

UNIVERSITY OF SOUTH FLORIDA

TAX GUIDE FOR FOREIGN STAFF AND STUDENTS

The purpose of this guide is to inform foreign students, faculty and staff of the rules that University of South Florida (USF) operates under, based on the tax and immigration laws of the United States.

No USF employee can act as a tax consultant, give personal tax advice, or represent an individual dealing with the IRS while in their official role at University of South Florida. Please note that the context of the terms resident and nonresident as used in this document refer to taxation status, NOT immigration status.

This document is intended to provide guidance that will assist foreign visitors and University personnel in making the correct decisions concerning the tax implications of payments received from USF.

Users of this guide should be aware of limitations on this information. This is not a complete guide for all tax questions or an official University statement as to the subject matter.

Each year, tax return preparation assistance is provided to foreign visitors by the USF Office of International Services during the months of February – April. An email will be sent to each Foreign National Student with information and schedule of tax workshops. For more information visit [USF World Webpage](#)

Foreign students, faculty and staff with personal tax questions are advised to seek assistance from the Internal Revenue Service (IRS) or a tax professional. In the United States, the individual taxpayer is responsible for filing an appropriate and accurate tax return and negotiating all tax matters with the IRS. Taxpayer assistance is available from your local IRS office or by calling the IRS toll free taxpayer assistance number, 1-800-829-1040. For address of local IRS office near the University of South Florida campus, see [Contact Your Local Office](#) on the IRS website.

A “foreign national” is a person not born in the United States. A “Nonresident Alien” for Immigration purposes is a foreign national who is in the U. S. on a Visa or Visa Waiver. A “Nonresident Alien” for Tax Purposes is a specific class of foreign national visa holder with specific tax returns, withholding requirements and tax characteristics. “Nonresident Alien” is the term used in the Internal Revenue Code and Regulations and will be used in this discussion, along with its abbreviated form: ‘NRA’.

The information in this guide is based on Internal Revenue Service (IRS) [Publication 519](#), U.S. Tax Guide for Aliens. All references can and should be further researched by each individual by visiting the IRS website at www.irs.gov. Page references below correlate with IRS Pub. 519.

Chapter 1. Nonresident Alien or Resident Alien.....pg. 3

Introduction

You should first determine whether, for income tax purposes, you are a nonresident alien or a 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.

Chapter 2. Source of Income.....pg. 10

Introduction

After you have determined your alien status, you must determine the source of your income. This chapter will help you determine the source of different types of income you may receive during the tax year.

Topics this chapter discusses:

- Income source rules, and
- Community income. This chapter also discusses special rules for married individuals who are domiciled in a country with community property laws.

Chapter 3. Exclusions from Gross Income.....pg. 14

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

Chapter 4. How Income of Aliens Is Taxed.....pg. 17

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 discussions 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
- Income that is not effectively connected with a U.S. trade or business
- Interrupted period of residence, and
- Expatriation tax.

Chapter 5. Figuring Your Tax.....pg. 24

Introduction

After you have determined your alien status, the source of your income, and if and how that income is taxed in the United States, your next step is to figure your tax. The information in this chapter is not as comprehensive for resident aliens as it is for nonresident aliens. Resident aliens should get publications, forms, and instructions for U.S. citizens, because the information for filing returns for resident aliens generally is the same as for U.S. citizens.

If you are both a nonresident alien and a resident alien in the same tax year, see chapter 6 for a discussion of dual-status aliens.

Topics this chapter discusses:

- Identification numbers
- Filing status
- Deductions
- Exemptions
- Tax credits and payments, and
- Special rules for bona fide residents of American Samoa and Puerto Rico.

Chapter 6. Dual-Status Tax Year.....pg. 31

Introduction

You have a dual-status tax year when you have been both a resident alien and a nonresident alien in the same year. Dual status does not refer to your citizenship; it refers only to your resident status in the United States. In determining your U.S. income tax liability for a dual-status tax year, different rules apply for the part of the year you are a resident of the United States and the part of the year you are a nonresident. The most common dual-status tax years are the years of arrival and departure. See Dual-Status Aliens in chapter 1. If you are married and choose to be a nonresident spouse treated as a resident, as explained in chapter 1, the rules of this chapter do not apply to you for that year.

