

行政院及所屬各機關出國報告
(出國類別：進修)

國際租稅研習班

服務機關：財政部台北市國稅局

出國人職稱：稅務員

姓名：丁碧蓮

出國地區：美國

出國期間：民國 89 年 08 月 01 日—民國 90 年 06 月 10 日

報告日期：民國 90 年 07 月 10 日

壹、概說

哈佛大學國際租稅班（International Tax Program）為哈佛大學法學院（Harvard Law School）應聯合國之建議，於一九五二年專為培訓開發中國家財稅人才而設立，迄今已有來自八十餘國政府官員、執業律師、會計師、大學教授、研究人員及國際組織代表等千餘人參訓。本年度（二〇〇〇年八月～二〇〇一年六月）計有來自菲律賓、大陸、韓國、台灣、日本、越南、馬來西亞、義大利、英國、巴西、智利、阿根廷、委內瑞拉、南非、波札那〈Botswana〉、坦尚尼亞〈Tanzania〉、厄利垂亞〈Eritrea〉等十七國之學員參加。

來自各國政府部門之學員參加哈佛大學國際租稅班之主要目的，在於學習世界各國（含已開發國家、轉型期國家及開發中國家）現行租稅制度、財政政策，進一步瞭解目前國際發展趨勢，俾作為改進該國租稅制度之參考。而該班必修課程之設計，例如：美國聯邦所得稅、比較稅務行政、加值型營業稅、比較所得稅及開放經濟體系下之公共財政學，均可符合此類別學員期滿歸國實際應用之需求。

該班全期之研修，自八月初起先為各國學員提供一個月密集先修課程，以奠定研習正規課程之基礎；其餘秋、冬、春三學期均為研究所之正規課程。除前述必修課程外，學員可視其志趣及需要選修哈佛大學其他學院，如甘迺迪學院或商學院之課程，亦可至其他大學或學院，如麻省理工學院選修課程，以擴展學習領域。

該班並於週五不定期舉行專題演講，其主題包括有稅務行政之改革經驗及指導原則、比較稅務法律介紹、發展中國家之稅務政策及模型、稅務科技、電子商務、及租稅協定之使用及濫用〈TREATY SHOPPING〉等，演講人或為來自國際貨幣基

金〈INTERNATIONAL MONETARY FUND〉之財政顧問，或為來自事務所之資深顧問，其講授內容多為其實務操作之經驗，除可加深學員對財稅實務的瞭解運用，並可掌握世界潮流及趨勢。

除以上課程外，哈佛大學國際租稅班並於八月底安排參觀美國麻薩諸塞州財稅局，以增進學員對美國州稅之申報程序及稅務行政過程之了解。

貳、學習課程

- 一、比較稅務行政：本課程針對現代稅制的管理，分別探討自動申報、納稅服務、核定徵收、審計調查、扣繳行政、租稅規避與逃漏、違章裁罰、租稅赦免、行政救濟及租稅政策之規劃等課題，並比較已開發國家及開發中國家之作業情況；同時，本課程亦介紹國際貨幣基金〈IMF〉及世界銀行〈WORLD BANK〉，在為發展中國家執行稅務改革任務時所扮演之角色，並要求學員評估其所提方案之可行性。
- 二、稅法：本課程係介紹美國聯邦個人所得稅，並探討其立法意旨及受爭議處。其課程目標為培養學員瞭解繁瑣的法規、案例、解釋令、以及上訴律師的論點。其主要內容涵蓋所得總額、扣除額、所得計算、納稅人之選擇、可認列項目、及資本利得及損失等六大項目。
- 三、營業增值稅：本課程係以探討增值稅之法律面、經濟面、稅務管理、及跨國間交易等問題為主。其內容涵蓋：
〈一〉增值稅之基本概念、課徵方式、零稅率及免稅、以及非營利組織與不動產、銀行、保險、交通、通信等業增值稅之探討。
〈二〉比較分析歐洲增值稅及美國律師協會增值稅草案，提供各國作為建制或改進之參考。
〈三〉探討在共同市場增值稅之融合〈HARMONIZATION〉

以及聯邦政府對增值稅之運用。

- 四、市場及市場失靈：本課程係將個體經濟學的理论應用在公共問題、公共政策及公共方案；分別從經濟動機、經濟機構、經濟行為模式、市場操作、訂價原則與操作、市場干預、及政策之目標及手段等方面探討。其課程內容包括供給需求理論、消費者及供給者行為、完全競爭市場下之均衡、獨佔及寡佔、不完全資訊、外部性、及公共財。
- 五、開放經濟下之公共財政：本課程旨在探討開放經濟體系下公共部門所擔任之角色，探討租稅及財政政策之規劃及執行，以及不同之賦稅政策對經濟資源、所得分配、資本形成、通貨膨脹及環境保護所產生之衝擊。其內容包括賦稅改革之基本原則、租稅歸宿、所得稅、營業增值稅、進出口稅捐、自然資源課稅、公營事業課稅、租稅減免及通貨膨脹等；另提供開放經濟體系國家之實際案例，要求修課學生以所學理論為基礎作應用分析。
- 六、比較所得稅：本課程針對所得稅制之規劃及改革，分別探討下列議題：比較法律、基本稅制之規劃及課稅範圍、所得之定義及認列、可扣除項目、家庭單位之課稅、資本利得課稅、社會保障稅（SOCIAL SECURITY）、營利所得之範圍及制度、兩稅合一、稅收優惠、租稅規避與逃漏、及國際租稅。同時，由學員輪流就當週討論主題，報告該國之相關規定、所面臨的問題及解決方案，以提供各國學員瞭解其本國之稅制，並經由課堂討論交換意見。
- 七、國際租稅與投資協定：本課程著重於雙邊租稅及投資協定之法律內容及協商過程：〈一〉法律內容：係針對

OECD、UN 及美國協定範本，分析比較其內容及文字，辨別各範本之差異，並探討其發展政策。(二) 協商過程：首先學習基本的對內溝通及對外談判之技巧，再進行實務演練模擬正式租稅協定之談判過程；本期選定日本與美國租稅協定作為談判內容；由學員自行分成小組，與在日本 Keio、Yokohama、Saitama 等大學研習之國際學生所分成之小組，各分別代表美國及日本，進行雙邊租稅協定配對談判；其溝通方式包括使用 NET-MEETING 軟體以現場即時面對面進行跨國談判，或使用 E-mail 方式來交換訊息。本課程可為各國栽培租稅協定談判人才。

參、心得

此次參加哈佛大學國際租稅班在美國停留約十個月的時間，深切體認美國教學方式之不同，在研習過程中，教授所著重的是各個學員的獨立思考的能力，訓練學員採用批判式的思維，分析問題，並用不同的角度尋找正面及反面的論點；尤其在法學院所採用之問答式教學法，要求學員於上課前自行研習指定內容，課堂上完全以問答方式測驗學員之瞭解程度及其個別見解，並透過課堂討論互相交換意見。另外，由於哈佛係為非常多元化的學校，其提供的課程涵蓋不同領域，其學員來自全世界各國，生活在這個小型的地球村中，除可增廣見聞及擴展國際視野外，並可透過與各國學員及教授之交流，建立非正式之外交關係。

肆、建議

以下將從電子申報、布希減稅案、及外國人之個人所得稅申報等三個稅務主題，介紹美國實務上之情況，茲作為稅務行政之參考。

一、 電子申報(E-FILE)

關於稅務行政方面，電子申報(E-FILE)已成為各國之最新發展趨勢。由於採用數位科技，除可提供納稅義務人多種選擇申報及繳納稅款外，並可簡化稅務行政、迅速處理退稅、自動檢查申報錯誤、電子選案調查，不但使用方便而且安全保密。

以麻州稅務局之州稅申報為例，目前該局提供之電子申報方式有下列四種：

- (一) 電話申報(TELEFILE)：使用按鍵式電話申報。
- (二) 網路申報(WEBFILE)：使用麻州財政局之網站線上申報。
- (三) 代客申報業者(PAID PREPARER)：指透過經麻州財政局核准使用電子申報之代客申報業者代理申報。
- (四) 軟體申報(COMMERCIAL TAX PREPARATION SOFTWARE)：指使用經麻州財政局核准使用之報稅軟體或報稅網站申報。

另該局尚有電子資金轉帳系統(Electronic Funds Transfer)，提供納稅義務人使用該系統繳納稅款。檢附有關麻州電子申報繳稅之相關資料〈附件一〉。

二、 希減稅法案

美國國會於二〇〇一年間通過近二十年來最大之減稅案，預計於十年內減稅一兆三千五百億美元，以達成布希總統於競選期間之承諾—把人民的錢還給人民。主張減稅者，認為該法案可帶給美國下列好處：

- (一) 可嘉惠全體納稅人，尤其是中產階級及低收入戶。讓人民保留更多錢，以償還債務或增加購買力，以享受更好的生活；減稅並可避免中產階級因為稅賦負擔而淪落為低收入戶。

(二)可使經濟私有化，市場化及自由化，以刺激美國經濟復甦並創造就業機會。反看雷根總統時代，正因為其減稅措施，為美國創造連續一百二十個月經濟擴張及繁榮的記錄。雷根時代之赤字，係因其增加軍事及其他開支，而非因減稅所造成的。

(三)可限制政府權力，抑制其規模，以實現小政府、大社會。並促使政府有限度的提供社會福利，並更有效率的調度使用政府開支。

減稅措施係自二〇〇一年至二〇一〇年止之十年內，非常緩慢的分階段實施，以控制在國會設定之成本預算內。其減稅稅目為聯邦所得稅及遺產稅，其相關減稅措施分述如下：

(一)聯邦所得稅：

1. 逐步調降稅率。於二〇〇一年至二〇〇六年間，邊際稅率由目前之百分之十五、百分之二十八、百分之三十一、百分之三十六、百分之三十九點六，逐步調降並維持為百分之十、百分之二十五、百分之二十八、百分之三十三、百分之三十五。
2. 減少婚姻懲罰現象。自二〇〇五年起，夫妻合併申報時所適用之標準扣除額及所得級距，將逐步增加至等於兩個單身可適用之金額；以避免因結婚而導致較高之稅額負擔。
3. 增加子女抵稅額 (CHILD TAX CREDIT)。於二〇〇一年至二〇一〇年間，將目前十七歲以下子女，每年五百元之抵稅額，逐步提升至一千元；並將該抵稅額列為可退稅項目。
4. 增加個人退休帳戶 (INDIVIDUAL RETIREMENT ACCOUNT) 之免稅限額。於二〇〇一年至二〇〇八年間，將從每年兩千元，逐步增加並維持每年五千元。
5. 教育學費最高限額，於二〇〇二年至二〇〇五年間，

調高為四千元，其餘年度仍維持三千元。

(二)遺產稅：

1. 至二〇〇九年止，遺產稅免稅額度由目前之六十七萬五千美元，逐步調增至三百五十萬美元。最高級距稅率，由目前的百分之五十五，分階段調降至百分之四十五。

2. 遺產稅將於二〇一〇年完全廢除。

(三)落日條款〈SUNSET CLAUSE〉

1. 美國預算法要求國會在所有重要的稅收法案中包括落日條款，該法案於期間屆滿後能否繼續執行，則由未來國會決議。

2. 本次減稅案，為使稅收損失控制在兩黨協議之一兆三千五百億美元內，而將執行期間訂為十年，而使減稅案於二〇一〇年底屆滿。

雖有不少納稅人享受到本次減稅的好處，但該減稅案亦不乏批評者，其爭議處可分述如下：

(一)該減稅案的最大受益人為有錢人，而非中產階級及低收入戶。

(二)部份納稅人認為減稅程度有限，聯邦政府因減稅歲入減少，會對州政府之補助減少，可能導致在地方上應繳納之稅款增加。因此部份人士主張政府盈餘應妥善運用，以增加聯邦開支，而非用來減稅。

(三)對部份納稅人而言，其減稅好處最終會被替代最低稅〈ALTERNATIVE MINIMUM TAX〉所否定。替代最低稅係為避免富人申報列舉過多扣除項目而設計，但因該項目未按物價指數調整，會逐漸使中產階級亦要繳納該替代最低稅，而無法享受減稅的好處。

(四)部份人士懷疑減稅是否能帶動疲弱的經濟；經濟學家認為，減稅行動緩不濟急，短期內應不會快速好轉，

但長期內可望經濟復甦。

- (五)該減稅案之預算計畫，係根據美國經濟未來持續呈現盈餘之預測值編列；若未來經濟走下坡，會減少聯邦政府之財政盈餘，終將導致財政赤字。
- (六)該減稅案之稅收損失可能繼續擴大。由於十年期間之落日條款，才使稅收損失控制在兩黨協議之一兆三千五百億美元內。減稅案於期間屆滿後，由未來國會決定是否繼續執行；但由於政治及選民之壓力，未來繼續通過減稅案之可能性極高；下一個十年減稅案之稅收損失估計為四兆美元，屆時將嚴重損害聯邦之退休及醫療體系。

布希十年減稅案，在美國朝野雖有不同贊成或反對之聲浪，但仍有值得學習或作為借鏡之處。例如其採取緩慢方式，逐步的實施減稅措施，以控制成本避免國庫過大之衝擊，是值得學習的；然而，為急於討好選民，促使國會儘速通過減稅案，而低估未來稅收嚴重流失的可能性，是應引以為戒的。總而言之，任何稅收改革方案都應朝公平合理及財政收支平衡兩個目標同時邁進；改革前應先衡量財政收支狀況，準確的衡量改革方案之成本效益，先從現行不合理的部分改善，避免稅基腐蝕，以達公平合理之稅收制度。

三、外國人之個人所得稅申報

美國聯邦所得稅對其境內外國人之課稅方式，依其課稅身份為居住者或為非居住者而有所不同。僅就下列五點簡述其相關規定；致其詳細內容，請參考美財政部內稅局〈IRS〉第五一九號刊物〈附件二〉。

- (一)居住者與非居住者之定義：居住者係指符合綠卡測試或實際居留測試者；非居住者係指該兩項測試均未符合者。

1. 綠卡測試：持有美國移民局發給之居留證（又稱綠卡）者，持卡者具有合法之永久居留權。

2. 實際居留測試：係指下列（1）或（2）：

(1) 在一課稅年度內，實際居留超過一百八十三天者。

(2) 在一課稅年度內，居留至少三十一天，並在三年期間內，依公式折算後超過一百八十三天，且該納稅人於該課稅年度與美國有較密切之聯係關係。折算公式為（該課稅年度居留天數 + 前年居留天數之二分之一 + 前年居留天數之三分之一）。

計算實際居留天數時，該納稅人只要當天在美國，即計為一日，因此抵達日及離境日均算。唯下列情況下，若符合特定條件時，在美國之期間可不予計為實際居留天數：1. 加拿大與墨西哥通勤者 2. 少於二十四小時之非商務過境旅客 3. 緊急醫療 4. 外交官員等 5. 參加慈善體育活動者 6. 老師學生等 7. 外國船籍之船員。

(二) 為外國僱主提供個人勞務之免稅規定：若同時符合下列三點，即非屬美國來源所得：

1. 為外國個人、外國公司、外國合夥人所提供之勞務，且該外國僱主在美國並無營業活動（NOT ENGAGED IN A TRADE OR BUSINESS IN US）。

2. 在美國居留期間內為非居住者，且在一課稅年度內未超過九十天。

3. 該勞務報酬未超過三千美元。

(三) 課稅方式：

1. 居住者：其課稅方式與美國公民相同，境內外來源所得均屬美國課稅範圍，可減除免稅額及扣除額，再依累進稅率計稅。

2. 非居住者：僅需就美國來源所得繳稅。其方式分為：

(1) 與在美國經營有實際聯係之所得：依所得總額，

減除特定可扣除額，按與居住者相同之累進稅率計稅。該種所得包括營利所得、勞務報酬、及特定獎助學金等。

(2)非與在美國經營有實際聯系之所得：按所得總額依單一稅率百分之三十課稅。該種所得係指固定性質、有基礎可供計算的、定期性的所得，如利息、股利等。

(四)第一年選擇：係指外國人在某一納稅年度內，雖未通過綠卡測試或實際居留測試，但若同時符合下列三項條件者，可選擇當年度為居住者。

1. 在選擇年度及其前一年度，並未成為美國居住者。
2. 在選擇年度，在美國連續居住至少三十一天。另外，自此三十一天之始日至該年底止，需有百分之七十三以上之天數在美國。
3. 在選擇年度之次一年度，需符合實際居留一百八十三天之測試。

例如瑪莉係菲律賓公民，於二〇〇〇年十一月一日首次到美國（符合條件1）。其二〇〇〇年在美停留記錄為十一月一日至十二月一日（計三十一日），十二月十七日至年底（計十五日）；因此自十一月一日至十二月三十一日計六十一日之期間內，共停留四十六天（符合條件2，連續三十一日，且超過百分之七十五， $46/61=75.4\%$ ）。於二〇〇一年，因符合實際居留天數之測試，成為美國居住者（符合條件3）。雖然瑪莉於二〇〇〇年在美僅停留四十六日，由於同時符合三項條件，於二〇〇〇年可選擇改採依居住者之身份課稅。

(五)雙重身份：在美國之外國人有可能在同一納稅年度內，同時具備居住者及非居住者雙重身份，通常發生於抵達或離境年度；居住者身份之起日及末日，依下列情況各有不同：

1. 抵達年度：因符合實際居留測試者，居住者身份之起日，為該年度首次抵達美國之日，但符合特定條件時有十日之例外。因符合綠卡測試者，居住者身份之起日為取得綠卡之首日。
2. 離境年度：該年度因符合實際居留測試者，居住者身份之末日，為該年度最後一次離境日，但符合特定條件時有十日之例外。因符合綠卡測試者，居住者身份之末日，為失去永久居留身份的第一天。

就上述五點比較我國之相關規定，其差異處為：

- (一)美國對居住者之定義較為廣範，除同我國規定之一課稅年度內實際居留超過一八三天為居住者外，尚包括持有居留証者及三年內居留折算超過一八三天者。
- (二)美國對於為外國僱主提供勞務之免稅規定，設有金額限制；非屬境內來源之所得，除同我國規定之應由境外僱主給付及實際居留未超過九十天之規定外，尚有金額應低於三千美元之限制。
- (三)對於居住者之課稅範圍，我國僅就境內來源所得課稅，而美國係就境內及境外來源所得全部課稅。唯稅額之計算方式相同，均按減除免稅額及扣除額後之所得淨額，依累進稅率計稅。
- (四)對於非居住者之課稅範圍相同，均就境內來源所得課稅。唯稅額之計算方式不同，我國係用所得總額，依其所得類別，按扣繳率表之單一稅率計稅；美國則依所得是否與在美國經營有實際關係，採不同之課稅方式，前者可減除扣除額再按累進稅率計稅，後者則用所得總額按百分之三十之單一稅率計稅。
- (五)我國並無第一年選擇及雙重課稅身份之相關規定。

檢附有關我國外僑綜合所得稅之研究報告〈附件三〉，該報告係於「比較所得稅」課程中，由哈佛大學國際租稅班主任

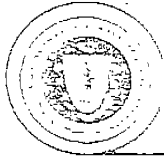
PROFESSOR ERIC ZOLT 所指定之作業。報告大綱為：

(一)我國外僑綜合所得稅之簡介：

- ∴ 1. 屬地主義
2. 居住者與非居住者之定義
3. 居住者與非居住者之課稅方式
4. 個人勞務報酬所得之計算
5. 雙重課稅及租稅協定

(二)我國實務上面臨之問題及相關建議，係從下列五個問題探討：

1. 居住者及非居住者之定義問題
2. 非扣繳所得之漏報及徵稅問題
3. 免稅額之浮報問題
4. 境外僱主給付所得之短漏報及稽核問題
5. 福利性所得之課稅問題

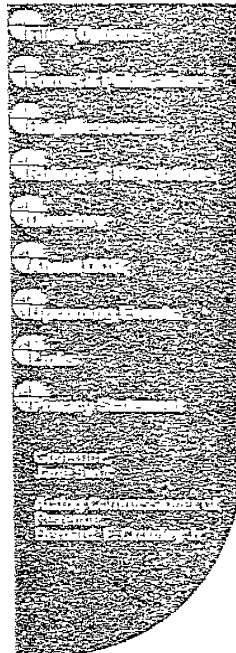


MASSDOR.COM
 COMMONWEALTH OF MASSACHUSETTS
 Department of Revenue

[Home](#) [Contact Us](#)




Search
 400 Tax 0055

Bay State Business Connection • Crisis Support • Enforcement • Division of Local Services • Employment • Insurance Bureau of Special Investigations



DOR's E-File methods will be available for filing your year 2000 income tax until October 2001. Please note, if filing after the tax due date of April 17, you may be assessed penalty and/or interest on any tax not paid on or before the original due date. This will be billed to separately after DOR receives your return.

E-File Options

			Paid Preparer	Commer. Tax Preparer Software
Description	E-File using DOR's online tax return. It performs the calculations for you!	E-File using a touch-tone telephone. Calls last an average of just 8 minutes!	E-File using a DOR-approved preparer.	E-File using DOR-approved commercial tax filing software or Web sites
Features and Benefits	Refund in four days or less. Your return is more accurate and you get proof of filing. Direct deposit is available. If you owe, you can pay the entire amount with a paper check and payment voucher by April 17, 2001. WebFile is free, easy, secure, and available 24 hours a day, 7 days a week.	Refund in four days or less. Your return is more accurate and you get proof of filing. Direct deposit is available. If you owe, you can pay the entire amount using MasterCard, Visa, Discover or Novus brand cards, during the original Telefile call, or with a paper check and payment voucher by April 17, 2001.	Refund in four days or less. Your return is more accurate and you get proof of filing. Direct deposit is available. If you owe, you can pay the entire amount with a paper check and	Refund in 4 days or less. Your return more accurate and you get proof of filing. Some commercial tax preparation products not offer direct deposit of refunds. If you owe, you can pay the entire amount with paper check and paym

		Telefile is free, easy, secure, and available 24 hours a day, 7 days a week.	payment voucher by April 17, 2001.	voucher by April 17, 2001.
Eligibility Criteria	<p>Must be full-year MA resident or full-year non-resident.</p> <p>Can be single, married filing jointly, married filing separately, or head of household.</p> <p>No changes in filing status as a result of marriage, separation or divorce.</p> <p>Total of six or fewer Forms W-2 or 1099-MISC</p> <p>No filing on behalf of a decedent.</p> <p>No residents claiming credit for taxes paid to another jurisdiction.</p> <p>No married filing separately, with 1 spouse claiming over \$1,250 for rental deduction.</p>	<p>Must be full-year MA resident.</p> <p>Must be single, married filing jointly, or head of household.</p> <p>No changes in filing status as a result of marriage, separation or divorce.</p> <p>Total of five or fewer Forms W-2 or 1099-MISC.</p> <p>No adjustments to non-MA bank interest and/or dividend income other than MA bank interest and/or you are required to complete a Schedule B, Part 2</p> <p>No deductions other than amounts paid to Social Security, Medicare, U.S., R.R. or MA retirement.</p> <p>No Schedule(s) C, D, E, or Z.</p>	<p>Must be full-year MA resident or full-year non-resident.</p> <p>No returns containing more than 30 statements.</p> <p>No filing on behalf of a decedent.</p> <p>No residents claiming a credit for taxes paid to another jurisdiction.</p> <p>No married filing separately, with 1 spouse claiming over \$1,250 for rental deduction.</p>	<p>Must be full-year MA resident or full-year non-resident.</p> <p>No name changes.</p>
What you need to use this method	<p>Personal computer or Macintosh and access to the Internet.</p> <p>Netscape Navigator or Internet Explorer 4.0 or above with 128-bit encryption.</p> <p>Personal</p>	<p>Completed Telefile worksheet, access to a touch-tone telephone</p> <p>Personal Identification Number (PIN) or requested refund or tax due amount from 1999</p>	<p>A DOR-approved preparer</p>	<p>Personal computer access to Internet.</p> <p>A commercial tax filing software product, or purchased the shelf"</p>

	<p>Identification Number (PIN) or requested refund or tax due amount from 1999 Massachusetts income tax return.</p> <p>First time filers may be able to use WebFile without a PIN.</p>	<p>Massachusetts income tax return</p> <p>First time filers may be able to use Te file without a PIN</p>		<p>accessed a DOR-approved commercial tax filing site.</p>
--	--	--	--	--

Business Tax Options – certain business taxpayers are required to submit tax payments electronically. Now available: ACH Credit and Mass-Debit Applications.

Tax Practitioner's Options – more filing options are available for Massachusetts preparers.

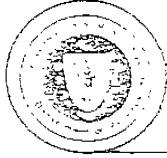
[Tax Administration Home](#) · [Email Us](#) · [Filing Options](#) · [Tax Forms](#) · [Help/Resources](#) · [Rul & Regulations](#) · [Directory](#) · [About DOR](#) · [Upcoming Events](#) · [Links](#) · [Bay State Business Connection](#) · [Child Support Enforcement](#) · [Division of Local Services](#)

→ [Massachusetts Department of Revenue Links:](#)

- [Division of Local Services](#)
 - [Child Support Enforcement Division](#)
 - [Underground Storage Tank Program](#)
 - [Commonwealth of Massachusetts Web Site](#)
 - [Massachusetts Division of Employment & Training](#)
-

Visitors to DOR's Online Taxpayer Service Center also may find useful the following sites:

- [Internal Revenue Service \(IRS\)](#)
 - [Federation of Tax Administrators \(FTA\)](#)
 - [Massachusetts Society of CPAs](#)
 - [National Association of Enrolled Agents](#)
 - [Simplified Tax and Wage Reporting System \(STAWRS\)](#)
 - [Massachusetts Chapter of the National Association of Tax Practitioners](#)
-

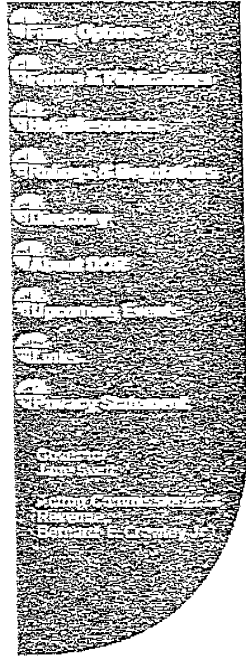


MASSDOR.COM

COMMONWEALTH OF MASSACHUSETTS
Department of Revenue

[Home](#) [Contact Us](#)

[411](#) [Tax](#) [DSE](#)



[Bay State Business Connection](#) [Child Support Enforcement](#) [Division of Local Services](#) [Underground Storage](#)

Welcome to WebFile

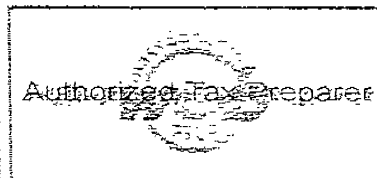
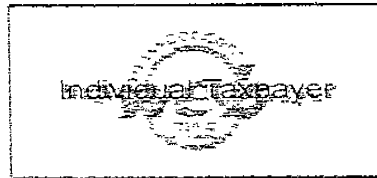
WebFile allows individual taxpayers and tax practitioners to securely enter personal income tax return information into a Web application and transmit it to DOR online over the Internet. Taxpayers can WebFile from any computer with Internet access, regardless of the computer operating platform (e.g., Windows, Macintosh, Linux) - welcome news to Mac users who previously were unable to file their income tax returns electronically with the Department.

