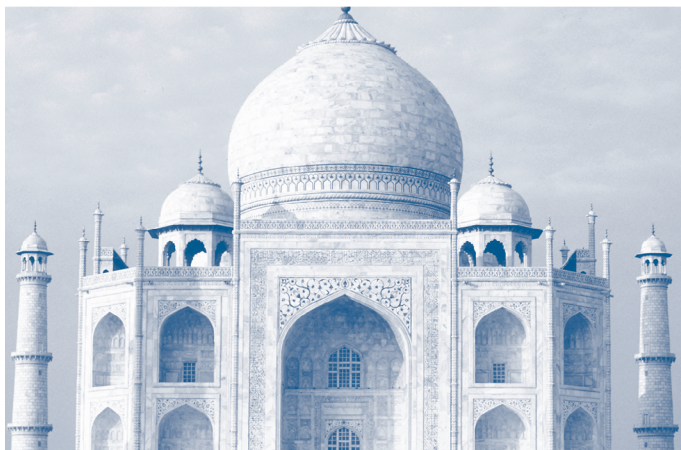




4011

VITA/TCE Foreign Student and Scholar Volunteer Resource Guide
Volunteer Income Tax Assistance (VITA) / Tax Counseling for the Elderly (TCE)

2022 RETURNS



Take your VITA/TCE training online at www.irs.gov
(key word: Link & Learn Taxes). Take the Foreign Student
and Scholar and other certification tests



CONTACTS

Common Phone Numbers/ Web Addresses/ etc.

IRS-SPEC Relationship Manager: _____

TaxSlayer : _____

Site Coordinator: _____

Site Leader(s): _____

IRS Forms, Instructions & Publications: www.irs.gov/forms-pubs

U.S. Income Tax Treaties: www.irs.gov/individuals/international-taxpayers/tax-treaties

Tax Treaty Tables: www.irs.gov/individuals/international-taxpayers/tax-treaty-tables

State Government Websites: www.irs.gov/businesses/small-businesses-self-employed/state-government-websites

State Contact(s):

Other Contacts

EFiling Form 1040-NR through TaxSlayer -

The latest information on the preparation of Forms 1040-NR through TaxSlayer can be found by going to the **VITA/TCE Springboard** at vita.taxslayerpro.com and accessing the **Pro Online Knowledgebase** or **Pro Desktop Knowledgebase** where you will find the applicable lesson for completing the Form 1040-NR using either version. (Search using key word “1040-NR”).

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Important Changes for 2022

Tax Form Changes

ITINS

- **ITINs not used in the last three consecutive tax years:** If an ITIN was not included on a U.S. federal tax return at least once for three consecutive tax years will expire on December 31 of the third consecutive tax year of non-use. Affected taxpayers need to take action to renew if it will be included on a U.S. federal tax return.
- **ITINs with the middle digits 88 will expire.** Additionally, ITINS with middle digits 90-92 and 94-99 will expire if assigned before 2013. These affected taxpayers who expect to file a tax return in 2022, must submit a renewal application as soon as possible.

Exemptions/ Dependents

- The deduction for all personal exemptions is suspended (reduced to zero), effective for tax years 2018 through 2025.
- For 2022, the gross income limitation for a qualifying relative remains at \$4,400.

Standard Deduction

The standard deduction for qualifying residents of India who may choose not to itemize deductions on Schedule A (Form 1040-NR) has increased. The standard deduction amounts for 2022 are:

- \$25,900 – Married Filing Jointly or Qualifying Widow(er) (increase of \$800)
- \$12,950 – Single or Married Filing Separately (increase of \$400)

Student loan interest deduction begins to phase out for taxpayers with MAGI in excess of \$70,000 (\$145,000 for joint returns) and is completely phased out for taxpayers with MAGI of \$85,000 or more (\$175,000 or more for joint returns).

Foreign Earned Income Exclusion

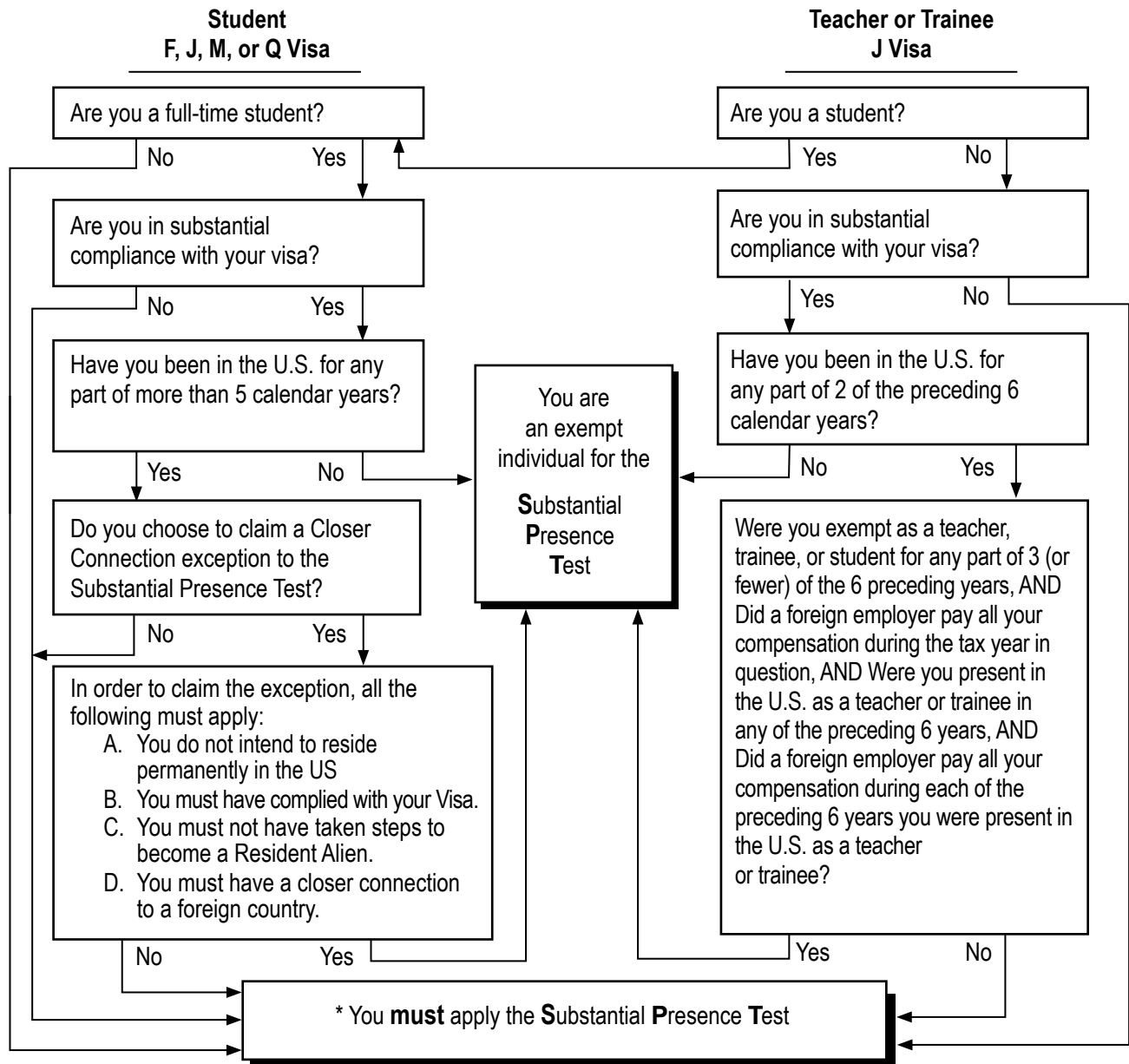
For 2022, the maximum foreign earned income exclusion is \$112,000.



