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 $3,900\(^1\), 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

\(^1\)IRS 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

- 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>
<thead>
<tr>
<th>Item of income</th>
<th>Factor determining source</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salaries, wages, other compensation</td>
<td>Where services performed</td>
</tr>
<tr>
<td>Business income:</td>
<td></td>
</tr>
<tr>
<td>Personal services</td>
<td>Where services performed</td>
</tr>
<tr>
<td>Sale of inventory—purchased</td>
<td>Where sold</td>
</tr>
<tr>
<td>Sale of inventory—produced</td>
<td>Allocation</td>
</tr>
<tr>
<td>Interest</td>
<td>Residence of payer</td>
</tr>
<tr>
<td>Dividends</td>
<td>Whether a U.S. or foreign corporation*</td>
</tr>
<tr>
<td>Rents</td>
<td>Location of property</td>
</tr>
<tr>
<td>Royalties:</td>
<td></td>
</tr>
<tr>
<td>Natural resources</td>
<td>Location of property</td>
</tr>
<tr>
<td>Patents, copyrights, etc.</td>
<td>Where property is used</td>
</tr>
<tr>
<td>Sale of real property</td>
<td>Location of property</td>
</tr>
<tr>
<td>Sale of personal property</td>
<td>Seller’s tax home (but see <em>Personal Property</em>, later, for exceptions)</td>
</tr>
<tr>
<td>Pensions</td>
<td>Where services were performed that earned the pension</td>
</tr>
<tr>
<td>Sale of natural resources</td>
<td>Allocation based on fair market value of product at export terminal. For more information, see section 1.863-1(b) of the regulations.</td>
</tr>
</tbody>
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*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.