cannot exclude days of presence as a teacher or trainee unless you meet the Exception explained on page 3.

Part III Students

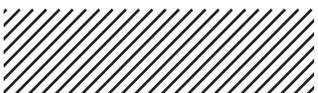
- 9 Enter the name, address, and telephone number of the academic institution you attended during 2007 ▶
10 Enter the name, address, and telephone number of the director of the academic or other specialized program you participated in during 2007 ▶
11 Enter the type of U.S. visa (F, J, M, or Q) you held during: 2001 2002 2003 2004 2005 2006 . If the type of visa you held during any of these years changed, attach a statement showing the new visa type and the date it was acquired.
12 Were you present in the United States as a teacher, trainee, or student for any part of more than 5 calendar years? Yes No
If you checked the "Yes" box on line 12, you must provide sufficient facts on an attached statement to establish that you do not intend to reside permanently in the United States.
13 During 2007, 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 change your status to that of a lawful permanent resident of the United States? Yes No
14 If you checked the "Yes" box on line 13, explain ▶



- Question 9 asks students to enter the identifying information for their academic institution. A student who attended more than one institution during the year should give the information on the one being attended at the end of the year.
- Question 10 asks students about the director of the academic program they are enrolled in. This should be someone the IRS can contact, if necessary, to verify that the student was present at the school. Students can list the foreign student advisor if necessary.
- Question 11 asks the type of visa held during each of the last 6 years. If the visa type has changed, a note explaining the change must be attached to the form.
- Question 12 is self-explanatory.
- Questions 13 and 14 ask whether the student has taken any steps to become a permanent resident of the United States. This information is needed to determine whether the student is still entitled to treaty benefits.

Exercise 2:

Complete Form 8843 on the next page for Daniel Beregovoy. Mr. Beregovoy, a citizen of Switzerland, has come to the U.S. on an F-1 visa to attend State College, 80 East Broadway, Anytown, MO 64000. His academic director is Dr. Small. Dr. Small uses the same address as the college. His phone number is (999) 444-4444. Daniel's home address is 73 Rue de le Boulanger, Genève, CH (Switzerland). His address in the U.S. is 324 East Broadway, Anytown, MO 64000. He had never been to the U.S. before arriving here on July 13, 2006. His social security number is XX-XXX-XXXX, and he had no income during 2007. His visa number is 17318842. His passport number is 2674130984.



Form **8843**

Statement for Exempt Individuals and Individuals With a Medical Condition
For use by alien individuals only.

OMB No. 1545-0074

Department of the Treasury
Internal Revenue Service

For the year January 1—December 31, 2007, or other tax year
beginning , 2007, and ending , 20

2007

Attachment
Sequence No. **102**

Your first name and initial

Last name

Your U.S. taxpayer identification number, if any

Fill in your addresses only if you are filing this form by itself and not with your tax return

Address in country of residence

Address in the United States

Part I General Information

- 1a Type of U.S. visa (for example, F, J, M, Q, etc.) and date you entered the United States ▶
- b Current nonimmigrant status and date of change (see instructions) ▶
- 2 Of what country were you a citizen during the tax year?
- 3a What country issued you a passport?
- b Enter your passport number ▶
- 4a Enter the actual number of days you were present in the United States during:
2007 _____ 2006 _____ 2005 _____
- b Enter the number of days in 2007 you claim you can exclude for purposes of the substantial presence test ▶

Part II Teachers and Trainees

- 5 Enter the name, address, and telephone number of the academic institution you attended during 2007 ▶
- 6 Enter the name, address, and telephone number of the director of the academic or other specialized program you participated in during 2007 ▶
- 7 Enter the type of U.S. visa (J or Q) you held during: ▶ 2001 _____ 2002 _____
2003 _____ 2004 _____ 2005 _____ 2006 _____. If the type of visa you held during any of these years changed, attach a statement showing the new visa type and the date it was acquired.
- 8 Were you present in the United States as a teacher, trainee, or student for any part of 2 of the 6 prior calendar years (2001 through 2006)? Yes No
If you checked the "Yes" box on line 8, you cannot exclude days of presence as a teacher or trainee unless you meet the *Exception* explained on page 3.

Part III Students

- 9 Enter the name, address, and telephone number of the academic institution you attended during 2007 ▶
- 10 Enter the name, address, and telephone number of the director of the academic or other specialized program you participated in during 2007 ▶
- 11 Enter the type of U.S. visa (F, J, M, or Q) you held during: ▶ 2001 _____ 2002 _____
2003 _____ 2004 _____ 2005 _____ 2006 _____. If the type of visa you held during any of these years changed, attach a statement showing the new visa type and the date it was acquired.
- 12 Were you present in the United States as a teacher, trainee, or student for any part of more than 5 calendar years? Yes No
If you checked the "Yes" box on line 12, you must provide sufficient facts on an attached statement to establish that you do not intend to reside permanently in the United States.
- 13 During 2007, 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 change your status to that of a lawful permanent resident of the United States? Yes No
- 14 If you checked the "Yes" box on line 13, explain ▶



Marzolf, Answer to Exercise 1

Form 8843 Department of the Treasury Internal Revenue Service	Statement for Exempt Individuals and Individuals With a Medical Condition For use by alien individuals only. For the year January 1—December 31, 2007, or other tax year beginning _____, 2007, and ending _____, 20____.	OMB No. 1545-0074 <div style="text-align: center; font-size: 24pt; font-weight: bold;">2007</div> Attachment Sequence No. 102
Your first name and initial WOLFGANG MARZOLF		Last name
Your U.S. taxpayer identification number, if any XXX-XX-XXXX		
Fill in your addresses only if you are filing this form by itself and not with your tax return	Address in country of residence 	
Address in the United States 		
Part I General Information		
1a Type of U.S. visa (for example, F, J, M, Q, etc.) and date you entered the United States ▶ J-1 8-16-2006		
b Current nonimmigrant status and date of change (see instructions) ▶ J-1		
2 Of what country were you a citizen during the tax year? GERMANY		
3a What country issued you a passport? GERMANY		
b Enter your passport number ▶ 97415826		
4a Enter the actual number of days you were present in the United States during: 2007 365 2006 137 2005 _____		
b Enter the number of days in 2007 you claim you can exclude for purposes of the substantial presence test ▶ 365		
Part II Teachers and Trainees		
5 Enter the name, address, and telephone number of the academic institution you attended during 2007 ▶ UNIVERSITY OF HIGHER LEARNING, 426 MAIN STREET, ANYTOWN, IL 60000		
6 Enter the name, address, and telephone number of the director of the academic or other specialized program you participated in during 2007 ▶ DR. FRIEDERICH HEILREICH, 426 MAIN STREET, ANYTOWN, IL 60000		
7 Enter the type of U.S. visa (J or Q) you held during: ▶ 2001 _____ 2002 _____ 2003 _____ 2004 _____ 2005 _____ 2006 J-1 . If the type of visa you held during any of these years changed, attach a statement showing the new visa type and the date it was acquired.		
8 Were you present in the United States as a teacher, trainee, or student for any part of 2 of the 6 prior calendar years (2001 through 2006)? <input type="checkbox"/> Yes <input type="checkbox"/> No If you checked the "Yes" box on line 8, you cannot exclude days of presence as a teacher or trainee unless you meet the <i>Exception</i> explained on page 3.		
Part III Students		
9 Enter the name, address, and telephone number of the academic institution you attended during 2007 ▶		
10 Enter the name, address, and telephone number of the director of the academic or other specialized program you participated in during 2007 ▶		
11 Enter the type of U.S. visa (F, J, M, or Q) you held during: ▶ 2001 _____ 2002 _____ 2003 _____ 2004 _____ 2005 _____ 2006 _____ . If the type of visa you held during any of these years changed, attach a statement showing the new visa type and the date it was acquired.		
12 Were you present in the United States as a teacher, trainee, or student for any part of more than 5 calendar years? <input type="checkbox"/> Yes <input type="checkbox"/> No If you checked the "Yes" box on line 12, you must provide sufficient facts on an attached statement to establish that you do not intend to reside permanently in the United States.		
13 During 2007, 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 change your status to that of a lawful permanent resident of the United States? <input type="checkbox"/> Yes <input type="checkbox"/> No		
14 If you checked the "Yes" box on line 13, explain ▶		
For Paperwork Reduction Act Notice, see page 4. Cat. No. 17227H Form 8843 (2007)		

Form 8843 Department of the Treasury Internal Revenue Service	Statement for Exempt Individuals and Individuals With a Medical Condition For use by alien individuals only. For the year January 1—December 31, 2007, or other tax year beginning _____, 2007, and ending _____, 20____.	OMB No. 1545-0074 2007 Attachment Sequence No. 102
Your first name and initial DANIEL BEREGOVOY		Last name _____
Your U.S. taxpayer identification number, if any XXX-XX-XXXX		_____
Fill in your addresses only if you are filing this form by itself and not with your tax return	Address in country of residence 73 RUE DE LE BOULANGER, GENEVE	Address in the United States 324 EAST BROADWAY ANYTOWN, MO 64000
Part I General Information		
1a Type of U.S. visa (for example, F, J, M, Q, etc.) and date you entered the United States ▶ F-1, 7-13-2006 b Current nonimmigrant status and date of change (see instructions) ▶ F-1		
2 Of what country were you a citizen during the tax year? SWITZERLAND		
3a What country issued you a passport? SWITZERLAND b Enter your passport number ▶ 2674130984		
4a Enter the actual number of days you were present in the United States during: 2007 365 2006 171 2005 _____		
b Enter the number of days in 2007 you claim you can exclude for purposes of the substantial presence test ▶ 365		
Part II Teachers and Trainees		
5 Enter the name, address, and telephone number of the academic institution you attended during 2007 ▶ _____ _____		
6 Enter the name, address, and telephone number of the director of the academic or other specialized program you participated in during 2007 ▶ _____ _____		
7 Enter the type of U.S. visa (J or Q) you held during: ▶ 2001 _____ 2002 _____ 2003 _____ 2004 _____ 2005 _____ 2006 _____ . If the type of visa you held during any of these years changed, attach a statement showing the new visa type and the date it was acquired.		
8 Were you present in the United States as a teacher, trainee, or student for any part of 2 of the 6 prior calendar years (2001 through 2006)? <input type="checkbox"/> Yes <input type="checkbox"/> No If you checked the "Yes" box on line 8, you cannot exclude days of presence as a teacher or trainee unless you meet the <i>Exception</i> explained on page 3.		
Part III Students		
9 Enter the name, address, and telephone number of the academic institution you attended during 2007 ▶ STATE COLLEGE, 80 EAST BROADWAY, ANYTOWN, MO 64000		
10 Enter the name, address, and telephone number of the director of the academic or other specialized program you participated in during 2007 ▶ DR SMALL, STATE COLLEGE, ANYTOWN, MO 64000		
11 Enter the type of U.S. visa (F, J, M, or Q) you held during: ▶ 2001 _____ 2002 _____ 2003 _____ 2004 _____ 2005 _____ 2006 F-1 . If the type of visa you held during any of these years changed, attach a statement showing the new visa type and the date it was acquired.		
12 Were you present in the United States as a teacher, trainee, or student for any part of more than 5 calendar years? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If you checked the "Yes" box on line 12, you must provide sufficient facts on an attached statement to establish that you do not intend to reside permanently in the United States.		
13 During 2007, 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 change your status to that of a lawful permanent resident of the United States? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
14 If you checked the "Yes" box on line 13, explain ▶ _____ _____		

STUDENT NOTES



This lesson covers the final steps in finishing the return. They include signing, assembling the return, information about a refund and amount owed, consideration of estimated tax paid and withholding, and the importance of doing a quality review on the return.

GENERAL ISSUES

The following points apply to both Forms 1040NR and 1040NR-EZ.

Identification Numbers

Every individual return filed with the IRS must show a tax identification number. This can be either a social security number (SSN) or an individual tax identification number (ITIN). Every dependent listed on the return must also have a tax identification number.

The Social Security Administration issues social security numbers to U.S. citizens and to aliens who have work authorization. Any person who is eligible for a social security number (SSN) should apply for one. Anyone else who needs an identification number should file Form W-7 or W-7(SP) with the IRS.

Form 8843 does not require an identification number. A student or scholar who is not required to file any other return does not need an identification number to file Form 8843.

Taxpayer Identification Section

The taxpayer identification section should be completed after the return is finished. Often, this will save you time because after you begin preparing a 1040NR-EZ, you may realize that the taxpayer should actually file a Form 1040NR or 1040 instead. If so, you can avoid filling out the taxpayer identification section again.

Some students and scholars will already have completed the taxpayer identification section but may need your assistance only on the other parts of the return. You can use a form they started, but it is wise to have correction fluid available while preparing a return.