WebFile requires a secure browser with 128-bit encryption, such as Microsoft Explorer or Netscape, in order to connect with DOR's secure server. The most recent versions of the Microsoft and Netscape browsers include this level of encryption; however, if a taxpayer's Web browser doesn't include 128-bit encryption, up-grades can be downloaded free of charge from [Microsoft](#) or [Netscape](#) website.

WebFile will be available for filing your year 2000 income tax until October 15, 2001. Please note, if filing after the tax due date of April 17, you may be assessed penalties and/or interest on any tax not paid on or before the original due date. This will be billed to you separately after DOR receives your return.

For an Individual Taxpayer:

For the DOR approved Tax Preparer:

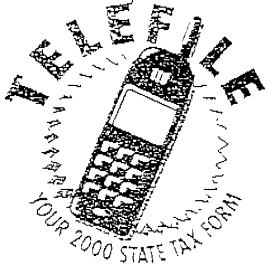


[Tax Administration Home](#) [Email Us](#) [Filing Options](#) [Tax Forms](#) [Help/Resources](#) [Rules & Regulations](#) [Directory](#) [About DOR](#) [Upcoming Events](#) [Links](#) [Bay State Business Connection](#) [Child Support Enforcement](#) [Division of Local Services](#)

Massachusetts Department of Revenue Links

- [Division of Local Services](#)
- [Child Support Enforcement Division](#)
- [Underground Storage Tank Program](#)
- [Commonwealth of Massachusetts Web Site](#)
- [Massachusetts Division of Employment & Training](#)

2000



Massachusetts Telefile Booklet

Full-Year Residents Only

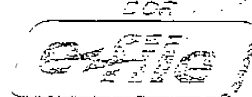
Telefile and Web filing
begin January 15, 2001



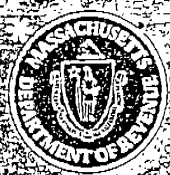
CALL OR CLICK. GET IT QUICK!

- ▶ It's fast!
- ▶ It's accurate!
- ▶ It's safe!

See inside for details.



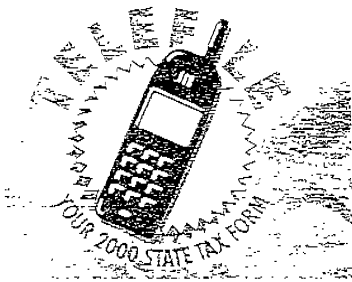
CALL OR CLICK. GET IT QUICK!



You Can Telefile



- › If you were a Massachusetts resident for all of 2000;
- › If your filing status is either single, married filing a joint return, or head of household;
- › If you have a total of five or fewer Forms W-2 or 1099-MISC;
- › If you received income reported on Forms 1099-DIV, 1099-G, 1099-INT, or 1099-R;
- › Even if you own your home;
- › Even if you made estimated tax payments in 2000;
- › Even if you received unemployment compensation and/or Massachusetts bank interest;
- › Even if you have pension, annuity, winnings and/or fee income;
- › Even if you have a dependent member of your household under age 12 as of 12/31/00;
- › Even if you are claiming the rental deduction;
- › Even if you are claiming the student loan interest deduction;
- › Even if you have non-Massachusetts bank interest and/or dividend income; or
- › Even if you moved or your filing status has changed (only from single to head of household or from head of household to single).



You Cannot Telefile

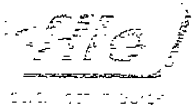


- › If you were not a Massachusetts resident for all of 2000;
- › If your filing status has changed as a result of marriage, separation or divorce;
- › If you have adjustments to your non-Massachusetts bank interest and/or dividend income other than Massachusetts bank interest and/or you are required to complete Schedule B, Part 2;
- › If you are claiming deductions other than amounts paid to Social Security, Medicare, U.S., R.R. or Massachusetts retirement; or
- › If you are filing Massachusetts Schedule(s) C, D, E or Z.

For information about recent tax law changes that may affect your tax return, call (617) 887-MDOR or toll-free in Massachusetts 1-800-392-6089.

Why You Should Telefile

- › It's easy. Only ten minutes to complete your Telefile worksheet and an eight-minute phone call.
 - › It's fast. Get your refund in four days, with the option of direct deposit into either your savings or checking account;
 - › It's convenient. Telefile is available 24 hours a day, 7 days a week.
 - › You can update your address if you have moved;
 - › Telefile does all the calculations for you, including No Tax Status, Limited Income Credit and the Earned Income Credit. Note: You must have your federal Earned Income Credit amount from your U.S. return or as computed by the IRS if you wish to claim the Earned Income Credit on Telefile;
 - › You can confirm and correct all of your entries as you file;
 - › There's nothing to mail in;
 - › You will receive a confirmation number and receipt as proof of your filing;
 - › If you have a tax due, you can file now and pay later using the Telefile payment voucher (by April 15) or pay now in full with your MasterCard, Visa, Discover or Novus brand card; and
 - › Online information is available simply by pressing the star (*) button on your telephone keypad.
- Join the millions of taxpayers who have already used Telefile to file their returns and receive their refunds quickly.



Prepare for your Telefile call by completing this worksheet. Retain for your records. This worksheet will not be processed if mailed.

Telefile Worksheet 2000 1

Do you want to contribute to the Massachusetts Clean Elections Fund? If yes \$1 You \$1 Spouse (if filing jointly) \$1 This contribution will not change our tax or reduce your refund.

Filing Status Single Married Filing Jointly Head of Household

Number of dependents (do not include yourself or spouse): Are you a noncustodial parent? Yes No

Social Security number(s) of dependent(s) (up to nine dependents allowed): _____

Were any dependent members of household under age 12 as of 12/31/00? Yes No

W-2 Information (continued)

Total number of Forms W-2 for you for your spouse. Note: Total number of Forms W-2 cannot exceed five.

Enter the Employer Identification number for each Form W-2 (generally box a)	Enter the total of State wages/tips (generally box 17) and Allocated Tips (generally box 3) for each Form W-2	Enter your total amount paid to Soc. Sec., U.S., RR, or Mass. retirement plus Medicare for each Form W-2 (generally boxes 4 & 5)	Enter spouse's total amount paid to Soc. Sec., U.S., RR, or Mass. retirement plus Medicare for each Form W-2 (generally boxes 4 & 5)	Enter the total of Massachusetts income tax withheld (generally box 13) for each Form W-2
Form W-2 _____	_____	_____	_____	_____
Form W-2 _____	_____	_____	_____	_____
Form W-2 _____	_____	_____	_____	_____
Form W-2 _____	_____	_____	_____	_____
Form W-2 _____	_____	_____	_____	_____
	\$ _____	\$ _____	\$ _____	\$ _____
	5. TOTAL of above	6. TOTAL of above	7. TOTAL of above	8. TOTAL of above

Round all dollar amounts to the nearest dollar (do not include cents). Add the amounts down the columns and enter the totals in the appropriate boxes above. You will need these total amounts when you make your call.

Unemployment compensation (from U.S. Telefile, item D; 1040EZ line 3; 1040A line 12; or 1040 line 15) 9 \$ _____

a. Total Massachusetts withholding for unemployment compensation (from Form 1099-G) 9a \$ _____

Total Massachusetts bank interest (from all Massachusetts Forms 1099-INT). If none, enter "0" 10 \$ _____

Total amount of rent you paid for your principal residence in 2000. If none, enter "0" 11 \$ _____
Landlord's name and address: _____

Earned Income Credit (EIC). Number of qualifying children Enter EIC amount from U.S. return 12 \$ _____
Social Security number(s) of qualifying children: _____

If you are expecting a refund, direct deposit is available. See page 11 for more information. Check type of account: Checking Savings
Routing number (first two digits must be 01-12 or 21-32) _____ Account number _____

STOP! If you have other income, estimated tax payments, or wish to claim the student loan interest deduction or make voluntary contributions, see reverse. If not, you are ready to Telefile.

Call (617) 691-2000 or (413) 827-7100

Telefile will tell you the following amounts. Enter these amounts in the boxes provided.

Total tax for 2000 13 \$ _____

Amount of your refund 14 \$ _____

Amount of tax due 15 \$ _____

Pay by credit or check card. See page 11 for more information. Enter authorization number _____

"Sign" your return 16

You (and your spouse, if filing jointly) must be present to authenticate the filing of your return. Telefile will assign you a 9-digit confirmation number. Do not hang up until you receive this number, it is your proof of filing.

Confirmation number _____ Date you Telefiled ____/____/____

Frequently Asked Questions About Telefile

What is the best time to Telefile?

Telefile is available 24 hours a day, seven days a week. The last week of January through the first week of February and from April 16 through April 17, between 5 a.m. – 9 p.m., are the peak Telefiling periods; you may find the phone lines busy during these times.

If I have never filed an income tax return with DOR, can I still Telefile?

You may be eligible to Telefile even if you have never filed a tax return with DOR. Just call (617) 660-2000 or (413) 827-7100 and enter your Social Security number. The Telefile system will then determine if you are eligible. If you are, you should hang up, complete the Telefile worksheet and call again. For more information on expanded E-File eligibility, see page 3.

What should I do if my address or filing status has changed from last year?

You may Telefile if your address has changed from last year. You will be asked for updated address information before continuing. If your filing status has changed as a result of marriage, separation or divorce, you are not eligible to Telefile.

Can I claim the Earned Income Credit through Telefile?

Yes. You must have your federal Earned Income Credit amount from your U.S. return or as computed by the IRS if you wish to claim the Earned Income Credit on Telefile.

Can I claim the Student Loan Interest Deduction through Telefile?

Yes. You must have your federal Student Loan Interest Deduction amount from your U.S. return if you wish to claim the Student Loan Interest Deduction on Telefile. This amount cannot exceed \$2,000 for tax year 2000.

Will I receive an official copy of my return?

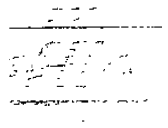
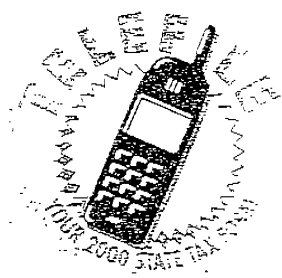
Telefile will send you a receipt listing the total amounts of each item that you entered on your Telefile call. Your receipt should be kept as an official copy of your Telefiling. Note: If you choose to have your refund deposited directly into your bank account, you will not receive a receipt. Your worksheet should be kept as an official copy of your Telefiling.

What if I do not understand a question asked by Telefile or I need to change an answer?

You can access online information by pressing the star (*) button located below the number 7 on your telephone keypad. If you realize that you have confirmed an incorrect entry and wish to change your answer, simply hang up before authenticating your return and dial Telefile again.

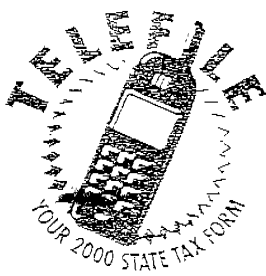
What should I do if I need to amend my return?

If, after you Telefile, you receive an additional Form W-2 or discover that you have made an error, you may dial (617) 660-2033 to access Amended Telefile or you may file a Massachusetts Form CA-6, Application for Abatement/Amended Return. Amended Telefile is scheduled to be available beginning February 12, 2001. You must wait at least four days from the date of your original Telefile call before using Amended Telefile. Do not attempt to dial the standard Telefile phone number a second time or file a paper return. Forms to amend your 2000 Telefile return are available by calling (617) 837-MDOR or toll-free in Massachusetts 1-800-392-6089.





ALL OR CLICK. GET IT QUICK!



What Other Resources Are Available

The instructions in the Department of Revenue's tax forms should provide answers to most taxpayer questions. If you have questions about completing your Massachusetts tax form, you can call or visit any of the Department of Revenue offices listed on the next page. Monday through Friday, between 8:45 a.m. and 5:00 p.m., Taxpayers can also call TaxTalk, the Department's 24-hour automated system of recorded tax help, at (617) 887-MDOR or toll-free in Massachusetts at 1-800-392-6089. In addition, DOR issues a number of useful publications on various state tax issues. These publications include: tax-specific guides written in question and answer format such as the Guide to Filing Your 2000 Massachusetts Income Taxes; a quarterly newsletter, the Taxpayer Advisory Bulletin, with updates on legislative, legal and Departmental decisions; and public written statements, such as Regulations, Technical Information Releases (TIRs), Directives and Letter Rulings. These may be obtained by calling (617) 887-MDOR or toll-free in Massachusetts 1-800-392-6089 or by visiting DOR's website at www.massdor.com.

World Wide Web



DOR's website offers visitors a searchable index of legal rulings, tax forms, and publications; news releases; statistical data and related articles. In addition, our website provides timely information from our Local Services and Child Support Enforcement divisions.

Visit DOR's website today at www.massdor.com.

DOR recently launched the Bay State Business Connection — www.baystatebiz.com — a one-stop website for researching and complying with tax laws and other business obligations, and for tapping into a wealth of Massachusetts business resources. The website is geared toward small and medium-sized businesses, new businesses or businesses considering locating in Massachusetts. The site allows you to download free software for filing sales and withholding tax returns via your PC; update your TA-1 (trustee tax) registration online; and locate information, forms and guides on: taxes, unemployment insurance, workers' compensation, child support, business regulations, economic development resources, and much more.

TaxTalk

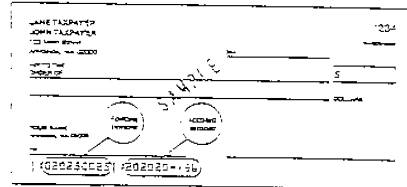
TaxTalk is DOR's automated system of recorded tax information available by calling (617) 887-MDOR or toll-free in Massachusetts 1-800-392-6089 during non-business hours. TaxTalk topics are also available through DOR's Fax on Demand system or via DOR's website at www.massdor.com. For a menu of TaxTalk topics available on Fax on Demand, please call (617) 887-1900 using the handset and keypad on your fax machine and, when prompted, enter document retrieval number 4000. To access the TaxTalk topics through DOR's website, click on "help/Resources." TaxTalk includes information on what's new for tax year 2000 as well as answers to commonly asked questions concerning personal income tax, sales and use tax, meals tax, withholding tax, room occupancy excise, sales tax on motor vehicles, corporate excise, partnerships, estate tax, and your rights as a taxpayer.

Direct Deposit



You may elect to have your refund deposited directly into your savings or checking account. Check with your financial institution to make sure that it accepts direct deposit and to verify their Routing Transit Number (RTN). If we are unable to honor your request for a direct deposit, a paper check will automatically be sent to you.

The routing number of your financial institution is nine digits and begins with 01-12 or 21-32. The account number can be up to 17 characters. Omit hyphens, spaces and special symbols. Enter the number from left to right. See sample check to right for location of this information.



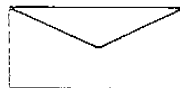
Note: Only one direct deposit is allowed per account number.

Credit or Check Card Payment

If Telefile determines that you owe tax, you have the option of paying this amount in full with your MasterCard, Visa, Discover or Novus brand card. To do so, you will be required to enter your account number and the four-digit expiration date (month and year) after authenticating your return. You should have your credit or check card information readily available. This option is not available for Web filers.

Note: You can pay with your Mastercard, Visa, Discover or Novus brand card only during your original Telefile call. The appropriate amount will be credited to your Department of Revenue account on the next business day.

If You Need to Send a Payment



Complete the Telefile Payment Voucher below by including the following information:

1. Your name, and spouse's name if filing a joint return, and address;
2. Your Social Security number, and spouse's Social Security number if filing a joint return; and
3. The amount of the enclosed payment.

Mail to: Massachusetts Department of Revenue, PO Box 7062, Boston, MA 02204-7062.

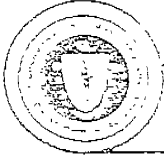
If you do not make full payment of the tax due on or before April 17, 2001, you will be sent a Notice of Assessment (NOA). This notice will show your tax due, plus any interest and penalty assessments for late payment.

Telefile Payment Voucher 2000			Massachusetts Department of Revenue	
First name	M.I.	Last name	Social Security number	
Spouse's first name	M.I.	Last name	Spouse's Social Security number	
Street address			Amount enclosed	
City/Town			State	Zip

STAPLE CHECK HERE

Mail to: Massachusetts Department of Revenue, PO Box 7062, Boston, MA 02204-7062.
Make checks payable to Commonwealth of Massachusetts. Write your Social Security number on your check or money order.





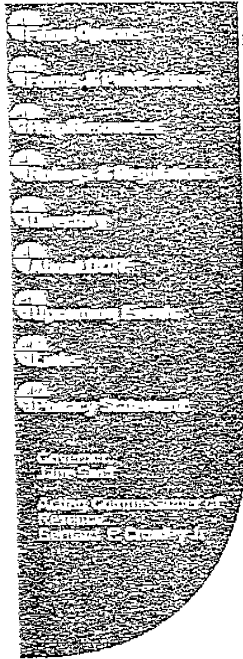
MASSDOR.COM

COMMONWEALTH OF MASSACHUSETTS
Department of Revenue

[Home](#) [Contact Us](#)

Search

[All](#) [Tax](#) [CSE](#)



[DOR Services](#) [Forms & Publications](#) [Individual Income Tax](#) [Business Income Tax](#) [Sales Tax](#) [Property Tax](#) [Motor Vehicle Tax](#) [Unemployment Insurance](#) [Wages & Salaries](#) [Retirement](#) [Charitable Deductions](#) [Estate Tax](#) [Gift Tax](#) [Trusts](#) [Estate Planning](#) [Tax Exemptions](#) [Tax Credits](#) [Tax Penalties](#) [Tax Appeals](#) [Tax Court](#) [Tax Refunds](#) [Tax Withholding](#) [Tax Preparer](#) [Taxpayer Rights](#) [Taxpayer Responsibilities](#) [Taxpayer Services](#) [Taxpayer Education](#) [Taxpayer Assistance](#) [Taxpayer Support](#) [Taxpayer Information](#) [Taxpayer Resources](#) [Taxpayer Tools](#) [Taxpayer Links](#) [Taxpayer News](#) [Taxpayer Alerts](#) [Taxpayer Notices](#) [Taxpayer Announcements](#) [Taxpayer Updates](#) [Taxpayer Changes](#) [Taxpayer Corrections](#) [Taxpayer Revisions](#) [Taxpayer Amendments](#) [Taxpayer Modifications](#) [Taxpayer Adjustments](#) [Taxpayer Alterations](#)

Electronic Filing

The Massachusetts Department of Revenue is committed to reducing the amount of paper processed each year by offering taxpayers a number of different technology-based tax filing programs. One of the first paperless options introduced by the Department, the Massachusetts Electronic Filing (ELF) Program now enters its eighth year – with more benefits to eligible taxpayers than ever.

Why use ELF?

Electronic filers receive their refunds in four days or less. This method also is a more accurate alternative to paper filing, and taxpayers receive a confirmation notice within 24 hours acknowledging receipt of their return. ELF also offers taxpayers a direct deposit of

Who can use ELF?

Taxpayers using a paid preparer approved for electronic filing by DOR may use the program. Taxpayers also can prepare returns on their own and use a preparer simply to transmit the return.

What's new with ELF?

For current news about DOR's Electronic Filing program, select the most recent issue of Electronic Filing Bulletin below. The bulletin is published periodically throughout the filing season by the Department's Automated Processing Bureau.

[Apply Online to Become a New Electronic Return Originator \(ERO\)](#)

The Massachusetts Department of Revenue's (MDOR) Electronic Filing Program is an independent program based on the Internal Revenue Service's (IRS) Electronic Filing Program and will follow its guidelines and practices whenever possible.

ELF Forms and Publications

- [Notice to Tax Preparers](#)
- [2001 Handbook \(PDF\) For Electronic Filers of Massachusetts Individual Income Returns \(Tax year 2000\)](#)
- [Electronic Filing Bulletin, December 2000](#)
- [Electronic Filing Bulletin, November 2000](#)
- [Electronic Filing Bulletin, October 2000](#)
- [Electronic Filing Bulletin, March 2000](#)
- [Electronic Filing Bulletin, February 2000](#)
- [Electronic Filing Bulletin, December 1999](#)
- [Electronic Filing Bulletin, November 1999](#)
- [Electronic Filing Bulletin, October 1999](#)
- [Form M-8633 Application to File 2000 Massachusetts Individual Income Tax Return](#)

Electronically

- [Form M-8633\(PDF\)](#)
- [Form CORI \(PDF\)](#), Criminal Offender Record Information (CORI) Acknowledgment Form
- [Form M-9232 \(PDF\)](#), Electronic Filing Payment Voucher
- [Form M-9325 \(PDF\)](#), Electronic Filing Information Handout
- [Form M-8453 \(PDF\)](#) Individual Income Tax Declaration for Electronic Filing

Tax Preparers Approved for ELF

For more information on ELF, please contact the Electronic Filing Program at (617) 867- or [submit questions, comments and suggestions about Electronic Filing using an online form](#).

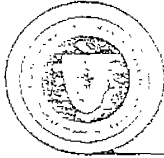
[Tax Administration Home](#) · [Email Us](#) · [Filing Options](#) · [Tax Forms](#) · [Help/Resources](#) · [Rul & Regulations](#) · [Directory](#) · [About DOR](#) · [Upcoming Events](#) · [Links](#) · [Bay State Business Connection](#) · [Child Support Enforcement](#)
· [Division of Local Services](#)

Massachusetts Department of Revenue Links:

- [Division of Local Services](#)
- [Child Support Enforcement Division](#)
- [Underground Storage Tank Program](#)
- [Commonwealth of Massachusetts Web Site](#)
- [Massachusetts Division of Employment & Training](#)

Visitors to DOR's Online Taxpayer Service Center also may find useful the following sites:

- [Internal Revenue Service \(IRS\)](#)
- [Federation of Tax Administrators \(FTA\)](#)
- [Massachusetts Society of CPAs](#)
- [National Association of Enrolled Agents](#)
- [Simplified Tax and Wage Reporting System \(STAWRS\)](#)
- [Massachusetts Chapter of the National Association of Tax Practitioners](#)

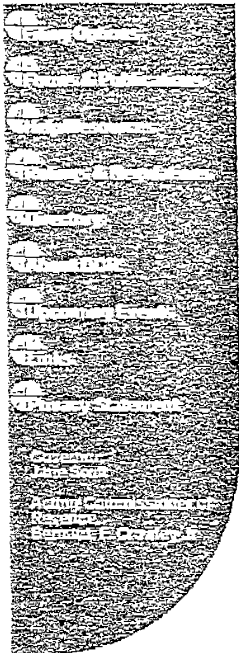


MASSDOR.COM

COMMONWEALTH OF MASSACHUSETTS
Department of Revenue

[Home](#) [Contact Us](#)

[All](#) [Tax](#) [CSS](#)



[Bay State Business Connection](#) [Child Support Enforcement](#) [Division of Local Services](#) [Underground Storage](#)

Approved Electronic Return Originators in 2000

Tax preparers approved by the Department to use the Massachusetts Electronic Filing or WebFile on behalf of their clients are able to offer refund turnaround of four days or less, four confirmation of receipt, and a more accurate alternative to paper filing. These preparers must apply and be approved as "electronic return originators," or EROs. For taxpayer convenience, a list of approved EROs now is available on this website.

There are hundreds of Massachusetts tax preparers approved for all three programs while certain tax preparers are approved only for WebFile. They are listed alphabetically by town. Please choose the first letter of the city or town in which you are seeking an approved tax preparer.

Please note: This listing is comprised of all accepted ERO's that have authorized DOR to make available the ERO's firm name and address to taxpayers and vendors as an ERO participating in DOR's Electronic Filing Program.

Massachusetts EROs Approved for Electronic Filing and WebFile (By Town Name):

- [A-D](#)
- [E-H](#)
- [I-L](#)
- [M-P](#)
- [Q-T](#)
- [U-Z](#)

[Non-Massachusetts EROs Approved for Electronic Filing and WebFile](#)

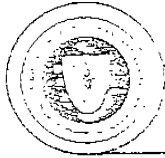
[EROs Approved for WebFile Only](#)

If you are a tax preparer interested in applying for the programs, please see:

- [Practitioner Options](#)
- [Electronic Filing in 2000](#)

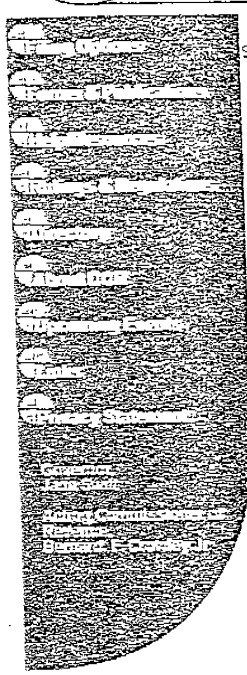
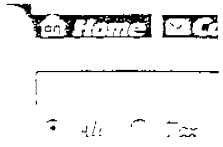
These site will link you to information and guides about our programs.

[Tax Administration Home](#) · [Email Us](#) · [Filing Options](#) · [Tax Forms](#) · [Help/Resources](#) · [Rul & Regulations](#) · [Directory](#) · [About DOR](#) · [Upcoming Events](#) · [Links](#) · [Bay State Busine](#)



MASSDOR.COM

COMMONWEALTH OF MASSACHUSETTS
Department of Revenue



Bay State Business Connection Child Support Enforcement Unemployment Services Underground Storage
Special Investigations

Commercial Software and Service Providers

Massachusetts taxpayers have the option to prepare and file their tax returns online using software and service providers. Online Filing providers may allow users to file all related tax schedules as well as Federal tax forms. These providers also may offer tax return pre assistance. Please note that Online Filing providers may charge a fee for their service. The Revenue does not recommend any one service provider over another nor are these providers with the Commonwealth of Massachusetts. The Department of Revenue offers these links for our taxpayers and all technical support issues should be addressed directly with the provider.

Following is a list of approved software providers for tax year 2000.



Prepare your 2000 tax return using www.TurboTax.com. Easy Web-based interactive tax preparation service only \$14.95 after a \$5.00 rebate or \$29.95 for our Deluxe after a \$10.00 mail-in rebate. For an additional \$10.00 you can also prepare your Massachusetts Return. Taxpayers with \$25,000 or less qualify for a special program called [www.Quicken Tax Freedom Project](http://www.QuickenTaxFreedomProject.com) which entitles you to TurboTax for free. Thank you for choosing TurboTax.