*Congress may enact additional legislation that will affect taxpayers after this publication goes to print. Any changes will be reflected in **Publication 4491-X**, VITA/TCE Training Supplement, available in mid-January on www.irs.gov.*

Substantial Presence Test? - Decision Tree

If you are temporarily present in the United States on an F, J, M, or Q visa, use this chart to determine if you are an exempt individual for the **Substantial Presence Test (SPT)**.



*Substantial Presence Test (SPT) - You will be considered a U.S. resident for tax purposes if you meet the substantial presence test for calendar year 2022. To meet this test, you must be physically present in the United States on at least:

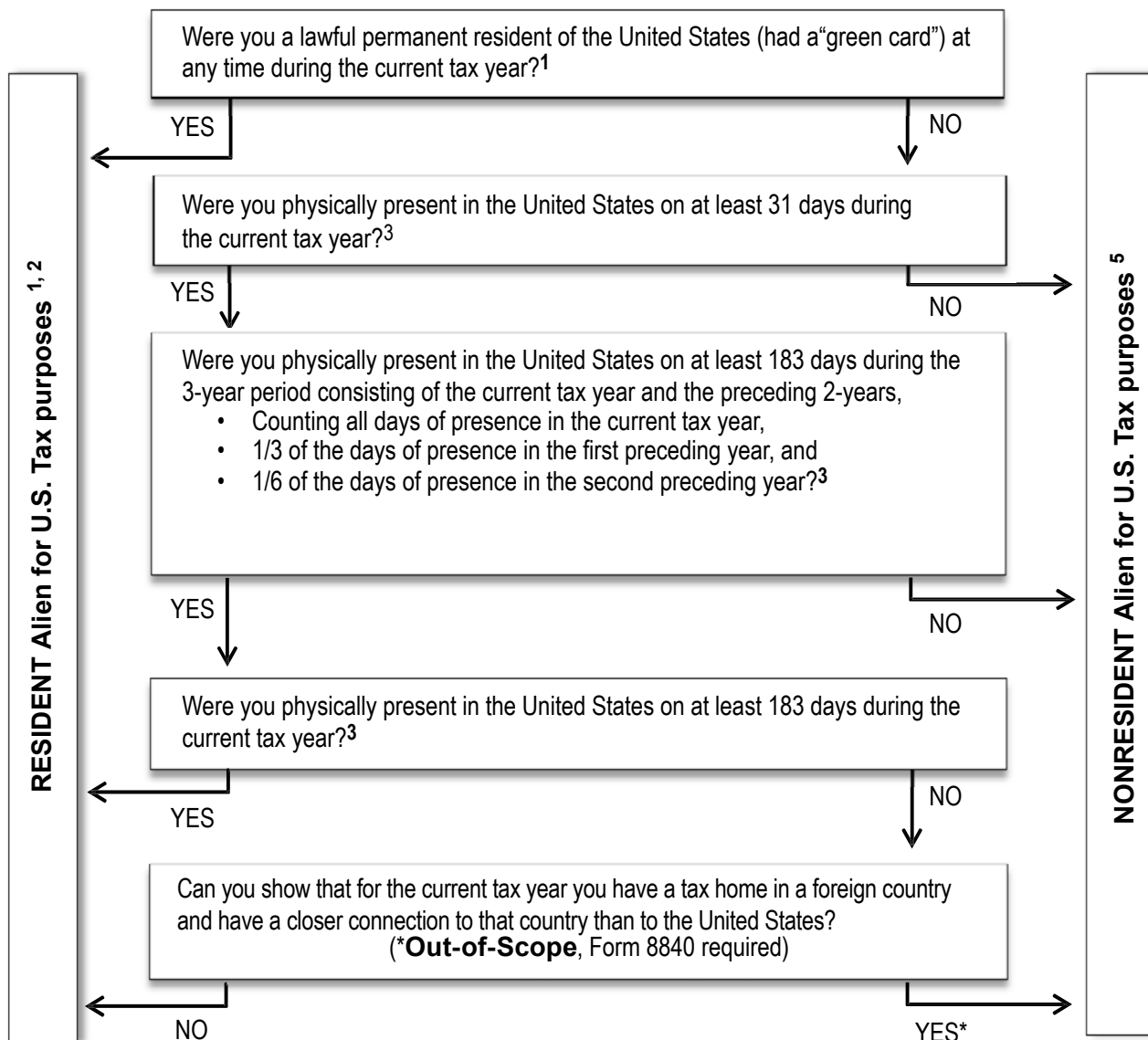
1. 31 days during 2022 and
2. 183 days during the 3-year period that includes 2022, 2021, and 2020, counting:
 - a. All the days you were present in 2022 and
 - b. 1/3 of the days you were present in 2021, and
 - c. 1/6 of the days you were present in 2020



*If additional days of presence due to COVID-19 travel restrictions cause the taxpayer to become a "resident" using the physical presence test rules, see possible exceptions allowed in **Revenue Procedure 2020-20**.*

Nonresident Alien or Resident Alien? - Decision Tree

Start here to determine your residency status for federal income tax purposes



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 Publication 519, U.S. Tax Guide for Aliens. (**Out-of-Scope**)

² In some circumstances you may still be considered a nonresident alien and eligible for benefits under an income tax treaty between the U.S. and your country. Check the provision of the treaty carefully. (**Out-of-Scope**)

³ See *Days of Presence in the United States* in Pub 519 for days that do **not** count as days of presence in the U.S. (Exempt individuals such as students, scholars, and others temporarily in the U.S. under an F, J, M, or Q immigration status do **not** count their days of presence in the U.S. for specified periods of time.)