A taxpayer who received a package of forms mailed by the IRS should have a label that can be used in the identification section. Make sure that the information on the label is correct before attaching it to the return.

Other Information

Nonresident returns contain a section asking for information very similar to that requested on Form 8843. While this may seem repetitive, it is necessary to complete this section.

Please pay close attention to the section that asks the type and amount of income that is exempt from tax. You need to provide both the amount excluded **and** the treaty article number that allows its exclusion. Failure to complete this section fully could cause the form to be returned to the student or scholar.

Signing the Return

Make sure the taxpayer signs and dates the return before mailing. An unsigned return cannot be processed and will be returned to the taxpayer. You should put the VITA designation in the preparer's section of the return.

Assembling the Return

Make sure that all forms, schedules, and attachments show the taxpayer's name and social security or individual taxpayer identification numbers. Attach forms and schedules behind Form 1040NR or 1040NR-EZ. Attach Forms W-2 and 1042S to the left margin of the front page. If any Form 1099 indicates income withholding, attach it to the return also.

Direct Deposit

Many students and scholars prefer the direct deposit option for their refunds. If the student or scholar prefers direct deposit, complete the direct deposit information section of the return. The following examples will help you determine what information to use.

Xu Chung 123 College Street Collegetown, IL 60000	1234 15-000000000
_____ 20 _____	
PAY TO THE ORDER OF _____	\$ _____
_____ DOLLARS	
COLLEGETOWN BANK Collegetown, IL 60000	
For _____	
:250250025 :202020 86 1234	

ALERT



Caution! Make sure you enter the correct bank account routing transit and account information on the return. The IRS is not responsible for a lost refund if the information is entered incorrectly.

The “routing number” for Xu Chung is 250250025. The “account number” is 20202086. Do not include the check number (which in this example is 1234).



Sometimes students and scholars want their refunds deposited to a savings account. They often have a small paper card issued by the bank that contains the necessary information.

Collegetown Bank Instant Savings Account
Collegetown, IL 60000

The best way to save for a rainy day! Get your account today!

250250025:/// 203621:///

In this case, the routing number is 250250025 and the account number is 203621.

ALERT



Savings account deposit slips, in particular, are not a dependable source for routing numbers.

SPLIT REFUNDS

Taxpayers may now split their refunds. They can send part of their refund to checking and put part of it away into a savings account for future use.

This ability to split or allocate their direct deposit refunds among multiple accounts is available to all individual filers, including 1040NR and 1040NR-EZ.

Taxpayers must attach **Form 8888, Direct Deposit of Refund**, to their returns indicating amounts for each allocation along with the account information. The refund amount is shown in the “Refund” section of the tax form including amounts to be direct deposited into more than one account. To split the direct deposit of a refund among two or three accounts, check the appropriate box on Form 1040NR or 1040NR-EZ and attach Form 8888.

If the taxpayer wants the refund deposited into one account, do not check the split refund lines.

ALERT



Taxpayers requesting direct deposit will be able to split their refunds and direct their funds into up to three separate accounts. Taxpayers must attach Form 8888 to their returns indicating amounts and account information for each account.

PAYMENT OPTIONS

Some students and scholars owe money with their tax return. This usually is due to insufficient withholding from wages. Nonresidents have the same payment options as citizens:

1. They can pay the entire balance by the due date for the return.
2. They can pay by credit card.
3. They can ask for an installment agreement.

You should explain to filers that interest and any applicable penalties will continue to accrue until they pay the full amount due. Also, remind them not to send cash through the mail. Personal checks, cashiers’ checks, and money orders are acceptable ways to pay.



ESTIMATED TAX

Estimated tax is an amount the taxpayer expects to owe for the next year, even after federal withholding. In other words, it is the amount the taxpayer expects to have to pay when filing a return in the spring of 2007.

Any student or scholar who expects to owe over \$1,000 on the tax return due next year must make estimated tax payments. For further information, see IRS **Publication 505, Tax Withholding and Estimated Tax.**



Social Security and Medicare Tax Liability

An exemption from social security and Medicare taxes applies to nonimmigrant students, scholars, teachers, researchers, and trainees (including medical interns) who are temporarily present in the United States in F-1, J-1, M-1, or Q-1 status as long as they remain nonresidents for federal income tax purposes. The exemption also applies to any period in which a foreign student is in “practical training” or other off-campus employment allowed by the USCIS. Such persons are exempt from social security and Medicare taxes as long as they remain **nonresident** aliens for tax purposes. Those who become resident aliens must start paying social security and Medicare taxes.

As discussed in Lesson 1, foreign students in F-1, J-1, M-1, or Q-1 nonimmigrant status who have been in the United States over 5 years—and foreign scholars, teachers, researchers, trainees, and other non-students in J-1 or Q-1 nonimmigrant status who have been in the United States over 2 years—are normally resident aliens. If so, they must pay social security and Medicare taxes.

Federal tax regulations state that spouses and dependents of alien students, scholars, trainees, teachers, or researchers temporarily in the United States in F-2, J-2, M-2 status are **not** exempt from social security and Medicare taxes on any wages they earn in the United States. That is because they did not enter the United States for the primary purpose of engaging in study, training, teaching, or research.

As was stated earlier, U.S. immigration law does not allow spouses and dependents in F-2 and M-2 status to be employed in the United States. But if they are employed in violation of their nonimmigrant status, the IRS imposes both income tax and social security and Medicare taxes on their income.

Alien students, scholars, trainees, teachers, or researchers in F-1, J-1, M-1, or Q-1 status who change to a nonimmigrant status other than F-1, J-1, M-1, or Q-1 become liable for social security and Medicare taxes—in most cases on the day they change status.

Teachers, trainees, and researchers in H-1b status and alien nurses in H-1a status are liable for social security and Medicare taxes from the first day of U.S. employment—regardless of whether they are nonresident or resident aliens and whether or not their wages may be exempt from federal income tax under an income tax treaty.

Foreign scholars, teachers, researchers, or trainees who arrive in the United States in O-1 status or TN status (from Canada or Mexico under the NAFTA treaty) are fully liable for U.S. social security and Medicare taxes if they are employed by the university, whether they are resident or nonresident aliens.

Self-Employment Tax Liability

The Internal Revenue Code normally imposes “self-employment tax” on any self-employment income of a person in the United States. But self-employment income of nonresident aliens is exempt from this tax. Again, the exemption is lost if an alien becomes a resident.

As discussed in Lesson 1, foreign scholars, teachers, researchers, trainees, and other non-students who enter the United States on J-1 or Q-1 visas usually become resident aliens on January 1 of their third calendar year in the United States; and foreign students who enter the United States on F-1, J-1, M-1, or Q-1 visas usually become resident aliens on January 1 of their sixth calendar year in the United States.

Note: U.S. immigration law usually does not authorize nonimmigrants (such as nonresident aliens) to earn self-employment income. Thus, the question of a foreign student’s or scholar’s liability for self-employment tax does not often arise. But if a nonresident violates his or her nonimmigrant status by earning self-employment income, the IRS will impose self-employment tax on it.

FORM 843

If social security and Medicare taxes were withheld in error from pay received that was not subject to the taxes, you must first contact the employer who withheld the taxes for reimbursement. If you are unable to get a refund from the employer, file a claim for refund with the Internal Revenue Service on **Form 843, Claim for Refund and Request for Abatement**.

You must attach the following to your claim:

- A copy of your Form W-2, *Wage and Tax Statement*, to prove the amount of tax withheld;
- **Form I-797, INS Approval Notice**, is needed if you have changed your status from F-1 or J-1 to another status prior to filing the claim;
- If your visa status changed during the tax year, you should attach copies of the pay stubs that cover the period of exemption from social security taxes;
- A copy of **INS Form I-94, Arrival/Departure Record**, if you are still in the United States;
- A copy of your valid entry visa;



- **Form 8316, Information Regarding Request for Refund of Social Security Tax**, or a signed statement stating that you have requested a refund from the employer and have not been able to obtain one; and
- A copy of Form 1040NR, *U.S. Nonresident Alien Income Tax Return* (or Form 1040NR-EZ), for tax the year in question. Processing of your claim may be delayed if you submit it less than six weeks after you filed Form 1040NR or 1040NR-EZ.

In addition to the documentation listed above, foreign student visa holders should also attach the following:

- A copy of **Form I-20, Certificate of Eligibility**, endorsed by your student advisor and stamped by the Bureau of Citizenship and Immigration Services; and
- A copy of the Employment Authorization Document of your Optional Practical Training (e.g., Form I-766 or I-688B).
- If you are an exchange visitor, attach a copy of DS-2019 to your claim.

File the claim, with attachments, with the IRS where the employer's returns were filed. If you do not know where the employer's returns were filed, send your claim to the Internal Revenue Service Center, Austin, TX 73301-0215 USA.



Claim for Refund and Request for Abatement

OMB No. 1545-0024

▶ See separate instructions.

Use Form 843 if your claim or request involves:

- (a) a refund of one of the taxes (other than income taxes) shown on line 3,
- (b) an abatement of employment or certain excise taxes, or
- (c) a refund or abatement of interest, penalties, or additions to tax for one of the reasons shown on line 5a.

Do not use Form 843 if your claim or request involves:

- (a) an overpayment of income taxes (use the appropriate amended income tax return),
- (b) a refund of excise taxes based on the nontaxable use or sale of fuels, or
- (c) an overpayment of excise taxes reported on Form(s) 11-C, 720, 730, or 2290.

Name(s)	Your SSN or ITIN
Address (number, street, and room or suite no.)	Spouse's SSN or ITIN
City or town, state, and ZIP code	Employer identification number (EIN)
Name and address shown on return if different from above	Daytime telephone number ()
1 Period. Prepare a separate Form 843 for each tax period From / / to / /	2 Amount to be refunded or abated \$
3 Type of tax. Indicate the type of tax to be refunded or abated or to which the interest, penalty, or addition to tax is related. <input type="checkbox"/> Employment <input type="checkbox"/> Estate <input type="checkbox"/> Gift <input type="checkbox"/> Excise (see instructions) <input type="checkbox"/> Income	
4 Type of penalty. If the claim or request involves a penalty, enter the Internal Revenue Code section on which the penalty is based (see instructions). IRC section: _____	

5a Interest, penalties, and additions to tax. Check the box that indicates your reason for the request for refund or abatement. (If none apply, go to line 6.)

- Interest was assessed as a result of IRS errors or delays.
- A penalty or addition to tax was the result of erroneous advice from the IRS.
- Reasonable cause or other reason allowed under the law (other than erroneous advice) can be shown for not assessing a penalty or addition to tax.

b Dates of payment ▶ _____

6 Original return. Indicate the type of return filed to which the tax, interest, penalty, or addition to tax relates.

- 706 709 940 941 943 945
- 990-PF 1040 1120 4720 Other (specify) ▶

7 Explanation. Explain why you believe this claim or request should be allowed and show the computation of the amount shown on line 2. If you need more space, attach additional sheets.

I am a nonresident alien student of an F-1 visa status. Section 3121 (b) (19) of the Internal Revenue Code and the regulations thereunder state that a NRA student on an F-1 visa is not liable for paying SS and MC taxes on wages for as long as he/she remains an NRA under the residency rules stated in Sect. 7701 (b) of the Internal Revenue Code. I state that for calendar year 2007, I was a NRA student and not liable for the SS and MC taxes. I hereby ask for a refund of SS and MC taxes withheld from my wages. I have asked my employer for a refund of these taxes and have been refused.

Signature. If you are filing Form 843 to request a refund or abatement relating to a joint return, both you and your spouse must sign the claim. Claims filed by corporations must be signed by a corporate officer authorized to sign, and the officer's title must be shown.

Under penalties of perjury, I declare that I have examined this claim, including accompanying schedules and statements, and, to the best of my knowledge and belief, it is true, correct, and complete.

Signature (Title, if applicable. Claims by corporations must be signed by an officer.)	Date			
Signature (spouse, if joint return)	Date			
Paid Preparer's Use Only	Preparer's signature ▶	Date	Check if self-employed <input type="checkbox"/>	Preparer's SSN or PTIN
	Firm's name (or yours if self-employed), address, and ZIP code ▶	EIN		
	Phone no. ()			

For Privacy Act and Paperwork Reduction Act Notice, see separate instructions.

Cat. No. 10180R

Form **843** (Rev. 11-2007)



Form 8316 Rev. January 2006	Department of the Treasury - Internal Revenue Service Information Regarding Request for Refund of Social Security Tax Erroneously Withheld on Wages Received by a Nonresident Alien on an F, J, or M Type Visa	OMB No. 1545 - 1862
---------------------------------------	---	---------------------

A Was the income that the Social Security taxes were withheld from directly related to your course of studies as identified by the provisions of your entry visa:

Yes No

B. If you checked "NO," the taxes were correctly withheld and you are not entitled to a refund. Do not complete the rest of this form.