TaxCut Software - H&R Block's award winning, Tax preparation software may be downloaded or purchased on CD-ROM from the www.hrblock.com or www.taxcut.com. Available in Federal and State Editions and allows you to prepare both your state and federal returns electronically. Software and state and federal returns are sold separately. (an additional electronic filing fee of \$10.00 per return filed, credit card required) TaxCut also allows you to prepare and electronically file up to five returns.

Online Tax Program - (OTP) Prepare your taxes online with this Do-it-Yourself online tax preparation and filing program for U.S. federal and one FREE state tax return. Online Preparation allows the user to actually prepare their return on the Internet, and file their return electronically. This program allows users to prepare both their federal and state returns. (Credit Card Required)

www.CompleteTax.com offers an easy-to-use online tax preparation service.

CompleteTax

preparing both your Federal and Resident State ; internet for one fee of only \$12.50. This price incli electronic filing. CompleteTax has added several this year to enable you to more quickly receive yo pay your balance due. CompleteTax is developed INCORPORATED a leading name in tax informat



www.PrepTax.com Taxes made easy. Prepare your Federal and State returns through PrepTax, a easy-to-follow interview-style input screens. You c to process Business and Entry returns with the "P Complex Returns" option.

MY HDVEST.com

You can prepare and e-file your Federal and Mas taxes online for FREE. The major component of MyHDVEST.com is a user-friendly questionnaire t consumers to complete federal and Massachusetts resident tax returns online and e-file them with the Massachusetts Department of Revenue at no cha no income limits for consumers. It's quick, it's eas FREE. With e-file you get your refund faster, ther math errors and you get a confirmation that the IR Commonwealth of Massachusetts received your r

[Tax Administration Home](#) · [Email Us](#) · [Filing Options](#) · [Tax Forms](#) · [Help/Resources](#)
[Regulations](#) · [Directory](#) · [About DOR](#) · [Upcoming Events](#) · [Links](#) · [Bay State Business C](#)
[Support Enforcement](#)
[Division of Local Services](#)

Massachusetts Department of Revenue Links:

- [Division of Local Services](#)
- [Child Support Enforcement Division](#)
- [Underground Storage Tank Program](#)
- [Commonwealth of Massachusetts Web Site](#)
- [Massachusetts Division of Employment & Training](#)

Visitors to DOR's Online Taxpayer Service Center also may find useful the follo

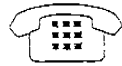
- [Internal Revenue Service \(IRS\)](#)
- [Federation of Tax Administrators \(FTA\)](#)
- [Massachusetts Society of CPAs](#)



Commonwealth of Massachusetts

Department of Revenue

Electronic Funds Transfer Handbook



Worksheets and Instructions

Section 1

General Information

Program Participation

Mandatory Participation — Since January 1, 1995, DOR required payroll withholding taxpayers with annual tax liabilities of \$500,000 or more to make their weekly depository payments through EFT. (The Commissioner's authority to mandate EFT for tax payments derives from M.G.L., c. 52C, ss. 45 and 73.)

Beginning October 1, 1995 — The threshold for mandatory participation of payroll withholding taxpayers was lowered to \$250,000 of annual tax liabilities. In addition, this \$250,000 mandatory threshold was extended to the following tax types: sales and use, sales on telecommunication services and corporate excise (foreign and domestic). A \$100,000 threshold was established for excises on gasoline, banks, utilities and insurance.

Voluntary Participation — If you do not meet the threshold established for mandatory participation in the EFT program and you are a quarterly filer, you may apply to participate on a voluntary basis. This request is subject to DOR approval. If you would like more information, please call DOR's Automated Processing Bureau (APB) at (617) 887-5020.

Once registered as a voluntary participant, you will be subject to the same rules established for mandatory participants.

Withdrawal from Participation — DOR will grant a waiver from participation in the electronic funds transfer program only if the taxpayer's payment does not exceed the mandatory EFT threshold. DOR will notify taxpayers within 15 days of receiving a request for a waiver whether or not the waiver from participation has been granted. For more information on obtaining an EFT waiver, please call the APB at (617) 887-5020.

If you receive notification that you meet the mandatory requirement but disagree with this determination, you may request a waiver from the EFT program in writing. This request must be completed and returned to DOR at least 30 days prior to the next payment due date. The request should be sent to:

Massachusetts Department of Revenue
Automated Processing Bureau
PO Box 7013
Boston, MA 02204

If you are a voluntary EFT participant and find that EFT is not meeting your needs, you also may submit a letter requesting to be waived from the EFT program. Please submit this request at least 30 days prior to your next payment due date. You may be required to finish out a calendar year.

Registration

How to Register — To register for the EFT program, please complete the Application for Electronic Funds Transfer (ACH Credit option). The completed form must be mailed to:

Massachusetts Department of Revenue
Electronic Funds Transfer Coordinator
PO Box 7013
Boston, MA 02204

The form also may be faxed by dialing (617) 887-5019. The EFT staff will review the application and mail you a letter that confirms your registration and contains the individualized record format that you will need to follow in order to make correct EFT transmissions. The letter will also contain your Personal Identification Number (PIN) for access to the Massachusetts Telefile system. If you need more information, please call the Automated Processing Bureau at (617) 887-5020.

Changes to EFT Registration — Any changes (such as a change in your transmitting bank, corporate name, EFT contact person, filing frequency, etc.) must be reported in writing immediately to:

Massachusetts Department of Revenue
Automated Processing Bureau
PO Box 7013
Boston, MA 02204

Hours of Operation — Normal working hours for the APB are 8:00 a.m. to 4:00 p.m. (Eastern Standard Time). Voice mail and fax are available for off-hours communication.

Refunds and Reversals — Current DOR procedures will be followed. Refunds will not be issued electronically through the ACH network. No reversals will be allowed except in cases permitted by ACH rules and regulations. In such cases, you are required to contact DOR's APB for permission.

Filing Your Tax Forms

Estimate Voucher — You should not submit a payment voucher when using EFT. It is important that you use the correct code for your tax payment. In looking at the EFT chart in Section 3, you will notice that there are different tax type codes for each tax. Please see page 8 for more information.

Tax Return — In addition to the depository or estimated payments remitted through EFT, a tax return must be submitted to DOR. The tax return contained in your coupon booklet must be mailed to DOR by the specified due date. If an additional payment is due with the return, the payment must be made using EFT. Withholding and/or sales and use taxpayers may submit their returns via DOR's Telefile option as noted below.

Tax Return Telefile Option — When you begin paying through EFT, you will be eligible to file withholding and sales and use tax returns through a telephone call. Your Personal Identification Number (PIN) is noted on the detailed record layout cover letter sent to you when you register for EFT. The PIN, along with your Federal Identification number provides access to the Massachusetts Telefile system. For more information, call the Automated Processing Bureau at (617) 887-5020.

Tax returns filed via the Massachusetts Telefile system will be recorded against your account with an effective date of the telephone call. Telefile instructions completed after 4:00 p.m. (Eastern Standard Time) will be recorded with an effective date of the next business day.

Telefile worksheets for both withholding tax and sales & use tax are available on DOR's website at www.state.ma.us/dor.

Amended Return — Amended returns must be submitted on paper. Any additional tax due must be remitted through EFT.

Mass-Debit Program

Starting January 1996, DOR began an ACH Debit program for payroll withholding, sales and use tax, meals tax, gasoline excise and various corporate excises. If you are interested in this option, please call DOR's Mass-Debit program at (617) 887-5020.

Glossary of Terms

Automated Clearing House (ACH) — Any entity that operates as a clearing house for electronic debit or credit entries pursuant to an agreement with an association that is a member of the National Automated Clearing House Association.

ACH Credit — The ACH credit is a method by which money is transferred electronically through the Automated Clearing House (ACH) network. An ACH credit transaction is one in which the taxpayer, through its bank, originates an entry crediting the Commonwealth's designated bank account and debits its own bank account for the amount of the tax payment.

ACH Debit — An ACH debit transaction is one in which the taxpayer, through the Commonwealth of Massachusetts financial agent, initiates an entry by telephone crediting the Commonwealth's designated bank account and debiting its own account for the amount of the tax payment.

Cash Concentration of Disbursement Plus Addenda (CCD+) — A standard National Automated Clearing House Association data format used to make ACH credit/debit transactions. The CCD+ format combines the widely used CCD format with a single addendum record that can carry 80 characters of payment-related data known as the TXP.

Data Collector — Also known as third-party vendor, the data collector is the party responsible for the collection of taxpayer information for the purpose of initiating an ACH transaction. Taxpayers may report information to the data collector by means of voice mail, touch-tone telephone, personal computer, terminal or mainframe computer.

Electronic Funds Transfer (EFT) — The transfer of payments or funds electronically. EFT refers to any transfer of funds, other than a transaction originated by check, draft or similar paper instrument, that is initiated through an electronic terminal, telecommunications instrument, computer or magnetic tape, to order, instruct or authorize a financial institution to debit or credit an account.

Receiving Bank Account # — This entry will be supplied by DOR. It identifies the bank to which EFT payments will be sent.

Amount — This entry is the amount to be posted to the recipient's account. It should be right justified and zero filled. Do not insert a decimal point; the last two bytes are assumed to be cents.

Taxpayer ID # — This entry is an alphanumeric field that uniquely identifies the taxpayer that sent the payment. Note: This field must be from the tax return and include the Filing Entity Code. When you are accepted into the EFT ACH program, you will be provided with the exact number that you should enter into this field. This number matches DOR files, and its use will facilitate proper handling of your payment.

Taxpayer Name — This entry indicates the name of the taxpayer who is making the payment to the Receiving Bank Account # in Field 5. This name must be exactly as it appears on the tax return. When you are accepted into the EFT ACH program, you will be provided with the exact name that you should enter in this field, along with the proper spacing, special characters and use or lack of punctuation that matches DOR files. Use of the exact name and format provided by DOR will facilitate the proper handling of your payment.

Discretionary Data — This entry is optional. You may determine a code with your bank in order to identify a specific transaction.

Addenda Record Indicator — Always insert a 1, as there will be an addendum record with this transaction.

Trace Number — This entry is a number put into the record by the originating/sending bank in order to trace the transaction through the system in case of error.

Addendum Format for Tax Payments

Field	Position	Size	Contents	Data Element Name
1	1-1	1	T	Record Type Code
2	2-3	2	05	Addenda Type Code
3	4-6	3	TXP*	Tax Payment ID
4	7-7	1	*	Field Separator
5	8-22	15	Alphanumeric	Taxpayer ID #***
6	23-23	1	*	Field Separator
7	24-28	5	Alphanumeric	Tax Type Code
8	29-29	1	*	Field Separator
9	30-35	6	YYMMDD	Period End Date
10	36-36	1	*	Field Separator
11	37-37	1	T	Amount Type
12	38-38	1	*	Field Separator
13	39-48	10	\$\$\$\$\$\$Sc	Payment Amount
14	49-49	1	*	Field Separator
15	50-50	1	*	Field Separator
16	51-51	1	*	Field Separator
17	52-52	1	*	Field Separator
18	53-53	1	*	Field Separator
19	54-59	6	Alphanumeric	Taxpayer Name Check
20	60-60	1	T	Terminator
21	61-83	23	Blanks	
22	84-87	4	Numenc	Special Addenda Sequence #
23	88-94	7	Numenc	Entry Detail Sequence #

Sales Tax on Telecommunications

Tax type code: 0136M
Period end dates for payments: Last day of the month.
Tax return due date: 20th day of the month following the period end date.
Frequency: Monthly filer
Return: STS
Pilot/Mandate: Mandate 10/1/95
Dollar threshold: \$250,000
Mailing address: PO Box 7015, Boston, MA 02204

Corporate Excise Tax — Domestic

Tax type code: 0167E
Period end date for payments: On or before the 15th day of the third, sixth, ninth and twelfth month of the taxable year.
Tax return due date: 15th day of the third month after the close of the taxable year, calendar or fiscal.
Note: If Fiscal Year (FY) does not coincide with calendar year, adjust accordingly.
Frequency: Quarterly depository, annual filer
Payment coupon: 355-ES eliminated
Return: Various
Pilot/Mandate: Mandate 10/1/95
Dollar threshold: \$250,000
Mailing address: PO Box 7005, Boston, MA 02204

Corporate Excise Tax — Foreign

Tax type code: 0168E
Period end date for payments: On or before the 15th day of the third, sixth, ninth and twelfth month of the taxable year.
Tax return due date: 15th day of the third month after the close of the taxable year, calendar or fiscal.
Note: If FY does not coincide with calendar year, adjust accordingly.
Frequency: Quarterly depository, annual filer
Payment coupon: 355-ES eliminated
Return: Various
Pilot/Mandate: Mandate 10/1/95
Dollar threshold: \$250,000
Mailing address: PO Box 7005, Boston, MA 02204

Excise on Banks

Tax type codes: 0133 (Domestic), 0134 (Foreign), 0132 (Other Financial Institution)
Period end date for payments: On or before the 15th day of the third, sixth, ninth and twelfth month of the taxable year.
Tax return due date: 15th day of the third month after the close of the taxable year, calendar or fiscal.
Frequency: Quarterly depository, annual filer
Payment coupon: 355-ES eliminated
Return: Various
Pilot/Mandate: Mandate 10/1/95
Dollar threshold: \$100,000
Mailing address: PO Box 7052, Boston, MA 02204

Excise on Insurance

Tax type codes: 0116E (Preferred Prov), 0119E (Domestic/For Prem), 0120E (Foreign Life, A&H), 0123E (Domestic Life) and 0124E (Domestic Life Inv/PR)
Period end date for payments: On or before the 15th day of the third, sixth, ninth and twelfth month of the taxable year.
Tax return due date: 15th day of the third month after the close of the taxable year, calendar or fiscal.
Frequency: Quarterly depository, annual filer
Payment coupon: 355-ES eliminated
Return: Various
Pilot/Mandate: Mandate 10/1/95
Dollar threshold: \$100,000
Mailing address: PO Box 7052, Boston, MA 02204



Commonwealth of Massachusetts

Department of Revenue

Automated Processing
Bureau
PO Box 7013
Boston, MA 02204

Application for Electronic Funds Transfer (ACH Credit Option)

Company Information

Company name (as it appears on your tax return)		Federal Identification number (EIN)	
Address	City/Town	State	Zip code
Contact person	Telephone number	Fax number	E-mail address

Tax Type Information. Check box for each tax you wish to pay electronically.

Tax Type:	Description:	Restrictions:
<input type="checkbox"/> 0166	Withholding Tax	
<input type="checkbox"/> 0137	Sales & Use Tax	Over \$250,000, mandated 10/1/95
<input type="checkbox"/> 0136	Sales on Telecommunications	
<input type="checkbox"/> 0138	Meals Tax	Voluntary
<input type="checkbox"/> 0167E	Corporate — Domestic (Mass.)	Over \$250,000, mandated 10/1/95
<input type="checkbox"/> 0168E	Corporate — Foreign (outside Mass.)	Annual filers
<input type="checkbox"/> 0112M	Gasoline	
<input type="checkbox"/> 0132E	Financial Institutions	
<input type="checkbox"/> 0133E	Banks — Domestic	
<input type="checkbox"/> 0134E	Banks — Foreign	
<input type="checkbox"/> 0116E	Insurance — Pref. Provider	
<input type="checkbox"/> 0119E	Insurance — Dom./For. Premium	
<input type="checkbox"/> 0120E	Insurance — For. Life, A & H	Over \$100,000, mandated 10/1/95
<input type="checkbox"/> 0123E	Insurance — Domestic Life	
<input type="checkbox"/> 0124E	Insurance — Domestic Life Inv.	
<input type="checkbox"/> 0170E	Public Service — Gas & Electric	
<input type="checkbox"/> 0172E	Public Service — Railroads	
<input type="checkbox"/> 0173E	Public Service — Telephone	
<input type="checkbox"/> 0174E	Public Service — Power	
<input type="checkbox"/> 0179E	Fiduciary	Voluntary

Mail to:

Massachusetts Department of Revenue
Automated Processing Bureau
PO Box 7013
Boston, MA 02204

Phone: (617) 887-5020

Fax: (617) 887-5019

Website: www.state.ma.us/dor



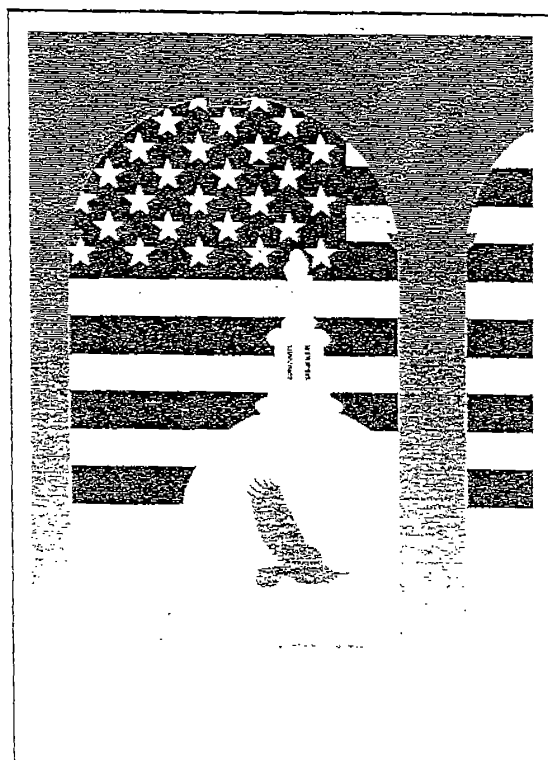
Department
of the
Treasury

Internal
Revenue
Service

Publication 519
Cat. No. 15023T

U.S. Tax Guide for Aliens

For use in preparing
2000 Returns



Get forms and other information
faster and easier by:

Computer • www.irs.gov or FTP • [ftp.irs.gov](ftp://ftp.irs.gov)

FAX • 703-368-9694 (from your fax machine)

Contents

Introduction	1
Important Changes	2
Important Reminders	3
1. Nonresident Alien or Resident Alien?	3
2. Source of Income	10
3. Exclusions From Gross Income	13
4. How Income of Aliens is Taxed	15
5. Figuring Your Tax	20
6. Dual-Status Tax Year	26
7. What, When, and Where To File	33
8. Paying Tax Through Withholding or Estimated Tax	35
9. Tax Treaty Benefits	41
10. Employees of Foreign Governments and International Organizations	44
11. Departing Aliens and the Sailing or Departure Permit	44
12. How To Get Tax Help	46
Appendix A—Tax Treaty Exemption Procedure for Students	48
Appendix B—Tax Treaty Exemption Procedure for Teachers and Researchers	50
Index	53

Introduction

For tax purposes, an alien is an individual who is not a U.S. citizen. Aliens are classified as nonresident aliens and resident aliens. This publication will help you determine your status and give you information you will need to file your U.S. tax return. Resident aliens generally are taxed on their worldwide income the same as U.S. citizens. Nonresident aliens are taxed only on their income from sources within the United States and on certain income connected with the conduct of a trade or business in the United States.

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

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

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

You can e-mail us while visiting our web site at www.irs.gov/help/email2.html.

You can write to us at the following address.

Withholding on Income Effectively Connected With the Conduct of a Trade or Business in the United States should be provided to a withholding agent or payer by a foreign person to:

- a) Establish foreign status.
- b) Claim that such person is the beneficial owner of the income for which the form is being furnished, and
- c) Claim that certain income is effectively connected with the conduct of a trade or business in the United States.

The new certificates will replace the following forms and statement, which are no longer valid.

- Form W-8, *Certificate of Foreign Status*.
- Form 1001, *Ownership, Exemption, or Reduced Rate Certificate*.
- Form 1073, *Certificate of Alien Claiming Residence in the United States*.
- Form 4224, *Exemption From Withholding of Tax on Income Effectively Connected With the Conduct of a Trade or Business in the United States*.
- Statement under regulation section 1.1441-5 relating to an individual's claim to be a U.S. citizen or resident.

Paid preparer authorization. Beginning with your return for 2000, you can check a box and authorize the IRS to discuss your tax return with the paid preparer who signed it. If you check the "Yes" box in the signature area of your return, the IRS can call your paid preparer to answer any questions that may arise during the processing of your return. Also, you are authorizing your paid preparer to perform certain actions. See your income tax package for details.

Photographs of missing children. The Internal Revenue Service is a proud partner with the National Center for Missing and Exploited Children. Photographs of missing children selected by the Center may appear in this publication on pages that would otherwise be blank. You can help bring these children home by looking at the photographs and calling 1-800-THE-LOST (1-800-343-5678) if you recognize a child.

Important Reminders

Individual taxpayer identification number (ITIN). The IRS will issue an ITIN to a nonresident or resident alien who does not have and is not eligible to get a social security number. To apply for an ITIN, file Form W-7, *Application for IRS Individual Taxpayer Identification Number* with the IRS. An ITIN is for tax use only. It does not entitle the holder to social security benefits or change the holder's employment or immigration status under U.S. law. See *Identification Number* in chapter 5.

Disclosure of a treaty-based position that reduces your tax. If you take the position that any U.S. tax is overruled or otherwise reduced by a U.S. treaty (a treaty-based position), you generally must disclose that posi-

tion on your affected return. See *Effect of Tax Treaties* in chapter 7.

Form 1040NR-EZ. You may be able to use Form 1040NR-EZ, *U.S. Income Tax Return for Certain Nonresident Aliens With No Dependents*. This form is shorter and easier to prepare than Form 1040NR. To see if you meet the conditions for filing this form, see Form 1040NR-EZ in chapter 7.

Earned income credit for nonresident aliens. If you are a nonresident alien for any part of the year, you cannot claim the earned income credit unless you choose to be treated as a resident alien for the earlier year. See *Choosing Resident Alien Status and Nonresident Spouse Treated as a Resident* in chapter 7.

Leaving the United States. Generally, aliens must obtain a seamless permit or departure permit before leaving the United States. See chapter 11 for more information.

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

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

Expatriation tax. If you are a former U.S. citizen or former long-term U.S. resident, special tax rules may apply to you. See *Expatriation Tax* in chapter 4.

1.

Nonresident Alien or Resident Alien?

Introduction

You should first determine whether, for income tax purposes, you are a nonresident alien or a resident alien. Figure 1-4 will help you find whether you are a nonresident or resident alien.

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

Topics

This chapter discusses:

- How to determine if you are a nonresident, resident, or dual-status alien, and
- How to treat a nonresident spouse as a resident alien.

Useful Items

You may want to see:

Form (and instructions)

- 1040 U.S. Individual Income Tax Return
- 1040A U.S. Individual Income Tax Return
- 1040NR U.S. Nonresident Alien Income Tax Return
- 8800 Treaty-Based Return Position Disclosure Under Section 6114 or 6013(b)
- 8840 Closer Connection Exemption Statement for Aliens
- 8843 Statement for Exempt Individuals and Individuals With a Medical Condition

See chapter 12 for information about getting these forms.

Nonresident Aliens

If you are an alien (not a U.S. citizen), you are considered a nonresident alien unless you meet one of the two tests discussed next under *Resident Aliens*.

Resident Aliens

You are a resident alien of the United States for tax purposes if you meet either the green card test or the substantial presence test for the calendar year, January 1-December 31. Even if you do not meet either of these tests, you may be able to choose to be treated as a U.S. resident for part of the year. See *First-Year Choice* under *Dual-Status Aliens*, later.

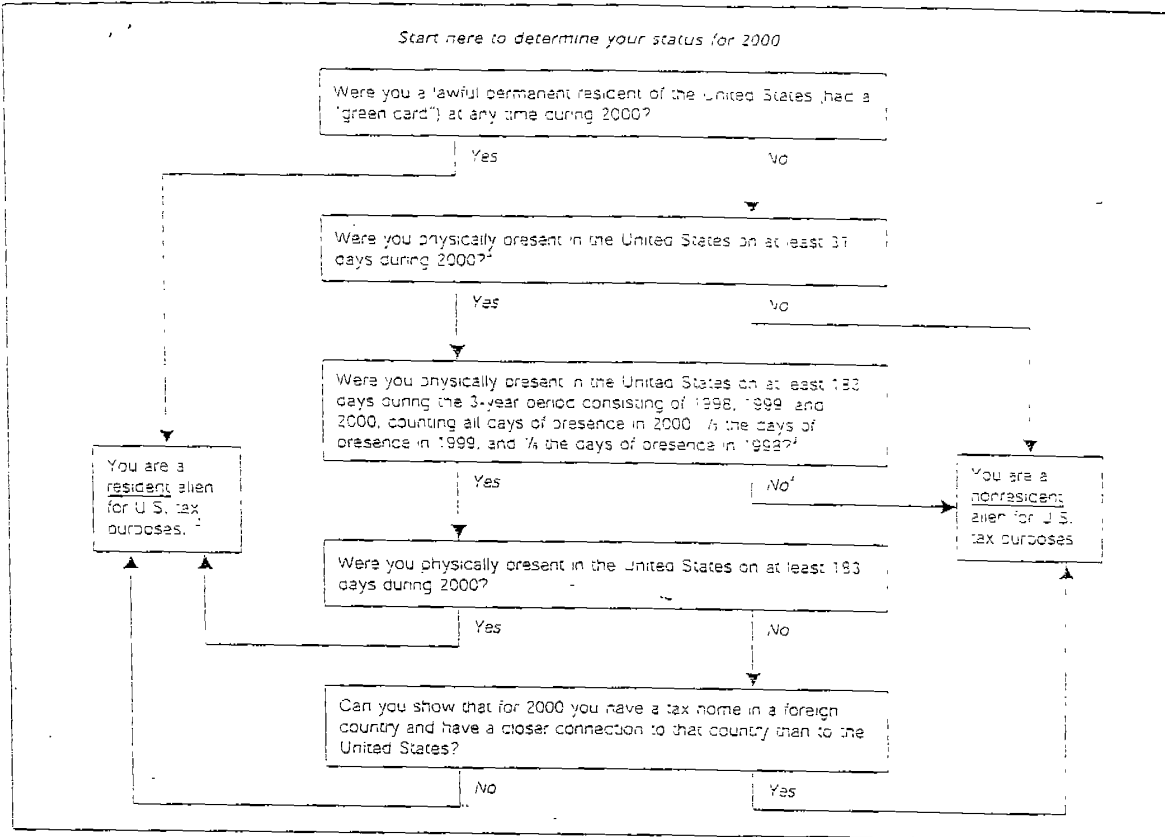
Green Card Test

You are a resident for tax purposes if you are a lawful permanent resident of the United States at any time during the calendar year. (However, see *Dual-Status Aliens*, later.) This is known as the "green card" test. You are a lawful permanent resident of the United States at any time if you have been given the privilege, according to the immigration laws, of residing permanently in the United States as an immigrant. You generally have this status if the Immigration and Naturalization Service (INS) has issued you an alien registration card, also known as a "green card." You continue to have resident status under this test unless the status is taken away from you or is administratively or judicially determined to have been abandoned.