⁴ If you meet the substantial presence test for the following year, you may be able to choose treatment as a U.S. resident alien for part of the current tax year. See *Substantial Presence Test under Resident Aliens and First-Year Choice under Dual-Status Aliens* in Publication. 519. (**Out-of-Scope**)

⁵ Nonresident students from Barbados, Hungary, and Jamaica, as well as trainees from Jamaica, may qualify for an election to be treated as a U.S. Resident for tax purposes under their tax treaty provisions with the U.S. A formal, signed, election statement must be attached to the Form 1040 (preparation of the statement is **Out-of-Scope**). (It continues until formally revoked.)

Form 13614-NR - Common Issues, Page 1

Form 13614-NR (October 2022)	Department of the Treasury - Internal Revenue Service Nonresident Alien Intake and Interview Sheet	OMB Number 1545-1964								
Last or Family Name 1		Middle Initial								
ITIN or Social Security #	Visa #	Passport #								
Date of Birth: ____ / ____ / ____ <small>(mm/dd/yyyy)</small>	Telephone #	e-mail Address								
Were you a U.S. citizen or resident alien the entire year? <input type="checkbox"/> Yes <input type="checkbox"/> No		Were you ever a U.S. citizen? <input type="checkbox"/> Yes <input type="checkbox"/> No								
U.S. Local Street Address 2										
City	State	Zip Code								
Foreign Residence Address 3										
Address Line 2										
Foreign Country	Province/County	Postal Code								
Country of Citizenship		Country that issued Passport								
Are you married? <input type="checkbox"/> Yes <input type="checkbox"/> No If "YES", is your spouse in the U.S.? <input type="checkbox"/> Yes <input type="checkbox"/> No										
If "YES", is it recognized by the State where you will be filing? <input type="checkbox"/> Yes <input type="checkbox"/> No										
Are you a 4	U.S. National <input type="checkbox"/> Yes <input type="checkbox"/> No	Resident of Canada <input type="checkbox"/> Yes <input type="checkbox"/> No								
	Resident of Mexico <input type="checkbox"/> Yes <input type="checkbox"/> No	Resident of South Korea <input type="checkbox"/> Yes <input type="checkbox"/> No								
	Resident of India <input type="checkbox"/> Yes <input type="checkbox"/> No									
Dependent Information										
First Name	Last or Family Name	Date of Birth (mm/dd/yyyy)	ITIN or SSN	Relationship to you (son, daughter, none, etc.)	Number of months lived with you in the U.S. in 2022	U.S. citizen, U.S. resident alien, U.S. national, or a resident of Canada, Mexico, or South Korea	Did person file joint return?	Did person provide more than 50% of their own support?	Did you provide more than 50% of their support?	Did the person have Gross Income of \$4,400 or more?
What is the date you FIRST entered the United States? ____ / ____ / ____ 5										
Entry Immigration Status - Check one										
<input type="checkbox"/> U.S. Immigrant/Permanent Resident 6			<input type="checkbox"/> F-1 Student			<input type="checkbox"/> F-2 Spouse or child of Student				
<input type="checkbox"/> H-1 Temporary Employee			<input type="checkbox"/> *J-1 Exchange Visitor			<input type="checkbox"/> J-2 Spouse or child of Exchange Visitor				
Other (<i>list</i>) _____										
Current Immigration Status - Check one										
<input type="checkbox"/> U.S. Immigrant/Permanent Resident 7			<input type="checkbox"/> F-1 Student			<input type="checkbox"/> F-2 Spouse or child of Student				
<input type="checkbox"/> H-1 Temporary Employee			<input type="checkbox"/> *J-1 Exchange Visitor			<input type="checkbox"/> J-2 Spouse or child of Exchange Visitor				
Other (<i>list</i>) _____										
Have you ever changed your visa type or U.S. immigration status? <input type="checkbox"/> Yes <input type="checkbox"/> No										
If "Yes", indicate the date and nature of the change. ____ / ____ / ____ 8										
Enter the type of U.S. visa you held during these years										
2016	2017	2018	9	2019	2020	2021				
* If Immigration status is J-1, what is the subtype? Check one										
<input type="checkbox"/> 01 Student			<input type="checkbox"/> 05 Professor			<input type="checkbox"/> 12 Research Scholar 10				
<input type="checkbox"/> 02 Short Term Scholar			Other (<i>list</i>) _____							
What is the actual primary activity of the visit? Check one										
<input type="checkbox"/> 01 Studying in a Degree Program			<input type="checkbox"/> 04 Lecturing			<input type="checkbox"/> 07 Conducting Research			<input type="checkbox"/> 10 Clinical Activities	
<input type="checkbox"/> 02 Studying in a Non-Degree Program			<input type="checkbox"/> 05 Observing			<input type="checkbox"/> 08 Training			<input type="checkbox"/> 11 Temporary Employment	
<input type="checkbox"/> 03 Teaching			<input type="checkbox"/> 06 Consulting			<input type="checkbox"/> 09 Demonstrating Special Skills			<input type="checkbox"/> 12 Here with Spouse	

- 1 Name should match that on Passport or Visa.
- 2 Taxpayer's current address where the IRS should mail refund and/or other correspondence.
- 3 This is the student's address back home, typically where the parents live. Needed if refund is to be mailed to foreign address.
- 4 The answers are needed to determine if certain treaties apply. This applies to Schedule OI, Other Information.
- 5 Date first entered as a student/scholar.
- 6 Typically listed on the student/scholar's original entry visa. Ask, as it may no longer be in the passport.
- 7 Current immigration status may have changed since entering the U.S. This may be needed on Schedule OI in TaxSlayer if a treaty benefit is claimed (as well as Form 8843, Statement for Exempt Individuals With a Medical Condition).
- 8 Enter on Form 8843 (If the purpose for entering changes, be cautious about applying treaty benefits properly).
- 9 This will indicate whether further questioning is needed to determine proper treaty benefits, as well as residency.
- 10 Keep in mind, a J-type visa can also include certain students, if their primary purpose is for study.