Topics this chapter discusses:

- Income subject to tax
- Restrictions for dual-status taxpayers
- How to figure the tax
- Forms to file
- When and where to file, and
- How to fill out a dual-status return.

Chapter 7. Filing Information.....pg. 33

Introduction

This chapter provides the basic filing information that you may need.

Topics this chapter discusses:

- Forms aliens must file (1040-NR-EZ – pg. 34)
- When and where to file
- Penalties, and
- Amended returns and claims for refund.

Chapter 8. Paying Tax Through Withholding or Estimated Tax.....pg. 37

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 also may 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
- Independent Contractors – pg. 39
- Withholding on Scholarships and Fellowship Grants –pg. 40
- Income Entitled to Tax Treaty Benefits –pg. 40

Chapter 9. Tax Treaty Benefits.....pg. 44

Introduction

A nonresident alien (and certain resident aliens) from a country with which the United States has an income tax treaty may qualify for certain benefits. Most treaties require that the nonresident alien be a resident of the treaty country to qualify in the year the benefit is claimed. However, in the case of certain students, trainees, teachers or researchers, some treaties only require the nonresident alien to be a resident of the treaty country immediately prior to coming to the United States. Tax treaties tables are available to you to review.

You can access the texts of recently signed U.S. income tax treaties, protocols, and tax information exchange agreements (TIEAs) and the accompanying Treasury Department tax treaty technical explanations as they become publicly available, as well as the U.S. Model Income Tax Convention, at Treasury.gov/resource-center/tax-policy/treaties/Pages/treaties.aspx. Note that treaty and TIEA documents are posted on this site after signature and before ratification and entry into force. The full text of individual tax treaties is also available at [Treaties A to Z](#). For more information about tax treaties, see [Tax Treaties](#). You generally can arrange to have withholding tax reduced or eliminated on wages and other income that are eligible for tax treaty benefits. See Income Entitled to Tax Treaty Benefits in chapter 8.

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.
- Tax Treaty Exemption Procedure for Students - Appendix A—Pg. 56 – 64

Chapter 10. Employees of Foreign Governments and International Organizations.....pg. 47

Introduction

Employees of foreign governments (including foreign political subdivisions) may be able to exempt their foreign government wages from U.S. income tax. If they satisfy the requirements.

Chapter 11. Departing Aliens and the Sailing or Departure Permit.....pg. 49

Introduction

Before leaving the United States, all aliens (except those listed under Aliens Not Required To Obtain Sailing or Departure Permits) must obtain a certificate of compliance. This document, also popularly known as the sailing permit or departure permit, is part of the income tax form you must file before leaving. You will receive a sailing or departure permit after filing a Form 1040-C or Form 2063. These forms are discussed in this chapter. 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.

Chapter 12. How To Get Tax Help.....pg. 51

Table A. Where To Find What You Need To Know About U.S. Taxes

Commonly Asked Questions	Where To Find The Answer
Am I a nonresident alien or resident alien?	See chapter 1 .
Can I be a nonresident alien and a resident alien in the same year?	<ul style="list-style-type: none"> • See Dual-Status Aliens in chapter 1. • See chapter 6.
I am a resident alien and my spouse is a nonresident alien. Are there special rules for us?	<ul style="list-style-type: none"> • See Nonresident Spouse Treated as a Resident in chapter 1. • See Community Income in chapter 2.
Is all my income subject to U.S. tax?	<ul style="list-style-type: none"> • See chapter 2. • See chapter 3.
Is my scholarship subject to U.S. tax?	<ul style="list-style-type: none"> • See Scholarships, Grants, Prizes, and Awards in chapter 2. • See Scholarships and Fellowship Grants in chapter 3. • See chapter 9.
What is the tax rate on my income subject to U.S. tax?	See chapter 4 .
I moved to the United States this year. Can I deduct my moving expenses on my U.S. return?	See Deductions in chapter 5.
Can I claim my spouse and/or children as dependents?	See Dependents in chapter 5.
I pay income taxes to my home country. Can I get credit for these taxes on my U.S. tax return?	See Tax Credits and Payments in chapter 5.
What forms must I file and when and where do I file them?	See chapter 7 .
How should I pay my U.S. income taxes?	See chapter 8 .
Am I eligible for any benefits under a tax treaty?	<ul style="list-style-type: none"> • See Income Entitled to Tax Treaty Benefits in chapter 8. • See chapter 9.
Are employees of foreign governments and international organizations exempt from U.S. tax?	See chapter 10 .
Is there anything special I have to do before leaving the United States?	<ul style="list-style-type: none"> • See chapter 11. • See Expatriation Tax in chapter 4.

