

FREQUENTLY ASKED TAX QUESTIONS

For 2022 Non-Resident Alien Taxpayers

1. What is the nonresident alien deadline for filing tax returns?

April 15th is the deadline to file 1040 NR or 1040 NR-EZ and Form 8843 for the nonresident who have employment **wages** and taxable scholarship or fellowship benefits.

June 15th if you only received taxable scholarship or fellowship benefits or if you are only required to file form 8843.

The State of Hawaii deadline is April 20th, in all cases.

2. As an F-1 or J-1 student with no income or scholarships in 2022, do I have to file a tax return?

No. You do not need to file a tax return document but you are required to file Internal Revenue Service (IRS) Form 8843, "Statement for Exempt Individuals and Individuals with a Medical Condition." Dependent spouses in F-2 or J-2 are also required to file this Form.

3. What is Form 8843?

Form 8843 is not a tax return. The Form is merely an informational statement required by the U.S. government for certain nonresident aliens (including the spouses or dependents of the nonresident alien). It provides you and the IRS with proof that you were in the USA as an "exempt individual", e.g., student, teacher, or trainee with an F, J, M, or Q visa. An exempt individual is not required to count dates present in the U.S. for the substantial presence test purposes. For example, a student with an F, J, M, or Q, visa that has complied with the provisions of their visa status, i.e., being a student, will be able to exclude up to 5 calendar years of presence in the USA as an exempt individual. On the 6th year, the person would begin to count the days present in the USA for the substantial presence test purposes. Refer to the Form 8843 instructions for specific filing requirements.

4. I arrived in the U.S. on December 15, 2022 and I did not work or have any taxable benefits. Do I still have to file form 8843?

Yes. If you were in the U.S. even for 1 day in 2022 with a F, J, M, or Q visa you must file form 8843 to exempt your time present in the US for substantial presence test purposes.

5. What is this "substantial presence test"?

If you are a not a U.S. citizen (a U.S. alien), you are considered a nonresident alien unless you meet one of two tests for being classified as a resident alien for U.S. income tax purposes. To be considered a resident alien, you must be a lawful permanent resident of the US, i.e., green card holder or meet the substantial presence test (SPT) for the calendar year.

“Exempt individuals” do not need to count certain periods, i.e., a student could be in the USA five-years and not have to count any dates present for the SPT.

6. What’s the big deal about the nonresident alien or resident alien distinction?

For US tax purposes, a nonresident alien is only taxed on their US sourced income while a resident alien is taxed like US citizens on their “worldwide” income. Some of you may have income in your home country that could be taxed if you are a resident alien for US tax purposes.

7. I do not owe any taxes and what happens if I fail to file a tax return?

You must file even if you may not owe any additional taxes. It’s best to read the tax return instructions and make a proper determination if you need to file an income tax return. If you are later found to owe taxes and did not file a tax return, the IRS can assess penalties and interest for the unpaid taxes and may seize US bank assets for your unpaid taxes. Fines and penalties may grow quickly and amount to more than the original tax amount. There can also be future immigration consequences for failing to file taxes. Applicants for permanent residency (i.e., “green cards”) are frequently asked to show proof of tax filing for previous years in the U.S. Use the free federal tax return service mentioned in question 26 below.

8. What are the countries with tax-treaty benefits for scholarship or fellowship income?

Some of the common countries that the Center deals with that may have tax-treaty benefits for US sourced scholarships or fellowship benefits includes: Bangladesh; China; Commonwealth of Independent States; Indonesia; Korea; Philippines; Russia; Slovenia; Thailand. You must refer to IRS Publication 901-US Tax Treaties for specific details.

9. What about tax-treaty benefits for studying and training grants?

There are different treaty benefits based upon the kind of payments. For example, compensation versus remittance and allowances during studying or training may be treated differently for each country. The US-China treaty only exempts remittance allowances if paid from a foreign source while compensation may be exempt even if paid by a US source. Please check Publication 901 for more information.

10. I claimed tax-treaty benefits so my income is not taxed, do I need to file any tax returns?

Yes. A claim for tax-treaty exemption is not completely valid or recognized by the federal government until you have filed your income tax return. The State of Hawaii also does not recognize any tax-treaty benefits, so your income will be taxable for Hawaii tax purposes.

11. I only worked for a short time in 2022 and didn't earn much. Do I still have to file?

Yes. If you had any U.S. source earned income (wages) or taxable scholarships or fellowship income, you will need to file IRS form 1040 NR-EZ or form 1040 NR and the Form 8843.

12. I earned interest income in my bank account in 2022 and received a form 1099. Is this earned income that is reported on my tax return?