Resident status taken away. Resident status is considered to have been taken away from you if the U.S. government issues you a final administrative or judicial order of exclusion or deportation. A final judicial order is an order that you may no longer appeal to a higher court of competent jurisdiction.

Resident status abandoned. An administrative or judicial determination of abandonment of resident status may be initiated by you, the INS, or a U.S. consular officer.

Figure 1-A. Nonresident Alien or Resident Alien?



¹ If this is your first or last year of residency, you may have a dual status for the year. See *Dual-Status Aliens* in chapter 1.

² In some circumstances you may still be considered a nonresident alien under an income tax treaty between the U.S. and your country. Check the provisions of the treaty carefully.

³ See *Days of Presence in the United States* in this chapter for days that do not count as days of presence in the United States.

⁴ If you meet the substantial presence test for 2001, you may be able to choose treatment as a U.S. resident alien for part of 2000. For details, see *Substantial Presence Test under Resident Aliens and First-year choice under Dual-Status Aliens* in chapter 1.

- 1) An individual temporarily present in the United States as a foreign government-related individual.
- 2) A teacher or trainee temporarily present in the United States under a "J" or "Q" visa, who substantially complies with the requirements of the visa.
- 3) A student temporarily present in the United States under an "E," "J," "M," or "Q" visa, who substantially complies with the requirements of the visa.
- 4) A professional athlete temporarily in the United States to compete in a charitable sports event.

The specific rules for each of these four categories are discussed next.

Foreign government-related individuals. A foreign government-related individual is an individual (or a member of the individual's immediate family) who is temporarily present in the United States:

- 1) As a full-time employee of an international organization,
- 2) By reason of diplomatic status, or

- 3) By reason of a visa (other than a visa that grants lawful permanent residence) that the Secretary of the Treasury determines represents full-time diplomatic, or consular status.

An *international organization* is any public international organization that the President of the United States has designated by Executive Order as being entitled to the privileges, exemptions, and immunities provided for in the International Organizations Act. An individual is a full-time employee if his or her work schedule meets the organization's standard full-time work schedule. An individual is considered to have full-time diplomatic or consular status if he or she:

- 1) Has been accredited by a foreign government that is recognized by the United States,
- 2) Intends to engage primarily in official activities for that foreign government while in the United States, and
- 3) Has been recognized by the President, Secretary of State, or a consular officer as being entitled to that status.

Members of the *immediate family* include the individual's spouse and unmarried children (whether by blood or adoption) but only if the spouse or unmarried children's visa statuses are derived from and dependent on the exempt individual's visa classification. Unmarried children are included only if they:

- 1) Are under 21 years of age,
- 2) Reside regularly in the exempt individual's household, and
- 3) Are not members of another household.

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

Teachers and trainees. A teacher or trainee is an individual, other than a student, who is temporarily in the United States under a "J" or "Q" visa and substantially complies with the requirements of that visa. You are considered to have substantially complied with the visa requirements if you have not engaged in activities that are prohibited by U.S. immigration laws and could result in the loss of your visa status.

- 1) The country of residence you designate on forms and documents.
- 2) The types of official forms and documents you file, such as Form W-3, Form W-35EN, or Form W-35EC.
- 3) The location of:
 - a) Your permanent home.
 - b) Your family.
 - c) Your personal belongings, such as cars, furniture, clothing, and jewelry.
 - d) Your current social, political, cultural, or religious affiliations.
 - e) Your business activities (other than those that constitute your tax home).
 - f) The jurisdiction in which you hold a driver's license, and
 - g) The jurisdiction in which you vote.

It does not matter whether your permanent home is a house, an apartment, or a furnished room. It also does not matter whether you rent or own it. It is important, however, that your home be available at all times, continuously, and not solely for short stays.

You cannot claim you have a closer connection to a foreign country if either of the following applies:

- 1) You personally applied, or took other steps during the year, to change your status to that of a permanent resident, or
- 2) You had an application pending for adjustment of status during the current year.

Steps to change your status to that of a permanent resident include, but are not limited to, the filing of the following forms.

Form I-508, *Waiver of Rights, Privileges, Exemptions and Immunities*

Form I-485, *Application to Register Permanent Residence or Adjust Status*

Form I-130, *Petition for Alien Relative*, on your behalf

Form I-140, *Immigrant Petition for Alien Worker*, on your behalf

Form ETA-750, *Application for Alien Employment Certification*, on your behalf

Form OF-230, *Application for Immigrant Visa and Alien Registration*

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

If you do not have to file a return, send the form to the Internal Revenue Service Center, Philadelphia, PA 19255, by the due date for filing an income tax return. The due date for filing is discussed later in chapter 7.

If you do not timely file Form 8840, you cannot claim a closer connection to a foreign country or countries. This does not apply if you can show by clear and convincing evidence that you took reasonable actions to become aware of the filing requirements and significant steps to comply with those requirements.

Effect of Tax Treaties

The rules given here to determine if you are a U.S. resident do not override tax treaty definitions of residency. If your residency is determined under a treaty and not under the rules discussed here, you must file a fully completed Form 8833 if the payments or income items reportable because of that determination are more than \$100,000. If you are a dual resident taxpayer, you can still claim the benefits under an income tax treaty. A *dual resident taxpayer* is one who is a resident of both the United States and another country under each country's tax laws. The income tax treaty between the two countries must contain a provision that provides for resolution of conflicting claims of residence. If you are treated as a resident of a foreign country under a tax treaty, you are treated as a nonresident alien in figuring your U.S. income tax. For purposes other than figuring your tax, you will be treated as a U.S. resident. For example, the rules discussed here do not affect your residency time periods as discussed, later, under *Dual-Status Aliens*.

Information to be reported. If you are a dual resident taxpayer and you claim treaty benefits, you must timely file a return (including extensions) using Form 1040NR or Form 1040NR-EZ, and compute your tax as a nonresident alien. You must also attach a fully completed Form 8833. See *Reporting Treaty Benefits Claimed* in chapter 9 for more information on reporting treaty benefits.

Dual-Status Aliens

You can be both a nonresident alien and a resident alien during the same tax year. This usually occurs in the year you arrive in or depart from the United States. Aliens who have dual status should see chapter 8 for information on filing a return for a dual-status tax year.

First Year of Residency

If you are a U.S. resident for the calendar year, but you were not a U.S. resident at any time during the preceding calendar year, you are a U.S. resident only for the part of the calendar year that begins on the *residency starting date*. You are a nonresident alien for the part of the year before that date.

Residency starting date under substantial presence test. If you meet the substantial presence test for a calendar year, your *residency starting date* is generally the first day you are present in the United States during that calendar year, however, you do not have to count up to 10 days of actual presence in the United States if on those days you establish that:

- 1) You had a closer connection to a foreign country than to the United States, and
- 2) Your tax home was in that foreign country.

See *Closer Connection to a Foreign Country*, earlier.

In determining whether you can exclude up to 10 days, the following rules apply:

- 1) You can exclude days from more than one period of presence as long as the

total days in all periods are not more than 10.

- 2) You cannot exclude any days in a period of consecutive days of presence if all the days in that period cannot be excluded.
- 3) Although you can exclude up to 10 days of presence in determining your residency starting date, you must include those days when determining whether you meet the substantial presence test.

Example. Ivan Ivanovich is a citizen of Russia. He came to the United States for the first time on January 1, 2000, to attend a business meeting and returned to Russia on January 10, 2000. His tax home remained in Russia. On March 1, 2000, he moved to the United States and resided here for the rest of the year. Ivan is able to establish a closer connection to Russia for the period January 6–10. Thus, his residency starting date is March 1.

Statement required to exclude up to 10 days of presence. You must file a statement with the IRS if you are excluding up to 10 days of presence in the United States for purposes of your residency starting date. You must sign and date this statement and include a declaration that it is made under penalties of perjury. The statement must contain the following information (as applicable):

- 1) Your name, address, U.S. taxpayer identification number (if any), and U.S. visa number (if any).
- 2) Your passport number and the name of the country that issued your passport.
- 3) The tax year for which the statement applies.
- 4) The first day that you were present in the United States during the year.
- 5) The dates of the days you are excluding in figuring your first day of residency.
- 6) Sufficient facts to establish that you have maintained your tax home in and a closer connection to a foreign country during the period you are excluding.

Attach the required statement to your income tax return. If you are not required to file a return, send the statement to the Internal Revenue Service Center, Philadelphia, PA 19255, on or before the due date for filing an income tax return. The due date for filing is discussed in chapter 7.

If you do not file the required statement as explained above, you cannot claim that you have a closer connection to a foreign country or countries. Therefore, your first day of residency will be the first day you are present in the United States. This does not apply if you can show by clear and convincing evidence that you took reasonable actions to become aware of the requirements for filing the statement and significant steps to comply with those requirements.

Residency starting date under green card test. If you meet the green card test at any time during a calendar year, but do not meet the substantial presence test for that year, your *residency starting date* is the first day in the calendar year on which you are present in the United States as a lawful permanent resident.

from the date you paid your income tax for that year, whichever is later.

Last Year of Residency

If you were a U.S. resident in 2000 but are not a U.S. resident during any part of 2001, you cease to be a U.S. resident on your *residency termination date*. Your residency termination date is December 31, 2000, unless you qualify for an earlier date as discussed next.

Earlier residency termination date. You may qualify for a residency termination date that is earlier than December 31. This date is:

- 1) The last day in 2000 that you are physically present in the United States, if you met the substantial presence test;
- 2) The first day in 2000 that you are no longer a lawful permanent resident of the United States, if you met the green card test; or
- 3) The later of (1) or (2), if you met both tests.

You can use this date only if, for the remainder of 2000, your tax home was in a foreign country and you had a closer connection to that foreign country. See *Closer Connection to a Foreign Country*, earlier.



A long-term resident who ceases to be a lawful permanent resident may be subject to special reporting requirements and tax provisions. See Explanation Tax in chapter 4.

De minimis presence. If you are a U.S. resident because of the substantial presence test and you qualify to use the earlier residency termination date, you can exclude up to 10 days of actual presence in the United States in determining your residency termination date. In determining whether you can exclude up to 10 days, the following rules apply.

- 1) You can exclude days from more than one period of presence as long as the total days in all periods are not more than 10.
- 2) You cannot exclude any days in a period of consecutive days of presence if all the days in that period cannot be excluded.
- 3) Although you can exclude up to 10 days of presence in determining your residency termination date, you must include those days when determining whether you meet the substantial presence test.

Example. Lola Bovary is a citizen of Malta. She came to the United States for the first time on March 1, 2000, and resided here until August 25, 2000. On December 12, 2000, Lola came to the United States for vacation and stayed here until December 16, 2000, when she returned to Malta. She is able to establish a closer connection to Malta for the period December 12–16. Lola is not a U.S. resident for tax purposes during 2001 and can establish a closer connection to Malta for the rest of calendar year 2000. Lola is a U.S. resident under the substantial

presence test for 2000 because she was present in the United States for 183 days (179 days for the period March 1 to August 25 plus 5 days in December). Lola's residency termination date is August 25, 2000.

Residency during the next year. If you are a U.S. resident during any part of 2001 and you are a resident during any part of 2000, you will be taxed as a resident through the end of 2000. This applies whether you have a closer connection to a foreign country than the United States during 2000 and whether you are a resident under the substantial presence test or green card test.

Statement required to establish your residency termination date. You must file a statement with the IRS to establish your residency termination date. You must sign and date this statement and include a declaration that it is made under penalties of perjury. The statement must contain the following information (as applicable).

- 1) Your name, address, U.S. taxpayer identification number (if any), and U.S. visa number (if any).
- 2) Your passport number and the name of the country that issued your passport.
- 3) The tax year for which the statement applies.
- 4) The last day that you were present in the United States during the year.
- 5) Sufficient facts to establish you have maintained your tax home in and that you have a closer connection to a foreign country following your last day of presence in the United States during the year or following the abandonment or rescission of your status as a lawful permanent resident during the year.
- 6) The date that your status as a lawful permanent resident was abandoned or rescinded.
- 7) Sufficient facts (including copies of relevant documents) to establish that your status as a lawful permanent resident has been abandoned or rescinded.
- 8) If you can exclude days under the de minimis presence rule, discussed earlier, include the dates of the days you are excluding and sufficient facts to establish that you have maintained your tax home in and that you have a closer connection to a foreign country during the period you are excluding.

Attach the required statement to your income tax return. If you are not required to file a return, send the statement to the Internal Revenue Service Center, Philadelphia, PA 19255, on or before the due date for filing an income tax return. The due date for filing is discussed in chapter 7.

If you do not file the required statement as explained above, you cannot claim that you have a closer connection to a foreign country or countries. This does not apply if you can show by clear and convincing evidence that you took reasonable actions to become aware of the requirements for filing the statement and significant steps to comply with those requirements.

Nonresident Spouse Treated as a Resident

If, at the end of your tax year, you are married and one spouse is a U.S. citizen or a resident alien and the other spouse is a nonresident alien, you can choose to treat the nonresident spouse as a U.S. resident. This includes situations in which one spouse is a nonresident alien at the beginning of the tax year but a resident alien at the end of the year and the other spouse is a nonresident alien at the end of the year.

If you make this choice, you and your spouse are treated for income tax purposes as residents for your entire tax year. Generally, neither you nor your spouse can claim tax treaty benefits as a resident of a foreign country for a tax year for which the choice is in effect and you are both taxed on worldwide income. You must file a joint income tax return for the year you make the choice, but you and your spouse can file joint or separate returns in later years.



If you file a joint return under this provision, the special instructions and restrictions for dual-status taxpayers in chapter 5 do not apply to you.

Example. Bob and Sharon Williams are married and both are nonresident aliens at the beginning of the year. In June, Bob became a resident alien and remained a resident for the rest of the year. Bob and Sharon both choose to be treated as resident aliens by attaching a statement to their joint return. Bob and Sharon must file a joint return for the year they make the choice, but they can file either joint or separate returns for later years.

How To Make the Choice

Attach a statement, signed by both spouses, to your joint return for the first tax year for which the choice applies. It should contain the following information.

- 1) A declaration that one spouse was a nonresident alien and the other spouse a U.S. citizen or resident alien on the last day of your tax year and that you choose to be treated as U.S. residents for the entire tax year.
- 2) The name, address, and identification number of each spouse. If one spouse died, include the name and address of the person making the choice for the deceased spouse.

Amended return. You generally make this choice when you file your joint return. However, you can also make the choice by filing a joint amended return on Form 1040X. Attach Form 1040, Form 1040A, or Form 1040EZ and print "Amended" across the top of the corrected return. If you make the choice with an amended return, you and your spouse must also amend any returns that you may have filed after the year for which you made the choice.

You generally must file the amended joint return within 3 years from the date you filed your original U.S. income tax return or 2 years from the date you paid your income tax for that year, whichever is later.

- b) is attributable to the active conduct of a trade or business by the individual or corporation in a foreign country or a U.S. possession.
- 2) Interest paid by a foreign branch of a domestic corporation or a domestic partnership on deposits or withdrawable accounts with mutual savings banks, cooperative banks, credit unions, domestic building and loan associations, and other savings institutions chartered and supervised as savings and loan or similar associations under federal or state law if the interest paid or credited can be deducted by the association.
- 3) Interest on deposits with a foreign branch of a domestic corporation or domestic partnership, but only if the branch is in the commercial banking business.

Number of days you performed services in the United States
 Total number of days of service for which you receive payment

Example. Jean Blanc, a nonresident alien, is a professional hockey player with a U.S. hockey club. Under Jean's contract, he received \$98,500 for 242 days of play during the year. This includes days spent at pre-season training camp, days during the regular season, and playoff game days. Of the 242 days, Jean spent 194 days performing services in the United States and 48 days playing hockey in Canada. Jean's U.S. source income is \$79,963, figured as follows.

$$\frac{194}{242} \times \$98,500 = \$79,963$$

container used in connection with a vessel or aircraft.

All income from transportation that begins and ends in the United States is treated as derived from sources in the United States, if the transportation begins or ends in the United States. 50% of the transportation income is treated as derived from sources in the United States.

For transportation income from personal services, 50% of the income is U.S. source income if the transportation is between the United States and a U.S. possession. For nonresident aliens, this only applies to income derived from, or in connection with, an aircraft.

For information on how U.S. source transportation income is taxed, see chapter 4.

Dividends

In most cases, dividend income received from domestic corporations is U.S. source income. Dividend income from foreign corporations is usually foreign source income. Exceptions to each of these rules are discussed below.

A substitute dividend payment made to the transferee of a security in a securities lending transaction or a sale-repurchase transaction is sourced in the same manner as a distribution on the transferred security.

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

Second exception. Part of the dividends received from a foreign corporation is U.S. source income if 25% or more of its total gross income for the 3-year period ending with the close of its tax year preceding the declaration of dividends was effectively connected with a trade or business in the United States. If the corporation was formed less than 3 years before the declaration, use its total gross income from the time it was formed. Determine the part that is U.S. source income by multiplying the dividend by the following fraction:

$$\frac{\text{Foreign corporation's gross income connected with a U.S. trade or business for the 3-year period}}{\text{Foreign corporation's gross income from all sources for that period}}$$

Personal Services

All wages and any other compensation for services performed in the United States are considered to be from sources in the United States. The only exception to this rule is discussed in chapter 3, under *Employees of foreign persons, organizations, or offices*.

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

Reenlistment bonus. A reenlistment bonus received by a nonresident alien for reenlistment in the U.S. Navy while in a foreign country is not U.S. source income.

Crew members. Compensation for services performed by a nonresident alien in connection with the individual's temporary presence in the United States as a regular crew member of a foreign vessel engaged in transportation between the United States and a foreign country or U.S. possession is not U.S. source income.

Transportation Income

Transportation income is income from the use of a vessel or aircraft or for the performance of services directly related to the use of any vessel or aircraft. This is true whether the vessel or aircraft is owned, hired, or leased. The term "vessel or aircraft" includes any

Scholarships, Grants, Prizes, and Awards

Generally, the source of scholarships, fellowship grants, grants, prizes, and awards is the residence of the payer regardless of who actually disburses the funds, however, see *Activities to be performed outside the United States*, later.

For example, payments for research or study in the United States made by the United States, a noncorporate U.S. resident, or a domestic corporation, are from U.S. sources. Similar payments from a foreign government or foreign corporation are foreign source payments even though the funds may be disbursed through a U.S. agent.

Payments made by an entity designated as a public international organization under the International Organizations Immunities Act are from foreign sources.

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

Item of Income	Factor Determining Source
Salaries, wages, other compensation	Where services performed
Business income:	
Personal services	Where services performed
Sale of inventory — purchased	Where sold
Sale of inventory — produced	Allocation
Interest	Residence of payer
Dividends	Whether a U.S. or foreign corporation*
Rents	Location of property
Royalties:	
Natural resources	Location of property
Patents, copyrights, etc.	Where property is used
Sale of real property	Location of property
Sale of personal property	Seller's tax home (but see <i>Personal Property</i> , later, for exceptions)
Pensions	Where services were performed that earned the pension
Sale of natural resources	Allocation based on fair market value of product at export terminal. For more information, see section 1.363-1(b) of the regulations.

* Exceptions include:

- a) Dividends paid by a U.S. corporation are foreign source if the corporation elects the Puerto Rico economic activity credit or possessions tax credit.
- b) Part of a dividend paid by a foreign corporation is U.S. source if at least 25% of the corporation's gross income is effectively connected with a U.S. trade or business for the 3 tax years before the year in which the dividends are declared.

- 2) One of you is a nonresident alien and the other is a U.S. citizen or resident and you do not both choose to be treated as U.S. residents as explained in chapter 1.

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

Earned income. Earned income of a spouse, other than trade or business income and a partner's distributive share of partnership income, is treated as the income of the spouse whose services produced the income. That spouse must report all of it on his or her separate return.

Trade or business income. Trade or business income, other than a partner's distributive share of partnership income, is treated as the income of the spouse carrying on the trade or business. That spouse must report all of it on his or her separate return.

Partnership income (or loss). A partner's distributive share of partnership income (or loss) is treated as the income (or loss) of the partner. The partner must report all of it on his or her separate return.

Separate property income. Income derived from the separate property of one spouse (and which is not earned income, trade or business income, or partnership distributive share income) is treated as the income of that spouse. That spouse must report all of it on his or her separate return. Use the appropriate community property law to determine what is separate property.

Other community income. All other community income is treated as provided by the applicable community property laws.

3.

Exclusions From Gross Income

Introduction

Resident and nonresident aliens are allowed exclusions from gross income if they meet certain conditions. An exclusion from gross income is generally income you receive that is not included in your U.S. income and is not subject to U.S. tax. This chapter covers some of the more common exclusions allowed to resident and nonresident aliens.

Topics

This chapter discusses:

- Nontaxable interest,
- Certain compensation paid by a foreign employer,
- Gain from sale of home, and
- Scholarships and fellowship grants.

Useful Items

You may want to see:

Publication

- 54 Tax Guide for U.S. Citizens and Resident Aliens Abroad
- 523 Selling Your Home

See chapter 12 for information about getting these publications.

Resident Aliens

Resident aliens may be able to exclude the following items from their gross income.

Foreign Earned Income and Housing Amount

If you are physically present in a foreign country or countries for at least 330 full days during any period of 12 consecutive months, you may qualify for the foreign earned income exclusion. For tax years beginning in 2000, the exclusion is \$76,000. In addition, you may be able to exclude or deduct certain foreign housing amounts. You may also qualify if you are a bona fide resident of a foreign country and you are a citizen or national of a country with which the United States has an income tax treaty. For more information, see Publication 54.

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

Nonresident Aliens

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

Interest

U.S. source interest income that is not connected with a U.S. trade or business is excluded from income if it is from:

- 1) Deposits (including certificates of deposit) with persons in the banking business.
- 2) Deposits or withdrawable accounts with mutual savings banks, cooperative banks, credit unions, domestic building and loan associations, and other savings institutions chartered and supervised as savings and loan or similar associations under federal or state law (if the interest paid or credited can be deducted by the association), and
- 3) Amounts held by an insurance company under an agreement to pay interest on them.

Government obligations. Interest on obligations of a state or political subdivision, the District of Columbia, or a U.S. possession,

generally is not included in income. However, interest on certain private activity bonds, arbitrage bonds, and certain bonds not in registered form is included in income.

Portfolio interest. U.S. source interest income that is not connected with a U.S. trade or business and that is portfolio interest on obligations issued after July 13, 1984, is excluded from income. Portfolio interest is interest (including original issue discount) that is paid on obligations:

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



Form W-8 is not valid after 2000. After 2000, you must make the statement in (3) above on Form W-8BEN or on a substitute form provided by the withholding agent.

Portfolio interest does not include the following types of interest:

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

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

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

Amounts you receive from a scholarship or fellowship that you use for other expenses, such as room and board or travel, are not excludable from income.

Terms of grant. Your scholarship or fellowship can still qualify as tax free even if the terms do not provide that it only be used for tuition and course-related expenses. It will qualify if you use the grant proceeds for tuition and course-related expenses. However, if the terms of the grant require its use for other purposes, such as room and board, or specify that the grant cannot be used for tuition or course-related expenses, the amounts received under the grant cannot be excluded from income.

Candidate for a degree. The term candidate for a degree means a student (whether full- or part-time) who:

- 1) Attends a primary or secondary school or is pursuing a degree at a college or university, or
- 2) Attends an educational institution that is authorized and accredited to provide:
 - a) A program that is acceptable for full credit toward a bachelor's or higher degree, or
 - b) A program of training to prepare students for gainful employment in a recognized occupation.

Payment for services. You cannot exclude from income the portion of any scholarship, fellowship, or tuition reduction that represents payment for teaching, research, or other services. This is true even if all candidates for a degree are required to perform the services as a condition for receiving the degree.

Example. On January 7, Maria Gomez is notified of a scholarship of \$2,500 for the spring semester. As a condition for receiving the scholarship, Maria must serve as a part-time teaching assistant. Of the \$2,500 scholarship, \$1,000 represents payment for her services. Assuming that Maria meets all other conditions, she can exclude no more than \$1,500 from income as a qualified scholarship.

4.

How Income of Aliens Is Taxed

Introduction

Resident and nonresident aliens are taxed in different ways. Resident aliens are generally taxed in the same way as U.S. citizens. Nonresident aliens are taxed based on the source of their income and whether or not their income is effectively connected with a U.S. trade or business. The following dis-

ussions will help you determine if income you receive during the tax year is effectively connected with a U.S. trade or business and how it is taxed.

Topics

This chapter discusses:

- Income that is effectively connected with a U.S. trade or business, and
- Income that is not effectively connected with a U.S. trade or business.

Useful Items

You may want to see:

Publication

- 544 Sales and Other Dispositions of Assets
- 1212 List of Original Issue Discount Instruments

Form (and Instructions)

- 9251 Alternative Minimum Tax—Individuals
- Schedule D (Form 1040) Capital Gains and Losses

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

Resident Aliens

Resident aliens are generally taxed in the same way as U.S. citizens. This means that their worldwide income is subject to U.S. tax and must be reported on their U.S. tax return. Income of resident aliens is subject to the graduated tax rates that apply to U.S. citizens. Resident aliens use the Tax Table and Tax Rate Schedules located in the Form 1040 instructions, which apply to U.S. citizens.

Nonresident Aliens

A nonresident alien's income that is subject to U.S. income tax must be divided into two categories:

- 1) Income that is effectively connected with a trade or business in the United States, and
- 2) Income that is not effectively connected with a trade or business in the United States (discussed under *The 30% Tax*, later).

The difference between these two categories is that effectively connected income, after allowable deductions, is taxed at graduated rates. These are the same rates that apply to U.S. citizens and residents' income that is not effectively connected is taxed at a flat 30% (or lower treaty) rate.



Warning: If you were formerly a U.S. citizen or resident alien, these rules may not apply. See *Explanation Tax*, later in this chapter.

Trade or Business in the United States

Generally, you must be engaged in a trade or business during the tax year to be able to treat income received in that year as effectively connected with that trade or business. Whether you are engaged in a trade or business in the United States depends on the nature of your activities. The discussions that follow will help you determine whether you are engaged in a trade or business in the United States.

Personal Services

If you perform personal services in the United States at any time during the tax year, you usually are considered engaged in a trade or business in the United States.



Tip: Certain compensation paid to a nonresident alien by a foreign employer is not included in gross income. For more information, see *Services Performed for Foreign Employer* in chapter 3.