C If you checked "YES," you must first try to get a refund of the Social Security taxes from your employer before filing a claim with the Internal Revenue Service. If you did this but have not been able to get a refund from your employer, please complete the remainder of this form and attach it to your claim Form 843.

1. Has your employer paid you back for any part of the tax withheld <div style="text-align: center;"> <input type="checkbox"/> Yes <input type="checkbox"/> No </div>	2. If yes, show amount \$
3. Have you authorized your employer to claim any part of the tax as a credit or refund <div style="text-align: center;"> <input type="checkbox"/> Yes <input type="checkbox"/> No </div>	4. If yes, show amount \$
5. Has your employer claimed any part of the tax as a credit or refund <div style="text-align: center;"> <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Do not Know </div>	6. If yes, show amount \$

If you cannot get a statement from your employer concerning the above information, please tell us why in the space below.

7. Have you claimed any part of the tax as credit against, or a refund of your Federal income tax <div style="text-align: center;"> <input type="checkbox"/> Yes <input type="checkbox"/> No </div>	8. If yes, show amount \$
---	----------------------------------

9. Name and address of employer (include street, city, State and ZIP code)

Your signature	Date
----------------	------

Your telephone number (include area code)	Convenient hours for us to call
---	---------------------------------

Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us this information so that we can process your claim for refund of erroneously withheld FICA. We need to ensure that you are entitled to the refund and that your employer has not previously issued you a refund of this withholding. If you do not provide all of the information, we may not be able to process your claim. You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions may be retained as long as their contents may become material in the administration of any Internal Revenue Law. Generally, tax returns and return information are confidential, as required by Code section 6103. The time needed to complete this form will vary depending on the individual circumstances. The estimated average time is 15 minutes. If you have comments concerning the accuracy of this estimate or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Tax Products Coordinating Committee, 1111 Constitution Ave. NW, Washington, DC 20224. Please do not send your order for Form 8316 to the Tax Products Coordinating Committee. Send your forms order to the IRS National Distribution Center.

STUDENT NOTES



TREATIES AND STATE INCOME TAXES

Income tax treaties do not cover state income taxes. However, many states define income based on federal taxable income or federal adjusted gross income. In some states, like Illinois, this allows students and scholars to exempt the same amount of income from state taxes. In other states, the students and scholars are required to add back in the treaty exclusion when computing state income taxes. Whether state income taxes allow the treaty benefit must be determined on a case-by-case basis. Please check with the state income tax authorities for further information.

The India treaty allows students to claim the standard deduction on their federal return. Since some states (such as Illinois) base the state income tax on the federal adjusted gross income, the Indian students will not always benefit from their treaty provisions on the state returns.

INTERNET ADDRESSES FOR STATE INCOME TAX

You may wish to use the Internet to find out more about the state income taxes. Every state that has an income tax has a web site. The web addresses are not printed here because they are subject to change. If you do not know the web address for a state income tax site, you may visit www.irs.gov for links to the state income tax web pages.

STUDENT NOTES



COMMON QUESTIONS AND PROCESSING ISSUES

Appendix A

Most international students and scholars will ask you questions if they do not understand what you are telling them. This appendix contains actual questions from students and scholars. Following the questions and answers is a section on most frequent errors.

Where do I mail my tax return? The address you gave me seems incomplete.

You should mail your return to:

Internal Revenue Service
Austin TX 73301-0215
USA

You do **not** need a street address or building number.

What type of postage and envelope should I use to mail my tax return?

You can use any envelope to mail your tax return. It is okay to fold the return. You should put the proper postage on the envelope. Generally, you can send 4 or 5 pieces of paper with one first class stamp. You need not use registered or certified mail, but you can if you want to.

I forgot to put my social security number on my return. What should I do? Should I send in another return and put my number on it?

You should wait to see if the IRS sends the return back to you. Often, they can find your number by looking at one of the attachments to your return. Do not send in another tax return.

My wife was on a J-2 visa last year. We filed Form 843 for her but it was rejected. Why?

Form 843 is used by individuals who are nonresident aliens for federal tax purposes to claim a refund for social security and Medicare taxes that were withheld inappropriately. Not all nonresidents are exempt from social security and Medicare tax. If your wife was a J-2 student last year and her income was from

working on campus, she is eligible to file 843. If your wife was not a student and she worked on or off campus, she is not eligible for a refund of the social security and Medicare taxes.

My family could not live on my income as an F-1 student, so my wife earned some money. She is an F-2 and was paid \$50 per week to deliver a newspaper to several locations near our house. She did not receive a W-2. She has a 1099-MISC. What should we do now?

For income tax purposes, your wife is considered self-employed. She should file Form 1040NR with Schedule C and pay income and social security tax on her earnings. Note that even though she did not have permission from USCIS to work, she still must file the required tax forms. Since she is F-2 status, she is not entitled to any treaty benefit.

Last year I was in a bad car accident. My insurance did not cover the damages. I had to pay \$789 to get my car fixed. This was a lot of money to me because I earned only \$5,000 last year. Where can I deduct this?

Casualty losses are deductible if you file Form 1040NR. You will need to file Form 4884, *Casualty and Theft Losses*, with your return. The first \$100 of your loss is not deductible. You also have to limit your loss by 10% of your income. Therefore, you should be able to deduct a casualty loss of \$189 on your return.

I have not received my Forms W-2 and 1042S. Could you please make one for me?

You need to ask your employers to reissue the forms. If this is not possible, IRS can help you complete a substitute wage statement if you have all the information on your earnings and withholding.

Last year I went to an American church. I gave them \$10 per week. Can I deduct this money?

If you file Form 1040NR, you can deduct monies donated to U.S. charities. In America, all churches are considered charities. If you received anything of value from the donation, such as a book, you may need to adjust the amount that you deduct.

I filed my return late; what will happen?

If you owed money to the IRS, there may be a penalty for not sending your return in on time. If you did not owe any tax, there will not be any IRS penalties for not filing on time. However, the USCIS may not look at this favorably since you are required to timely comply with all laws while in the United States.

I never got my return back. What should I do?



If you are talking about your refund money, you should contact your nearest IRS office to determine why your refund was not issued. The most common reason is because people move. If you move after you file your return, you can file **Form 8822, Change of Address** to change your address.

I am a second-year F student and I received Form 1098T. What should I do with it?

You should keep it with your tax records, but you do not need to send it in with your return or mention it on the return. The purpose of the form is to let you know that you were a student at the college or university that issued it. It also can contain information about how much tuition and fees you paid. If you were a domestic student, this information could be used to calculate tax credits. International students are not entitled to education credits as long as they are nonresidents.

I changed my immigration status from F-2 to F-1 on May 11, 2007 (the day I received the notice from the USCIS). I also left the United States for a home visit late in December and I acquired an F-1 visa on December 21, 2007. I don't know which date to use on question 1b on Form 8843.

You should use the date of May 11, 2007. Even though we ask if you changed visas, we actually want to know if you changed immigration status. Therefore, the date we want is the one that coincides with your status change.

I arrived in the United States in December of 2007 and I didn't work. Do I still have to file Form 8843?

Yes. Even if you were in the United States only 1 day in 2007, you must file Form 8843.

I am married and have a child who was born in the United States. Can I take a deduction for my wife and child?

Generally, no. Students and scholars from Canada, Mexico, Korea and India may be able to claim exemptions for their spouses and children if certain conditions are met. Students and scholars from all other countries are not permitted to take a deduction as long as they are nonresident aliens for tax purposes.



I am from China and my three children live with me. I pay everything for them. Can I claim them as dependents? Can I get any child-related credits for them?

No. Chinese nonresidents are not allowed to claim a deduction for their children nor are they entitled to any child-related credits.

I have been a student for two years and I still can't figure out how to calculate the Hope Credit. In Germany we don't have such credit.

You can stop being concerned because as a nonresident alien, you are not entitled to the HOPE or Tuition Tax Credit. You also are not eligible for any earned income credit.

Can I deduct the computer I had to buy to write my term papers and do other homework?

Generally, no. Unless a specific class required that you have a computer, no deduction is allowed. Many times you need access to a computer, but it isn't stipulated that you need your own computer.

Should I keep a copy of my return?

Yes. And you should keep a copy of all of the attachments such as W-2 and 1042S. This helps prove that you filed a tax return. You may need this proof if you apply for permanent resident status with the USCIS.

I owe money. Can I send a check, and for whom do I make it?

You can send a check made out to U.S. Treasury. Make sure you write your social security number or individual taxpayer identification number and tax year on the check in the memo section.

I will be graduating in June. I am going home to India. I did have work this year (2008). What do I need to do next year to fix my tax problems?

You need to make sure that the payroll office at your college has an address to forward your wage statements. You can download the tax forms you will need by going to www.irs.gov or you can have someone mail the forms to you. You will still send your completed forms to the Austin Submission Processing Center.



The Internal Revenue Service's processing center in Austin, Texas, processes all nonresident alien returns (Form 1040NR and Form 1040NR-EZ).

The following are return process issues:

- A mismatch between the SSN or ITIN and the name is the most common error. Exercise caution when completing the taxpayer information section of the return.
- If wages are present on the return, it must be filed by April 15, unless an extension of time to file has been submitted before April 15.
- Tax treaty exclusions should be adequately addressed in the questions and answers section of the tax return. Particular attention should be given to the amount of time spent in the United States under the relevant visa, and the treaty country and article number should be clearly indicated.
- Particular emphasis is needed on the provisions of the India treaty and calculation of possible standard deduction and exemption amounts.
- Amended returns should be prepared for scholars who lose all of their treaty benefit if they stay past the maximum presence allowed by their treaty.



STUDENT NOTES



COMPREHENSIVE PROBLEMS

Appendix B

Comprehensive problems and their solutions are contained in this appendix. Work the problems and then check your answers. You will then be ready to proceed to the test.

To determine the amount of the income tax, use the tax tables that can be found at www.irs.gov.

COMPREHENSIVE PROBLEM 1

Michelle Deventer, a citizen and permanent resident of Belgium, came to the United States in F-1 immigration status on August 1, 2005. She has remained in the country since then and is a full-time student at the local university. Michelle, born 4-15-1982, is single. Her address in her home country is 4111 East Road, Anycity, Belgium. She wants any refund mailed to her. She does not want to authorize anyone else to discuss the return with the IRS. She began working on the university campus on January 3, 2007. She filed Form 8233 with the payroll department on January 15, 2007. She did not have to pay income tax in Belgium on her U.S. earnings. She did not take any affirmative steps to apply for permanent residence in the United States. Using the following information, complete Michelle's income tax return.

Exhibit 1

Deventer

Form 1042-S		Foreign Person's U.S. Source Income Subject to Withholding				2007		OMB No. 1545-0096			
Department of the Treasury Internal Revenue Service		<input type="checkbox"/> AMENDED		<input type="checkbox"/> PRO-RATA BASIS REPORTING		Copy B for Recipient					
1 Income code 19	2 Gross income 2,000	3 Withholding allowances	4 Net income 2,000	5 Tax rate	6 Exemption code 04	7 U.S. Federal tax withheld	8 Amount repaid to recipient				
9 Withholding agent's EIN ▶ XX-XXXXXXX <input checked="" type="checkbox"/> EIN <input type="checkbox"/> QI-EIN				14 Recipient's U.S. TIN, if any ▶ XXX-XX-XXXX <input checked="" type="checkbox"/> SSN or ITIN <input type="checkbox"/> EIN <input type="checkbox"/> QI-EIN							
10a WITHHOLDING AGENT'S name HOMETOWN UNIVERSITY				15 Recipient's country of residence for tax purposes BELGIUM		16 Country code BE					
10b Address (number and street) 123 HOME AVENUE				17 NONQUALIFIED INTERMEDIARY'S (NQI's)/ FLOW-THROUGH ENTITY'S name		18 Country code					
10c Additional address line (room or suite no.)				19a NQI's/Flow-through entity's address (number and street)							
10d City or town, province or state, and country TOWNCENTER, KS		10e ZIP code or foreign postal code 67000		19b Additional address line (room or suite no.)							
11 Recipient's account number (optional)			12 Recipient code								
13a RECIPIENT'S name MICHELLE DEVENTER				19c City or town, province or state, and country						19d ZIP code or foreign postal code	
13b Address (number and street) 345 TOWN AVE FAIRMONT TOWER				20 NQI's/Flow-through entity's TIN, if any ▶							
13c Additional address line (room or suite no.)				21 PAYER'S name and TIN (if different from withholding agent's)							
13d City or town, province or state, and country TOWNCENTER, KS		13e ZIP code or foreign postal code 67000		22 State income tax withheld		23 Payer's state tax no.		24 Name of state			

Form **1042-S** (2007)

a Employee's social security number XXX-XX-XXXX		OMB No. 1545-0008		Safe, accurate, FAST! Use 		Visit the IRS website at www.irs.gov/efile .	
b Employer identification number (EIN) XX-XXXXXX			1 Wages, tips, other compensation \$3,200		2 Federal income tax withheld \$788		
c Employer's name, address, and ZIP code HOMETOWN UNIVERSITY 123 HOME AVENUE TOWNCENTER, KS 67000			3 Social security wages		4 Social security tax withheld		
			5 Medicare wages and tips		6 Medicare tax withheld		
			7 Social security tips		8 Allocated tips		
d Control number			9 Advance EIC payment		10 Dependent care benefits		
e Employee's first name and initial Last name Suff. MICHELLE DEVENTER 345 TOWN AVE TOWNCENTER, KS 67000			11 Nonqualified plans		12a See instructions for box 12		
			13 Statutory employee Retirement plan Third-party sick pay <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>		12b		
			14 Other		12c		
					12d		
f Employee's address and ZIP code							
15 State	Employer's state ID number	16 State wages, tips, etc.	17 State income tax	18 Local wages, tips, etc.	19 Local income tax	20 Locality name	
KS	XX-XXXXXXX	\$3,200	\$79				

Form **W-2** Wage and Tax Statement

2007

Department of the Treasury—Internal Revenue Service

Copy B—To Be Filed With Employee's FEDERAL Tax Return.
This information is being furnished to the Internal Revenue Service.

