

Tax filing requirements: International students

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Questions and Answers

- What is your U.S. tax status?
- What are your federal filing requirements?
- What are your California filing requirements?
- Are there any other filing requirements?

What is my filing status in the U.S.?

- U.S. citizens and U.S. residents are taxed the same:
 - Taxed on worldwide income
- Non-resident aliens are taxed differently:
 - Only on U.S. source income

When do I become a U.S. resident?

- Anyone with a “green card” is a U.S. resident
- Anyone passing the “substantial presence test” is a U.S. resident
 - You were in the U.S. 31 days in 2013, and
 - You were in the U.S. for 183 days counting,
 - All the days present in 2013
 - 1/3 of the days present in 2012
 - 1/6 of the days present in 2011
- But don't count “exempt” days

Do my days in the U.S. as a student count towards residency?

- Exempt days. Don't count:
 - Commuter days from Canada or Mexico
 - Less than 24 hours in the U.S. while in transit
 - Days you are exempt as a student
 - Includes “F”, “J”, “M” and “Q” visas

Okay, I'm a non-resident alien. Now what do I do?

- Decide whether you need to file a Form 1040NR

Do I need to file Form 1040NR for 2013?

- Not *if*:
 - Your U.S. source **wages** are less than \$3,900¹,
and
 - You are not excluding income under a tax treaty,
and
 - You have no other **taxable** U.S. source income,
and
 - You do not need a refund of taxes withheld during
the year

¹IRS Notice 2005-77

Tax-free income for a non-resident alien

- Interest income from
 - A U.S. bank
 - A U.S. savings & loan institution
 - A U.S. credit union
 - A U.S. insurance company
- Assuming the interest is not effectively connected with a trade or business

Tax free scholarships

- Non-U.S. source scholarships are not taxable
- U.S. source scholarships must be *true scholarships* (not a disguised payment for services) to be non-taxable
- U.S. source scholarships must be spent on tuition, books, and required fees and supplies to be non-taxable

Capital gains (stock investments)

- Subject to 30% tax (withheld at sale) on all sales if:
 - Your “tax home” is in the U.S. (i.e., you intend to reside in the U.S. more than 1 year), **and**
 - You are physically present in the U.S. for at least 183 days during the year (even if on a student visa)
 - Disclose on the 1040NR (but separately taxed at 30%)

Why is \$3,900 the limit for wages?

- In 2013, everyone gets a \$3,900 deduction as a “personal exemption” for themselves
 - **But** not if you can be claimed as a tax dependent on a U.S. tax return by someone else

What if I am married or have dependents?

- You might get additional \$3,900 exemptions for your spouse and dependents if you are:
 - A resident of Mexico or Canada
 - A resident of South Korea
 - A student from India
 - See page 27 of IRS Publication 519

Don't I also get a "standard deduction"?

- No, unless you are a student from India
- See page 28 IRS Publication 519

File 1040 NR-EZ or Form 1040 NR?

- Use 1040 NR-EZ only if:
 - Your only income is **wages, state tax refund, scholarships/grants, non-taxable interest or dividends.**
 - You do not claim dependent or spouse exemptions
 - You are not claimed as a dependent
 - Taxable income is less than \$100,000
 - No itemized deductions other than state income taxes
 - See instructions for 1040 NR EZ

Do I need to file a California tax return?

- Are you a resident of California?
 - In California for other than a temporary or transitory purpose
- Residents are taxed in California on their worldwide income
- Non-residents are taxed only on California source income
- See [FTB Publication 1031](#)

Okay, I'm a non-resident of California, do I need to file a California tax return?

- Maybe:
 - If you have wages, interest, or other income from a California source, and
 - This income is over \$15,702 for 2013 (for single); \$31,406 (if married filing jointly)
 - See FTB Tax Booklet for 540NR
 - “Do I have to File?”
 - For special situations (dependents, etc.) see FTB Pub. 1031.

Do I use the California long or short form?

- Use the *short form* only if:
 - Your income is only from wages, taxable interest, non-taxable scholarships/grants, and
 - You have no itemized deductions, and
 - You have no tax credits other than the renter's credit

What other forms do I need to file?

- Form 8843
 - This form allows you to exclude the days you are in the U.S. from the “substantial presence test” if you are in the U.S. on a student visa
 - See Form 8843

What other forms do I need to file?

- Form 843

- This form allows you to claim a refund for Social Security and Medicare taxes erroneously deducted from your wages
- See Form 843

First, ask the employer to correct the overpayment and refund the taxes to you

Where can I get forms and publications?

- Federal: IRS website
- <http://www.irs.gov/formspubs/index.html>

- California: FTB website
- <http://www.ftb.ca.gov/>

Common tax forms

- Form 1040 NR-EZ
- Form 1040 NR
- Form 540 NR Short form
- Form 540 NR Long form
- Form 8843
- Form 843
- W-7 Individual Taxpayer Identification Number
 - Most International students
- SS-5 Social Security Number
 - <http://www.socialsecurity.gov/online/ss-5.pdf>

If you need a CPA (International issues)

- Kate Leonard, CPA
 - 7676 Hazard Center Drive Suite 1150
 - San Diego, CA 92108
 - kleonard@hbllp.com
 - (619) 849-6547

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 Sale of inventory—purchased Sale of inventory—produced	Where services performed Where sold Allocation
Interest	Residence of payer
Dividends	Whether a U.S. or foreign corporation*
Rents	Location of property
Royalties: Natural resources Patents, copyrights, etc.	Location of property Where property is used
Sale of real property	Location of property
Sale of personal property	Seller's tax home (but see <i>Personal Property</i> , 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 1.863-1(b) of the regulations.

*Exceptions include:

- a) Dividends paid by a U.S. corporation are foreign source if the corporation elects the American Samoa economic development 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.

**Pub
519**