Other Trade or Business Activities

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

Students and trainees. You are considered engaged in a trade or business in the United States if you are temporarily present in the United States as a nonimmigrant under a "F," "J," "M," or "Q" visa. A nonresident alien temporarily present in the United States under a "J" visa includes a nonresident alien individual admitted to the United States as an exchange visitor under the Mutual Educational and Cultural Exchange Act of 1961. The taxable part of any scholarship or fellowship grant that is U.S. source income is treated as effectively connected with a trade or business in the United States.

Business operations. If you own and operate a business in the United States selling services, products, or merchandise, you are, with certain exceptions, engaged in a trade or business in the United States.

Partnerships. If you are a member of a partnership that at any time during the tax year is engaged in a trade or business in the United States, you are considered to be engaged in a trade or business in the United States.

Beneficiary of an estate or trust. If you are the beneficiary of an estate or trust that is engaged in a trade or business in the United States, you are treated as being engaged in the same trade or business.

Trading in stocks, securities, and commodities. If your only U.S. business activity is trading in stocks, securities, or commodities (including hedging transactions) through a U.S. resident broker or other agent, you are not engaged in a trade or business in the United States.

For transactions in stocks or securities, this applies to any nonresident alien, including a dealer or broker in stocks and securities.

For transactions in commodities, this applies to commodities that are usually traded on an organized commodity exchange and to transactions that are usually carried out at such an exchange.

timber and mines, wells, and other natural deposits

- 2) Improvements on land, including buildings, other permanent structures, and their structural components, and
- 3) Personal property associated with the use of real property, such as equipment used in farming, mining, forestry or construction or property used in lodging facilities or rented office space, unless the personal property is:
 - a) Disposed of more than one year before or after the disposition of the real property, or
 - b) Separately sold to persons unrelated either to the seller or to the buyer of the real property.

U.S. real property holding corporation. A corporation is a U.S. real property holding corporation if the fair market value of the corporation's U.S. real property interests are at least 50% of the total fair market value of:

- 1) The corporation's U.S. real property interests, plus
- 2) The corporation's interests in real property located outside the United States, plus
- 3) The corporation's other assets that are used in, or held for use in, a trade or business.

You generally are subject to tax on the sale of the stock in any domestic corporation unless you establish that the corporation is not a U.S. real property holding corporation.

A U.S. real property interest does not include a class of stock of a corporation that is regularly traded on an established securities market, unless you hold more than 5% of the fair market value of that class of stock. An interest in a foreign corporation owning U.S. real property generally is not a U.S. real property interest unless the corporation chooses to be treated as a domestic corporation.

Alternative minimum tax. There may be a minimum tax on your net gain from the disposition of U.S. real property interests. Figure the amount of this tax, if any, on Form 9251.

Withholding of tax. If you dispose of a U.S. real property interest, the buyer may have to withhold tax. See the discussion of *Tax Withheld on Real Property Sales*, in chapter 8.

Foreign Income

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

- 1) You have an office or other fixed place of business in the United States to which the income can be attributed.
- 2) That office or place of business is a material factor in producing the income, and
- 3) The income is produced in the ordinary course of the trade or business carried on through that office or other fixed place of business.

An office or other fixed place of business is a **material factor** if it significantly contributes to and is an essential economic element in the earning of the income.

The three kinds of foreign source income are listed below.

- 1) Rents and royalties for the use of, or for the privilege of using, intangible personal property located outside the United States or from any interest in such property. Included are rents or royalties for the use of, or for the privilege of using, outside the United States, patents, copyrights, secret processes and formulas, goodwill, trademarks, trade brands, franchises, and similar properties if the rents or royalties are from the active conduct of a trade or business in the United States.
- 2) Dividends or interest from the active conduct of a banking, financing, or similar business in the United States. A substitute dividend or interest payment received under a securities lending transaction or a sale-repurchase transaction is treated the same as the amounts received on the transferred security.
- 3) Income, gain, or loss from the sale outside the United States, through the U.S. office or other fixed place of business, of stock in trade, property that would be included in inventory if on hand at the end of the tax year, or property held primarily for sale to customers in the ordinary course of business. This will not apply if you sold the property for use, consumption, or disposition outside the United States and an office or other fixed place of business in a foreign country was a material factor in the sale.

Tax on Effectively Connected Income

Income you receive during the tax year that is effectively connected with your trade or business in the United States is, after allowable deductions, taxed at the rates that apply to U.S. citizens and residents.

Generally, you can receive effectively connected income only if you are a nonresident alien engaged in trade or business in the United States during the tax year. However, income you receive from the sale or exchange of property, the performance of services, or any other transaction in another tax year is treated as effectively connected in that year if it would have been effectively connected in the year the transaction took place or you performed the services.

Example. Ted Richards, a nonresident alien, entered the United States in August 1999 to perform personal services in the U.S. office of his overseas employer. He worked in the U.S. office until December 25, 1999, but did not leave this country until January 11, 2000. On January 7, 2000, he received his final paycheck for services performed in the United States during 1999. All of Ted's income during his stay here is U.S. source income.

During 1999, Ted was engaged in the trade or business of performing personal services in the United States. Therefore, all amounts paid to him in 1999 for services performed in the United States during 1999 are effectively connected with that trade or business during 1999.

The salary payment Ted received in January 2000 is U.S. source income to him in 2000. It is effectively connected with a trade or business in the United States because he was engaged in a trade or business in the United States during 1999 when he performed the services that earned the income.

Real property income. You may be able to choose to treat all income from real property as effectively connected. See *Income From Real Property* later in this chapter.

The 30% Tax

Tax at a 30% (or lower treaty) rate applies to certain items of income or gains from U.S. sources but only if the items are not effectively connected with your U.S. trade or business.

Fixed or Determinable Income

The 30% (or lower treaty) rate applies to the gross amount of U.S. source fixed or determinable annual or periodic gains, profits, or income.

Income is **fixed** when it is paid in amounts known ahead of time. Income is **determinable** whenever there is a basis for figuring the amount to be paid. Income can be **periodic** if it is paid from time to time. It does not have to be paid annually or at regular intervals. Income can be determinable or periodic even if the length of time during which the payments are made is increased or decreased.

Items specifically included as fixed or determinable income are interest (other than original issue discount), dividends, rents, premiums, annuities, salaries, wages, and other compensation. A substitute dividend or interest payment received under a securities lending transaction or a sale-repurchase transaction is treated the same as the amounts received on the transferred security. Other items of income, such as royalties, also may be subject to the 30% tax.



TIP Some fixed or determinable income may be exempt from U.S. tax. See chapter 3 if you are not sure whether the income is taxable.

Original issue discount. If you sold, exchanged, or received a payment on a bond or other debt instrument that was issued at a discount after March 31, 1972, all or part of the original issue discount (OID) (other than portfolio interest) may be subject to the 30% tax. The amount of OID is the difference between the stated redemption price at maturity and the issue price of the debt instrument. The 30% tax applies in the following circumstances.

- 1) You received a payment on an obligation. In this case, the amount of OID subject to tax is the OID that accrued while you held the obligation minus the OID previously taken into account. But the tax on the OID cannot be more than the payment minus the tax on the interest payment on the obligation.
- 2) You sold or exchanged the obligation. The amount of OID subject to tax is the OID that accrued while you held the obligation minus the amount already taxed in (1) above.

Report on your return the amount of OID shown on Form 1042-S, *Foreign Person's U.S. Source Income Subject to Withholding*.

Transportation Tax

If you have transportation income that is not effectively connected (see *Transportation Income*, earlier in this chapter) a 4% tax rate applies. If you receive transportation income subject to the 4% tax, you should figure the tax and show it on line 52 of Form 1040NR. Attach a statement to your return that includes the following information (if applicable):

- 1) Your name, taxpayer identification number, and tax year.
- 2) A description of the types of services performed (whether on or off board).
- 3) Names of vessels or registration numbers of aircraft on which you performed the services.
- 4) Amount of U.S. source transportation income derived from each type of service for each vessel or aircraft for the calendar year, and
- 5) Total amount of U.S. source transportation income derived from all types of services for the calendar year.

This 4% tax applies to your U.S. source gross transportation income. This only includes transportation income that is treated as derived from sources in the United States if the transportation begins or ends in the United States. For transportation income from personal services, the transportation must be between the United States and a U.S. possession. For personal services of a nonresident alien, this only applies to income derived from, or in connection with, an aircraft.

Expatriation Tax

The expatriation tax provisions apply to U.S. citizens who have renounced their citizenship and long-term residents who have ended their residency, if one of the principal purposes of the action is the avoidance of U.S. taxes. The expatriation tax applies to the 10-year period following the date of the action.

If you expatriated in 2000, you are presumed to have tax avoidance as a principal purpose if:

- 1) Your average annual net income tax for the last five tax years ending before the date of the action is more than \$112,000, or
- 2) Your net worth on the date of the action is \$562,000 or more.

Ruling request. If you are presumed to have tax avoidance as a principal purpose because you meet either of the previous tests, you may be eligible to request a ruling from the IRS that you did not expatriate to avoid U.S. taxes. You must request this ruling within one year from the date of expatriation. For information that must be included in your ruling request, see section IV of Notice 97-19 in Cumulative Bulletin 1997-1 and Notice 98-34 in Cumulative Bulletin 1998-2.

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

- 1) You became at birth a U.S. citizen and a citizen of another country and continue to be a citizen of that other country.

- 2) You became (within a reasonable period after loss of U.S. citizenship) a citizen of the country in which you, your spouse or one of your parents were born.
- 3) You were present in the United States for no more than 30 days during each year of the 10-year period ending on the date of expatriation.
- 4) You lost your U.S. citizenship before reaching age 18½.

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

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

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

Long-term residents. You are a long-term resident if you were a lawful permanent resident of the United States in at least 6 of the last 15 tax years ending with the year your residency ends. In determining if you meet the 8-year requirement, do not count any year that you are treated as a resident of a foreign country under a tax treaty and do not waive treaty benefits.

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

Tax. If the expatriation tax applies to you, you are generally subject to tax on your U.S. source gross income and gains on a net basis at the graduated rates applicable to individuals (with allowable deductions) unless you would be subject to a higher tax under the 30% tax (discussed earlier) on income not connected with a U.S. trade or business. In making this determination you may not claim that an income tax treaty in effect on August 21, 1996, reduces your tax liability under the 30% tax on any items of U.S. source income.

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

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

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

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

The income or gain is considered U.S. source income only to the extent of your share of earnings and profits earned or accumulated before the date of expatriation.

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

Other information. For more information on the expatriation tax provisions, including exceptions to the tax and special U.S. source rules, see section 377 of the Internal Revenue Code.

Reporting Requirements

If you lost your U.S. citizenship, you must file Form 9854, *Expatriation Information Statement*, with a consular office or a federal court at the time of loss of citizenship. If you end your long-term residency, you must file Form 9854 with the Internal Revenue Service when you file your tax return for the year your residency ends.

Penalties. If you fail to file Form 9854, you may have to pay a penalty equal to the greater of 5% of the expatriation tax or \$1,000. The penalty will be assessed for each year during which your failure to file continues for the 10-year period. The penalty will not be imposed if you can show that the failure is due to reasonable cause and not willful neglect.

Expatriation tax return. If you are subject to the expatriation tax, you must file Form 1040NR for each year of the 10-year period following expatriation. Complete line "9" on page 5 of Form 1040NR. See *Special Rules for Former U.S. Citizens and Former U.S. Long-Term Residents* in the instructions for Form 1040NR. You must attach Form 9854 and a statement to Form 1040NR listing, by category (dividends, interest, etc.), all items of U.S. and foreign source income, whether or not taxable in the United States.

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

Interrupted Period of Residence

You are subject to tax under a special rule if you interrupt your period of U.S. residence with a period of nonresidence. The special rule applies if you meet all of the following conditions.

- 1) You were a U.S. resident for a period that includes at least 3 consecutive calendar years.

for an EIN, file Form 33-1, *Application for Employer Identification Number* with the IRS.

Filing Status

The amount of your tax depends on your filing status. Your filing status is important in determining whether you can take certain deductions and credits. The rules for determining your filing status are different for resident aliens and nonresident aliens.

Resident Aliens

Resident aliens can use the same filing statuses available to U.S. citizens. See your form instructions or Publication 501 for more information on filing status.

Married filing jointly. Generally, you can file as married filing jointly only if both you and your spouse were resident aliens for the entire tax year, or if you make one of the choices discussed in chapter 1 to treat your spouse as a resident alien for the entire tax year.

Qualifying widow(er). If your spouse died in 1998 or 1999, you have not remarried, and you have a dependent child living with you, you may qualify to file as a qualifying widow(er) and use the joint return tax rates. This applies only if you could have filed a joint return with your spouse for the year your spouse died.

Head of household. You can qualify as head of household if you are unmarried or considered unmarried on the last day of the year and you pay more than half the cost of keeping up a home for you and a qualifying person. You must be a resident alien for the entire tax year.

You are considered unmarried for this purpose if your spouse was a nonresident alien at any time during the year and you do not make one of the choices discussed in chapter 1 to treat your spouse as a resident alien for the entire tax year.

Note. Even if you are considered unmarried for head of household purposes because you are married to a nonresident alien, you may still be considered married for purposes of the earned income credit. In that case, you will not be entitled to the credit. See Publication 501 for more information.

Nonresident Aliens

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

Married filing jointly. Generally you cannot file as married filing jointly if either spouse was a nonresident alien at any time during the tax year.

However, nonresident aliens married to U.S. citizens or residents can choose to be treated as U.S. residents and file joint returns. For more information on these choices, see chapter 1.

Qualifying widow(er). You may be eligible to file as a qualifying widow(er) and use the joint return tax rates if:

- 1) You were a resident of Canada, Mexico, Japan, or South Korea, or a U.S. national (defined below).
- 2) Your spouse died in 1998 or 1999 and you have not remarried, and
- 3) You have a dependent child living with you.

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

A **U.S. national** is an individual who, although not a U.S. citizen, owes his or her allegiance to the United States. U.S. nationals include American Samoans and Northern Mariana Islanders who chose to become U.S. nationals instead of U.S. citizens.

Head of household. You cannot file as head of household if you are a nonresident alien at any time during the tax year. However, if you are married, your spouse can qualify as a head of household if:

- 1) Your spouse is a resident alien or U.S. citizen for the entire tax year.
- 2) You do not choose to be treated as a resident alien, and
- 3) Your spouse meets the other requirements for this filing status, as discussed earlier under *Resident Aliens*.

Note. Even if your spouse is considered unmarried for head of household purposes because you are a nonresident alien, your spouse may still be considered married for purposes of the earned income credit. In that case, your spouse will not be entitled to the credit. See Publication 501 for more information.

Married filing separately. Married nonresident aliens who are not married to U.S. citizens or residents generally must use the Tax Table column or the Tax Rate Schedule for married filing separate returns when determining the tax on income effectively connected with a U.S. trade or business. They normally cannot use the Tax Table column or the Tax Rate Schedule for single individuals. However, if you are a married resident of Canada, Mexico, Japan, or South Korea, or are a married U.S. national, you may be able to file as single if you lived apart from your spouse during the last 6 months of the year. See the instructions for Form 1040NR to see if you qualify. U.S. national was defined earlier in this section under *Qualifying widow(er)*.

Nonresident aliens who are married to U.S. citizens or residents can choose to be treated as a resident and file a joint return. For information on these choices, see chapter 1. If you do not make the choice to file jointly, use the Tax Table column or the Tax Rate Schedule for married individuals filing separately.

A nonresident alien estate or trust using Form 1040NR must use Tax Rate Schedule W in the Form 1040NR instructions when determining the tax on income effectively connected with a U.S. trade or business.

Special rules for aliens from certain U.S. possessions. A nonresident alien who is a bona fide resident of American Samoa or Puerto Rico for the entire tax year and who is temporarily working in the United States should read *Bona Fide Residents of American*

Samoa or Puerto Rico at the end of this chapter for information about special rules.

Reporting Your Income

You must report each item of income that is taxable according to the rules in chapters 2, 3, and 4. For resident aliens, this includes income from sources both within and outside the United States. For nonresident aliens, this includes both income that is effectively connected with a trade or business in the United States (subject to graduated tax rates) and income from U.S. sources that is not effectively connected (subject to a flat 30% tax rate or lower tax treaty rate).

Deductions

Resident and nonresident aliens can claim similar deductions on their U.S. tax returns. However, nonresident aliens generally can claim only deductions related to income that is effectively connected with their U.S. trade or business.

Resident Aliens

You can claim the same deductions allowed to U.S. citizens if you are a resident alien for the entire tax year. While the discussion that follows contains some of the same general rules and guidelines that apply to you, it is specifically directed toward nonresident aliens. You should get Form 1040 and instructions for more information on how to claim your allowable deductions.

Nonresident Aliens

You can claim deductions to figure your effectively connected taxable income. You generally cannot claim deductions related to income that is not connected with your U.S. business activities. Except for personal exemptions and certain itemized deductions, discussed later, you can claim deductions only to the extent they are connected with your effectively connected income.

Ordinary and necessary business expenses. You can deduct all ordinary and necessary expenses in the operation of your U.S. trade or business to the extent they relate to income effectively connected with that trade or business. The deduction for travel expenses while in the United States is discussed under *Itemized Deductions*, later. For information about other business expenses, see Publication 535.

Losses. You can deduct losses resulting from transactions that you entered into for profit and that you were not reimbursed for by insurance, etc., to the extent that they relate to income that is effectively connected with a trade or business in the United States.

Individual retirement arrangement (IRA). You may qualify to establish a traditional IRA, whether or not you are covered by a qualified retirement plan at work. You can contribute the smaller of \$2,000 or your taxable compensation effectively connected with your U.S. trade or business to an IRA each year. If you or your spouse are covered by a plan

during the year and is not the dependent of another taxpayer.

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

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

Phase-out of exemptions. If the adjusted gross income shown on line 33 of Form 1040NR is more than the amount shown below for your filing status, your deduction for exemptions may be reduced or eliminated. Use the worksheet in the Form 1040NR instructions to figure the amount, if any, you can deduct.

- \$96,700 if married filing separately
- \$128,950 if single
- \$193,400 if a qualifying widow(er) with dependent child

Itemized Deductions

Nonresident aliens can claim some of the same itemized deductions that resident aliens can claim. However, nonresident aliens can claim itemized deductions only if they have income effectively connected with their U.S. trade or business.

Resident and nonresident aliens may not be able to claim all of their itemized deductions. If your adjusted gross income is more than \$128,950 (\$64,475 if married filing separately), use the worksheet in your income tax return instructions to figure the amount you can deduct.

Resident Aliens

You can claim the same itemized deductions as U.S. citizens, using Schedule A of Form 1040. These deductions include certain medical and dental expenses, state and local income taxes, real estate taxes, interest you paid on a home mortgage, charitable contributions, casualty and theft losses, and miscellaneous deductions.

If you do not itemize your deductions, you can claim the standard deduction for your particular filing status. For further information, see Form 1040 and instructions.

Nonresident Aliens

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

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

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

Students and business apprentices from India. A special rule applies to students and business apprentices who are eligible for

the benefits of Article 21(2) of the United States-India Income Tax Treaty. You can claim the standard deduction provided you do not claim itemized deductions.

Use Table 3, or 9 in Publication 501, to figure your standard deduction. If you are married and your spouse files a return and itemizes deductions, you cannot take the standard deduction.

If you are filing Form 1040NR, enter the standard deduction on line 35 of Form 1040NR in the space to the left of line 35 and "Standard Deduction Allowed Under U.S.-India Income Tax Treaty." If you are filing Form 1040NR-EZ, enter the amount on line 11.

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

Charitable contributions. You can deduct your charitable contributions or gifts to qualified organizations subject to certain limits. Qualified organizations include organizations that are religious, charitable, educational, scientific, or literary in nature, or that work to prevent cruelty to children or animals. Certain organizations that promote national or international amateur sports competition are also qualified organizations.

Foreign organizations. Contributions made directly to a foreign organization are not deductible. However, you can deduct contributions to a U.S. organization that transfers funds to a charitable foreign organization if the U.S. organization controls the use of the funds or if the foreign organization is only an administrative arm of the U.S. organization.

For more information about organizations that qualify to receive charitable contributions, see Publication 528, *Charitable Contributions*.

Contributions from which you benefit. If you receive a benefit as a result of making a contribution to a qualified organization, you can deduct only the amount of your contribution that is more than the value of the benefit you receive.

If you pay more than the fair market value to a qualified organization for merchandise, goods, or services, the amount you pay that is more than the value of the item can be a charitable contribution. For the excess amount to qualify, you must pay it with the intent to make a charitable contribution.

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

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

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

Contributions of appreciated property. If you contribute property with a fair market value that is more than your basis in it, you

may have to reduce the fair market value by the amount of appreciation (increase in value) when you figure your deduction. Your basis in the property is generally what you paid for it. If you need more information about basis, see Publication 551, *Basis of Assets*.

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

- 1) Ordinary income property or
- 2) Capital gain property.

Limit. The amount you can deduct in a tax year is limited in the same way it is for a citizen or resident of the United States. For a discussion of limits on charitable contributions and other information, see Publication 528.

Casualty and theft losses. You can deduct your loss from fire, storm, snowback, or other casualty, or theft of property even though your property is not connected with a U.S. trade or business. The property can be personal use property or income-producing property not connected with a U.S. trade or business. The property must be located in the United States at the time of the casualty or theft. You can deduct these losses only in the year in which you discover the loss.

The fair market value of the property immediately before the casualty or theft less its fair market value immediately after the casualty or theft (but not more than its cost or adjusted basis) less any insurance or other compensation is the amount of the loss. The fair market value of property immediately after a theft is considered zero, since you no longer have the property.

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

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

Losses from personal use property. You cannot deduct the first \$100 of each casualty or theft loss to property held for personal use. You can deduct only the total of these losses for the year that is more than 10% of your adjusted gross income (line 33, Form 1040NR) for the year.

Losses from income-producing property. These losses are not subject to the limitations that apply to personal use property. Use Section B of Form 4684 to figure your deduction for these losses.

Job expenses and other miscellaneous deductions. You can deduct job expenses, such as allowable unreimbursed travel expenses (discussed next), and other miscellaneous deductions. Generally, the allowable deductions must be related to effectively connected income. Deductible expenses include:

- Union dues.
- Safety equipment and small tools needed for your job.
- Dues to professional organizations.
- Subscriptions to professional journals, and
- Tax return preparation fees.

Most miscellaneous deductions are deductible only if they are more than 2% of your adjusted gross income (line 33, Form

discussed in chapter 1, or if they qualify as certain married individuals living apart (see *Married Persons Who Live Apart Under Filing Status* in the Form 1040NR instructions).

The amount of your child and dependent care expense that qualifies for the credit in any tax year cannot be more than your earned income from the United States for that tax year. Earned income generally means wages, salaries, and professional fees for personal services performed.

For more information, get Publication 503.

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

- is a U.S. citizen, national, or resident alien
- is claimed as a dependent on your tax return.
- is your son, daughter, adopted child, grandchild, stepchild, or foster child, and
- Was under age 17 at the end of the year.

Use the *Child Tax Credit Worksheet* in the Form 1040 instructions to figure the amount of your credit.

Education credits. If you are a nonresident alien for any part of the year, you generally cannot claim the education credits. However, if you are married and choose to file a joint return with a U.S. citizen or resident spouse as discussed in chapter 1, you may be eligible for these credits.

Foreign tax credit. If you receive income from sources outside the United States that is effectively connected with a trade or business in the United States, you can claim a credit for any income taxes paid or accrued to any foreign country or U.S. possession on that income.

If you do not have foreign source income effectively connected with a U.S. trade or business, you cannot claim credits against your U.S. tax for taxes paid or accrued to a foreign country or U.S. possession.

You cannot take any credit for taxes imposed by a foreign country or U.S. possession on your U.S. source income if those taxes were imposed only because you are a citizen or resident of the foreign country or possession.

If you claim a foreign tax credit, you generally will have to attach to your return a Form 1115 which contains additional information about the credit and limits. See Publication 514 for more information.

Credit for prior year minimum tax. If you paid alternative minimum tax in a prior year, get Form 3801, *Credit for Prior Year Minimum Tax—Individuals, Estates, and Trusts*, to see if you qualify for this credit.

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



You and your spouse (if filing a joint return) and any qualifying child must have work-related SSNs. If your social security card says "NOT VALID FOR EMPLOYMENT," you cannot claim the earned

income credit. You cannot claim this credit using an ITIN. See Identification Number earlier.

See Publication 596 for more information on the credit.

Adoption credit. You may qualify to take a tax credit of up to \$5,000 for qualifying expenses paid to adopt an eligible child. The credit can be as much as \$6,000 if the expenses are for the adoption of a child with special needs. To claim the adoption credit, file Form 8839 with your Form 1040NR. For more information, get Publication 968.

Married nonresident aliens can claim the credit only if they choose to file a joint return with a U.S. citizen or resident spouse as discussed in chapter 1, or if they qualify as certain married individuals living apart (see *Married Persons Who Live Apart Under Filing Status* in the Form 1040NR instructions).

Tax Withheld

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

Withholding from wages. Any federal income tax withheld from your wages during the tax year while you were a nonresident alien is allowed as a payment against your U.S. income tax liability for the same year. You can claim the income tax withheld whether or not you were engaged in a trade or business in the United States during the year, and whether or not the wages for any other income were connected with a trade or business in the United States.

Excess social security tax withheld. If you have two or more employers, you may be able to claim a credit against your U.S. income tax liability for social security tax withheld in excess of the maximum required. See *Social Security and Medicare Taxes* in chapter 8 for more information.

Regulated investment company credit. If you are a shareholder in a regulated investment company or mutual fund, you can claim a credit for your share of any taxes paid by the company on its undistributed capital gains. You will receive information on Form 2439, *Notice to Shareholder of Undistributed Long-Term Capital Gains*, which you must attach to your return.

Tax withheld at the source. You can claim as a payment any tax withheld at the source on investment and other fixed or determinable annual or periodic income paid to you. Fixed or determinable income includes interest, dividend, rental, and royalty income that you do not claim to be effectively connected income. Wage or salary payments can be fixed or determinable income to you, but usually are subject to withholding as discussed above. Taxes on fixed or determinable income are withheld at a 30% rate or at a lower treaty rate.

Tax withheld on partnership income. If you are a foreign partner in a partnership, the partnership will withhold tax on your share of effectively connected taxable income from the partnership. The partnership will give you a statement on Form 8805, *Foreign Partners*

Information Statement of Section 1446 Withholding Tax showing the tax withheld. A partnership that is publicly traded may withhold on your actual distributions of effectively connected income. In this case, the partnership will give you a statement on Form 1042-S. In either case, claim the tax withheld as a payment on line 62b of Form 1040NR.