Form **1040NR-EZ**

U.S. Income Tax Return for Certain Nonresident Aliens With No Dependents

OMB No. 1545-0074

2007

Department of the Treasury
Internal Revenue Service

Please print or type.

Your first name and initial _____ Last name _____ Identifying number (see page 4) _____

Present home address (number, street, and apt. no., or rural route). If a P.O. box, see page 4. _____

City, town or post office, state, and ZIP code. If a foreign address, see page 4. _____

Country ▶ _____

Of what country were you a **citizen** or national during 2007? ▶ _____

Give address **outside the United States** to which you want any refund check mailed. If same as above, write "Same." _____

Give address in the country where you are a **permanent resident**. If same as above, write "Same." **9876 WEST ROAD, ANYCITY MALASIA**

Filing status (see page 4). Check only one box.
 1 Single nonresident alien
 2 Married nonresident alien

3	Wages, salaries, tips, etc. Attach Form(s) W-2 (see page 4)	3		
4	Taxable refunds, credits, or offsets of state and local income taxes (see page 5)	4		
5	Scholarship and fellowship grants. Attach explanation (see page 5)	5		
6	Total wages and scholarships exempt by a treaty from page 2, Item J	6		
7	Add lines 3, 4, and 5	7		
8	Scholarship and fellowship grants excluded (see page 5)	8		
9	Student loan interest deduction (see page 5)	9		
10	Adjusted gross income. Subtract the sum of line 8 and line 9 from line 7	10		
11	Itemized deductions (see page 6)	11		
12	Subtract line 11 from line 10	12		
13	Exemption deduction (see page 6)	13		
14	Taxable income. Subtract line 13 from line 12	14		
15	Tax. Find your tax in the Tax Table on pages 12-20	15		
16	Unreported social security and Medicare tax from: a <input type="checkbox"/> Form 4137 b <input type="checkbox"/> Form 8919	16		
17	Add lines 15 and 16. This is your total tax	17		
18	Federal income tax withheld (from Form W-2, 1042-S, and 1099-R)	18		
19	2007 estimated tax payments and amount applied from 2006 return	19		
20	Credit for amount paid with Form 1040-C	20		
21	Add lines 18 through 20. These are your total payments	21		

Refund

22 If line 21 is more than line 17, subtract line 17 from line 21. This is the amount you **overpaid**

23a Amount of line 22 you want **refunded to you**.
 If Form 8888 is attached, check here

b Routing number _____ c Type: Checking Savings

d Account number _____

24 Amount of line 22 you want **applied to your 2008 estimated tax** ▶ 24 _____

Amount You Owe

25 **Amount you owe.** Subtract line 21 from line 17. For details on how to pay, see page 8 ▶ 25 _____

26 Estimated tax penalty (see page 9). Also include on line 25 26 _____

Third Party Designee

Do you want to allow another person to discuss this return with the IRS (see page 9)? **Yes**. Complete the following. **No**

Designee's name _____ Phone no. _____ () _____

Personal identification number (PIN) _____

Sign Here

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and accurately list all amounts and sources of U.S. source income I received during the tax year. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Keep a copy of this return for your records.

Your signature _____ Date _____ Your occupation in the United States _____

Paid Preparer's Use Only

Preparer's signature _____ Date _____ Check if self-employed Preparer's SSN or PTIN _____

Firm's name (or yours if self-employed), address, and ZIP code _____ EIN _____

Phone no. _____ () _____

Other Information (If an item does not apply to you, enter "N/A.")

A What country issued your passport?

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 ▶ and current nonimmigrant status and date of change ▶

E Date you entered the United States (see page 9) ▶

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. ▶

H Give number of days (including vacation and nonworkdays) you were present in the United States during 2005, 2006, and 2007

I Did you file a U.S. income tax return for any year before 2007? Yes No If "Yes," give the latest year and form number ▶

J If you are claiming the benefits of a U.S. income tax treaty with a foreign country, give the following information. See page 9 for additional information. • Country ▶ • Type and amount of income exempt from tax and the applicable tax treaty article. Enter treaty-exempt income for 2007 below and on line 6; not on line 3 or 5. For 2007 ▶ For 2006 ▶

• Were you subject to tax in that country on any of the income that you claim is entitled to the treaty benefits? Yes No

K During 2007, did you apply for, or take any 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 If "Yes," explain ▶



COMPREHENSIVE PROBLEM 2

Determine what type of return that Sue from Malaysia should file. She is single and 26 years old. She entered the U.S. on an F-1 visa on August 1, 2002 and has not left the country since she arrived here. She has been a full-time student at the local university since then. She began working on January 2, 2003, in the campus bookstore. In 2007, her W-2 shows that she earned \$5,200 and no income tax was withheld.

Is she a resident or a nonresident for tax purposes? What tax form should she file?

Answer: _____

COMPREHENSIVE PROBLEM 3

Kiwal Chee, a citizen and resident of Malaysia, entered the U.S. on August 1, 2005 in F-1 immigration status. He is a full-time student at the local university and has not left the country since he arrived here. He is single and 27 years old. In his home country he lives at 9876 West Road, Anycity, Malaysia. He wants his refund to be mailed to him in the U.S. He does not want to authorize anyone else to talk to the IRS about this return. He started to work in the cafeteria in 2006. He does not have to pay tax in Malaysia on his U.S. income. He did not take any affirmative steps to apply for permanent residency. Last year and this year, he received the same amount of income. He tells you that he did not file a 2006 return because he didn't know how. Using the W-2 form below, prepare his 1040NR-EZ for 2007. Should he file a return for 2006 also?

Exhibit 5

Chee

a Employee's social security number XXX-XX-XXXX		Safe, accurate, FAST! Use		irs e-file		Visit the IRS website at www.irs.gov/efile .	
b Employer identification number (EIN) XX-XXXXXX		1 Wages, tips, other compensation \$4,100		2 Federal income tax withheld \$400			
c Employer's name, address, and ZIP code DELICIOUS ENTERPRISES PO BOX 1230 SUPERVILLE, IL 53000		3 Social security wages		4 Social security tax withheld			
		5 Medicare wages and tips		6 Medicare tax withheld			
		7 Social security tips		8 Allocated tips			
d Control number		9 Advance EIC payment		10 Dependent care benefits			
e Employee's first name and initial Last name Suff. KIWAL CHEE 678 EAST STREET SUPERVILLE, IL 53000		11 Nonqualified plans		12a See instructions for box 12			
		13 Statutory employee Retirement plan Third-party sick pay <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>		12b			
		14 Other		12c			
				12d			
f Employee's address and ZIP code		15 State Employer's state ID number IL XX-XXXXXX		16 State wages, tips, etc. \$4,100		17 State income tax \$40	
				18 Local wages, tips, etc.		19 Local income tax	
						20 Locality name	

Form **W-2 Wage and Tax Statement** **2007** Department of the Treasury—Internal Revenue Service

Copy B—To Be Filed With Employee's FEDERAL Tax Return.
This information is being furnished to the Internal Revenue Service.

Form **1040NR-EZ**

U.S. Income Tax Return for Certain Nonresident Aliens With No Dependents

OMB No. 1545-0074

2007

Department of the Treasury
Internal Revenue Service

Please print or type.

Your first name and initial _____ Last name _____ Identifying number (see page 4) _____

Present home address (number, street, and apt. no., or rural route). If a P.O. box, see page 4. _____

City, town or post office, state, and ZIP code. If a foreign address, see page 4. _____

Country ▶ _____

Of what country were you a **citizen** or national during 2007? ▶ _____

Give address **outside the United States** to which you want any refund check mailed. If same as above, write "Same." _____

Give address in the country where you are a **permanent resident**. If same as above, write "Same." _____

9876 WEST ROAD, ANYCITY MALASIA

Filing status (see page 4). Check only one box.

1 Single nonresident alien

2 Married nonresident alien

3	Wages, salaries, tips, etc. Attach Form(s) W-2 (see page 4)	3	
4	Taxable refunds, credits, or offsets of state and local income taxes (see page 5)	4	
5	Scholarship and fellowship grants. Attach explanation (see page 5)	5	
6	Total wages and scholarships exempt by a treaty from page 2, Item J	6	
7	Add lines 3, 4, and 5	7	
8	Scholarship and fellowship grants excluded (see page 5)	8	
9	Student loan interest deduction (see page 5)	9	
10	Adjusted gross income. Subtract the sum of line 8 and line 9 from line 7	10	
11	Itemized deductions (see page 6)	11	
12	Subtract line 11 from line 10	12	
13	Exemption deduction (see page 6)	13	
14	Taxable income. Subtract line 13 from line 12	14	
15	Tax. Find your tax in the Tax Table on pages 12-20	15	
16	Unreported social security and Medicare tax from: a <input type="checkbox"/> Form 4137 b <input type="checkbox"/> Form 8919	16	
17	Add lines 15 and 16. This is your total tax	17	
18	Federal income tax withheld (from Form W-2, 1042-S, and 1099-R)	18	
19	2007 estimated tax payments and amount applied from 2006 return	19	
20	Credit for amount paid with Form 1040-C	20	
21	Add lines 18 through 20. These are your total payments	21	

Refund

22 If line 21 is more than line 17, subtract line 17 from line 21. This is the amount you **overpaid**

23a Amount of line 22 you want **refunded to you**. If Form 8888 is attached, check here

b Routing number _____ c Type: Checking Savings

d Account number _____

24 Amount of line 22 you want **applied to your 2008 estimated tax** ▶ 24 _____

Amount You Owe

25 **Amount you owe.** Subtract line 21 from line 17. For details on how to pay, see page 8 ▶ 25 _____

26 Estimated tax penalty (see page 9). Also include on line 25 26 _____

Third Party Designee

Do you want to allow another person to discuss this return with the IRS (see page 9)? **Yes**. Complete the following. **No**

Designee's name ▶ _____ Phone no. ▶ () _____ Personal identification number (PIN) ▶ _____

Sign Here

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and accurately list all amounts and sources of U.S. source income I received during the tax year. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Your signature _____ Date _____ Your occupation in the United States _____

Paid Preparer's Use Only

Preparer's signature ▶ _____ Date _____ Check if self-employed Preparer's SSN or PTIN _____

Firm's name (or yours if self-employed), address, and ZIP code ▶ _____ EIN _____

Phone no. () _____

For Disclosure, Privacy Act, and Paperwork Reduction Act Notice, see page 11 of instructions. Cat. No. 21534N Form **1040NR-EZ** (2007)



Other Information (If an item does not apply to you, enter "N/A.")

- A What country issued your passport?
- 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 ▶
and current nonimmigrant status and date of change ▶
- E Date you entered the United States (see page 9) ▶
- 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. ▶
.....
.....
.....
- H Give number of days (including vacation and nonworkdays) you were present in the United States during 2005, 2006, and 2007
- I Did you file a U.S. income tax return for any year before 2007? Yes No
If "Yes," give the latest year and form number ▶
- J If you are claiming the benefits of a U.S. income tax treaty with a foreign country, give the following information. See page 9 for additional information.
 - Country ▶
 - Type and amount of income exempt from tax and the applicable tax treaty article. Enter treaty-exempt income for 2007 below and on line 6; not on line 3 or 5.
For 2007 ▶
.....
.....
For 2006 ▶
.....
.....
 - Were you subject to tax in that country on any of the income that you claim is entitled to the treaty benefits? Yes No
- K During 2007, did you apply for, or take any 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
If "Yes," explain ▶
.....