ADDITIONAL TAX INFORMATION (not from IRS Publication 519)

FICA (Federal Insurance Contribution Act) is a tax that is assessed against the employee wages of individuals who are *Residents* for income tax purposes. FICA is divided into two components: **Social Security** and **Medicare**. The Social Security portion of FICA is generally 6.2% of gross wages; the Medicare portion is 1.45% of gross wages. These taxes are withheld and paid by the University each payroll cycle. *Nonresident* aliens in F, J, M or Q status are exempt from this tax under specific conditions.

H-1B – Employers must withhold FICA taxes from Aliens who change Visa Status to H-1B. For FICA (social security and Medicare) and FUTA taxes, an H-1B employee is treated the same as a U.S. citizen when providing services to a U.S. employer within the United States. See IRS webpage for [Withholding FICA for Changes to H-1B](#).

Student FICA Exception - Services in the employ of certain public or private nonprofit schools, colleges, or universities, or affiliated organizations described in Section 509(a)(3) of the Code performed by a student qualify for the exception from FICA tax provided under IRC Section 3121(b)(10). See IRS webpage for [Student FICA exception](#).

Independent Contractor and Honoraria Payments (specific to USF)

- 1) **Independent Contractor** – Contractual payments to individuals who are not under the direction or control of the university, its faculty, or staff in regard to the means and methods used to perform services for the university. The USF Department and the Contractor must work together to accurately complete the “Consulting and Professional Services Worksheet” which must be approved before traveling to the United States and prior to making payment. Both Departments and Contractors should refer to the Instructions when completing the worksheet. Both the worksheet and instructions can be found on [USF Purchasing website](#).

Independent contractor payments can only be made to foreign visitors who have been granted the appropriate authorization and Visa status by the USCIS to allow them to be compensated for services in the U.S.

- 2) **Honoraria Payments** –
 - a. For U.S. citizens - Defined as a gratuitous payment to a person as a token of appreciation for participation in an academic activity such as a lecture, teaching, or performance for which no fee is legally required. University departments should not complete the Consulting and Professional Services worksheet when processing an honorarium payment.
 - b. Payments to non-resident aliens - Must be reviewed by the Payroll Department before being submitted to Accounts Payable. For honoraria payments to non-resident aliens:
 - i. The foreign visitor must not be under the direction or control of the University, its faculty, or staff in regard to the means and methods used to perform services for the University.
 - ii. The service or task being performed is of short duration (less than nine days*) and will not result in the foreign visitor entering a long-term working relationship with the University.
 - iii. A written agreement (invitation letter) exists that identifies the services that are to be performed and what payments the university will provide (airfare, lodging, honorarium, etc.).

*** Honorarium Rule (9/5/6 Rule)**

Foreign nationals arriving in the United States in B-1, B-2, VWB, and VWT status may accept an honorarium and/or reimbursement of travel expenses under the following conditions:

- For “usual academic activity or activities”
- **9** days or less at USF
- The individual has accepted such payment from no more than **5** educational or research institutions (including USF) within the previous **6**-month period.

Frequently Asked Questions

This section answers tax-related questions commonly asked by aliens.

What is the difference between a resident alien and a nonresident alien for tax purposes?

For tax purposes, an alien is an individual who is not a U.S. citizen. Aliens are classified as resident aliens and nonresident aliens. Resident aliens are taxed on their worldwide income, the same as U.S. citizens. Nonresident aliens are taxed only on their U.S. source income and certain foreign source income that is effectively connected with a U.S. trade or business.