Form 13614-NR - Common Issues, Page 2

11 Check the years you were present in the United States as a teacher, trainee, student or as an accompanying spouse or dependent of a person in such status for any part of the year. ☐ 2016 ☐ 2017 ☐ 2018 ☐ 2019 ☐ 2020 ☐ 2021

Have you ever been present in the U.S. PRIOR to 2016 on a teacher, trainee, student visa, or as their accompanying spouse or dependent? ☐ Yes ☐ No If so, what years and visa type _____

12 How many days (including vacations, nonworkdays and partial days) were you present in the U.S. during 2020 _____ 2021 _____ 2022 _____

List the dates you entered and left the United States during 2022

Date entered United States mm/dd/yyyy	Date departed United States mm/dd/yyyy	Date entered United States mm/dd/yyyy	Date departed United States mm/dd/yyyy

Did you file a U.S. income tax return for any year before 2022? ☐ Yes ☐ No **13**

If "Yes", give latest year ____ / ____ / ____ Form number filed _____

During 2022, did you apply to be a green card holder (lawful permanent resident) of the United States? ☐ Yes ☐ No

Do you have an application pending to change your status to lawful permanent resident? ☐ Yes ☐ No

1. Are you claiming the benefits of a U.S. income tax treaty with a foreign country? ☐ Yes ☐ No

If "Yes", enter the appropriate information in the columns below

(a) Country	(b) Tax Treaty Article	(c) Number of months claimed in prior tax years	(d) Amount of exempt income in current tax year

14

2. Were you subject to tax in a foreign country on any of the income shown in 1(d) above? ☐ Yes ☐ No

Information about academic institution you attended in 2022

Name **15** _____ Telephone number _____

Address _____

Name of your academic/specialized program director _____ Telephone number _____

Address _____

During 2022 did you receive **16**

Scholarships or Fellowship Grants	<input type="checkbox"/> Yes <input type="checkbox"/> No	Casualty Losses in a Declared Disaster Area	<input type="checkbox"/> Yes <input type="checkbox"/> No
Wages, Salaries or Tips	<input type="checkbox"/> Yes <input type="checkbox"/> No	Student Loan Interest Paid	<input type="checkbox"/> Yes <input type="checkbox"/> No
Interest	<input type="checkbox"/> Yes <input type="checkbox"/> No	State or Local Income Taxes	<input type="checkbox"/> Yes <input type="checkbox"/> No
Distributions from IRA, Pension or Annuity	<input type="checkbox"/> Yes <input type="checkbox"/> No	U.S. Charitable Contributions 17	<input type="checkbox"/> Yes <input type="checkbox"/> No
State or Local Tax Refunds	<input type="checkbox"/> Yes <input type="checkbox"/> No	Child/Dependent Care Expenses	<input type="checkbox"/> Yes <input type="checkbox"/> No
Unemployment Compensation	<input type="checkbox"/> Yes <input type="checkbox"/> No	IRA Contributions	<input type="checkbox"/> Yes <input type="checkbox"/> No
Dividend income or capital gains or losses	<input type="checkbox"/> Yes <input type="checkbox"/> No	Any Other Income (gambling, lottery, prizes, awards, self-employment, rents, royalties, virtual currency, etc.)	<input type="checkbox"/> Yes <input type="checkbox"/> No

Did you or any dependent have health insurance coverage through **HealthCare.gov** (The Marketplace)? **18** ☐ Yes ☐ No

If yes, was any Advanced Premium Tax Credit received? (Provide Form 1095-A) ☐ Yes ☐ No

Privacy Act and Paperwork Reduction Act Notice

The Privacy Act of 1974 requires that when we ask for information we tell you our legal right to ask for the information, why we are asking for it, and how it will be used. We must also tell you what could happen if we do not receive it, and whether your response is voluntary, required to obtain a benefit, or mandatory.

Our legal right to ask for information is 5 U.S.C. 301. We are asking for this information to assist us in contacting you relative to your interest and/or participation in the IRS volunteer income tax preparation and outreach programs. The information you provide may be furnished to others who coordinate activities and staffing at volunteer return preparation sites or outreach activities. The information may also be used to establish effective controls, send correspondence and recognize volunteers. Your response is voluntary. However, if you do not provide the requested information, the IRS may not be able to use your assistance in these programs.

The Paperwork Reduction Act requires that the IRS display an OMB control number on all public information requests. The OMB Control Number for this study is 1545-2075. Also, if you have any comments regarding the time estimates associated with this study or suggestion on making this process simpler, please write to the Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:T:SP, 1111 Constitution Ave. NW, Washington, DC 20224.

Catalog Number 39748B www.irs.gov Form **13614-NR** (Rev. 10-2022)

- 11** For use in determining exempt days status. (Students may exempt only 5 years TOTAL)
- 12** Partial days count as full days, unless a Canadian or Mexican commuter with +75% workdays commuting. (Entered on Form 8843 in TaxSlayer)
- 13** Most tax years end 12/31/XXXX. List Form 1040, 1040NR etc., as appropriate.
- 14** Most treaty articles are listed under income codes 16, 19 or 20 later in this publication. Enter these on Schedule OI.
- 15** If more than one academic institution was attended during the tax year, use the most recent prior to 01/01/2022. This information will be used on Form 8843 in TaxSlayer.
- 16** The school or other payer may provide information for scholarships, grants, wages and salaries electronically and/or paper form with various formats. Inquire about all sources of income and deductions in this section.
- 17** Advise taxpayer of record requirements for charitable contributions.
- 18** **Caution:** While most student/scholars have insurance provided through their sponsoring school, organization, etc., some may have applied for coverage through the Marketplace and erroneously received a Premium Tax Credit that needs to be repaid.

Countries with Treaty Benefits for Scholarship or Fellowship Grants (Income Code 16)

If a nonresident alien receives a grant that is **not** from U.S. sources, it is **not** subject to U.S. tax.

Scholarship or fellowship grants that cover tuition and fees (and books and supplies if required of all students) are **not** subject to U.S. tax. (Financial aid that is dependent on the performance of services, such as a teaching assistant, is treated as wages and subject to the code income 18, 19, or 20 provisions.)

Scholarship or fellowship grants that cover room, board and other personal expenses are subject to U.S. tax unless a treaty benefit (as summarized below) exists.

Country	Maximum Years in U.S.	Maximum Dollar Amounts	Treaty Article
Bangladesh	2	No Limit	21(2)
China	No Limit	No Limit	20(b)
Commonwealth of Independent States*	5	Limited	VI(1)
Cyprus	5	No Limit	21(1)
Czech Republic	5	No Limit	21(1)
Egypt	5	No Limit	23(1)
Estonia	5	No Limit	20(1)
France	5	No Limit	21(1)
Germany	No Limit	No Limit	20(3)
Iceland	5	No Limit	22(1)
Indonesia	5	No Limit	19(1)
Israel	5	No Limit	24(1)
Kazakhstan	5	No Limit	19
Korea, South	5	No Limit	21(1)
Latvia	5	No Limit	20(1)
Lithuania	5	No Limit	20(1)
Morocco	5	No Limit	18
Netherlands	3	No Limit	22(2)
Norway	5	No Limit	16(1)
Philippines	5	No Limit	22(1)
Poland	5	No Limit	18(1)
Portugal	5	No Limit	23(1)
Romania	5	No Limit	20(1)
Russia	5	No Limit	18
Slovak Republic	5	No Limit	21(1)
Slovenia	5	No Limit	20(1)
Spain	5	No Limit	22(1)
Thailand	5	No Limit	22(1)
Trinidad and Tobago	5	No Limit	19(1)
Tunisia	5	No Limit	20
Ukraine	5	No Limit	20
Venezuela	5	No Limit	21(1)

* Commonwealth of Independent States (Armenia, Azerbaijan, Belarus, Georgia, Kyrgyzstan, Moldova, Tajikistan, Turkmenistan and Uzbekistan.) Generally, limited to \$10,000 p.a. of scholarship/fellowship income to provide ordinary living expenses.