Claiming tax withheld on your return. When you file your tax return, take extra care to enter the correct amount of any tax withheld shown on your information documents. The following table lists some of the more common information documents and shows where to find the amount of tax withheld.

Form Number	Location of Tax Withheld
995-1042S	Box 12
994-1042S	Box 7
W-2	Box 2
W-2a	Line 2
1042-S	Column (g)
3805	Line 11
8288-A	Box 2

Bona Fide Residents of American Samoa or Puerto Rico

If you are a nonresident alien who is a bona fide resident of American Samoa or Puerto Rico for the entire tax year, you generally are taxed the same as resident aliens. You should file Form 1040 and report all income from sources both in and outside the United States.

Residents of Puerto Rico. If you are a bona fide resident of Puerto Rico for the entire year, you can exclude from gross income all income from sources in Puerto Rico (other than amounts for services performed as an employee of the United States or any of its agencies).

If you report income on a calendar year basis and you do not have wages subject to withholding, file your return and pay your tax by June 15. You must also make your first payment of estimated tax by June 15. You cannot file a joint income tax return or make joint payments of estimated tax, however, if you are married to a U.S. citizen or resident. See *Nonresident Spouse Treated as a Resident* in chapter 1.

If you earn wages subject to withholding, your U.S. income tax return is due on April 15. Your first payment of estimated tax is also due by April 15. For information on withholding and estimated tax, see chapter 2.

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

Residents of American Samoa. If you are a bona fide resident of American Samoa for the entire year, you can exclude from gross income all income from sources in American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands (other than amounts for services performed as an employee of the U.S. government or any of its agencies). For more information about this exclusion, get Publication 570, *Tax Guide for*

business in the United States for your period of nonresidence is subject to the flat 30% rate or lower treaty rate. You cannot take any deductions against this income.

Social security and railroad retirement benefits. During the part of the year you are a nonresident alien, 35% of any U.S. social security benefits (and the equivalent portion of tier 1 railroad retirement benefits) you receive is subject to the flat 30% tax, unless exempt, or subject to a lower treaty rate. (See *The 30% Tax* in chapter 4.)

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

Use the *Social Security Benefits Worksheet* in the Form 1040 instructions to help you figure the taxable part of your social security and equivalent tier 1 railroad retirement benefits for the part of the year you were a resident alien.

If you received U.S. social security benefits while you were a *nonresident alien*, the Social Security Administration will send you a copy of Form SSA-1042S showing your combined benefits for the entire year and the amount of tax withheld. You will not receive separate statements for the benefits received during your periods of U.S. residence and nonresidence. Therefore, it is important for you to keep careful records of these amounts. You will need this information to properly complete your return and determine your tax liability.

If you received railroad retirement benefits while you were a *nonresident alien*, the U.S. Railroad Retirement Board (RRB) will send you Form RRB-1042S, *Statement for Nonresident Alien Recipients of Payments by the Railroad Retirement Board* and/or Form RRB-1099-RA, *Annuities or Pensions by the Railroad Retirement Board*, if your country of legal residence changed or your rate of tax changed during the tax year. You may receive more than one form.

Tax Credits and Payments

This discussion covers tax credits and payments for dual-status aliens.

Credits

As a dual-status alien, you generally can claim tax credits using the same rules that apply to resident aliens. There are certain restrictions that may apply. These restrictions are discussed here along with a brief explanation of credits often claimed by individuals.

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

Married dual-status aliens can claim the credit only if they choose to file a joint return as discussed in chapter 1 or if they qualify as certain married individuals living apart.

The amount of your child and dependent care expense that qualifies for the credit in any tax year cannot be more than your earned income for that tax year.

For more information, get Publication 503 and Form 2441.

Credit for the elderly or the disabled. You must be a U.S. citizen or resident to claim this credit. You cannot claim the credit if you were a nonresident alien at any time during your tax year. However, the credit can be taken by a dual-status alien who is married to a U.S. citizen or resident and chooses to be treated as a U.S. resident for the entire year. For further information about this credit, get Publication 524.

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

- is a U.S. citizen, national, or resident alien,
- is claimed as a dependent on your tax return,
- is your son, daughter, adopted child, grandchild, stepchild, or foster child, and
- Was under age 17 at the end of the year.

Use the *Child Tax Credit Worksheet* in the Form 1040 instructions to figure the amount of your credit.

Education credits. If you are a nonresident alien for any part of the year, you generally cannot claim the education credits. However, if you are married and choose to file a joint return with a U.S. citizen or resident spouse as discussed in chapter 1, you may be eligible for these credits.

Foreign tax credit. If you have paid or are liable for the payment of income tax to a foreign country on income from foreign sources, you may be able to claim a credit for the foreign taxes.

If you claim the foreign tax credit, you generally must file Form 1116 with your income tax return. If you need more information, see the instructions for Form 1116 or get Publication 514.

Adoption credit. You may qualify to take a tax credit of up to \$5,000 for qualifying expenses paid to adopt an eligible child. The credit can be as much as \$8,000 if the expenses are for the adoption of a child with special needs. To claim the adoption credit, file Form 8839 with the U.S. income tax return that you file. For more information, get Publication 968.

Married dual-status aliens can claim the credit only if they choose to file a joint return with a U.S. citizen or resident spouse as discussed in chapter 1, or if they qualify as certain married individuals living apart.

Payments

You can report as payments against your U.S. income tax liability certain taxes you paid, are considered to have paid, or that were withheld from your income. These include:

- 1) Tax withheld from wages earned in the United States,
- 2) Taxes withheld at the source from various items of income from U.S. sources other than wages,
- 3) Tax paid with Form 1040-ES or Form 1040-ES(NR), and

- 4) Tax paid with Form 1040-ES at the time of departure from the United States.

Forms To File

The U.S. income tax return you must file as a dual-status alien depends on whether you are a resident alien or a nonresident alien at the end of the tax year.

Resident at end of year. You must file Form 1040 if you are a dual-status taxpayer who becomes a resident during the year and who is a U.S. resident on the last day of the tax year. Write "Dual-Status Return" across the top of the return. Attach a statement to your return to show the income for the part of the year you are a nonresident. You can use Form 1040NR or Form 1040NR-EZ as the statement, but be sure to mark "Dual-Status Statement" across the top.

Nonresident at end of year. You must file Form 1040NR or Form 1040NR-EZ if you are a dual-status taxpayer who gives up residence in the United States during the year and who is not a U.S. resident on the last day of the tax year. Write "Dual-Status Return" across the top of the return. Attach a statement to your return to show the income for the part of the year you are a resident. You can use Form 1040 as the statement, but be sure to mark "Dual-Status Statement" across the top.

Statement. Any statement must have your name, address, and taxpayer identification number on it. You do not need to sign a separate statement or schedule accompanying your return, since your signature on the return also applies to the supporting statements and schedules.

When and Where To File

If you are a *resident alien* on the last day of your tax year and report your income on a calendar year basis, you must file no later than April 15 of the year following the close of your tax year. If you report your income on other than a calendar year basis, file your return no later than the 15th day of the 4th month following the close of your tax year. In either case, file your return with the Internal Revenue Service Center, Philadelphia, PA 19255.

If you are a *nonresident alien* on the last day of your tax year and you report your income on a calendar year basis, you must file no later than April 15 of the year following the close of your tax year if you receive wages subject to withholding. If you report your income on other than a calendar year basis, file your return no later than the 15th day of the 4th month following the close of your tax year. In any case, file your return with the Internal Revenue Service Center, Philadelphia, PA 19255.

7.

What, When, and Where To File

Introduction

What return you must file, as well as when and where you file that return, depends on your status at the end of the tax year as a resident or a nonresident alien.

Topics

This chapter discusses:

- Forms aliens must file.
- When and where to file.
- Amended returns and claims for refund, and
- Transportation of currency or monetary instruments.

Useful Items

You may want to see:

Forms (and Instructions)

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

See chapter 12 for information about getting these forms.

Resident Aliens

Resident aliens should file Form 1040EZ, 1040A, or 1040 at the address shown in the instructions for that form. The due date for filing the return and paying any tax due is April 15 of the year following the year for which you are filing a return (but see the TIP, below).

You are allowed an automatic extension to June 15 to file if your main place of business and the home you live in are outside the United States and Puerto Rico on April 15. You can get an extension of time to August 15 to file your return if you get an extension by April 15 (June 15 if you qualify for the June 15 extension). See the instructions for the form you are filing for more information.

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

Nonresident Aliens

Nonresident aliens who are required to file an income tax return should use Form 1040NR or, if qualified, Form 1040NR-EZ.

If you are any of the following, you must file a return.

- 1) A nonresident alien individual engaged or considered to be engaged in a trade or business in the United States during 2000.
You must file even if:
 - a) Your income did not come from a trade or business conducted in the United States.
 - b) You have no income from U.S. sources, or
 - c) Your income is exempt from income tax.
- 2) A nonresident alien individual not engaged in a trade or business in the United States with U.S. income on which the tax liability was not satisfied by the withholding of tax at the source.
- 3) A representative or agent responsible for filing the return of an individual described in (1) or (2).
- 4) A fiduciary for a nonresident alien estate or trust.

Note. If you were a nonresident alien student or trainee who was temporarily present in the United States under an "F," "J," "M," or "Q" visa, you are considered engaged in a trade or business in the United States. You must file Form 1040NR (or Form 1040NR-EZ) only if you have income that is subject to tax, such as wages, tips, scholarship and fellowship grants, dividends, etc.

You must also file if you want to:

- 1) Claim a refund of overwithheld or overpaid tax, or
- 2) Claim the benefit of any deductions or credits. For example, if you have no U.S. business activities but have income from real property that you choose to treat as effectively connected income (discussed in chapter 4), you must timely file a true and accurate return to take any allowable deductions against that income. For information on what is timely, see *When to file for deductions and credits* under *When and Where To File* later.

Warning Even if you have left the United States and filed a Form 1040-C U.S. Departing Alien Income Tax Return, on departure, you still must file an annual U.S. income tax return. If you are married and both you and your spouse are required to file, you must each file a separate return.

Form 1040NR-EZ

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

- 1) You do not claim any dependents.
- 2) You cannot be claimed as a dependent on someone else's return.
- 3) If you were married, you cannot claim an exemption for your spouse.
- 4) Your taxable income is less than \$50,000.
- 5) You do not claim any itemized deductions (other than for state and local income taxes).
- 6) You had only wages, salaries, tips, taxable refunds of state and local income taxes, and scholarship or fellowship grants. (If you had taxable interest or dividend income, you cannot use this form.)
- 7) You are not claiming any adjustments to income other than the student loan interest deduction or scholarship and fellowship grants excluded.
- 8) You are not claiming any credits.
- 9) The only taxes you owe are:
 - a) The income tax from the Tax Table.
 - b) The social security and Medicare tax on income not reported to your employer.
 - c) The household employment taxes.

If you do not qualify to file Form 1040NR-EZ, you must file Form 1040NR.

When and Where To File

If you are an employee and you receive wages subject to U.S. income tax withholding, you will generally file by the 15th day of the 4th month after your tax year ends. If you file for the 2000 calendar year, your return is due April 15, 2001, because April 15, 2001, falls on a Sunday.

If you are not an employee who receives wages subject to U.S. income tax withholding, you must file by the 15th day of the 3rd month after your tax year ends. For the 2000 calendar year, file your return by June 15, 2001. For information on when and where to make estimated tax payments, see chapter 3.



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

Internal Revenue Service Center
Philadelphia, PA 19255

When to file for deductions and credits. To get the benefit of any allowable deductions or credits, you must timely file a true and accurate return. For this purpose, a return is timely if it is filed within 15 months of the due date (just discussed). However, if you did not file a 1999 tax return and 2000 is not the first year for which you are required to file one, your 2000 return is timely for this purpose if it is filed by the earlier of:

- 1) The date that is 15 months after the due date for filing your 2000 return, or
- 2) The date the IRS notifies you that your 2000 return has not been filed and that

8.

Paying Tax Through Withholding or Estimated Tax

Important Change

New forms. You may be asked to give withholding agents new withholding certificates that contain the necessary information and representations required by new IRS regulations relating to withholding of income tax on certain U.S. source income paid to foreign persons. For information, see *Important Changes* at the beginning of this publication.

Introduction

This chapter discusses how to pay your U.S. income tax as you earn or receive income during the year. In general, the federal income tax is a pay as you go tax. There are two ways to pay as you go.

- 1) **Withholding.** If you are an employee, your employer probably withholds income tax from your pay. Tax may also be withheld from certain other income—including pensions, bonuses, commissions, and gambling winnings. In each case, the amount withheld is paid to the U.S. Treasury in your name.
- 2) **Estimated tax.** If you do not pay your tax through withholding, or do not pay enough tax that way, you might have to pay estimated tax. People who are in business for themselves generally will have to pay their tax this way. You may have to pay estimated tax if you receive income such as dividends, interest, rent, and royalties. Estimated tax is used to pay not only income tax, but self-employment tax and alternative minimum tax as well.

Topics

This chapter discusses

- How to notify your employer of your alien status.
- Income subject to withholding of income tax.
- Exemptions from withholding.
- Social security and Medicare taxes, and
- Estimated tax rules.

Useful Items

You may want to see:

Publication

- 515 *Withholding of Tax on Nonresident Aliens and Foreign Corporations*
- 533 *Self-Employment Tax*
- 901 *U.S. Tax Treaties*

Form (and Instructions)

- W-4 *Employee's Withholding Allowance Certificate*
- W-8BEN *Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding*
- W-8ECI *Certificate of Foreign Person's Claim for Exemption From Withholding on Income Effectively Connected With the Conduct of a Trade or Business in the United States*
- W-9 *Request for Taxpayer Identification Number and Certification*
- 1040-ES(NR) *U.S. Estimated Tax for Nonresident Alien Individuals*
- 3233 *Exemption From Withholding on Compensation for Independent (and Certain Dependent) Personal Services of a Nonresident Alien Individual*
- 3288-B *Application for Withholding Certificate for Dispositions by Foreign Persons of U.S. Real Property Interests*

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

Notification of Alien Status

You must let your employer know whether you are a resident or a nonresident alien so your employer can withhold the correct amount of tax from your wages.

If you are a resident alien under the rules discussed in chapter 1, you may file Form W-9 or a similar statement with your employer. If you are a nonresident alien under those rules, you must furnish to your employer Form 3233 or Form W-8BEN, establishing that your compensation is exempt from withholding, or Form W-4, establishing that your compensation is subject to graduated withholding at the same rates as resident aliens or U.S. citizens.

If you are a resident alien and you receive income other than wages (such as dividends and royalties) from sources within the United States, you may file Form W-9 or similar statement with the withholding agent (generally, the payer of the income) so the agent will not withhold tax on the income at the 30% (or lower treaty) rate. If you receive this type of income as a nonresident alien, it is usually subject to withholding at the 30% (or lower treaty) rate.

Withholding From Compensation

The following discussion generally applies only to nonresident aliens. Tax is withheld from resident aliens in the same manner as U.S. citizens.

Wages and other compensation paid to a nonresident alien for services performed as an employee are usually subject to graduated withholding at the same rates as resident aliens and U.S. citizens. Therefore, your compensation (unless it is specifically excluded from the term "wages" by law or is exempt from tax by treaty) is subject to graduated withholding.

Withholding on Wages

If you are an employee and you receive wages subject to graduated withholding, you will be required to fill out a Form W-4. Nonresident aliens should use the following instructions instead of the instructions on the Form W-4.

Because of the restrictions on a nonresident alien's filing status, the limited number of personal exemptions a nonresident alien is allowed, and because a nonresident alien cannot claim the standard deduction, you should fill out Form W-4 following these instructions.

- 1) Check only "Single" marital status on line 3, regardless of your actual marital status.
- 2) Claim only one allowance on line 5, unless you are a resident of Canada, Mexico, Japan, or South Korea, or a U.S. national.
- 3) Request that your employer withhold an additional amount of \$7.30 per week on line 6 if your wages are paid based on a 2-week pay period; the additional amount will be \$14.60. For other payroll periods, ask your employer for the amount to enter.
- 4) Do not claim "Exempt" withholding status on line 7.

A *U.S. national* is an individual who, although not a U.S. citizen, owes his or her allegiance to the United States. U.S. nationals include American Samoans, and Northern Mariana Islanders who chose to become U.S. nationals instead of U.S. citizens.

See *Reduced Withholding on Scholarships and Fellowship Grants*, later, for how to fill out Form W-4 if you receive a U.S. source scholarship or fellowship grant.

Students and business apprentices from India, if you are eligible for the benefits of Article 21(2) of the United States-India Income Tax Treaty, you may claim additional withholding allowances for the standard deduction and your spouse. You may also claim an additional withholding allowance for each of your dependents not admitted to the United States on "F-2," "J-2," or "M-2" visas if they meet the same rules that apply to U.S. citizens. You do not have to request additional withholding on line 6.

States to which the 30% (or lower treaty) rate will apply, you are allowed one personal exemption if you are not a U.S. national and are not a resident of Canada, Mexico, Japan, or South Korea. For purposes of 30% withholding, the exemption is prorated at \$7.95 a day in 2001 for the period that labor or personal services are performed in the United States. To claim an exemption from withholding on the personal exemption amount, fill out the applicable parts of Form 3233 and give it to the withholding agent.

Example. Eric Schmidt, who is a resident of Germany, worked under a contract with a U.S. firm (not as an employee) in the United States for 100 days during 2001 before returning to his country. He earned \$6,000 for the services performed (not considered wages) in the United States. Eric is married and has three dependent children; his wife is not employed and has no income subject to U.S. tax. The amount of the personal exemption to be allowed against the income for his personal services performed within the United States in 2001 is \$795 (100 days x \$7.95) and withholding at 30% is applied against the balance. Thus, \$1,561.50 in tax is withheld from Eric's earnings (30% of \$5,205 [\$6,000 - \$795]).

U.S. nationals or residents of Canada, Mexico, Japan, or South Korea. If you are a nonresident alien who is a resident of Canada, Mexico, Japan, or South Korea, or who is a national of the United States, you are subject to the same 30% withholding on your compensation for independent personal services performed in the United States. However, if you are a U.S. national or a resident of Canada or Mexico, you are allowed the same personal exemptions as U.S. citizens. For the 30% (or lower treaty rate) withholding, you can take \$7.95 per day for each allowable exemption in 2001. If you are a resident of Japan or Korea, you are allowed personal exemptions for yourself and for your spouse and children who live with you in the United States at any time during the tax year. However, the additional exemptions for your spouse and children must be further prorated as explained in chapter 5 under *Exemptions*.

Students and business apprentices from India. If you are eligible for the benefits of Article 21(2) of the United States-India Income Tax Treaty, you are allowed an exemption for your spouse only if your spouse has no gross income. You are also allowed an exemption for each dependent not admitted to the United States on "F-2," "J-2," or "M-2" visas if they meet the same rules that apply to U.S. citizens. For the 30% (or lower treaty rate) withholding on compensation for independent personal services performed in the United States, you are allowed \$7.95 per day for each allowable exemption in 2001.

Residents of Canada or Mexico Engaged in Transportation-Related Employment

Certain residents of Canada or Mexico who enter or leave the United States at frequent intervals are not subject to withholding on their wages. These persons either:

- 1) Perform duties in transportation service between the United States and Canada or Mexico; or
- 2) Perform duties connected to the construction, maintenance, or operation of a waterway, viaduct, dam, or bridge crossed by, or crossing, the boundary between the United States and Canada or the boundary between the United States and Mexico.



This employment is subject to withholding of social security and Medicare taxes unless the services are performed for a railroad.

To qualify for the exemption from withholding during a tax year, a Canadian or Mexican resident must give the employer a statement in duplicate with name, address, and identification number, certifying that the resident:

- 1) Is not a U.S. citizen or resident,
- 2) Is a resident of Canada or Mexico, whichever applies, and
- 3) Expects to perform duties previously described during the tax year in question.

The statement can be in any form, but it must be dated and signed by the employee and must include a written declaration that it is made under the penalties of perjury.

Certain Residents of Puerto Rico

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

Residents of the U.S. Virgin Islands

Nonresident aliens who are bona fide residents of the Virgin Islands are not subject to withholding of U.S. tax on income earned while temporarily employed in the United States. This is because those persons pay their income tax to the Virgin Islands. To avoid having tax withheld on income earned in the United States, bona fide residents of the Virgin Islands should write a letter in duplicate, to their employers, stating that they are bona fide residents of the Virgin Islands and expect to pay tax on all income to the Virgin Islands.

Withholding From Other Income

Other income subject to 30% withholding generally includes fixed or determinable income such as interest (other than portfolio interest), dividends, pensions and annuities, and gains from certain sales and exchanges, discussed in chapter 4. It also includes 85% of social security benefits paid to nonresident aliens.

Income (other than compensation) that is effectively connected with your U.S. trade or business is not subject to withholding at the

30% (or lower treaty) rate. You must file Form W-9-EIC with the payer of the income.



Form 4224 (used in prior years) is no longer valid. See Important Changes in the front of this publication.

Special rules for withholding on partnership income, scholarships, and fellowships are explained next.

Tax Withheld on Partnership Income

If you are a foreign partner in a U.S. or foreign partnership, the partnership will withhold tax on your share of effectively connected taxable income from the partnership. The partnership will give you a statement on Form 8805, *Foreign Partner's Information Statement of Section 1446 Withholding Tax*, showing the tax withheld. A partnership that is publicly traded may withhold on your actual distributions of effectively connected income. In this case, the partnership will give you a statement on Form 1042-S, *Foreign Person's U.S. Source Income Subject to Withholding*. In either case, the withholding rate is 39.6%. Claim the tax withheld as a credit on line 32b of Form 1040NR.

If you are a foreign partner responsible for withholding, see *Partnership Withholding on Effectively Connected Income* in Publication 515.

Reduced Withholding on Scholarships and Fellowship Grants

There is no withholding on a *qualified scholarship* received by a candidate for a degree. See chapter 3.

If you are a nonresident alien student or grantee with an "F," "J," "M," or "Q" visa and you receive a U.S. source grant or scholarship that is not fully exempt, the withholding agent (usually the payer of the scholarship) withholds tax at 14% (or lower treaty rate) of the taxable part of the grant or scholarship. However, if you are not a candidate for a degree and the grant does not meet certain requirements, tax will be withheld at the 30% (or lower treaty) rate.

You may be entitled to reduce withholding on the taxable part of your grant or scholarship if the withholding agent chooses to withhold under an alternative withholding procedure. This alternative withholding procedure is not mandatory, and the withholding agent does not have to use it. Your withholding agent chooses this alternative procedure by asking you to fill out Form W-4 and the *Personal Allowances Worksheet* (attached to Form W-4). Use the following instructions instead of the Form W-4 instructions to complete the worksheet:

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

Personal exemption. Include the prorated part of your allowable personal exemption. Figure the amount by multiplying the number of days you expect to be in the United States in 2001 by the daily exemption amount (\$7.95).

Expenses. Include expenses that will be deductible on your return. These include away-from-home expenses (meals, lodging, and transportation), certain state and local income taxes, charitable contributions, and

jury, that you are not a foreign person, and containing your name, U.S. taxpayer identification number, and home address.

- 5) The buyer receives a withholding certificate from the Internal Revenue Service.
- 6) You give the buyer written notice that you are not required to recognize any gain or loss on the transfer because of a nonrecognition provision in the Internal Revenue Code or a provision in a U.S. tax treaty. The buyer must file a copy of the notice with the Internal Revenue Service Center, P.O. Box 21086, DP 6701 FIFTH AVE, Philadelphia, PA 19114-2586. You must verify the notice as true and sign it under penalties of perjury. The notice must contain the following information:
 - a) A statement that the notice is a notice of nonrecognition under regulation section 1.1445-2(c)(2).
 - b) Your name, taxpayer identification number, and home address.
 - c) A statement that you are not required to recognize any gain or loss on the transfer.
 - d) A brief description of the transfer.
 - e) A brief summary of the law and facts supporting your claim that recognition of gain or loss is not required.
- 7) The amount you realize on the transfer of a U.S. real property interest is zero.
- 8) The property is acquired by the United States, a U.S. state or possession, a political subdivision, or the District of Columbia.

The certifications in (3) and (4) must be disregarded by the buyer if the buyer has actual knowledge, or receives notice from a seller's or buyer's agent, that they are false.

Withholding certificates. The tax required to be withheld on a disposition can be reduced or eliminated under a withholding certificate issued by the IRS. Either you or the buyer can request a withholding certificate.

A withholding certificate can be issued due to any of the following.

- 1) The IRS determines that reduced withholding is appropriate because either:
 - a) The amount required to be withheld would be more than your maximum tax liability, or
 - b) Withholding of the reduced amount would not jeopardize collection of the tax.
- 2) All of your realized gain is exempt from U.S. tax.
- 3) You or the buyer enter into an agreement for the payment of tax providing security for the tax liability.

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

Credit for tax withheld. The buyer must report and pay over the withheld tax within 20 days after the transfer using Form 8288, *U.S. Withholding Tax Return for Dispositions by Foreign Persons of U.S. Real Property Interests*. This form is filed with the IRS with two copies of Form 8288-A, *Statement of Withholding on Dispositions by Foreign Persons of U.S. Real Property Interests*. Copy B of this statement will be stamped received by the IRS and returned to you, the seller. You must file Copy B with your tax return to take credit for the tax withheld.

interests. This form is filed with the IRS with two copies of Form 8288-A, *Statement of Withholding on Dispositions by Foreign Persons of U.S. Real Property Interests*. Copy B of this statement will be stamped received by the IRS and returned to you, the seller. You must file Copy B with your tax return to take credit for the tax withheld.

Social Security and Medicare Taxes

If you work as an employee in the United States, you must pay social security and Medicare taxes in most cases. Your payments of these taxes contribute to your coverage under the U.S. social security system. Social security coverage provides retirement benefits and medical insurance (Medicare) benefits to individuals who meet certain eligibility requirements.

In most cases, the first \$75,200 of taxable wages received in 2000 for services performed in the United States is subject to social security tax. All taxable wages are subject to Medicare tax. Your employer deducts these taxes from each wage payment. Your employer must deduct these taxes even if you do not expect to qualify for social security or Medicare benefits. You can claim a credit for excess social security tax on your income tax return if you have more than one employer and the amount deducted from your combined wages for 2000 is more than \$4,724.40. Use the worksheet in chapter 3 of Publication 505, *Tax Withholding and Estimated Tax*, to figure your credit.

If any one employer deducted more than \$4,724.40, you cannot claim a credit for that amount. Ask your employer to refund the excess.

In general, U.S. social security and Medicare taxes apply to payments of wages for services performed as an employee in the United States, regardless of the citizenship or residence of either the employee or the employer. In limited situations, these taxes apply to wages for services performed outside the United States. Your employer should be able to tell you if social security and Medicare taxes apply to your wages. You cannot make voluntary payments if no taxes are due.