What is the difference between the taxation of income that is effectively connected with a trade or business in the United States and income that is not effectively connected with a trade or business in the United States?

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.

I am a student with an F-1 visa. I was told that I was an exempt individual. Does this mean I am exempt from paying U.S. tax?

The term "exempt individual" does not refer to someone exempt from U.S. tax. You were referred to as an exempt individual because as a student temporarily in the United States on an F visa, you do not have to count the days you were present in the United States as a student during the first 5 years in determining if you are a resident alien under the [substantial presence test](#). See chapter 1.

I am a resident alien. Can I claim any treaty benefits?

Generally, you cannot claim tax treaty benefits as a resident alien. However, there are exceptions. See [Effect of Tax Treaties](#) in chapter 1. See also [Resident Aliens](#) under [Some Typical Tax Treaty Benefits](#) in chapter 9.

I am a nonresident alien with no dependents. I am working temporarily for a U.S. company. What return do I file?

You must file Form 1040-NR if you are engaged in a trade or business in the United States, or have any other U.S. source income on which tax was not fully paid by the amount withheld.

You can use Form 1040-NR-EZ instead of Form 1040-NR if you meet all 11 conditions listed under [Form 1040-NR-EZ](#) in chapter 7.

I came to the United States on June 30th of last year. I have an H-1B visa. What is my tax status, resident alien or nonresident alien? What tax return do I file?

You were a dual-status alien last year. As a general rule, because you were in the United States for 183 days or more, you have met the substantial presence test and you are taxed as a resident. However, for the part of the year that you were not present in the United States, you are a nonresident. File Form 1040 or 1040-SR. Print "Dual-Status Return" across the top. Attach a statement showing your U.S. source income for the part of the year you were a nonresident. You may use Form 1040-NR as the statement. Print "Dual-Status Statement" across the top. See [First Year of Residency](#) in chapter 1 for rules on determining your residency starting date.

When is my Form 1040-NR due?

If you are an employee and you receive wages subject to U.S. income tax withholding, you generally must file by the 15th day of the 4th month after your tax year ends. If you file for the 2019 calendar year, your return is due April 15, 2020.

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 8th month after your tax year ends. For the 2019 calendar year, file your return by June 15, 2020. For more information on [when to file](#) and [where to file](#), see chapter 7.

My spouse is a nonresident alien. Does he need a social security number?

A social security number (SSN) must be furnished on returns, statements, and other tax-related documents. If your spouse does not have and is not eligible to get an SSN, he must apply for an individual taxpayer identification number (ITIN).

If you are a U.S. citizen or resident and you choose to treat your nonresident spouse as a resident and file a joint tax return, your nonresident spouse needs an SSN or an ITIN. Alien spouses who are claimed as dependents also are required to furnish an SSN or an ITIN.

See [Identification Number](#) in chapter 5 for more information.

I am a nonresident alien. Can I file a joint return with my spouse?

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 this choice, see [Nonresident Spouse Treated as a Resident](#) in chapter 1.

I have an H-1B visa and my husband has an F-1 visa. We both lived in the United States all of last year and had income. What kind of form should we file? Do we file separate returns or a joint return?

Assuming both of you had these visas for all of last year, you are a resident alien. Your husband is a nonresident alien if he has not been in the United States as a student for more than 5 years. You and your husband can file a joint tax return on Form 1040 or 1040-SR if he makes the choice to be treated as a resident for the entire year. See [Nonresident Spouse Treated as a Resident](#) in chapter 1. If your husband does not make this choice, you must file a separate return on Form 1040 or 1040-SR. Your husband must file Form 1040-NR or 1040-NR-EZ.

Is a "dual-resident taxpayer" the same as a "dual-status taxpayer"?

No. A dual-resident taxpayer is one who is a resident of both the United

States and another country under each country's tax laws. See [Effect of Tax Treaties](#) in chapter 1. You are a [dual-status alien](#) when you are both a resident alien and a nonresident alien in the same year. See chapter 6.

I am a nonresident alien and invested money in the U.S. stock market through a U.S. brokerage company. Are the dividends and the capital gains taxable? If yes, how are they taxed?