Countries With Treaty Benefits for Teaching (Income Code 19)



The following is a quick-reference summary of treaty benefits. For more information about the application of these treaty benefits, see Publication 901.

Country	Maximum Years in U.S.	Maximum Dollar Amounts	Treaty Article
Bangladesh	2	No Limit*	21(1)
Belgium	2	No Limit	19(2)
Bulgaria	2	No Limit	19(2)
China	3	No Limit	19
Commonwealth of Independent States**	2	No Limit	VI(1)
Czech Republic	2	No Limit	21(5)
Egypt	2	No Limit	22
France	2	No Limit	20
Germany	2	No Limit	20(1)
Greece	3	No Limit	XII
Hungary	2	No Limit	17
India	2 ^L	No Limit	22
Indonesia	2	No Limit	20
Israel	2	No Limit	23
Italy	2	No Limit	20
Jamaica	2	No Limit	22
Japan	2	No Limit	20
Korea, South	2	No Limit	20
Luxembourg	2 ^L	No Limit	21(2)
Netherlands	2 ^L	No Limit	21(1)
Norway	2	No Limit	15
Pakistan	2 ^L	No Limit	XII
Philippines	2	No Limit	21
Poland	2	No Limit	17
Portugal	2	No Limit	22
Romania	2	No Limit	19
Slovak Republic	2	No Limit	21(5)
Slovenia	2	No Limit	20(3)
Thailand	2 ^L	No Limit	23
Trinidad and Tobago	2	No Limit	18
Turkey	2	No Limit	20(2)
United Kingdom	2 ^L	No Limit	20(1)
Venezuela	2	No Limit	21(3)

* 2-year limit applies to business or technical apprentices.

** Commonwealth of Independent States (Armenia, Azerbaijan, Belarus, Georgia, Kyrgyzstan, Moldova, Tajikistan, Turkmenistan and Uzbekistan.)

^L Treaty contains provisions that retroactively eliminates benefits if the allowable period in the U.S. or income amounts are exceeded as defined in the treaty.

Countries With Treaty Benefits for Studying and Training (Income Code 20)



The following is a quick-reference summary of treaty benefits. For more information about the application of these treaty benefits, see Publication 901.

Country	Maximum Years in U.S.	Maximum Dollar Amounts	Treaty Article
Bangladesh	No Limit*	\$8,000	21(2)
Belgium	No Limit	9,000	19(1)(b)
Bulgaria	No Limit	9,000	19(1)(b)
China	No Limit	5,000	20(c)
Cyprus	5	2,000	21(1)
Czech Republic	5	5,000	21(1)
Egypt	5	3,000	23(1)
Estonia	5	5,000	20(1)
France	5	5,000	21(1)
Germany	4 ^L	9,000	20(4)
Iceland	5	9,000	19(1)
Indonesia	5	2,000	19(1)
Israel	5	3,000	24(1)
Korea, South	5	2,000	21(1)
Latvia	5	5,000	20(1)
Lithuania	5	5,000	20(1)
Luxembourg	2 ^L	No Limit	21(2)
Malta	No Limit	9,000	20(2)
Morocco	5	2,000	18
Netherlands	No Limit	2,000	22(1)
Norway	5	2,000	16(1)
Philippines	5	3,000	22(1)
Poland	5	2,000	18(1)
Portugal	5	5,000	23(1)
Romania	5	2,000	20(1)
Slovak Republic	5	5,000	21(1)
Slovenia	5	5,000	20(1)
Spain	5	5,000	22(1)
Thailand	5	3,000	22(1)
Trinidad and Tobago	5	2,000	19(1)
Tunisia	5	4,000	20
Venezuela	5	5,000	21(1)

* 2-year limit applies to business or technical apprentices.

^L Treaty contains provisions that retroactively eliminates benefits if the allowable period in the U.S. or income amounts are exceeded as defined in the treaty.



Tax Treaty provisions allowed federally may not be honored by some states. Contact your state to see if treaty provisions are honored on the state return.

Capital Gains / Losses

The only capital gains/losses within the scope of the Foreign Student & Scholar VITA program are related to the sale of U.S. stocks, generally considered NOT effectively connected with the taxpayer's U.S. trade or business. All other sales of property remain **OUT-OF-SCOPE**.

If a nonresident alien is physically present in the U.S. for less than 183 days during the tax year, none of the capital gains from these sales are taxable. The days counted for excludable gains consider all days of presence, regardless of exempt days based on visa status under IRC §7701(b).

If the nonresident is present in the U.S. for 183 days or more, generally the rate of tax on the gain is 30%. This income is reported on Form 1040-NR, U.S. Non Resident Alien Income Tax Return, Schedule NEC, Tax on Income Not Effectively Connected With a U.S. Trade or Business, NOT on Schedule D, Capital Gains and Losses, nor on the income section of Form 1040-NR. Capital losses of nonresident aliens may only offset other capital gains. (Capital losses of nonresident aliens cannot be used against other income, nor can they be carried forward to another tax year.)

Some tax treaties provide an exclusion from tax on various capital gains relating to stock sales. The following countries have a tax treaty with the U.S. If the table below indicates a potential 0% tax, review all paragraphs of the treaty article fully to ensure all conditions are met (reported on Schedule OI). (Some treaties limit the percentage of stock ownership held or types of assets held by the corporation, etc.)

Tax Treaties Taxation Rate - Capital Gains (from Sales of U.S. Stocks)

Treaty Country	Country Code	Capital Gains from U.S. Corporate Stock sales	
		Rate	Treaty Article Citation
Australia	AS	30%	none
Austria	AU	0	13(6)
Bangladesh	BG	0	13(4)
Barbados	BB	0	13(6)
Belgium	BE	30%	13(3)
Bulgaria	BU	0	13(8)
Canada	CA	0	XIII(4)
China, People's Republic of	CH	30%	12
Comm. of Independent States*	-	0	IIII(1)(b)
Cyprus	CY	0	16(1)
Czech Republic	EZ	0	13(6)
Denmark	DA	0	13(6)
Egypt	EG	30%	14(1)(d)
Estonia	EN	0	13(6)
Finland	FI	0	13(6)
France	FR	0	13(6)
Germany	GM	0	13(5)
Greece	GR	30%	none
Hungary	HU	0	12(3)
Iceland	IC	0	13(6)
India	IN	30%	13
Indonesia	ID	30%	14(2)(b)
Ireland	EI	0	13(5)
Israel	IS	30%	15(1)(d)
Italy	IT	0	13(4)
Jamaica	JM	0	13(6)
Japan	JA	0	13(7)
Kazakhstan	KZ	0	13(6)
Korea, South	KS	0	13(6)