Generally No. Nonbusiness bank interest income or interest on CDs are not considered earned income for non-resident aliens and therefore is not taxed. Your bank generally reports this interest on Form 1099 and you should retain this form for your records. If you had other taxable income and was required to file a tax return, include the interest amount on the tax return but also show a corresponding deduction for the "nontaxable" interest with a net reported interest income of "zero" on the tax return interest income line. This would indicate to the IRS that the income was not taxable and you did not erroneously omit it from your tax return. However, if you file taxes as a resident alien instead of a non-resident alien the bank interest income will be taxable worldwide income.

13. I'm married and had a child born in the US. Can I claim personal exemptions for my wife and child?

No. Effective January 1, 2018, the personal exemption deduction was eliminated for all taxpayers including US citizens on their U.S. federal income tax returns.

14. I am from one of the countries that can claim an exemption for my spouse/child. Can I claim them if they don't have a social security number or an ITIN?

No. To claim a personal exemption for dependents they must have a valid social security number or ITIN.

15. My young children live with me. Can I claim the Child Care Tax Credit?

No. Not unless you are from Mexico, Canada, Korea, or India. See the applicable tax return instructions.

16. I am a non-resident for tax purposes. Can I claim the HOPE or Tuition Tax Credit or the Earned Income Credit?

No. Non-residents aliens are not eligible for these credits. However after 5 years if you qualify and file as a resident alien, you may be eligible to claim one or more of these credits.

17. Can a nonresident alien student take advantage of the standard deduction?

No. However *students* (but not scholars) from India can claim it due to tax treaty benefit provisions.

18. My country has a tax treaty with the U.S. that exempts \$5,000 wages. I earned less than that so do I still need to file a tax return?

Yes. You will need to file a 1040 NR-EZ or 1040-NR, and form 8843, since the treaty benefit is not validated until you have filed a tax return.

19. I received a 1042-S form. What do I do with it?

This form is sent to all EWC nonresident alien taxpayers that received a taxable scholarship or fellowship benefit. You will need to attach your 1042-S to your tax form 1040 NR-EZ or 1040 NR.

20. I am a Teaching Assistant. Is this the same thing as a scholarship or fellowship?

IRS does not consider the salary you earn for your work as a T.A. as a scholarship. Therefore, you should receive a Form W-2 for your wages. However, if you also received a tuition waiver, your tuition waiver is a qualified scholarship benefit and not taxed. The value of the nontaxable waiver is not included on your W-2 income statement.

21. Can I deduct the cost of tuition, fees, required books or my computer as a valid education expense?

Generally, No. The EWC normally pays for these expenses directly to the University and have already excluded the nontaxable amounts on your Form 1042-S. As such you will not be able to take it as a deduction on the tax return because it was not included in the reported taxable benefits. However, if you received a scholarship to cover some of these expenses and they were not excluded from the reported amount, then the tuition, books, and other qualified scholarship benefits would be deductible on your tax return. Scholarship to cover equipment such as a computer that is not a *Requirement for the course* is not deductible.

22. Can international students claim itemized deductions?

Yes, but you can itemize only state or local taxes, charitable contributions to churches or charities, casualty and theft losses, certain unreimbursed job related expenses, and tax preparation fees. For those claiming any itemized deductions you must use 1040 NR and not Form 1040NR-EZ.

23. Do I need to keep a copy of the tax return forms I submit?

Yes, always keep a copy of your tax returns, W-2 form, 1042-S form, 1099 bank statements, and any other documents that support your tax returns. The IRS can audit individual tax returns for up to 3 years after the date you filed the return, and the records are essential to prove your case in the event of a tax audit. If you were required to file but did file any return, the IRS has an unlimited time to review your compliance with the tax laws.

24. My employer withheld social security and medicare taxes from my salary. Can I get this refunded?

Yes. F and J visa holders are not subject to these taxes as long as they are a “non-resident alien for tax purposes.” If your employer is unable to refund these taxes you may file IRS form 843 and 8316 for a refund from the IRS.

25. How can I get help from the IRS with my tax return questions?

Internet: You can also download all forms and publications from the IRS site or visit the IRS webpage for international taxpayers at: www.irs.gov/Individuals/International-Taxpayers

26. Is there software to help me prepare and file my tax returns?

The Center purchased license to use a federal income tax return software GLACIER Tax Prep for the EWC’s nonresident alien taxpayers. The software is internet based and will be accessible using the password provided by the Center. Information will be provided at the end of the calendar year with the annual tax reporting information provided by the Center.

There is no software for Hawaii State of Income Tax returns. The tax forms will need to be obtained from the State Tax Department website. www.tax.hawaii.gov/forms/a1_2taxforms

EWC participants that do not file nonresident alien tax returns, including US citizens and resident alien must purchase their own tax return preparation software or prepare the returns manually using the forms from the applicable internet sites. You may also qualify to use the free e-file services available on the IRS website.

The information presented here was compiled from reliable sources but does not constitute legal or tax advice. Consult the IRS publications and tax return instructions to properly report your taxable benefits.