Appendix B—Part 2

Appendix B

ANSWERS TO COMPREHENSIVE PROBLEMS

Comprehensive Problem 1

See the completed Form 1040NR-EZ for Michelle Deventer on pages B-9 and B-10.

Comprehensive Problem 2

Sue is a resident for tax purposes. She should file Form 1040EZ.

Comprehensive Problem 3

See the completed Form 1040NR-EZ for Kiwal Chee on pages B-11 and B-12. He should also file a return for 2006.

Other Information (If an item does not apply to you, enter "N/A.")

A What country issued your passport? BELGIUM

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

C Give the purpose of your visit to the United States STUDY

D Type of entry visa and current nonimmigrant status and date of change F-1 F-1

E Date you entered the United States (see page 9) 8-1-2005

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.

H Give number of days (including vacation and nonworkdays) you were present in the United States during 2005 153, 2006 365, and 2007 365

I Did you file a U.S. income tax return for any year before 2007? Yes No

J If you are claiming the benefits of a U.S. income tax treaty with a foreign country, give the following information. See page 9 for additional information.

Country BELGIUM

Type and amount of income exempt from tax and the applicable tax treaty article. Enter treaty-exempt income for 2007 below and on line 6; not on line 3 or 5.

For 2007 WAGES \$2,000 ARTICLE 21 (1)

For 2006

Were you subject to tax in that country on any of the income that you claim is entitled to the treaty benefits? Yes No

K During 2007, did you apply for, or take any 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

If "Yes," explain



Form **1040NR-EZ**

U.S. Income Tax Return for Certain Nonresident Aliens With No Dependents

OMB No. 1545-0074

2007

Department of the Treasury
Internal Revenue Service

Please print or type.

Your first name and initial: **KIWAL** Last name: **CHEE** Identifying number (see page 4): **XXX-XX-XXXX**

Present home address (number, street, and apt. no., or rural route). If a P.O. box, see page 4.
678 EAST STREET

City, town or post office, state, and ZIP code. If a foreign address, see page 4.
SUPERVILLE IL 53000

Country ▶ **USA**

Of what country were you a **citizen** or national during 2007? ▶

Give address **outside the United States** to which you want any refund check mailed. If same as above, write "Same."
9876 WEST ROAD, ANYCITY MALASIA

Give address in the country where you are a **permanent resident**. If same as above, write "Same."

Filing status (see page 4). Check only one box.

1 Single nonresident alien

2 Married nonresident alien

Attach Form(s) W-2 here. Also attach Form(s) 1099-R if tax was withheld.	3	Wages, salaries, tips, etc. Attach Form(s) W-2 (see page 4)	3	4,100
	4	Taxable refunds, credits, or offsets of state and local income taxes (see page 5)	4	
	5	Scholarship and fellowship grants. Attach explanation (see page 5)	5	
	6	Total wages and scholarships exempt by a treaty from page 2, Item J	6	
	7	Add lines 3, 4, and 5	7	4,100
	8	Scholarship and fellowship grants excluded (see page 5)	8	
	9	Student loan interest deduction (see page 5)	9	
	10	Adjusted gross income. Subtract the sum of line 8 and line 9 from line 7	10	4,100
	11	Itemized deductions (see page 6)	11	40
	12	Subtract line 11 from line 10	12	4,060
	13	Exemption deduction (see page 6)	13	3,400
	14	Taxable income. Subtract line 13 from line 12	14	700
	15	Tax. Find your tax in the Tax Table on pages 12-20	15	71
	16	Unreported social security and Medicare tax from: a <input type="checkbox"/> Form 4137b <input type="checkbox"/> Form 8919	16	
	17	Add lines 15 and 16. This is your total tax	17	71
	18	Federal income tax withheld (from Form W-2, 1042-S, and 1099-R)	18	400
	19	2007 estimated tax payments and amount applied from 2006 return	19	
	20	Credit for amount paid with Form 1040-C	20	
	21	Add lines 18 through 20. These are your total payments	21	400

Refund

22 If line 21 is more than line 17, subtract line 17 from line 21. This is the amount you **overpaid**

22 329

23a Amount of line 22 you want **refunded to you**.

If Form 8888 is attached, check here

23a 329

b Routing number c Type: Checking Savings

d Account number

24 Amount of line 22 you want **applied to your 2008 estimated tax** ▶ 24

Amount You Owe

25 **Amount you owe.** Subtract line 21 from line 17. For details on how to pay, see page 8 ▶ 25

26 Estimated tax penalty (see page 9). Also include on line 25 26

Third Party Designee

Do you want to allow another person to discuss this return with the IRS (see page 9)? Yes. Complete the following. No

Designee's name ▶ Phone no. ▶ () Personal identification number (PIN) ▶

Sign Here

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and accurately list all amounts and sources of U.S. source income I received during the tax year. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Keep a copy of this return for your records.

Your signature ▶ Date ▶ Your occupation in the United States ▶

Paid Preparer's Use Only

Preparer's signature ▶ Date ▶ Check if self-employed Preparer's SSN or PTIN ▶

Firm's name (or yours if self-employed), address, and ZIP code ▶ EIN ▶ Phone no. () ▶

For Disclosure, Privacy Act, and Paperwork Reduction Act Notice, see page 11 of instructions. Cat. No. 21534N Form **1040NR-EZ** (2007)

Other Information (If an item does not apply to you, enter "N/A.")

- A What country issued your passport? MAYALSIA
- B Were you ever a U.S. citizen? Yes No
- C Give the purpose of your visit to the United States ▶ STUDY
- D Type of entry visa ▶ F-1
and current nonimmigrant status and date of change ▶ F-1
- E Date you entered the United States (see page 9) ▶ 8-1-2005
- 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. ▶
- H Give number of days (including vacation and nonworkdays) you were present in the United States during 2005 153, 2006 365, and 2007 365
- I Did you file a U.S. income tax return for any year before 2007? Yes No
If "Yes," give the latest year and form number ▶
- J If you are claiming the benefits of a U.S. income tax treaty with a foreign country, give the following information. See page 9 for additional information.
 - Country ▶
 - Type and amount of income exempt from tax and the applicable tax treaty article. Enter treaty-exempt income for 2007 below and on line 6; not on line 3 or 5.
For 2007 ▶
 - For 2006 ▶
 - Were you subject to tax in that country on any of the income that you claim is entitled to the treaty benefits? Yes No
- K During 2007, did you apply for, or take any 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
If "Yes," explain ▶



TEST FOR INTERNATIONAL STUDENTS AND SCHOLARS U.S. FEDERAL INCOME TAX ISSUES

Please complete the test on your own. Taking the test in groups or with outside assistance could prove to be a disservice to the people you're volunteering to assist.

The test is divided into three parts:

Part 1 – Residency Status and Form 8843

Part 2 – Taxability of Income and Form 1040NR-EZ

Part 3 – Advanced Issues and Form 1040NR

All volunteers must pass Part 1. Your instructor will tell you what other parts of the test that you are expected to pass.

The general criteria for passing are:

Part 1 – You must answer 7 out of the 10 questions correctly.

Part 2 – You must answer 11 out of the 15 questions correctly.

Part 3 – You must answer 6 out of the 9 questions correctly.

There is not a retest for this course. If you do not successfully complete the test, please work with your site coordinator to determine if you can provide volunteer assistance to international students and scholars.

Note: The tax charts can be downloaded from www.irs.gov.

VOLUNTEER AGREEMENT, TEST ANSWERS, AND VITA/TCE CERTIFICATION

All volunteers must properly complete and sign Form 13615 on the next page. The properly completed form and your consolidated answers to the test questions (page T-3) must be given to your instructor. Your site coordinator or sponsor will complete the certification portion of the form based on your responses to the test questions.

Your site coordinator or instructor may provide you a wallet card (Form 13645) as notification that you passed the test. If given the card, you should bring it to the tax preparation site for identification purposes. The card was designed to acknowledge the accomplishment of certified volunteers as well as assist internal and external stakeholders with identifying certified volunteers.

Note to Instructor: Contact your local IRS-SPEC representative for the test answers. The answers are located in Publication 678 FS-A, which can be accessed from irs intranet only.

The mission of the VITA/TCE Program is to provide free basic tax return preparation for eligible taxpayers. Volunteers are the program's most valuable resource. To establish the greatest degree of public trust Volunteers have a responsibility to provide high quality service and uphold the highest of ethical standards.

Instructions: To be completed by all volunteers in the VITA/TCE program.

As a participant in the VITA/TCE Program, I agree to the following standards of conduct:

- I will treat all taxpayers professionally, with courtesy and respect.
- I will safeguard the confidentiality of taxpayer information.
- I will apply the tax laws equitably and accurately to the best of my ability.
- I will only prepare returns for which I am certified. (Basic, Advanced, etc.)
- I will exercise reasonable care in the use and protection of equipment and supplies.
- I will not solicit business from taxpayers I assist or use the knowledge I have gained about them for any direct or indirect personal benefit for me or any other specific individual.
- I will not accept payment from taxpayers for the services I provide. I may receive compensation as an employee of a program sponsor.

Volunteer Information

Print Full Name

Signature and Date

Home Street Address

Daytime Telephone

City, State and Zip Code

E-mail Address

Site and/or Partner Name

This form is to be retained at the Site or by the Partner.

Volunteer position(s) _____
(screener, preparer, interpreter, reviewer, etc.)

(Partner Use Only) Test Results – Only volunteers preparing federal tax returns, answering tax law questions, or reviewing federal tax returns for accuracy are required to be certified.

	Basic	Intermediate	Advanced	Military	International	Foreign Student/Scholars		
						Part 1	Part 2	Part 3
Volunteer's Test Score								
Certification level – Mark the appropriate box								

Privacy Act Notice—The Privacy Act of 1974 requires that when we ask for information we tell you our legal right to ask for the information, why we are asking for it, and how it will be used. We must also tell you what could happen if we do not receive it, and whether your response is voluntary, required to obtain a benefit, or mandatory. Our legal right to ask for information is 5 U.S.C. 301. We are asking for this information to assist us in contacting you relative to your interest and/or participation in the IRS volunteer income tax preparation and outreach programs. The information you provide may be furnished to others who coordinate activities and staffing at volunteer return preparation sites or outreach activities. The information may also be used to establish effective controls, send correspondence and recognize volunteers. Your response is voluntary. However, if you do not provide the requested information, the IRS may not be able to use your assistance in these programs.



Publication 678FS Test Answer Sheet

Part 1: Residency Status and Form 8843

1.	8.	
2.	9.	
3.	10.	
4.		
5.		
6.		
7.		

Part 2: Form 1040NR-EZ

1.	6.	11.
2.	7.	12.
3.	8.	13.
4.	9.	14.
5.	10.	15.

Part 3: Form 1040NR and Advanced Issues

1.	4.	7.
2.	5.	8.
3.	6.	9.





PART 1 DETERMINATION OF RESIDENCY FORM 8843

Carefully read the following questions and write your answers on the answer sheet.

1. Juliana arrived in the United States on August 1, 2007, in F-1 immigration status. She had never been to the United States before and she did not change immigration status during 2007. For federal income tax purposes, is Juliana a resident or nonresident alien for 2007?
2. Lei came to the United States in 2000 in F-1 immigration status to study engineering. He has not left the country nor has he changed immigration status. For federal income purposes, is Lei a resident or nonresident alien for 2007?
3. Miguel is a visiting professor at the local university. He entered the United States in J-1 immigration status on May 18, 2006. For federal income tax purposes, is Miguel a resident or nonresident alien for 2007?
4. Sasha served as a visiting scholar from August 2004 through May 2005. In April of 2007, Sasha returned to the United States and served another year as a visiting scholar. For federal income tax purposes, is Sasha a resident or nonresident alien for 2007?
5. Hans came to the United States in F-2 immigration status on July 11, 2007. He has not changed his immigration status. For federal income tax purposes, is Hans a resident or nonresident alien for 2007?

Determine whether the following taxpayers need to file a Form 8843. Please record your answers on the answer sheet.

6. Celina is an F-1 student who has been in the United States since August 6, 2005. Does she need to file a Form 8843 for 2007?
7. Devesh is an F-1 student from India who has been in the United States since June 30, 2001. Does he need to file a Form 8843 for 2007?
8. Christiana is the wife of Albert who is an F-1 student. Christiana has been in F-2 immigration status since her arrival on December 14, 2007. Does she need to file a Form 8843 for 2007?
9. Assume that Christiana and Albert have a child who is with them in F-2 status. Do they need to file a Form 8843 for that child?
10. Sara is an F-1 student and her husband Franco is also an F-1 student. They have a daughter who was born in the United States. Do they need to file a Form 8843 for their daughter?