Capital Gains / Losses

Tax Treaties Taxation Rate - Capital Gains (from Sales of U.S. Stocks)

Treaty Country	Country Code	Capital Gains from U.S. Corporate Stock sales	
		Rate	Treaty Article Citation
Latvia	LG	0	13(6)
Lithuania	LH	0	13(6)
Luxembourg	MT	0	14(5)
Malta	MX	0	13(6)
Mexico	BE	0	13(7)
Morocco	MO	0	13(2)(c)(ii)
Netherlands	NL	0	14(7)
New Zealand	NZ	0	13(7)
Norway	NO	30%	12(1)(c)(ii)
Pakistan	PK	30%	none
Philippines	RP	0	14(2)
Poland	PL	0	14(7)
Portugal	PO	0	14(6)
Romania	RO	30%	13(1)(b)
Russia	RS	0	21(4)
Slovak Republic	LO	0	13(6)
Slovenia	SI	0	13(5)
South Africa	SF	0	13(5)
Spain	SP	0	13(7)
Sri Lanka	CE	0	13(7)
Sweden	SW	0	13(6)
Switzerland	SZ	0	13(5)
Thailand	TH	30%	13
Trinidad & Tobago	TD	30%	–
Tunisia	TS	0	13(5)
Turkey	TU	0	13(5)
Ukraine	UP	0	13(4)
United Kingdom	UK	30%	13
Venezuela	VE	0	13(5)
Other Countries	–	30%	–

* Those countries to which the U.S.-U.S.S.R. income tax treaty still applies: Armenia, Azerbaijan, Belarus, Georgia, Kyrgyzstan, Moldova, Tajikistan, Turkmenistan, and Uzbekistan.



Non resident aliens residing in the U.S. for less than 183 days in the tax year, generally are exempt from tax on Capital gains from U.S. stock sales.

Dividend Income

Generally, dividend income from investments in U.S. corporate stock is considered FDAP (Fixed, Determinable, Annual or Periodic) income, NOT effectively connected to the taxpayer's U.S. trade or business and is therefore taxable at a 30% rate on Form 1040-NR, Schedule NEC, NOT on the front income section of the form.

The U.S. has income tax treaties with a number of foreign countries. These treaties can often reduce or eliminate U.S. income tax on various types of income, such as dividends, if certain conditions are met. Carefully read the tax treaty article and the conditions allowing for reduced rates. Many of these reduced rates only apply to RICs and REITs. Below is a list of the treaty countries and the treaty article and protocol potentially allowing reduced rates.

Tax Treaties / Taxation Rate - Dividends (paid by U.S. Corporations)

Treaty Country	Country Code	Dividends paid by U.S. Corporations (general)	
		Rate	Treaty Article Citation
Australia	AS	15 ^{mm}	10(2)/P6
Austria	AU	15 ^w	10(2)
Bangladesh	BG	15 ^{mm}	10(2)
Barbados	BB	15 ^{w, rr}	10(2)/PIII(1); 2PII(6)
Belgium	BE	15 ^{dd, mm}	10(2)
Bulgaria	BU	10 ^{dd, mm}	10(2)
Canada	CA	15 ^{mm}	X(2)/5P5(1)
China, People's Republic of	CH	10	9(2)
Comm. of Independent States*	–	30	None
Cyprus	CY	15	12(2)
Czech Republic	EZ	15 ^w	10(2)
Denmark	DA	15 ^{dd, mm}	10(2)/PII
Egypt	EG	15	11(2)
Estonia	EN	15 ^w	10(2)
Finland	FI	15 ^{dd, mm}	10(2)/PIII
France	FR	15 ^{mm}	10(2)/2P2
Germany	GM	15 ^{dd, mm}	10(2)/PIV
Greece	GR	30	none
Hungary	HU	15	9(2)
Iceland	IC	15 ^{dd, mm}	10(2)
India	IN	25 ^w	10(2)
Indonesia	ID	10	11(2)/P1
Ireland	EI	15 ^{mm}	10(2)
Israel	IS	25 ^w	10(2)
Italy	IT	15 ^{mm}	10(2)
Jamaica	JM	15	10(2)/P2
Japan	JA	10 ^{dd, mm}	10(2)
Kazakhstan	KZ	15 ^{ff}	10(2)
Korea, South	KS	15	12(2)
Latvia	LG	15 ^w	12(2)
Lithuania	LH	15 ^w	12(2)
Luxembourg	LU	15 ^w	10(2)
Malta	MT	15 ^{dd, mm}	10(2)
Mexico	MX	10 ^{dd, mm}	10(2)/2PII
Morocco	MO	15	10(2)

Dividend Income

Tax Treaties / Taxation Rate - Dividends (paid by U.S. Corporations)

Treaty Country	Country Code	Dividends paid by U.S. Corporations (general)	
		Rate	Treaty Article Citation
Netherlands	NL	15 ^{dd, mm}	10(2)/P3(a)
New Zealand	NZ	15 ^{mm}	10(2)/PVI
Norway	NO	15	8(2)/PVI(1)
Pakistan	PK	30	VII(2)/VI(1)
Philippines	RP	25	11(2)
Poland	PL	15	11(2)
Portugal	PO	15 ^w	10(2), (3)
Romania	RO	10	10(2)
Russia	RS	10 ^{ff}	10(2)
Slovak Republic	LO	15 ^w	10(2)
Slovenia	SI	15 ^{mm}	10(2)
South Africa	SF	15 ^w	10(2)
Spain	SP	15 ^w	10(2)
Sri Lanka	CE	15 ^{gg}	10(2)
Sweden	SW	15 ^{dd, mm}	10(2)/PIV
Switzerland	SZ	15 ^{w, dd}	10(2)
Thailand	TH	15 ^w	10(2)
Trinidad & Tobago	TD	30	12(1)
Tunisia	TS	20 ^w	10(2)
Turkey	TU	20 ^w	10(2)
Ukraine	UP	15 ^{ff}	10(2)
United Kingdom	UK	15 ^{mm}	10(2)
Venezuela	VE	15 ^{mm}	10(2)
Other Countries	–	30	None

* Those countries to which the U.S.-U.S.S.R. income tax treaty still applies: Armenia, Azerbaijan, Belarus, Georgia, Kyrgyzstan, Moldova, Tajikistan, Turkmenistan, & Uzbekistan.

^w The rate applies to dividends paid by a regulated investment company (RIC) or a real estate investment trust (REIT). However, that rate applies to dividends paid by a REIT only if the beneficial owner of the dividends is an individual holding less than a 10% interest (25% in the case of Portugal, Spain, Thailand, and Tunisia) in the REIT.