The following rules apply if the dividends and capital gains are not effectively connected with a U.S. trade or business.

- Capital gains are generally not taxable if you were in the United States for less than 183 days during the year. See [Sales or Exchanges of Capital Assets](#) in chapter 4 for more information and exceptions.
- Dividends are generally taxed at a 30% (or lower treaty) rate. The brokerage company or payer of the dividends should withhold this tax at source. If tax is not withheld at the correct rate, you must file Form 1040-NR to receive a refund or pay any additional tax due.

If the capital gains and dividends are effectively connected with a U.S. trade or business, they are taxed according to the same rules and at the same rates that apply to U.S. citizens and residents.

I am a nonresident alien. I receive U.S. social security benefits. Are my benefits taxable?

If you are a nonresident alien, 85% 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.

Do I have to pay taxes on my scholarship?

If you are a nonresident alien and the scholarship is not from U.S. sources, it is not subject to U.S. tax. See [Scholarships, Grants, Prizes, and Awards](#) in chapter 2 to determine whether your scholarship is from U.S. sources.

If your scholarship is from U.S. sources or you are a resident alien,

- If you are a candidate for a degree, you may be able to exclude from your income the part of the scholarship you use to pay for tuition, fees, books, supplies, and equipment required by the educational institution. However, the part of the scholarship you use to pay for other expenses, such as room and board, is taxable. See [Scholarships and Fellowship Grants](#) in chapter 3 for more information.
- If you are not a candidate for a degree, your scholarship is taxable.

I am a nonresident alien. Can I claim the standard deduction?

Nonresident aliens cannot claim the standard deduction. However, see [Students and business apprentices from India](#), under [Itemized Deductions](#) in chapter 5 for an exception.

I am a dual-status taxpayer. Can I claim the standard deduction?

You cannot claim the standard deduction allowed on Form 1040 or 1040-SR. However, you can itemize any allowable 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. See [Itemized Deductions](#) in chapter 5.

I am single with a dependent child. I was a dual-status alien in 2019. Can I claim the earned income credit on my 2019 tax return?

If you are a nonresident alien for any part of the year, you cannot claim the earned income credit. See chapter 6 for more information on [dual-status aliens](#).

I am a nonresident alien student. Can I claim an education credit on my Form 1040-NR?

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, you

as [an alien](#) in chapter 1.

I am a nonresident alien, temporarily working in the U.S. under a J visa. Am I subject to social security and Medicare taxes?

Generally, services you perform 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 you perform the services to carry out the purpose for which you were admitted to the United States. See [Social Security and Medicare Taxes](#) in chapter 8.

I am a nonresident alien student. Social security taxes were withheld from my pay in error. How do I get a refund of these taxes?

If social security or Medicare taxes were withheld in error from pay that is not subject to these taxes, contact the employer who withheld the taxes for a refund. If you are unable to get a full refund of the amount from your employer, file a claim for refund with the IRS on Form 843. Do not use Form 843 to request a

[refund](#) in chapter 8.

I am an alien who will be leaving the United States. What forms do I have to file before I leave?

Before leaving the United States, aliens generally must obtain a certificate of compliance. This document, also popularly known as the sailing permit or departure permit, is part of the income tax form you must file before leaving. You will receive a sailing or departure permit after filing a [Form 1040-C](#) or [Form 8063](#). These forms are discussed in chapter 11.

I filed a Form 1040-C when I left the United States. Do I still have to file an annual U.S. tax return?

Form 1040-C is not an annual U.S. income tax return. If an income tax return is required by law, you must file that return even though you already filed a Form 1040-C. Chapters 5 and 7 discuss filing an annual U.S. income tax return.

HELPFUL LINKS:

Payroll and Tax Services

<https://www.usf.edu/business-finance/controller/payroll/payrollnra.aspx>

On-Campus Employment - Office of International Services

<https://www.usf.edu/world/international-services/employment/on-campus-employment/index.aspx>

USF World tax info

<https://www.usf.edu/world/international-services/immigration/taxes.aspx>

IRS Tax forms, instructions and publications

www.irs.gov/forms-instructions