PART 2 TAXABILITY OF INCOME FORM 1040NR-EZ

Carefully read the following questions and record your answers on the answer sheet.

1. Rebecca, a degree candidate, received a tuition waiver from the university. She did not have to perform any services to get this waiver. Is this waiver taxable?
2. James received \$419 of interest on his bank account. He is an international student from Ireland. He just arrived in the United States in 2006. Is his interest income taxable?
3. Raji has a teaching assistantship. The school reports his wages of \$4,250 on Form W-2. Must Raji include this income on his tax return?
4. Miya is from the People's Republic of China. She earned \$3,400 in wages in 2007. Her wages are reported to her on Form 1042S. Will she have to pay tax on her wages?
5. Hildae is an international student from South Africa. She earned \$12 of dividend income on her investment in the U.S. stock market. Must Hildae report this income on her tax return?

Use the following information to prepare a Form 1040NR-EZ. Record the requested answers on the answer sheet.

Melissa Brigham, a permanent resident of Belgium (visa number 3344123344), came to the United States on an F-1 visa on August 1, 2006. She has remained in the country since then and is a full-time student at the local university. Melissa, born March 15, 1986, is single. She began working at the university campus on January 3, 2007. She filed the proper withholding and treaty forms with the university payroll office before beginning her job. Melissa is a citizen of Belgium, her address in Belgium is 420 East Court, AnyCity, Belgium. If she is entitled to a refund, she wants it mailed to her. She doesn't want to designate anyone else to discuss this return with the IRS. She did not take any affirmative steps to apply for permanent residence in the United States. She will not be taxed in her home country on the income she has from the United States. Belgium will not tax her on wages that she earns here. Using the following information (Form 1042-S and Form W-2), complete Melissa's federal income tax return. (She would also need to file Form 8843, but assume that she has already completed that on her own.)

6. Enter the amount from line 3, Form 1040NR-EZ.
7. Enter the amount from line 10, Form 1040NR-EZ.
8. Enter the amount from line 15, Form 1040NR-EZ.
9. Enter the amount from line 21, Form 1040NR-EZ.

10. Does Melissa have an overpayment of tax?

a Employee's social security number XXX-XX-XXXX		OMB No. 1545-0008		Safe, accurate, FAST! Use		Visit the IRS website at www.irs.gov/efile .	
b Employer identification number (EIN) XX-XXXXXX		1 Wages, tips, other compensation \$3,380		2 Federal income tax withheld \$316			
c Employer's name, address, and ZIP code STATE UNIVERSITY 122 MAIN ST TOWN, NY 14200		3 Social security wages		4 Social security tax withheld			
		5 Medicare wages and tips		6 Medicare tax withheld			
		7 Social security tips		8 Allocated tips			
d Control number		9 Advance EIC payment		10 Dependent care benefits			
e Employee's first name and initial Last name Suff. MELISSA BRIGHAM 233 MAIN STREET TOWN, NY 14200		11 Nonqualified plans		12a See instructions for box 12			
		13 Statutory employee Retirement plan Third-party sick pay <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>		12b			
		14 Other		12c 12d			
f Employee's address and ZIP code							
15 State NY	Employer's state ID number XX-XXXXXX	16 State wages, tips, etc. \$3,380	17 State income tax \$791	18 Local wages, tips, etc. 4200	19 Local income tax	20 Locality name	

Form W-2 Wage and Tax Statement 2007 Department of the Treasury—Internal Revenue Service
Copy B—To Be Filed With Employee's FEDERAL Tax Return.
 This information is being furnished to the Internal Revenue Service.

Form 1042-S		Foreign Person's U.S. Source Income Subject to Withholding			2007		OMB No. 1545-0096			
Department of the Treasury Internal Revenue Service		<input type="checkbox"/> AMENDED		<input type="checkbox"/> PRO-RATA BASIS REPORTING				Copy B for Recipient		
1 Income code 19	2 Gross income 2,000	3 Withholding allowances	4 Net income	5 Tax rate	6 Exemption code 04	7 U.S. Federal tax withheld	8 Amount repaid to recipient			
9 Withholding agent's EIN <input checked="" type="checkbox"/> EIN <input type="checkbox"/> QI-EIN XX-XXXXXX			14 Recipient's U.S. TIN, if any <input checked="" type="checkbox"/> SSN or ITIN <input type="checkbox"/> EIN <input type="checkbox"/> QI-EIN XXX-XX-XXXX							
10a WITHHOLDING AGENT'S name STATE UNIVERSITY			15 Recipient's country of residence for tax purposes BELGIUM			16 Country code				
10b Address (number and street) 123 MAIN ST			17 NONQUALIFIED INTERMEDIARY'S (NQI's)/ FLOW-THROUGH ENTITY'S name			18 Country code				
10c Additional address line (room or suite no.)			19a NQI's/Flow-through entity's address (number and street)							
10d City or town, province or state, and country TOWN, NY 0		10e ZIP code or foreign postal code 14200		19b Additional address line (room or suite no.)						
11 Recipient's account number (optional)			12 Recipient code			19c City or town, province or state, and country				
13a RECIPIENT'S name MELISSA BRIGHAM			19d ZIP code or foreign postal code			20 NQI's/Flow-through entity's TIN, if any				
13b Address (number and street) 233 MAIN ST			21 PAYER'S name and TIN (if different from withholding agent's)							
13c Additional address line (room or suite no.)			13d City or town, province or state, and country TOWN, NY			13e ZIP code or foreign postal code 14200		22 State income tax withheld	23 Payer's state tax no.	24 Name of state

Form 1042-S (2007)

Other Information (If an item does not apply to you, enter "N/A.")

- A What country issued your passport?
- 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 ▶
and current nonimmigrant status and date of change ▶
- E Date you entered the United States (see page 9) ▶
- 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. ▶
.....
.....
.....
- H Give number of days (including vacation and nonworkdays) you were present in the United States during 2005 , 2006 , and 2007
- I Did you file a U.S. income tax return for any year before 2007? Yes No
If "Yes," give the latest year and form number ▶
- J If you are claiming the benefits of a U.S. income tax treaty with a foreign country, give the following information. See page 9 for additional information.
 - Country ▶
 - Type and amount of income exempt from tax and the applicable tax treaty article. Enter treaty-exempt income for 2007 below and on line 6; not on line 3 or 5.
For 2007 ▶
.....
.....
For 2006 ▶
.....
.....
 - Were you subject to tax in that country on any of the income that you claim is entitled to the treaty benefits? Yes No
- K During 2007, did you apply for, or take any 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
If "Yes," explain ▶
.....



**Use the following information to prepare Form 1040NR-EZ.
Record the requested answers on the answer sheet.**

Raji Ratnaker, a permanent resident of India (visa number 88779914), came to the United States on an F-1 visa on August 3, 2006. He has remained in the country since then and is a full-time student at the local university. Raji, born October 17, 1985, is single. He filed the proper treaty and withholding forms with the university payroll office before beginning to work in the school cafeteria in 2007. Raji is a citizen of India; his address in India is 900 Dali Road, Anywhere, India. If he is entitled to a refund, he wants it mailed to him. He doesn't want to designate anyone else to discuss this return with the IRS. He did not take any affirmative steps to apply for permanent residence in the United States. He will not be taxed in his home country on the income he has from the United States. Using the following Form W-2, prepare Raji's federal income tax return. (He has already completed Form 8843.)

11. Enter the amount from line 3, Form 1040NR-EZ.
12. Enter the amount from line 11, Form 1040NR-EZ.
13. Enter the amount from line 15, Form 1040NR-EZ.
14. Enter the amount from line 22, Form 1040NR-EZ.
15. Does Raji have an overpayment tax?

		a Employee's social security number XXX-XX-XXXX	OMB No. 1545-0008		Safe, accurate, FAST! Use		Visit the IRS website at www.irs.gov/efile .	
b Employer identification number (EIN) XX-XXXXXXX			1 Wages, tips, other compensation \$5,968		2 Federal income tax withheld \$412			
c Employer's name, address, and ZIP code FIRST UNIVERSITY 459 MAIN STREET TOWN, NY 14200			3 Social security wages		4 Social security tax withheld			
			5 Medicare wages and tips		6 Medicare tax withheld			
			7 Social security tips		8 Allocated tips			
d Control number			9 Advance EIC payment		10 Dependent care benefits			
e Employee's first name and initial RAJI RATNAKER		Last name TOWN, NY 14200		Suff.		11 Nonqualified plans		12a See instructions for box 12
23 INDIA BLVD TOWN, NY 14200		13 Statutory employee <input type="checkbox"/>	Retirement plan <input type="checkbox"/>	Third-party sick pay <input type="checkbox"/>	12b			
		14 Other		12c				
f Employee's address and ZIP code						12d		
15 State NY	Employer's state ID number XX-XXXXXXX	16 State wages, tips, etc. \$5,968	17 State income tax \$58	18 Local wages, tips, etc.	19 Local income tax	20 Locality name		

Form **W-2** Wage and Tax Statement **2007** Department of the Treasury—Internal Revenue Service

Copy B—To Be Filed With Employee's FEDERAL Tax Return.
This information is being furnished to the Internal Revenue Service.



Department of the Treasury
Internal Revenue Service

Please print or type.

Your first name and initial _____ Last name _____ Identifying number (see page 4) _____

Present home address (number, street, and apt. no., or rural route). If a P.O. box, see page 4. _____

City, town or post office, state, and ZIP code. If a foreign address, see page 4. _____

Country ▶ _____

Of what country were you a **citizen** or national during 2007? ▶ _____

Give address **outside the United States** to which you want any refund check mailed. If same as above, write "Same." _____

Give address in the country where you are a **permanent resident**. If same as above, write "Same." _____

9876 WEST ROAD, ANYCITY MALASIA

Filing status (see page 4). Check only one box.

1 Single nonresident alien

2 Married nonresident alien

3	Wages, salaries, tips, etc. Attach Form(s) W-2 (see page 4)	3	
4	Taxable refunds, credits, or offsets of state and local income taxes (see page 5)	4	
5	Scholarship and fellowship grants. Attach explanation (see page 5)	5	
6	Total wages and scholarships exempt by a treaty from page 2, Item J	6	
7	Add lines 3, 4, and 5	7	
8	Scholarship and fellowship grants excluded (see page 5)	8	
9	Student loan interest deduction (see page 5)	9	
10	Adjusted gross income. Subtract the sum of line 8 and line 9 from line 7	10	
11	Itemized deductions (see page 6)	11	
12	Subtract line 11 from line 10	12	
13	Exemption deduction (see page 6)	13	
14	Taxable income. Subtract line 13 from line 12	14	
15	Tax. Find your tax in the Tax Table on pages 12-20	15	
16	Unreported social security and Medicare tax from: a <input type="checkbox"/> Form 4137 b <input type="checkbox"/> Form 8919	16	
17	Add lines 15 and 16. This is your total tax	17	
18	Federal income tax withheld (from Form W-2, 1042-S, and 1099-R)	18	
19	2007 estimated tax payments and amount applied from 2006 return	19	
20	Credit for amount paid with Form 1040-C	20	
21	Add lines 18 through 20. These are your total payments	21	

Refund

22 If line 21 is more than line 17, subtract line 17 from line 21. This is the amount you **overpaid**

23a Amount of line 22 you want **refunded to you**.

If Form 8888 is attached, check here

b Routing number _____ **c** Type: Checking Savings

d Account number _____

24 Amount of line 22 you want **applied to your 2008 estimated tax** ▶ **24**

Amount You Owe

25 **Amount you owe.** Subtract line 21 from line 17. For details on how to pay, see page 8 ▶ **25**

26 Estimated tax penalty (see page 9). Also include on line 25 **26**

Third Party Designee

Do you want to allow another person to discuss this return with the IRS (see page 9)? **Yes**. Complete the following. **No**

Designee's name ▶ _____ Phone no. ▶ () _____ Personal identification number (PIN) ▶ _____

Sign Here

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and accurately list all amounts and sources of U.S. source income I received during the tax year. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Your signature _____ Date _____ Your occupation in the United States _____

Paid Preparer's Use Only

Preparer's signature ▶ _____ Date _____ Check if self-employed Preparer's SSN or PTIN _____

Firm's name (or yours if self-employed), address, and ZIP code ▶ _____ EIN _____

Phone no. () _____



Other Information (If an item does not apply to you, enter "N/A.")