Students and Exchange Visitors

Generally services performed by you as a nonresident alien temporarily in the United States as a nonimmigrant under subparagraph (F), (J), (M), or (Q) of section 101(a)(15) of the Immigration and Nationality Act are not covered under the social security program if the services are performed to carry out the purpose for which you were admitted to the United States. This means that there will be no withholding of social security or Medicare taxes from the pay you receive for these services. These types of services are very limited, and generally include only on-campus work, practical training, and economic hardship employment.

However, you are covered under the social security program for these services if you are considered a resident alien as discussed in chapter 1, even though your nonimmigrant classification ("F," "J," "M," or "Q") remains the same. Social security and Medicare taxes will be withheld from your pay.

Nonresident Alien Students

If you are a nonresident alien admitted to the United States as a student, you generally are not permitted to work for a wage or salary, or to engage in business while you are in the United States. In some cases a student admitted to the United States in "F-1," "M-1," or "J-1" status is granted permission to work, and this is so noted on the student's copy of Immigration Form I-20, *Arrival/Departure Record*. Social security and Medicare taxes are not withheld from pay for the work unless the student is considered a resident alien.



TIP Any student who is enrolled and regularly attending classes at a school may be exempt from social security and Medicare taxes on pay for services performed for that school.

The Immigration and Naturalization Service (INS) permits on-campus work for students in "F-1" status if it does not displace a U.S. resident. On-campus work means work performed on the school's premises. On-campus work includes work performed at an off-campus location that is educationally affiliated with the school. On-campus work under the terms of a scholarship, fellowship, or assistantship is considered part of the academic program of a student taking a full course of study and is permitted by the INS. In this case, the educational institution endorses the Form I-20. Social security and Medicare taxes are not withheld from pay for this work unless the student is considered a resident alien.

Employment due to severe economic necessity and for optional practical training is sometimes permitted for students in "F-1" status. Students granted permission to work due to severe economic necessity or for optional practical training will be issued Form I-688B or Form I-786 by INS. Social security and Medicare taxes are not withheld from pay for this work unless the student is considered a resident alien.

Students in "M-1" status who have completed a course of study can accept employment or practical training for up to six months and must have a Form I-688B or Form I-786 issued by INS. Social security and Medicare taxes are not withheld from "M-1" students' pay for these services unless the student is considered a resident alien.

In all other cases, any services performed by a nonresident alien student are not considered as performed to carry out the purpose for which the student was admitted to the United States. Social security and Medicare taxes will be withheld from pay for the services unless the pay is exempt under the Internal Revenue Code.

Exchange Visitors

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

To establish that your self-employment income is subject only to foreign social security taxes and is exempt from U.S. self-employment tax, request a certificate of coverage from the appropriate agency of the foreign country. If the foreign country will not issue the certificate, you should request a statement that your income is not covered by the U.S. social security system. Request it from the U.S. Social Security Administration at the address given earlier. Attach a photocopy of either statement to Form 1040 each year you are exempt. Also print "Exempt, see attached statement" on the line for self-employment tax.

Estimated Tax Form 1040-ES (NR)

You may have income from which no U.S. income tax is withheld. Or the amount of tax withheld may not equal the income tax you estimate you will owe at the end of the year. If so, you may have to pay estimated tax.

Generally, you must make estimated tax payments for 2001 if you expect to owe at least \$1,000 in tax and you expect your withholding and credits to be less than the smaller of:

- 1) 90% of the tax to be shown on your 2001 income tax return, or
- 2) 100% of the tax shown on your 2000 income tax return (if your 2000 return covered all 12 months of the year).

If your adjusted gross income for 2000 was more than \$150,000 (\$75,000 if your filing status for 2001 is married filing separately), substitute 110% for 100% in (2) above if you are not a farmer or a fisherman.

A nonresident alien should use Form 1040-ES (NR) to figure and pay estimated tax. Checks should be made payable to the "United States Treasury."

How to estimate your tax for 2001. If you filed a 2000 return on Form 1040NR or Form 1040NR-EZ and expect your income, number of exemptions, and total deductions for 2000 to be nearly the same, you should use your 2000 return as a guide to complete the *Estimated Tax Worksheet* in the Form 1040-ES (NR) instructions. If you did not file a return for 2000, or if your income, exemptions, deductions, or credits will be different for 2001, you must estimate these amounts. Figure your estimated tax liability using the Tax Rate Schedule in the 2001 Form 1040-ES (NR) instructions for your filing status.

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

When to pay estimated tax. Make your first estimated tax payment by the due date for filing the previous year's Form 1040NR or Form 1040NR-EZ. If you have wages subject to the same withholding rules that apply to U.S. citizens, you must file Form 1040NR or Form 1040NR-EZ and make your first estimated tax payment by April 15, 2001. If you do not have wages subject to withholding, file your income tax return and make your first estimated tax payment by June 15, 2001.

If your first estimated tax payment is due April 15, 2001, you can pay your estimated tax in full at that time, or in equal installments by April 15, 2001, June 15, 2001, September 17, 2001, and January 16, 2002. If your first payment is not due until June 15, 2001, you can pay your estimated tax in full at that time, or 1/3 of your estimated tax by June 15, 2001, 1/4 of the tax by September 17, 2001, and 1/4 by January 16, 2002.

Fiscal year. If your return is not on a calendar year basis, your due dates are the 15th day of the 4th, 6th, and 9th months of your fiscal year, and the 1st month of the following fiscal year. If any date falls on a Saturday, Sunday, or legal holiday, use the next day that is not a Saturday, Sunday, or legal holiday.

Changes in income, deductions, or exemptions. Even if you are not required to make an estimated tax payment in April or June, your circumstances may change so that you will have to make estimated tax payments later. This can happen if you receive additional income or if any of your deductions are reduced or eliminated. If so, see the instructions for Form 1040-ES (NR) and Publication 505 for information on figuring your estimated tax.

Amended estimated tax. If, after you have made estimated tax payments, you find your estimated tax is substantially increased or decreased because of a change in your income or exemptions, you should adjust your remaining estimated tax payments. To do this, see the instructions for Form 1040-ES (NR) and Publication 505.

Penalty for failure to pay estimated income tax. You will be subject to a penalty for underpayment of installments of estimated tax except in certain situations. These situations are explained on Form 2210, *Underpayment of Estimated Tax by Individuals, Estates, and Trusts*.

9. Tax Treaty Benefits

Introduction

If you are a nonresident alien from a country with which the United States has an income tax treaty, you may qualify for certain benefits. Most treaties require that the alien be a resident of the treaty country to qualify. However, some treaties require that the alien be a national or a citizen of the treaty country.

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

You can generally arrange to have withholding tax reduced or eliminated on wages and other income that is eligible for tax treaty benefits. See *Income Entitled to Tax Treaty*

Benefits in chapter 9.

Topics

This chapter discusses

- Typical tax treaty benefits.
- How to obtain copies of tax treaties, and
- How to claim tax treaty benefits on your tax return.

Useful Items

You may want to see:

Publication

901 U.S. Tax Treaties

Form (and Instructions)

- 1040NR U.S. Nonresident Alien Income Tax Return
- 1040NR-EZ U.S. Income Tax Return for Certain Nonresident Aliens With No Dependents
- 3833 Treaty-Based Return Position Disclosure Under Section 6114 or 7701(d)

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

Treaty Income

A nonresident alien's treaty income is the gross income on which the tax is limited by a tax treaty. Treaty income includes, for example, dividends from sources in the United States that are subject to tax at a tax treaty rate not to exceed 15%. Nontreaty income is the gross income of a nonresident alien on which the tax is not limited by a tax treaty.

Figure the tax on treaty income on each separate item of income at the reduced rate that applies to that item under the treaty.

To determine tax on nontreaty income, figure the tax at either the flat 30% rate or the graduated rate, depending upon whether or not the income is effectively connected with your trade or business in the United States.

Your tax liability is the sum of the tax on treaty income plus the tax on nontreaty income, but cannot be more than the tax liability figured as if the tax treaty had not come into effect.

Example. Arthur Banks is a nonresident alien who is single and a resident of a foreign country that has a tax treaty with the United States. He received gross income of \$25,500 during the tax year from sources within the United States, consisting of the following items:

Dividends on which the tax is limited to a 15% rate by the tax treaty	\$1,400
Compensation for personal services on which the tax is not limited by the tax treaty	24,100
Total gross income	25,500

Arthur was engaged in business in the United States during the tax year. His dividends are not effectively connected with that business. He has no deductions other than his own personal exemption.

Table 9-1 Table of Tax Treaties (Updated through December 31, 2000)

Country	Official Text Symbol ¹	General Effective Date	Citation	Applicable Treasury Explanations or Treasury Decision (T.D.)
Australia	TIAS 10773	Dec. 1, 1983	1986-2 C.B. 220	1986-2 C.B. 246
Austria	TIAS	Jan. 1, 1999		
Barbados	TIAS 11090	Jan. 1, 1984	1991-2 C.B. 436	1991-2 C.B. 466
Protocol	TIAS	Jan. 1, 1994		
Belgium	TIAS 7463	Jan. 1, 1971	1970-1 C.B. 619	
Protocol	TIAS 11254	Jan. 1, 1998		
Canada ²	TIAS 11087	Jan. 1, 1985	1986-2 C.B. 258	1987-2 C.B. 298
Protocol	TIAS	Jan. 1, 1996		
China, People's Republic of	TIAS	Jan. 1, 1987	1988-1 C.B. 414	1988-1 C.B. 447
Commonwealth of Independent States ³	TIAS 8225	Jan. 1, 1978	1978-2 C.B. 463	1978-2 C.B. 475
Cyprus	TIAS 10985	Jan. 1, 1986	1989-2 C.B. 280	1989-2 C.B. 314
Czech Republic	TIAS	Jan. 1, 1993		
Denmark	TIAS 1854	Jan. 1, 1948	1950-1 C.B. 77	T.D. 3692, 1949-1 C.B. 104 T.D. 5777, 1950-1 C.B. 78
Denmark (new treaty)	TIAS	Jan. 1, 2001		
Egypt	TIAS 10149	Jan. 1, 1992	1982-1 C.B. 239	1982-1 C.B. 242
Estonia	TIAS	Jan. 1, 2000		
Finland	TIAS	Jan. 1, 1991		
France	TIAS	Jan. 1, 1996		
Germany	TIAS	Jan. 1, 1990 ⁴		
Greece	TIAS 2902	Jan. 1, 1953	1953-2 C.B. 1054	T.D. 5709, 1954-2 C.B. 638
Hungary	TIAS 8560	Jan. 1, 1980	1980-1 C.B. 333	1980-1 C.B. 354
Iceland	TIAS 8151	Jan. 1, 1975	1975-1 C.B. 442	1975-1 C.B. 456
India	TIAS	Jan. 1, 1991		
Indonesia	TIAS 11593	Jan. 1, 1990		
Ireland	TIAS	Jan. 1, 1998		
Israel	TIAS	Jan. 1, 1995		
Italy	TIAS 11064	Jan. 1, 1985	1992-1 C.B. 442	1992-1 C.B. 470
Jamaica	TIAS 10207	Jan. 1, 1982	1982-1 C.B. 257	1982-1 C.B. 291
Japan	TIAS 7365	Jan. 1, 1973	1973-1 C.B. 630	1973-1 C.B. 653
Kazakhstan	TIAS	Jan. 1, 1996		
Korea, Republic of	TIAS 9506	Jan. 1, 1980	1979-2 C.B. 435	1979-2 C.B. 458
Latvia	TIAS	Jan. 1, 2000		
Lithuania	TIAS	Jan. 1, 2000		
Luxembourg	TIAS 5726	Jan. 1, 1964	1965-1 C.B. 615	1965-1 C.B. 642
Mexico	TIAS	Jan. 1, 1994	1994-2 C.B. 424	1994-2 C.B. 489
Protocol	TIAS	Oct. 26, 1995		
Morocco	TIAS 10195	Jan. 1, 1981	1982-2 C.B. 405	1982-2 C.B. 427
Netherlands	TIAS	Jan. 1, 1994		
New Zealand	TIAS 10772	Nov. 2, 1983	1990-2 C.B. 274	1990-2 C.B. 303
Norway	TIAS 7474	Jan. 1, 1971	1973-1 C.B. 569	1973-1 C.B. 693
Protocol	TIAS 10205	Jan. 1, 1982	1982-2 C.B. 440	1982-2 C.B. 454
Pakistan	TIAS 4232	Jan. 1, 1959	1960-2 C.B. 646	T.D. 6431, 1960-1 C.B. 755
Philippines	TIAS 10417	Jan. 1, 1983	1984-2 C.B. 334	1984-2 C.B. 412
Poland	TIAS 8486	Jan. 1, 1974	1977-1 C.B. 416	1977-1 C.B. 427
Portugal	TIAS	Jan. 1, 1996		
Romania	TIAS 8228	Jan. 1, 1974	1975-2 C.B. 492	1975-2 C.B. 504
Russia	TIAS	Jan. 1, 1994		
Slovak Republic	TIAS	Jan. 1, 1993		
South Africa	TIAS	Jan. 1, 1998		
Spain	TIAS	Jan. 1, 1997		
Sweden	TIAS	Jan. 1, 1995		
Switzerland	TIAS	Jan. 1, 1998		
Thailand	TIAS	Jan. 1, 1998		
Trinidad and Tobago	TIAS 7047	Jan. 1, 1970	1971-2 C.B. 479	
Tunisia	TIAS	Jan. 1, 1990		
Turkey	TIAS	Jan. 1, 1998		
Ukraine	TIAS	Jan. 1, 2001		
United Kingdom	TIAS 9682	Jan. 1, 1975	1980-1 C.B. 394	1980-1 C.B. 455
Venezuela	TIAS	Jan. 1, 2000		

¹ (TIAS)—Treaties and Other International Act Series.

² Information on the treaty can be found in Publication 597, *Information on the United States-Canada Income Tax Treaty*.

³ The U.S.—U.S.S.R. income tax treaty applies to the countries of Armenia, Azerbaijan, Belarus, Georgia, Kyrgyzstan, Moldova, Tajikistan, Turkmenistan, Ukraine (before 2001), and Uzbekistan.

⁴ The general effective date for the area that was the German Democratic Republic is January 1, 1991.

To find out if you need a sailing or departure permit, first read *Aliens Not Required To Obtain Sailing or Departure Permits*. If you do not fall into one of the categories in that discussion, you must obtain a sailing or departure permit. Read *Aliens Required To Obtain Sailing or Departure Permits*.

Topics

This chapter discusses:

- Who needs a sailing permit,
- how to get a sailing permit, and
- Forms you file to get a sailing permit.

Useful Items

You may want to see:

Form (and Instructions)

▢ 1040-C U.S. Departing Alien Income Tax Return

▢ 2063 U.S. Departing Alien Income Tax Statement

See chapter 12 for information about getting these forms.

Aliens Not Required To Obtain Sailing or Departure Permits

If you are included in one of the following categories, you do not have to get a sailing or departure permit before leaving the United States.

If you are in one of these categories and do not have to get a sailing or departure permit, you must be able to support your claim for exemption with proper identification or give the authority for the exemption.

Category 1. Representatives of foreign governments with diplomatic passports, whether accredited to the United States or other countries, members of their households, and servants accompanying them. Servants who are leaving, but not with a person with a diplomatic passport, must get a sailing or departure permit. However, they can get a sailing or departure permit on Form 2063 without examination of their income tax liability by presenting a letter from the chief of their diplomatic mission certifying that:

- 1) Their name appears on the "White List" (a list of employees of diplomatic missions), and
- 2) They do not owe to the United States any income tax, and will not owe any tax up to and including the intended date of departure.

The statement must be presented to an IRS office.

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

- 1) Whose compensation for official services is exempt from U.S. tax under U.S. tax laws (described in chapter 10), and

- 2) Who receive no other income from U.S. sources.



If you are an alien in category (1) or (2), above, who filed the waiver under section 247(b) of the Immigration and Nationality Act, you must get a sailing or departure permit. This is true even though you filed the waiver and your income is exempt from U.S. tax because of an income tax treaty, consular agreement, or international agreement.

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

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

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

- 1) Income from employment authorized by the Immigration and Naturalization Service (INS), or
- 2) Certain interest income that is not effectively connected with a U.S. trade or business. (See *Interest* in chapter 3.)

Category 5. Certain other aliens temporarily in the United States who have received no taxable income during the tax year up to and including the date of departure or during the preceding tax year. If the IRS has reason to believe that an alien has received income subject to tax and that the collection of income tax is jeopardized by departure, it may then require the alien to obtain a sailing or departure permit. Aliens covered by this paragraph are:

- 1) Alien military trainees who enter the United States for training under the sponsorship of the Department of Defense and who leave the United States on official military travel orders,
- 2) Alien visitors for business on a "B-1" visa, or on both a "B-1" visa and a "B-2" visa, who do not remain in the United States or a U.S. possession for more than 90 days during the tax year
- 3) Alien visitors for pleasure on a "B-2" visa,
- 4) Aliens in transit through the United States or any of its possessions on a "C-1" visa, or under a contract, such as a bond agreement, between a transportation line and the Attorney General, and

- 5) Aliens who enter the United States on a border-crossing identification card or for whom passports, visas, and border-crossing identification cards are not required. If they are visitors for pleasure or visitors for business who do not remain in the United States or a U.S. possession for more than 90 days during the tax year or if they are in transit through the United States or any of its possessions

Category 6. Alien residents of Canada or Mexico who frequently commute between that country and the United States for employment, and whose wages are subject to the withholding of U.S. tax.

Aliens Required To Obtain Sailing or Departure Permits

If you do not fall into one of the categories listed under *Aliens Not Required To Obtain Sailing or Departure Permits*, you must obtain a sailing or departure permit. To obtain a permit, file Form 1040-C or Form 2063 (whichever applies) with your local IRS office before you leave the United States. See *Forms To File*, later. You must also pay all the tax shown as due on Form 1040-C and any taxes due for past years. See *Paying Taxes and Obtaining Refunds*, later.

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

Getting a Sailing or Departure Permit

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

Where to get a sailing or departure permit. It is advisable for aliens who have been working in the United States to get the permit from an IRS office in the area of their employment, but it also can be obtained from an IRS office in the area of their departure.

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

Papers to submit. Getting your sailing or departure permit will go faster if you bring to the IRS office papers and documents related to your income and your stay in the United States. Bring the following records with you if they apply:

- 1) Your passport and alien registration card or visa.
- 2) Copies of your U.S. income tax returns filed for the past 2 years. If you were in the United States for less than 2 years, bring the income tax returns you filed for that period.

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



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

- *Frequently Asked Tax Questions* (located under *Taxpayer Help & Aid*) to find answers to questions you may have.
- *Forms & Pubs* to download forms and publications or search for forms and publications by topic or keyword.
- *Fill-in Forms* (located under *Forms & Pubs*) to enter information while the form is displayed and then print the completed form.
- *Tax Info For You* to view Internal Revenue Bulletins published in the last few years.
- *Tax Regs in English* to search regulations and the Internal Revenue Code (under *United States Code (USC)*).
- *Digital Dispatch* and *IRS Local News Net* (both located under *Tax Info For Business*) to receive our electronic newsletters on hot tax issues and news.
- *Small Business Corner* (located under *Tax Info For Business*) to get information on starting and operating a small business.

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



TaxFax Service. Using the phone attached to your fax machine, you can receive forms and instructions by calling 703-356-9594. Follow the directions from the prompts. When you order forms, enter the catalog number for the form you need. The items you request will be faxed to you.



Phone. Many services are available by phone.

- *Ordering forms, instructions, and publications.* Call 1-800-329-3676 to order current and prior year forms, instructions, and publications.
- *Asking tax questions.* Call the IRS with your tax questions at 1-800-329-1040.
- *TTY/TDD equipment.* If you have access to TTY/TDD equipment, call 1-800-329-4059 to ask tax questions or to order forms and publications.
- *TeleTax topics.* Call 1-800-329-4477 to listen to pre-recorded messages covering various tax topics.

Evaluating the quality of our telephone services. To ensure that IRS representatives give accurate, courteous, and professional answers, we evaluate the quality of our telephone services in several ways.

- A second IRS representative sometimes monitors live telephone calls. That person only evaluates the IRS assistant and does not keep a record of any taxpayer's name or tax identification number.
- We sometimes record telephone calls to evaluate IRS assistants objectively. We hold these recordings no longer than one week and use them only to measure the quality of assistance.
- We value our customers' opinions. Throughout this year, we will be surveying our customers for their opinions on our service.



Walk-in. You can walk in to many post offices, libraries, and IRS offices to pick up certain forms, instructions, and publications. Also, some libraries and IRS offices have:

- An extensive collection of products available to print from a CD-ROM or photocopy from reproducible proofs.
- The Internal Revenue Code, regulations, Internal Revenue Bulletins and Cumulative Bulletins available for research purposes.



Mail. You can send your order for forms, instructions and publications to the Distribution Center nearest to you and receive a response within 10 work-days after your request is received. Find the address that applies to your part of the country:

- Western part of U.S.:
Western Area Distribution Center
Rancho Cordova, CA 95743-0001
- Central part of U.S.:
Central Area Distribution Center
P.O. Box 3503
Bloomington, IL 61702-3603
- Eastern part of U.S. and foreign addresses:
Eastern Area Distribution Center
P.O. Box 35074
Richmond, VA 23261-5074



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

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

The CD-ROM can be purchased from National Technical Information Service (NTIS) by calling 1-877-233-3737 or on the internet at www.irs.gov/cdorders. The first release is available in mid-December and the final release is available in late January.

IRS Publication 2207, *The Business Resource Guide* is an interactive CD-ROM that contains information important to small businesses. It is available in mid-February. You can get one free copy by calling 1-800-329-3576.

ginning with the tax year that includes my arrival date.

Morocco

I was a resident of Morocco on the date of my arrival in the United States. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.

I am temporarily present in the United States for the primary purpose of studying at _____ [insert the name of the university or other recognized educational institution at which you study].

I will receive compensation for personal services performed in the United States. This compensation qualifies for exemption from withholding of federal income tax under the tax treaty between the United States and Morocco in an amount not in excess of \$2,000 for any tax year. I have not previously claimed an income tax exemption under that treaty for income received as a student before the date of my arrival in the United States.

I arrived in the United States on _____ [insert the date of your last arrival in the United States before beginning study at the U.S. educational institution]. The treaty exemption is available only for compensation paid during a period of five tax years, beginning with the tax year that includes my arrival date.

Pakistan

I am a resident of Pakistan. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.

I am temporarily present in the United States solely as a student at _____ [insert the name of the recognized university, college, or school in the United States at which you study].

I will receive compensation for personal services performed in the United States. This com-

penensation qualifies for exemption from withholding of federal income tax under the tax treaty between the United States and Pakistan in an amount not in excess of \$5,000 for any tax year.

Philippines

I was a resident of the Philippines on the date of my arrival in the United States. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.

I am temporarily present in the United States for the primary purpose of studying at _____ [insert the name of the university or other recognized educational institution at which you study].

I will receive compensation for personal services performed in the United States. This compensation qualifies for exemption from withholding of federal income tax under the tax treaty between the United States and the Philippines in an amount not in excess of \$3,000 for any tax year. I have not previously claimed an income tax exemption under that treaty for income received as a teacher, researcher, or student before the date of my arrival in the United States.

I will be present in the United States only for such period of time as may be reasonably or customarily required to effectuate the purpose of this visit.

I arrived in the United States on _____ [insert the date of your last arrival in the United States before beginning study at the U.S. educational institution]. The treaty exemption is available only for compensation paid during a period of five tax years beginning with the tax year that includes my arrival date.

Spain

I was a resident of Spain on the date of my arrival in the United States. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.

I am temporarily present in the United States for the primary purpose of studying or training at _____ [insert the name of the university or other accredited educational institution at which you study or train], or I am temporarily present in the United States as a recipient of a grant, allowance, or award from _____ [insert the name of the nonprofit organization or government institution providing the grant, allowance, or award].

I will receive compensation for services performed in the United States. This compensation qualifies for exemption from withholding of federal income tax under the tax treaty between the United States and Spain in an amount not in excess of \$5,000 for any tax year.

I arrived in the United States on _____ [insert the date of your last arrival in the United States before beginning study at the U.S. educational institution]. The treaty exemption is available only for compensation paid during a period of five tax years beginning with the tax year that includes my arrival date.

Trinidad and Tobago

I was a resident of Trinidad and Tobago on the date of my arrival in the United States. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.

I am temporarily present in the United States for the primary purpose of studying at _____ [insert the name of the university or other accredited educational institution at which you study].

I will receive compensation for personal services performed in the United States. This compensation qualifies for exemption from withholding of federal income tax under the tax treaty between the United States and Trinidad and Tobago in an amount not in excess of \$2,000

for any tax year. I have not previously claimed an income tax exemption under this treaty for income received as a teacher, researcher, or student before the date of my arrival in the United States.

I will be present in the United States only for such period of time as may be reasonably or customarily required to effectuate the purpose of this visit.

I arrived in the United States on _____ [insert the date of your last arrival in the United States before beginning study at the U.S. educational institution]. The treaty exemption is available only for compensation paid during a period of five tax years.

Tunisia

I was a resident of Tunisia on the date of my arrival in the United States. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.

I am temporarily present in the United States for the purpose of full-time study, training, or research at _____ [insert the name of the university or other accredited educational institution at which you study, train, or perform research].

I will receive compensation for services performed in the United States. This compensation qualifies for exemption from withholding of federal income tax under the tax treaty between the United States and Tunisia in an amount not in excess of \$4,000 for any tax year.

I arrived in the United States on _____ [insert the date of your last arrival in the United States before beginning study at the U.S. educational institution]. The treaty exemption is available only for compensation paid during a period of five tax years beginning with the tax year that includes my arrival date.

The teaching or research compensation received during the entire tax year (or for the portion of the year from _____ to _____) qualifies for exemption from withholding of federal tax under the tax treaty between the United States and _____ [insert the name of the country under whose treaty you claim exemption]. I have not previously claimed an income tax exemption under this treaty for income received as a teacher, researcher, or student before the date of my arrival in the United States.

Any research I perform will be undertaken in the public interest and not primarily for the private benefit of a specific person or persons.

I arrived in the United States on _____ [insert the date of your last arrival in the United States before beginning the teaching or research services for which exemption is claimed]. The treaty exemption is available only for compensation received during a period of two years beginning on that date.

Germany

I am a resident of the Federal Republic of Germany. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.

I am a professor or teacher visiting the United States for the purpose of advanced study, teaching, or research at _____ [insert the name of the accredited university, college, school, or other educational institution, or a public research institution or other institution engaged in research for the public benefit]. I will receive compensation for my teaching, research, or study activities.