^{dd} Amounts paid to certain pension funds that are not derived from the carrying on of a business, directly or indirectly, by the fund are exempt. This includes dividends paid by a REIT only if the conditions in footnote mm are met. For Sweden, to be entitled to the exemption, the pension fund must not sell or make a contract to sell the holding from which the dividend is derived within 2 months of the date the pension fund acquired the holding. The United States has competent authority arrangements (MAP) with some treaty jurisdictions (e.g. Netherlands and Switzerland) that describe which pension funds are eligible for the exemption. See the Competent Authority Arrangements page on irs.gov.

^{ff} The rate applies to dividends paid by a regulated investment company (RIC). Dividends paid by a real estate investment trust (REIT) are subject to a 30% rate.

^{gg} In Sri Lanka, the rate applies to dividends paid by a real estate investment trust (REIT) only if the beneficial owner of the dividends is (a) an individual holding less than a 10% interest in the REIT, (b) a person holding not more than 5% of any class of the REIT's stock and the dividends are paid on stock that is publicly traded, or (c) a person holding not more than a 10% interest in the REIT and the REIT is diversified.

^{mm} The rate applies to dividends paid by a regulated investment company (RIC) or real estate investment trust (REIT). However, that rate applies to dividends paid by a REIT only if the beneficial owner of the dividends is (a) an individual (or pension fund, in some cases) holding not more than a 10% interest in the REIT, (b) a person holding not more than 5% of any class of the REIT's stock and the dividends are paid on stock that is publicly traded, or (c) a person holding not more than a 10% interest in the REIT and the REIT is diversified.

^{pp} The rate applies to dividends paid by a regulated investment company (RIC) or real estate investment trust (REIT). However, that rate applies to dividends paid by a REIT only if the beneficial owner of the dividends is (a) an individual holding not more than a 25% interest in the REIT, (b) a person holding not more than 5% of any class of the REIT's stock and the dividends are paid on stock that is publicly traded, or (c) a person holding not more than a 10% interest in the REIT and the REIT is diversified, or (d) a Dutch beleggingsinstelling.

Unique Treaty Provisions

India Treaty, Article 21(2)

An Indian **student** or **apprentice** may take a **standard deduction** equal to the amount allowable on Form 1040 and may be able to claim the personal exemptions for a nonworking spouse and U.S. born-children. However, benefits will be limited to certain credits, as the allowable exemption deduction is currently 0% until 2025.

Treaty benefits for a **scholar** from India are very different from those for a **student**. The scholar benefit for income code 19 is lost retroactively if the visit exceeds 2 years.

Generally, the standard deduction for Single taxpayers and Married Filing Separately taxpayers in 2022 is \$12,950.

Nonresident aliens can't file a joint return. Even though a student from India may be able to take an exemption for a nonworking spouse, this is not considered a joint return. Thus, the standard deduction for married filing separately must be used. In determining their tax liability, they must use the tax tables or tax rate schedules for married filing separately.

China Treaty, Articles 19, 20(c)

Almost all U.S. tax treaties are limited to a specific number of years and may **not** be available for U.S. residents for tax purposes. An exception is the U.S.- China Treaty. Its provisions are **not** limited by year restrictions.

Also: This treaty is **not** applicable to Chinese citizens who are residents of Hong Kong, Macao, or Taiwan.

The U.S. treaty with China provides that a scholar is exempt from tax on earned income for 3 years. After 2 years, a scholar will become a resident alien for tax purposes but is still entitled to 1 more year of tax benefits under the treaty. The treaty also provides that students have an exemption of up to \$5,000 per year for income earned while they are studying or training. In most cases, the student will become a resident for federal tax purposes in their sixth calendar year. Students from China can continue to claim the treaty benefits on their resident alien tax return (if they still meet the definition of a student).

Canada Treaty, Article 15

The students and scholars are permitted to use Article 15 of the tax treaty, which applies to dependent personal services.

The tax treaty with Canada is different from most other tax treaties because it (1) exempts all earned income if the nonresident earned not more than \$10,000 in the tax year, but (2) taxes all income if the nonresident earned more than \$10,000. This treaty benefit is lost if the nonresident becomes a resident for tax purposes.

How to Claim Treaty Benefits on Form 1040-NR

Nonresident aliens may claim treaty benefits on Form 1040-NR.

If a taxpayer is a resident alien eligible to claim treaty benefits on Form 1040, the return is **Out-of-Scope** for the VITA/TCE Foreign Student and Scholar program.

The following shows how to claim treaty benefits listed on Form 1042-S, Foreign Person's U.S. Source Income Subject to Withholding.

First, enter the necessary information based on the F13614-NR , Nonresident Alien Intake and Interview Sheet, entries and your interview with the taxpayer for the three sections of Schedule OI in program TaxSlayer.



This section shows how to enter the Form 1042-S, however, a taxpayer who received a Form W-2, Wage and Tax Statement, or other income statement may also be eligible to exclude income under their treaty. This section of the software would be used for these taxpayers, as well.

Schedule OI

General Information

BEGIN

Dates Entered and Departed the U.S. in Current Year

BEGIN

Income Exempt from Tax

BEGIN

CONTINUE

Schedule OI - General Information

CANCEL

CONTINUE

General Information

Type of 1040NR Entity *

- Please Select -

Country of Citizenship *

- Please Select -

Country of Residence *

- Please Select -

U.S. Travel Information

-- Please Select --

Select type of U.S. Visa *

Please Select

Income Exempt from U.S. Tax

☐ Check if you were subject to tax in a foreign country on U.S. exempt income.

☐ Check if you used an alternate method to determine the source of the income.

Wages Exempt by a Treaty (reduces 1040-NR line 8)

\$

Real Property Election

Have you ever made an election to treat income from real property located in the United States as effectively connected with a U.S. trade or business under section 871(d)?

☐ Yes

☐ No

For the Form 1040-NR returns, the Schedule OI will automatically open.

Enter the information requested under each tab

For a taxpayer who does not receive Form 1042-S and is entitled to claim treaty benefits first complete the Schedule OI-General Information with the allowable treaty benefit amount listed under Wages Exempt by a treaty. Next, re-enter the amount of exempt income under Schedule OI-Income Exempt from Tax

Schedule OI - Current Year Travel Dates

Date Entered U.S. *

MM

DD

YYYY

Date Departed U.S.

MM

DD

YYYY

Schedule OI - Income Exempt from Tax

Schedule OI - Income Exempt from Tax

Name of the Country *

Tax Treaty Article *

- Please Select -

Number of months claimed on prior tax returns

Amount of exempt income

CANCEL

CONTINUE

List the country from which the taxpayer is claiming treaty benefits. Once entered, another box will appear with a drop-down menu asking which treaty article is being applied.