- A** What country issued your passport?
- 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 ▶
and current nonimmigrant status and date of change ▶
- E** Date you entered the United States (see page 9) ▶
- 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. ▶
.....
.....
.....
.....
- H** Give number of days (including vacation and nonworkdays) you were present in the United States during 2005, 2006, and 2007
- I** Did you file a U.S. income tax return for any year before 2007? **Yes** **No**
If "Yes," give the latest year and form number ▶
- J** If you are claiming the benefits of a U.S. income tax treaty with a foreign country, give the following information. See page 9 for additional information.
 - Country ▶
 - Type and amount of income exempt from tax and the applicable tax treaty article. Enter treaty-exempt income for 2007 below and on line 6; not on line 3 or 5.
For 2007 ▶
.....
.....
For 2006 ▶
.....
.....
 - Were you subject to tax in that country on any of the income that you claim is entitled to the treaty benefits? **Yes** **No**
- K** During 2007, did you apply for, or take any 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**
If "Yes," explain ▶



PART 3 ADVANCED TOPICS

FORM 1040NR FORM 843

Carefully read the following questions and record your answers on the answer sheet.

1. Eduard, an international student from Peru, has a W-2 that shows amounts withheld for social security and Medicare taxes. Eduard is an F-1 nonresident alien for tax purposes. Which form should he file to receive a refund of these taxes?
2. Carmela is the spouse of a J-1 scholar. She obtained work authorization in 2007 and started working at the local library. Her W-2 form shows social security and Medicare withholding. Can she get a refund of these taxes?
3. Hortensia, an international student from Italy, received dividend income in 2007. What type of federal income tax return does she need to file?

Use the following information to prepare a Form 1040NR. Record the requested answers on the answer sheet.

Igor Pulaski is an F-1 student from Poland. His wife, Katinka is also an F-1 student from Poland. They have come to your VITA site to get assistance with their 2007 tax return. They both worked on campus (starting in 2007) and they have a son, who was born in the United States in December 2006. Igor came to the United States on August 9, 2005. Katinka came to the United States on January 1, 2006. Igor and Katinka are citizens of Poland. Their address in Poland is 1000 Main Ave, Anytown, Poland. If he is entitled to a refund, he wants it mailed to him. He doesn't want to designate anyone else to discuss this return with the IRS. He did not take any affirmative steps to apply for permanent residence in the United States. He will not be taxed in his home country on the income he has from the United States. In addition to their wage income, Igor earned \$1,319 in dividends in the U.S. stock market. Poland has a treaty with the United States that allows the dividends to be taxed at 15 percent instead of 30 percent (Treaty Article 11). Prepare Igor's tax return using the following information.

4. Can Igor and Katinka file a joint return?
5. Can Igor claim their son as a dependent?
6. What amount is on line 8 of Igor's 1040NR?
7. What amount is on line 35 of Igor's 1040NR?
8. What is the amount on line 58 of Igor's 1040NR?
9. What is the amount on line 88 of Igor's 1040NR?

Form **1042-S**Department of the Treasury
Internal Revenue Service**Foreign Person's U.S. Source Income
Subject to Withholding****2007**

OMB No. 1545-0096

Copy B
for Recipient **AMENDED** **PRO-RATA BASIS REPORTING**

1 Income code 19	2 Gross income 1,143.00	3 Withholding allowances	4 Net income	5 Tax rate	6 Exemption code 04	7 U.S. Federal tax withheld	8 Amount repaid to recipient
9 Withholding agent's EIN ▶ XX-XXXXXXX <input checked="" type="checkbox"/> EIN <input type="checkbox"/> QI-EIN				14 Recipient's U.S. TIN, if any ▶ XXX-XX-XXXX <input checked="" type="checkbox"/> SSN or ITIN <input type="checkbox"/> EIN <input type="checkbox"/> QI-EIN			
10a WITHHOLDING AGENT'S name MIDDLE UNIVERSITY				15 Recipient's country of residence for tax purposes POLAND		16 Country code	
10b Address (number and street) 9046 MAIN ST				17 NONQUALIFIED INTERMEDIARY'S (NQI's)/ FLOW-THROUGH ENTITY'S name		18 Country code	
10c Additional address line (room or suite no.)				19a NQI's/Flow-through entity's address (number and street)			
10d City or town, province or state, and country TOWN, NY		10e ZIP code or foreign postal code 14200		19b Additional address line (room or suite no.)			
11 Recipient's account number (optional)			12 Recipient code				
13a RECIPIENT'S name KATINKA PULASKI			19c City or town, province or state, and country		19d ZIP code or foreign postal code		
13b Address (number and street) 16 STUDENT PARKWAY				20 NQI's/Flow-through entity's TIN, if any ▶			
13c Additional address line (room or suite no.)				21 PAYER'S name and TIN (if different from withholding agent's)			
13d City or town, province or state, and country TOWN, NY		13e ZIP code or foreign postal code 14200		22 State income tax withheld	23 Payer's state tax no.	24 Name of state	

Form **1042-S** (2007)

Test

T-13

Form **1042-S**Department of the Treasury
Internal Revenue Service**Foreign Person's U.S. Source Income
Subject to Withholding****2007**

OMB No. 1545-0096

**Copy B
for Recipient** **AMENDED** **PRO-RATA BASIS REPORTING**

1 Income code 19	2 Gross income 2,000	3 Withholding allowances	4 Net income	5 Tax rate	6 Exemption code 04	7 U.S. Federal tax withheld	8 Amount repaid to recipient
9 Withholding agent's EIN ▶ <input checked="" type="checkbox"/> EIN <input type="checkbox"/> QI-EIN XX-XXXXXXX				14 Recipient's U.S. TIN, if any ▶ <input checked="" type="checkbox"/> SSN or ITIN <input type="checkbox"/> EIN <input type="checkbox"/> QI-EIN XXX-XX-XXXX			
10a WITHHOLDING AGENT'S name MIDDLE UNIVERSITY				15 Recipient's country of residence for tax purposes POLAND		16 Country code	
10b Address (number and street) 9046 MAIN ST				17 NONQUALIFIED INTERMEDIARY'S (NQI's)/ FLOW-THROUGH ENTITY'S name		18 Country code	
10c Additional address line (room or suite no.)				19a NQI's/Flow-through entity's address (number and street)			
10d City or town, province or state, and country TOWN, NY		10e ZIP code or foreign postal code 14200		19b Additional address line (room or suite no.)			
11 Recipient's account number (optional)			12 Recipient code				
13a RECIPIENT'S name IGOR PULASKI			19c City or town, province or state, and country		19d ZIP code or foreign postal code		
13b Address (number and street) 16 STUDENT PARKWAY				20 NQI's/Flow-through entity's TIN, if any ▶			
13c Additional address line (room or suite no.)				21 PAYER'S name and TIN (if different from withholding agent's)			
13d City or town, province or state, and country TOWN, NY		13e ZIP code or foreign postal code 14200		22 State income tax withheld	23 Payer's state tax no.	24 Name of state	

Form **1042-S** (2007)

a Employee's social security number XXX-XX-XXXX		OMB No. 1545-0008		Safe, accurate, FAST! Use 		Visit the IRS website at www.irs.gov/efile .	
b Employer identification number (EIN) XX-XXXXXXX				1 Wages, tips, other compensation \$7,896	2 Federal income tax withheld \$1,943		
c Employer's name, address, and ZIP code MIDDLE UNIVERSITY 9046 MAIN STREET TOWN, NY 14200				3 Social security wages		4 Social security tax withheld	
				5 Medicare wages and tips		6 Medicare tax withheld	
				7 Social security tips		8 Allocated tips	
d Control number				9 Advance EIC payment		10 Dependent care benefits	
e Employee's first name and initial IGOR PULASKI		Last name 16 STUDENT PARKWAY TOWN, NY 14200		Suff.		11 Nonqualified plans	
f Employee's address and ZIP code				12a See instructions for box 12		12b	
				13 Statutory employee <input type="checkbox"/> Retirement plan <input type="checkbox"/> Third-party sick pay <input type="checkbox"/>		12c	
				14 Other		12d	
15 State NY	Employer's state ID number XX-XXXXXXX	16 State wages, tips, etc. \$7,896	17 State income tax \$696	18 Local wages, tips, etc.	19 Local income tax	20 Locality name	

Form **W-2 Wage and Tax
Statement****2007**

Department of the Treasury—Internal Revenue Service

Copy B—To Be Filed With Employee's FEDERAL Tax Return.
This information is being furnished to the Internal Revenue Service.**T-14**

Test



U.S. Nonresident Alien Income Tax Return

For the year January 1–December 31, 2007, or other tax year

2007

beginning , 2007, and ending , 20

Your first name and initial Last name Identifying number (see page 8)

Present home address (number, street, and apt. no., or rural route). If you have a P.O. box, see page 8. Check if: Individual Estate or Trust

City, town or post office, state, and ZIP code. If you have a foreign address, see page 8. Type of entry visa (see page 8)

Country Of what country were you a citizen or national during the tax year?

Give address outside the United States to which you want any refund check mailed. If same as above, write "Same." Give address in the country where you are a permanent resident. If same as above, write "Same."

Filing Status and Exemptions for Individuals (see page 8)

Filing status. Check only one box (1–6 below).	7a Yourself	7b Spouse
1 <input type="checkbox"/> Single resident of Canada or Mexico, or a single U.S. national		
2 <input type="checkbox"/> Other single nonresident alien		
3 <input type="checkbox"/> Married resident of Canada or Mexico, or a married U.S. national	If you check box 7b, enter your spouse's identifying number	
4 <input type="checkbox"/> Married resident of the Republic of Korea (South Korea)		
5 <input type="checkbox"/> Other married nonresident alien		
6 <input type="checkbox"/> Qualifying widow(er) with dependent child (see page 9)		

Caution: Do not check box 7a if your parent (or someone else) can claim you as a dependent. Do not check box 7b if your spouse had any U.S. gross income.

7c Dependents: (see page 9)

(1) First name Last name	(2) Dependent's identifying number	(3) Dependent's relationship to you	(4) <input checked="" type="checkbox"/> if qualifying child for child tax credit (see page 9)
			<input type="checkbox"/>

No. of boxes checked on 7a and 7b

No. of children on 7c who:

- lived with you
- did not live with you due to divorce or separation

Dependents on 7c not entered above

Add numbers entered on lines above

d Total number of exemptions claimed

Income Effectively Connected With U.S. Trade/Business	8	9a	9b	10a	10b	11	12	13	14	15	16a	16b	17a	17b	18	19	20	21	22	23	Adjusted Gross Income	24	25	26	27	28	29	30	31	32	33	34	35			
8 Wages, salaries, tips, etc. Attach Form(s) W-2																																				
9a Taxable interest																																				
b Tax-exempt interest. Do not include on line 9a																																				
10a Ordinary dividends																																				
b Qualified dividends (see page 11)																																				
11 Taxable refunds, credits, or offsets of state and local income taxes (see page 11)																																				
12 Scholarship and fellowship grants. Attach Form(s) 1042-S or required statement (see page 12)																																				
13 Business income or (loss). Attach Schedule C or C-EZ (Form 1040)																																				
14 Capital gain or (loss). Attach Schedule D (Form 1040) if required. If not required, check here <input type="checkbox"/>																																				
15 Other gains or (losses). Attach Form 4797																																				
16a IRA distributions																																				
16b Taxable amount (see page 12)																																				
17a Pensions and annuities																																				
17b Taxable amount (see page 13)																																				
18 Rental real estate, royalties, partnerships, trusts, etc. Attach Schedule E (Form 1040)																																				
19 Farm income or (loss). Attach Schedule F (Form 1040)																																				
20 Unemployment compensation																																				
21 Other income. List type and amount (see page 15)																																				
22 Total income exempt by a treaty from page 5, Item M																																				
23 Add lines 8, 9a, 10a, 11–15, 16b, and 17b–21. This is your total effectively connected income																																				
24 Educator expenses (see page 15)																																				
25 Health savings account deduction. Attach Form 8889																																				
26 Moving expenses. Attach Form 3903																																				
27 Self-employed SEP, SIMPLE, and qualified plans																																				
28 Self-employed health insurance deduction (see page 15)																																				
29 Penalty on early withdrawal of savings																																				
30 Scholarship and fellowship grants excluded																																				
31 IRA deduction (see page 16)																																				
32 Student loan interest deduction (see page 16)																																				
33 Domestic production activities deduction. Attach Form 8903																																				
34 Add lines 24 through 33																																				
35 Subtract line 34 from line 23. Enter here and on line 36. This is your adjusted gross income																																				



Schedule A—Itemized Deductions (See pages 25, 26, 27, and 28.)