The compensation received during the entire tax year (or during the period from _____ to _____) for these activities qualifies for exemption from withholding of federal tax under the tax treaty between the United States and the Federal Republic of Germany. I have not previously claimed an income tax exemption under that treaty for income received as a student, apprentice, or trainee during the immediately preceding period (if, however, following the period in which the alien claimed benefits as a student, apprentice, or trainee that person returned to the Federal Republic of Germany and resumed residence and physical presence before returning to the United States as a teacher or researcher, that person may claim the benefits of this treaty.)

Any research I perform will be undertaken in the public in-

terest and not primarily for the private benefit of a specific person or persons.

I arrived in the United States on _____ [insert the date of your last arrival into the United States before beginning the services for which the exemption is claimed]. The treaty exemption is available only for compensation paid during a period of two years beginning on that date.

Greece

I am a resident of Greece. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.

I am a professor or teacher visiting the United States for the purpose of teaching at _____ [insert the name of the other educational institution at which you teach], which is an educational institution. I will receive compensation for my teaching activities.

The teaching compensation received during the entire tax year (or during the period from _____ to _____) qualifies for exemption from withholding of federal tax under the tax treaty between the United States and Greece. I have not previously claimed an income tax exemption under that treaty for income received as a teacher or student before the date of my arrival in the United States.

I arrived in the United States on _____ [insert the date of your last arrival in the United States before beginning the teaching services for which exemption is claimed]. The treaty exemption is available only for compensation received during a period of three years beginning on that date.

Iceland and Norway

I was a resident of _____ [insert the name of the country under whose treaty you claim exemption] on the date of my arrival in the United States. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.

I have accepted an invitation by the U.S. government, or by a university or other recognized educational institution in the United States for a period not expected to exceed two years or the purpose of teaching or engaging in research at _____ [insert the name of the educational institution], which is a recognized educational institution. I will receive compensation for my teaching or research activities.

The teaching or research compensation qualifies for exemption from withholding of fed-

eral tax under the tax treaty between the United States and _____ [insert the name of the country under whose treaty you claim exemption]. I have not previously claimed an income tax exemption under this treaty for income received as a teacher, researcher, or student before the date of my arrival in the United States.

Any research I perform will not be undertaken primarily for the private benefit of a specific person or persons.

I arrived in the United States on _____ [insert the date of your last arrival in the United States before beginning the teaching or research services for which exemption is claimed]. The treaty exemption is available only for compensation received during a period of two years beginning on that date.

India

I was a resident of India on the date of my arrival in the United States. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.

I am visiting the United States for the purpose of teaching or conducting research at _____ [insert the name of the university, college, or other recognized educational institution]. I will receive compensation for my teaching or study activities.

The teaching or research compensation received during the entire tax year (or during the period from _____ to _____) for these activities qualifies for exemption from withholding of federal tax under the tax treaty between the United States and India.

Any research I perform will be undertaken in the public interest and not primarily for the private benefit of a specific person or persons.

I arrived in the United States on _____ [insert the date of your last arrival in the United States before beginning the services for which the exemption is claimed]. The treaty exemption is available only for compensation paid during a period of two years beginning on that date.

Indonesia

I was a resident of Indonesia on the date of my arrival in the United States. I am not a U.S. citizen. I have not been lawfully accorded the privilege of residing permanently in the United States as an immigrant.

I have accepted an invitation by _____ [insert the name of the university, college, school, or other similar educational institution] to come to the United

States solely for the purpose of teaching or engaging in research at that educational institution. I will receive compensation for my teaching or research activities.

The teaching or research compensation received during the entire tax year (or during the period from _____ to _____) qualifies for exemption from withholding of federal tax under the tax treaty between the United States and Indonesia. I have not previously claimed an income tax exemption under that treaty for income received as a teacher or researcher before the date specified in the next paragraph.

I arrived in the United States on _____ [insert the date of your arrival in the United States before beginning the teaching or research services for which the exemption is claimed]. The treaty exemption is available only for compensation paid during a period of two years beginning on that date.

Any research I perform will be undertaken in the public interest and not primarily for the private benefit of a specific person or persons.

Italy

I was a resident of Italy on the date of my arrival in the United States. I am not a U.S. citizen. I have not been accorded the privilege of residing permanently in the United States as an immigrant.

I am a professor or teacher visiting the United States for the purpose of teaching or performing research at _____ [insert the name of the educational institution or medical facility at which you teach or perform research], which is an educational institution or a medical facility primarily funded from governmental sources. I will receive compensation for my teaching or research activities.

The compensation received during the entire tax year (or during the period from _____ to _____) qualifies for exemption from withholding of federal tax under the tax treaty between the United States and Italy. I have not previously claimed an income tax exemption under that treaty for income received as a teacher, researcher, or student before the date of my arrival in the United States.

Any research I perform will be undertaken in the general interest and not primarily for the private benefit of a specific person or persons.

I arrived in the United States on _____ [insert the date of your last arrival in the United States before beginning the teaching or research services for which exemption is claimed]. The treaty exemption is available only

Index

A

American Samoa, residents of 10, 25
 Assistance (See Tax help)

C

Capital assets, sales or exchanges 18
 Casualty and theft losses 23
 Charitable contributions 23
 Comments 1
 Community income 12
 Contingent interest 13
 Credits against tax:
 Child care credit 24, 27
 Child tax credit 24, 25, 27
 Credit for the elderly 27
 Earned income credit 25
 Education credits 24, 25, 27
 Excess social security tax withheld 25
 Foreign tax credit 25, 27
 Hope credit 24, 25, 27
 Lifetime learning credit 24, 25, 27
 Regulated investment company credit 25
 Tax withheld at source 25
 Tax withheld on partnership income 25
 Withholding from wages 25

D

Dividends, U.S. source income 11
 Dual-status aliens 7
 Dual-status tax year:
 Child care credit 27
 Computation of tax 26
 Credit for the elderly 27
 Exemptions 26
 Foreign tax credit 27
 Forms to file 27
 Head of household 25
 Illustration of return 28
 Income subject to tax 26
 Joint return 26
 Residency ending date 7
 Residency starting date 7
 Restrictions 25
 Standard deduction 26
 Tax rates 26
 When and where to file 27

E

Effectively connected income:
 Foreign income 17
 Investment income 18
 Pensions 16
 Real property gain or loss 18
 Real property income choice 18
 Tax on 17
 Transportation income 16
 Estimated tax 41
 Exclusions from gross income:
 Annuities 14
 Compensation from a foreign employer 14
 Students and exchange visitors 14
 Treaty income 14, 41
 Exemptions:
 Dual-status taxpayer 25
 Indian students and business apprentices 22
 Nonresident alien 22

Resident alien 22
 Expatriates 19
 Expatriation tax 19

F

Filing requirements 33
 Filing returns:
 Amended returns 24
 Claims for refund 24
 Commonwealth of the Northern Mariana Islands 34
 Dual-status taxpayer 27
 Estimated tax 41
 Form 1040NR 20, 33
 Form 1040NR-EZ 20, 33
 Form 1040-C 46
 Form 2063 46
 Guam 24
 Nonresident alien 20
 Virgin Islands 24
 Who must file 23
 First-year choice 9
 Forms:
 1040NR 33
 1040NR-EZ 33
 1040-C 46
 1040-ES(NF) 41
 2083 46
 9840 7
 9843 6
 Free tax services 46

G

Green card test 3

H

Head of household:
 Nonresident alien 21
 Resident alien 21
 Help (See Tax help)

I

Identification number, taxpayer 20
 Income from U.S. sources:
 Dividends 11
 Interest 10
 Pensions and annuities 12
 Personal property 12
 Personal services 11
 Real property 12
 Rents or royalties 12
 Itemized deductions 23

J

Job expenses 23

M

Married, filing jointly:
 Nonresident alien 21
 Miscellaneous deductions 23
 More information (See Tax help)
 Moving expenses 22

N

National of the United States 21, 25, 35
 Nonresident alien:
 Annuity income 14
 Business expenses 21
 Casualty and theft losses 23

Charitable contributions 23
 Child care credit 24
 Child tax credit 25
 Credit for excess social security tax withheld 25
 Credit for income tax withheld 25
 Credit for prior year minimum tax 25
 Defined 0
 Earned income credit 25
 Education credits 25
 Effectively connected income, tax on 17
 Filing Form 1040NR 20
 Filing Form 1040NR-EZ 20
 Foreign tax credit 25
 Head of household 21
 How income is taxed 15
 Individual retirement arrangements 21
 Interest income 10
 Job expenses 23
 Losses 21
 Married filing jointly 21
 Married filing separately 21
 Miscellaneous deductions 23
 Moving expenses 22
 Personal exemptions 22
 Qualifying widower 21
 Regulated investment company credit 25
 Standard deduction 23
 State and local income taxes 23
 Tax withheld at source 25
 Travel expenses 24
 Withholding from partnership income 25
 Withholding tax 25
 Nonresident spouse 9

P

Pensions 16, 36
 Personal services 42
 Portfolio interest 13
 Publications (See Tax help)
 Puerto Rico, residents of 10, 25

R

Railroad retirement benefits 18, 27
 Real property income 18
 Rents, claims for 24
 Resident alien:
 Child tax credit 24
 Defined 3
 Education credits 24
 Head of household 21
 Married filing jointly 21
 Qualifying widower 21

S

Sailing permits, departing aliens:
 Aliens not requiring 45
 Some furnished insuring tax payment 45
 Form 206-C 46
 Form 2063 46
 Forms to file 46
 When to get 45
 Where to get 45
 Sales or exchanges, capital assets 18
 Scholarships and fellowships 14
 Self-employment tax 40

Social security benefits 18, 27
 Social security tax:
 Foreign students and exchange visitors 39
 International agreements 40
 Self-employment tax 40
 Treaty agreements 40
 Source of income 10
 Standard deduction 23
 State and local income taxes 23
 Students and business apprentices from 22, 23, 35, 37
 Substantial presence test 4
 Suggestions 1

T

Tax credits and payments:
 Nonresident aliens 24
 Resident aliens 24
 Tax help 45
 Tax treaties:
 Benefits 41, 42
 Capital gains 42
 Employees of foreign governments 42
 Exclusions from income 14
 Reporting benefits claimed 42
 Teachers and professors 42
 Trainees, students, and apprentices 42
 Taxpayer advocate 46
 Taxpayer identification number 20
 Trade or business, U.S. beneficiary of estate or trust 15
 Business operations 15
 Income from U.S. sources 15
 Partnerships 15
 Personal services 15
 Students and trainees 15
 Trading in stocks, securities, and commodities 15
 Transportation tax 19
 Travel expenses 24
 TVETDC information 45

U

U.S. national 21, 25, 35

W

What, when and where to file 33
 Who must file 33
 Withholding tax:
 Allowance for personal exemption 36
 Central withholding agreements 36
 Notification of alien status 35
 Pensions 36
 Puerto Rico residents of 37
 Real property sales 36
 Residents of Canada, Mexico, Japan, or Korea 37
 Scholarships and grants 37
 Social security taxes 35
 Tax treaty benefits 38
 To income 36
 U.S. nationals 37
 Virgin Islands, residents of 37
 Wages 35
 Withholding agreements 36
 Withholding from compensation 25

Tax Publications for Business Taxpayers

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

General Guides						
1	Your Rights as a Taxpayer	505	Tax Withholding and Estimated Tax	597	Information on the United States-Canada Income Tax Treaty	
17	Your Federal Income Tax (For Individuals)	510	Excise Taxes for 2001	598	Tax on Unrelated Business Income of Exempt Organizations	
334	Tax Guide for Small Business (For Individuals Who Use Schedule C or C-22)	515	Withholding of Tax on Nonresident Aliens and Foreign Corporations	686	Certification for Reduced Tax Rates in Tax Treaty Countries	
509	Tax Calendars for 2001	517	Social Security and Other Information for Members of the Clergy and Religious Workers	901	U.S. Tax Treaties	
553	Highlights of 2000 Tax Changes	327	Residential Rental Property	908	Bankruptcy Tax Guide	
910	Guide to Free Tax Services	533	Self-Employment Tax	911	Direct Sellers	
Employer's Guides			534	Depreciating Property Placed in Service Before 1987	925	Passive Activity and At-Risk Rules
15	Circular E, Employer's Tax Guide	535	Business Expenses	946	How To Depreciate Property	
15-A	Employer's Supplemental Tax Guide	536	Net Operating Losses (NOLs) for Individuals, Estates, and Trusts	947	Practice Before the IRS and Power of Attorney	
15-B	Employer's Tax Guide to Fringe Benefits	537	Installment Sales	954	Tax Incentives for Empowerment Zones and Other Distressed Communities	
51	Circular A, Agricultural Employer's Tax Guide	538	Accounting Periods and Methods	1544	Reporting Cash Payments of Over \$10,000	
80	Circular 55, Federal Tax Guide For Employers in the U.S., Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands	541	Partnerships	1546	The Taxpayer Advocate Service of the IRS	
179	Circular 22, Guia Contributiva Federal Para Patronos Puertorriqueños	542	Corporations	Spanish Language Publications		
926	Household Employer's Tax Guide	544	Sales and Other Dispositions of Assets	15P	Decrechos del Contribuyente	
Specialized Publications			551	Basis of Assets	579SP	Como Preparar a Declaracion de Impuesto Federal
225	Farmer's Tax Guide	556	Examination of Returns, Appeal Rights, and Claims for Refund	594SP	Comprendiendo el Proceso de Copro	
378	Fuel Tax Credits and Refunds	560	Retirement Plans for Small Business (SEP, SIMPLE, and Qualified Plans)	350	English-Spanish Glossary of Words and Phrases Used in Publications Issued by the Internal Revenue Service	
463	Travel, Entertainment, Gift, and Car Expenses	561	Determining the Value of Donated Property	1544SP	Informe de Pagos en Efectivo en Exceso de \$10,000 (Recibidos en una Ocupacion o Negocio)	
		583	Starting a Business and Keeping Records			
		587	Business Use of Your Home (Including Use by Day-Care Providers)			
		594	The IRS Collection Process			
		595	Tax Highlights for Commercial Fishermen			

Commonly Used Tax Forms

See *How To Get Tax Help* for a variety of ways to get forms, including by computer, fax, phone, and mail. Items with an asterisk are available by fax. For these orders only, use the catalog number when ordering.

Form Number and Title	Catalog Number	Form Number and Title	Catalog Number
W-2 Wage and Tax Statement	10134	1120S U.S. Income Tax Return for an S Corporation	11510
W-4 Employee's Withholding Allowance Certificate*	10220	Sch D Capital Gains and Losses and Built-In Gains	11516
940 Employer's Annual Federal Unemployment (FUTA) Tax Return*	11234	Sch K-1 Shareholder's Share of Income, Credits, Deductions, etc.	11520
940-EZ Employer's Annual Federal Unemployment (FUTA) Tax Return*	10983	2106 Employee Business Expenses*	11700
941 Employer's Quarterly Federal Tax Return	17001	2106-EZ Unreimbursed Employee Business Expenses*	20604
1040 U.S. Individual Income Tax Return*	11320	2210 Underpayment of Estimated Tax by Individuals, Estates, and Trusts*	11744
Sch A & B Itemized Deductions & Interest and Ordinary Dividends*	11330	2441 Child and Dependent Care Expenses*	11862
Sch C Profit or Loss From Business*	11334	2948 Power of Attorney and Declaration of Representative*	11980
Sch C-EZ Net Profit From Business*	14274	3300 General Business Credit	12392
Sch D Capital Gains and Losses*	11338	3903 Moving Expenses*	12490
Sch D-1 Continuation Sheet for Schedule D	10424	4562 Depreciation and Amortization*	12906
Sch E Supplemental Income and Loss*	11344	4797 Sales of Business Property*	13086
Sch F Profit or Loss From Farming*	11346	4863 Application for Automatic Extension of Time To File U.S. Individual Income Tax Return*	13141
Sch H Household Employment Taxes*	12197	5329 Additional Taxes Attributable to IRAs, Other Qualified Retirement Plans, Annuities, Modified Endowment Contracts, and MSAs*	13329
Sch J Farm Income Averaging*	25513	6252 Installment Sale Income*	13601
Sch R Credit for the Elderly or the Disabled*	11359	8283 Noncash Charitable Contributions*	62299
Sch SE Self-Employment Tax*	11368	8300 Report of Cash Payments Over \$10,000 Received in a Trade or Business*	62133
1040-ES Estimated Tax for Individuals*	11340	8582 Passive Activity Loss Limitations*	63704
1040X Amended U.S. Individual Income Tax Return*	11360	8606 Nondeductible IRAs*	63966
1065 U.S. Return of Partnership Income	11390	8822 Change of Address*	12081
Sch D Capital Gains and Losses	11393	8829 Expenses for Business Use of Your Home*	13232
Sch K-1 Partner's Share of Income, Credits, Deductions, etc.	11394		
1120 U.S. Corporation Income Tax Return	11450		
1120-A U.S. Corporation Short-Form Income Tax Return	11456		

The Alien Individual Income Tax in Taiwan

Introduction

Source rule

The individual income tax adopts the territorial approach. Only the income sourced in Taiwan is subject to the individual income tax. Even though the territorial taxation may invite tax avoidance through the moving of income offshore, this approach is most appropriate under existing status of Taiwan. Due to the political tension, Taiwan is not able to sign tax treaties with most of our trading countries. Therefore, without the exchange of information, our government does not have auditing capacity to detect the foreign source income. Therefore, the territorial approach is more administrable and even more equitable.

"The income from sources in Taiwan" is specifically defined in Article 8 of the income tax law. It includes eleven categories and defines respectively what constitute the Taiwan source income.

Resident and Non-resident

In Taiwan, the alien taxpayers are divided into "residents" and "non-residents" based on the length of stay in a taxable year.

According to Article 7 of Income Tax Law, resident is (1) A person who has domicile within Taiwan and resides at all times within Taiwan; (2) A person who has no domicile within Taiwan but resides with Taiwan for a period of more than 183 days during a taxable year. Non-resident is an individual other than those as provided in the preceding paragraph.

Taxation on resident and nonresident

Residents should file the individual income tax return. It is assessed by a progressive rate (from 6% to 40%) on the net consolidated income, which is the annual gross consolidated income minus the exemptions and deductions.

The income of nonresidents is taxed on a flat-rate basis. Usually, the tax is collected by the final withholding from the respective source. However, if nonresidents have the Taiwan sourced income not subject to the withholding, they are required to declare their income.

Enclosed is the summary of ways for aliens to file income tax returns and the withholding rate on different source of income for nonresident.

Problems and Proposals

Problem on resident and Nonresident

To determine the status of resident or nonresident for tax purpose is based solely on the 183 physical present rules. In practice, it seems fine until the following two big disputes happened recently.

The first dispute is arising from the foreign workers. Due to the labor shortage in Taiwan, the government allows the manufacturers and the family to import the labors and caretakers, mostly from Philippine, Thailand, Indonesia and Vietnam. There are approximately 300,000 legal foreign workers currently in Taiwan. Most of them receive the minimum wages regulated by government, which are approximately 6,500 US dollars per year. The tax status of resident and nonresident becomes a big issue for them. Since the resident worker is taxed on their net consolidated income that is after deducting the exemption and deduction, they pay only little tax or no tax at all. However, the nonresident workers must pay 20% of their gross salary to Taiwan government. Here is an extreme example:

For year 2000	Caretaker A	Caretaker B
Arriving Date	July 1, 2000	July 2, 2000
Physical Present days	183 days	182 days
Status	Resident	Nonresident
Gross Salary (NT\$)	95300	94780
Exemption and deduction	193000	None
Tax Due	0	18956 (94780*20%)

Therefore, it is the high tax burden for the low-wage nonresident.

The second dispute is arising from the foreign pilots in China Airline. Due to the shortage of the pilots in Taiwan, China Airline hires the experienced pilots from overseas. Since their wages are paid and born by China Airline, all the payments these pilots received from China Airline are subject to the income tax. However, including the flight time (the airplane owned by China Airline is in the territory of Taiwan), usually they do not stay in Taiwan for more than 183 days in a taxable year because their training is held overseas and they return home country when there is no duty. Therefore, all their annual income is Taiwan source income, but they are taxed as the nonresident.

Proposal

Even though most countries adopt the moving 12-month test, I don't think it fits Taiwan because it may delay the filing and complicate the administration. Under 12-month test, an alien cannot determine his residence at the time of filing income tax return that may result in the delay of the filing or the revise of the return afterwards.

The later the aliens can file the income tax return, the harder the tax administration can trace them because they leave Taiwan and not come back again.

I think the better way is to include the alien who holds the valid Alien Resident Certificate (ARC) into the definition of resident. In order to legally stay in Taiwan for employment or work, the aliens must hold the Alien Resident Certificate. ARC is the certificate of "residence" for aliens staying in Taiwan and is issued by the local police headquarters after strict evaluation. Therefore, this certificate could be a good indicator for the resident status. With respect to aliens without ARC, the test of 183 days still can apply.

The disadvantage of including the ARC holder is that it will result in the dual status in the same taxable year. An alien can be a resident for part of the year and nonresident for part of the year for tax purposes. However, I think it is manageable by apportioning the exemption and deductions when an alien is a resident for part of the year.

Problem on income not subject to withholding tax

The compliance is low on the filing income tax returns regarding the income not subject to withholding tax. Usually it happened when the payer is an individual Taiwanese who is not responsible for withholding tax from the source. For examples, a foreigner sells his house located in Taiwan to an individual or rents his property in Taiwan to an individual. If the foreigners fail to file the income tax return, there will be no tax collected. The administrative cost is high because the auditing by the tax administrator is behind the filing year and the foreigners usually have left Taiwan at that time. Even when the tax administration can execute against the immovable property, the process of executing the property is complicated and lengthy.

Proposal

One of the reasons that the aliens fail to file the income tax return is that they don't understand the tax system in Taiwan and don't even know their tax liability. Therefore, the taxpayer education should be enhanced. Especially for the rental income, it is impossible to target the individual tenant as a withholding, so the tax administration should inform the foreign landlord their tax liability. For example, in Taiwan, most of the rental contracts are certified by the courts to protect the rights of the landlords and the tenants. The copies of the certified documents in courts are the source information from which the tax administrations trace the unreported rental income. Therefore, the tax administration may coordinate with the court to put the wording like "the rental income must be reported in the income tax return and the penalty will be imposed if fail to file" on the original certified contract to remind the tax responsibility of the landlords. For the property transactions, it is more possible to

Problem on fringe benefit

The company in Taiwan has incentive to provide the high cost of the accommodation, car and security because these payments not only are exempted income for expatriated employees but also can be claimed as the business deduction for their corporate income tax. Therefore, the taxable wages of the expatriate employee will be relatively lower.

Proposal

As mentioned by Vann, the exemption can be limited to a percentage of the expatriate employee's income before the exemption is applied. This bright line rule can limit abuse and easily apply. The reasonable exemption percentage will relieve the extra cost occurred by the expatriate and won't discourage the skilled foreigners' coming.

Note 1 : Article 8 of Income Tax Law

The term "income from sources in the Republic of China" used in this Law refers to income of the following categories:

1. Dividends distributed by companies incorporated and registered in accordance with the Company Law of the Republic of China and by foreign companies authorized by the government of the Republic of China to operate within the territory of the Republic of China;
2. Profits distributed by profit-seeking enterprises organized in the form of a cooperative or a partnership within the territory of the Republic of China;
3. Remuneration for services rendered within the territory of the Republic of China, provided that this shall not apply to remuneration obtained from an employer without the territory of the Republic of China by an individual not residing in the Republic of China but staying in the Republic of China for a period of not more than ninety days during a taxable year;
4. Interest obtained from governments of various levels of the Republic of China, from juristic persons within the territory of the Republic of China and from individuals residing in the Republic of China;
5. Rental obtained from lease of property situated within the territory of the Republic of China;
6. Royalty obtained from patents, trademarks, copyrights, secret formulas and franchises by virtue of their being made available for use by other persons within the territory of the Republic of China;
7. Profits from the transaction of properties within the territory of the Republic of China;
8. Remuneration for services performed by personnel sent abroad by the government of the Republic of China on overseas missions and for services rendered abroad by employees in general,
9. Profits from operation of industry, commerce, agriculture, forestry,

Note 2 : The Alien Individual Income Tax in Taiwan

Tax Status	Length of stay in a taxable year	Taiwan source income	How to pay the income tax
Nonresident	< = 90 days	1. Income subject to withholding tax	Final withholding from the respective source.
		2. Income not subject to withholding tax	1. Filing the income tax return. 2. The income is taxed on a gross basis according to withholding rate.
		3. Income paid abroad	The income is exempted.
Resident	90 < days < 183	1. Income subject to withholding tax	Final withholding from the respective source. ;
		2. Income not subject to withholding tax	1. Filing the income tax return 2. The income is taxed on a gross basis according to withholding rate.
		3. Income paid abroad	1. Filing the income tax return. 2. The tax is based on the net consolidated income by a progressive tax rate (6% to 40%). 3. The net consolidated income is the annual gross income minus the exemptions and deductions.
Resident	> = 183 days	1. Income subject to withholding tax	1. Filing the income tax return.
		2. Income not subject to withholding tax	2. The tax is based on the net consolidated income by a progressive tax rate (6% to 40%).
		3. Income paid abroad	3. The net consolidated income is the annual gross income minus the exemptions and deductions.

Note 3 - Withholding Rates

Guide to ROC Taxes 2000

Type of Income	Withholding Rates	
	Resident	Non-resident
Dividends distributed by companies & profit cooperatives		(1) 30% (2) 20% if the investment was approved under the Statute for Investment by Foreign Nationals or the Statute for Investment by Overseas Chinese
Profits paid to partners or to the owner of a sole proprietorship		(1) 30%; (2) 20% if the investment was approved under the Statute for Investment by Foreign Nationals or the Statute for Investment by Overseas Chinese
Wages & Salaries	10%; or withheld in accordance with the Regulations Governing the Withholding of Wages	20%
Commission	10%	20%
Interest	(1) 10% (2) 20%, taxed separately from ordinary income, on interest from short-term commercial papers	20%
Rental	10%	20%
Royalties	15%	20%
Income from professional practice	10%	20%
Awards or prizes Awards or prizes participating in contests, games, or lotteries, etc	(1) 15% (2) 20% to be taxed separately for a prize separately for a prize received from lotteries sponsored by the government if the prize exceeds NT\$2,000 per ticket	(1) 20%; (2) 0% if the prize is received from lotteries sponsored by the government and below NT\$2,000 per ticket
Income from the payments for retirement, severance, etc.	6% to be taxed on the excess amounts prescribed by the Income Tax Law	20% excess amounts prescribed by the Income Tax Law
Other income	—	20%