07

State and Local Income Taxes	1	State income taxes	1				
	2	Local income taxes	2				
	3	Add lines 1 and 2				3	
Total Gifts to U.S. Charities	Caution: If you made a gift and received a benefit in return, see page 26.						
	4	Gifts by cash or check. If you made any gift of \$250 or more, see page 26	4				
	5	Other than by cash or check. If you made any gift of \$250 or more, see page 26. You must attach Form 8283 if "the amount of your deduction" (see definition on page 27) is more than \$500	5				
	6	Carryover from prior year	6				
	7	Add lines 4 through 6				7	
Casualty and Theft Losses	8	Casualty or theft loss(es). Attach Form 4684. See page 27				8	
Job Expenses and Certain Miscellaneous Deductions	9	Unreimbursed employee expenses—job travel, union dues, job education, etc. You must attach Form 2106 or Form 2106-EZ if required. See page 27 ▶	9				
	10	Tax preparation fees.	10				
	11	Other expenses. See page 28 for expenses to deduct here. List type and amount ▶	11				
	12	Add lines 9 through 11	12				
	13	Enter the amount from Form 1040NR, line 36	13				
	14	Multiply line 13 by 2% (.02)	14				
	15	Subtract line 14 from line 12. If line 14 is more than line 12, enter -0-				15	
Other Miscellaneous Deductions	16	Other—see page 28 for expenses to deduct here. List type and amount ▶				16	
Total Itemized Deductions	17	Is Form 1040NR, line 36, over \$156,400 (over \$78,200 if you checked filing status box 3, 4, or 5 on page 1 of Form 1040NR)? <input type="checkbox"/> No. Your deduction is not limited. Add the amounts in the far right column for lines 3 through 16. Also enter this amount on Form 1040NR, line 37. <input type="checkbox"/> Yes. Your deduction may be limited. See page 28 for the amount to enter here and on Form 1040NR, line 37. } ▶				17	

Tax on Income Not Effectively Connected With a U.S. Trade or Business

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

Table with columns: Nature of income, (a) U.S. tax withheld at source, (b) 10%, (c) 15%, (d) 30%, (e) Other (specify) %, (f) LOSS, (g) GAIN. Rows include Dividends paid by U.S. corporations, Foreign corporations, Interest, Mortgage, Paid by foreign corporations, Other, Industrial royalties, Motion picture or T.V. copyright royalties, Other royalties, Real property income, Pensions and annuities, Social security benefits, Gains, and Total U.S. tax withheld at source.

Capital Gains and Losses From Sales or Exchanges of Property

Table with columns: (a) Kind of property and description, (b) Date acquired, (c) Date sold, (d) Sales price, (e) Cost or other basis, (f) LOSS, (g) GAIN. Rows include 90 (Kind of property and description), 91 (Add columns (f) and (g) of line 90), and 92 (Capital gain).



Other Information (If an item does not apply to you, enter "N/A.")

A What country issued your passport?

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

C Give the purpose of your visit to the United States ▶

D Current nonimmigrant status and date of change (see page 29) ▶

E Date you entered the United States (see page 29) ▶

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. ▶

H Give number of days (including vacation and nonworkdays) you were present in the United States during: 2005, 2006, and 2007

I If you are a resident of Canada, Mexico, or the Republic of Korea (South Korea), or a U.S. national, did your spouse contribute to the support of any child claimed on Form 1040NR, line 7c? Yes No If "Yes," enter amount ▶ \$

If you were a resident of the Republic of Korea (South Korea) 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).

Total foreign source income not effectively connected with a U.S. trade or business ▶ \$

J Did you file a U.S. income tax return for any year before 2007? Yes No If "Yes," give the latest year and form number ▶

K To which Internal Revenue office did you pay any amounts claimed on Form 1040NR, lines 60, 63, and 65?

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

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.) ▶

M If you are claiming the benefits of a U.S. income tax treaty with a foreign country, give the following information. See page 29 for additional information.

• Country ▶

• Type and amount of effectively connected income exempt from tax. Also, identify the applicable tax treaty article. Do not enter exempt income on lines 8, 9a, 10a, 11-15, 16b, or 17b-21 of Form 1040NR.

For 2007 (also, include this exempt income on line 22 of Form 1040NR) ▶

For 2006 ▶

• Type and amount of income not effectively connected that is exempt from or subject to a reduced rate of tax. Also, identify the applicable tax treaty article.

For 2007 ▶

For 2006 ▶

• Were you subject to tax in that country on any of the income you claim is entitled to the treaty benefits? Yes No

• Did you have a permanent establishment or fixed base (as defined by the tax treaty) in the United States at any time during 2007? Yes No

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 If "Yes," give name and address ▶

P Is this an "expatriation return" (see page 30)? Yes No

If "Yes," you must attach an annual information statement.

Q During 2007, 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 If "Yes," explain ▶

R Check this box if you have received compensation income of \$250,000 or more and you are using an alternative basis to determine the source of this compensation income (see page 30) ▶



STUDENT NOTES



Publication 678 FS Student Training Feedback

We would like feedback on how satisfied you were with the training you had today. Please complete this form and hand in to the instructor before leaving or give to your site manager. By providing this feedback, you will be helping us improve our next course material. Thank you for your time!

Territory	Area	Date/s of Training	Number of trainees
-----------	------	--------------------	--------------------

Are you from an organization or coalition?

Yes

No

If YES, please specify.

Please rate your satisfaction with the training you received today by checking the appropriate number.	Very Dissatisfied			Very Satisfied		
	1	2	3	4	5	NA
1. Convenience of hours	<input type="checkbox"/>					
2. Convenience of location	<input type="checkbox"/>					
3. Amount of time to complete course(s)	<input type="checkbox"/>					
4. Opportunity to ask questions to help you learn	<input type="checkbox"/>					
5. Ability of the instructor(s) to respond to questions	<input type="checkbox"/>					
6. Presentation skills of instructor(s)	<input type="checkbox"/>					
7. Opportunity to practice what you have been taught through exercises	<input type="checkbox"/>					
8. Overall satisfaction with instruction (considering all items)	<input type="checkbox"/>					

Please rate the content quality on a scale of 1 to 5, where 1 equals "Poor" and 5 equals "Excellent".	Poor			Excellent		
	1	2	3	4	5	NA
9. Text	<input type="checkbox"/>					
10. Exercises	<input type="checkbox"/>					
11. Graphics/Forms	<input type="checkbox"/>					
12. Test	<input type="checkbox"/>					
13. Overall quality of the course book and test	<input type="checkbox"/>					

Please rate your comfort level or readiness to prepare tax returns as a volunteer. Use the scale of 1 to 5, where 1 equals "Very Uncomfortable" and 5 equals "Very Comfortable".	Very Uncomfortable			Very Comfortable		
	1	2	3	4	5	NA
14. Readiness to prepare returns for course(s) taken	<input type="checkbox"/>					

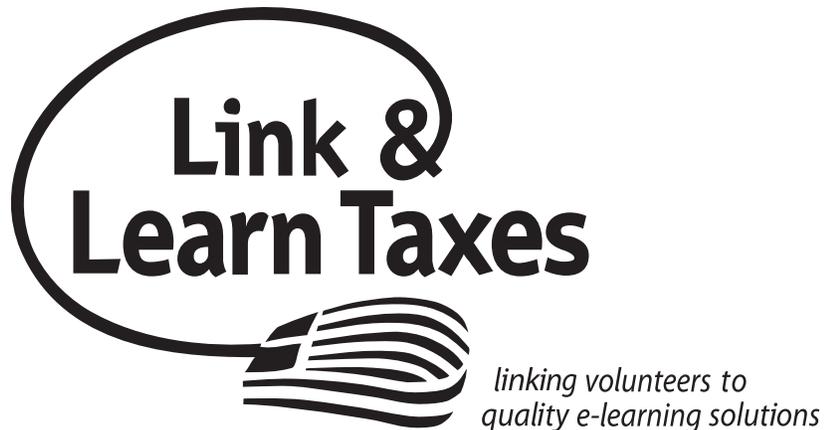
15. What suggestions or comments do you have about how we could improve the course or printed materials?

If more space is needed, please use the back of this form. Thank you for your time and feedback.



STUDENT NOTES





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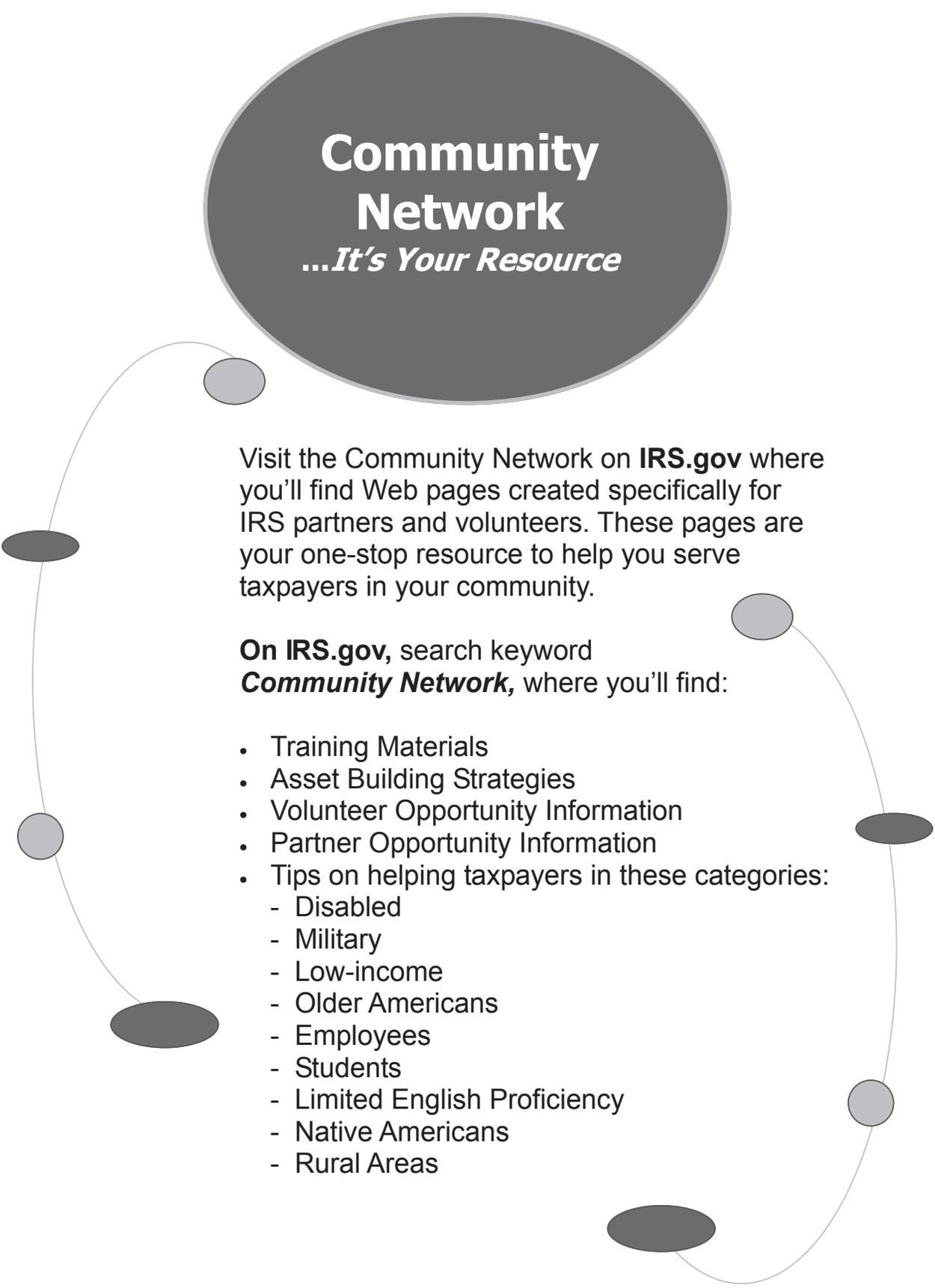
Enter keyword: "volunteer training" or "link and learn"

The benefits...

- Work at your own pace.
- Access it anytime, anywhere, 24/7... it's on the Internet!
- Complete your volunteer certification online.

Share your opinion...

Check out the course and send your comments to partner@irs.gov.



Community Network

...It's Your Resource

Visit the Community Network on **IRS.gov** where you'll find Web pages created specifically for IRS partners and volunteers. These pages are your one-stop resource to help you serve taxpayers in your community.

On IRS.gov, search keyword **Community Network**, where you'll find:

- Training Materials
- Asset Building Strategies
- Volunteer Opportunity Information
- Partner Opportunity Information
- Tips on helping taxpayers in these categories:
 - Disabled
 - Military
 - Low-income
 - Older Americans
 - Employees
 - Students
 - Limited English Proficiency
 - Native Americans
 - Rural Areas