If this treaty benefit has been used on PRIOR returns, list the total number of months the article has been used in PRIOR years.

List the amount of income THIS year that is to be exempt from taxation due to the treaty article. (Remember, if the amount received is less than the amount excludable by treaty, list the amount received.)

To enter the Form 1042-S, go to the "Payments & Estimates" . Then, select "Foreign Person's U.S. Source Income Subject to Withholding Form 1042-S".

Form Finder

Enter the form number...

Basic Information

Federal Section

Income

W-2 Wage Statement

Deductions

Other Taxes

Payments & Estimates

Miscellaneous Forms

COVID-19 Relief

Health Insurance

State Section

Summary/Print

E-file

2020 Amended Return

Your Office

Help & Support

Other State Withholdings

State withholdings you haven't already entered

BEGIN

Underpayment of Estimated Tax

Determine if you owe a penalty for underpayment of estimated tax and next steps

BEGIN

Apply Overpayment to Next Year's Taxes

Option to apply all or part of your refund to next year's taxes

BEGIN

Vouchers for 2021 Estimated Tax Payments

Print vouchers for estimated tax payments

BEGIN

Amount Paid with Extension

Amount paid with Form 4868

BEGIN

IRC 1341 Repayment Amount

Claim of Right related tax credit

BEGIN

Other Form 1040-NR Payments

Other nonresident payments

BEGIN

Foreign Partner's Information Statement

Form 8805

BEGIN

Withholding on Dispositions by Foreign Persons on U.S. Real Property Interests

Form 8288-A

BEGIN

Foreign Person's U.S. Source Income Subject to Withholding

Form 1042-S

BEGIN

BACK

CONTINUE

Next, you will enter the information from each box on the Form 1042-S into the software. Only enter information for completed boxes. Each entry has the same corresponding title as listed on the form.

Form 1042-S Foreign Person's U.S. Income Subject to Withholding

Corresponding Box from Form 1042-S

Form 1042-S Foreign Person's U.S. Income Subject to Withholding

Select chapter *

Please Select ▾

Box 3

Tax Rate

Box 3b or 4b rate,
if listed

Unique Form Identifier *

Box 3b or 4b rate,
if listed

Is this an amended form?

☐ Yes

☒ No

Pro-rata basis reporting?

☐ Yes

☒ No

Have you deposited tax with the IRS pursuant to escrow procedure?

☐ Yes

☒ No

Generally, **Out-of-Scope**. (Amended Returns are permitted for current year and special circumstances based on the site's established procedures.)

Select an income code *

- Please Select - ▾

Box 1

Gross Income

Gross Income will not be carried to your return. Please enter it on the applicable form.

\$

Withholding Allowance

\$

Net Income

\$

Federal Tax Withheld

\$

Tax Withheld by Other Agents

\$

Tax Paid by Withholding Agent

\$

Total Withholding Credit

\$

Box 10

Amount Repaid to Recipient

\$

Withholding Agent Information

Agent's Name

Box 12d

Agent's EIN

-

Box 12a

Chapter 3 Status Code

- Please Select - ▾

Box 12e

Chapter 4 Status Code

- Please Select - ▾

Box 12c

Agent's GIIN

Box 12e

Agent's Foreign Tax ID Number

Box 12g

Agent's Address

☐ Check here if foreign address

Address (street number & name)

ZIP code

-

Box 12i

City, town, or post office

Box 12i

State

- Please Select - ▾

Box 12i

Form 1042-S Foreign Person's U.S. Income Subject to Withholding

Corresponding Box from Form 1042-S

Recipient Information

Chapter 3 Status Code

- Please Select -

Box 13f

Chapter 4 Status Code

- Please Select -

Box 13g

Recipient's GIIN

Box 13h

Recipients's Foreign Tax ID Number

Box 13i

LOB Code

- Please Select -

Box 13j

Account Number

Box 13k

Primary Withholding Agent Information

Agent's Name

Box 14a

Agent's EIN

Box 14b

Intermediary or Flow-through Entity Information

Intermediary Entity's Name

Box 15d

Intermediary Entity's EIN

Box 15a

Chapter 3 Status Code

- Please Select -

Box 15b

Chapter 3 Status Code

- Please Select -

Box 15c

Intermediary Entity's GIIN

Box 15e

Intermediary Entity's Foreign Tax ID Number

Box 15g

Intermediary Entity's Address

☐ Check here if foreign address

Address (street number & name)

Box 15h

ZIP code

Box 15i

City, town, or post office

Box 15i

State

- Please Select -

Box 15i

Form 1042-S Foreign Person's U.S. Income Subject to Withholding

Corresponding Box from Form 1042-S

Payer Information

Payer's Name

Box 16a

Payer's TIN

 - -

Box 16b

Chapter 3 Status Code

- Please Select -

Box 16d

Chapter 4 Status Code

- Please Select -

Box 16e

Payer's GIIN

Box 16c

Payer's State Tax Number

Box 17b

Name of State

- Please Select -

Box 117c

State Income Tax Withheld

\$

Box 17a

Form 1042-S		Foreign Person's U.S. Source Income Subject to Withholding		2022		OMB No. 1545-0096	
Department of the Treasury Internal Revenue Service		Go to www.irs.gov/Form1042S for instructions and the latest information.				Copy A for Internal Revenue Service	
		UNIQUE FORM IDENTIFIER		AMENDED		AMENDMENT NO.	
1 Income code	2 Gross income	3 Chapter indicator. Enter "3" or "4"	3a Exemption code	4a Exemption code	13e Recipient's U.S. TIN, if any	13f Ch. 3 status code	13g Ch. 4 status code
5 Withholding allowance	6 Net income	3b Tax rate	4b Tax rate	13h Recipient's GIIN	13i Recipient's foreign tax identification number, if any	13j LOB code	
7a Federal tax withheld	7b Check if federal tax withheld was not deposited with the IRS because escrow procedures were applied (see instructions)			13k Recipient's account number	13l Recipient's date of birth (YYYYMMDD)		
7c Check if withholding occurred in subsequent year with respect to a partnership interest	8 Tax withheld by other agents			14a Primary Withholding Agent's Name (if applicable)	14b Primary Withholding Agent's EIN	15 Check if pro-rata basis reporting	
9 Overwithheld tax repaid to recipient pursuant to adjustment procedures (see instructions)	10 Total withholding credit (combine boxes 7a, 8, and 9)			15a Intermediary or flow-through entity's EIN, if any	15b Ch. 3 status code	15c Ch. 4 status code	
11 Tax paid by withholding agent (amounts not withheld) (see instructions)	12a Withholding agent's EIN	12b Ch. 3 status code	12c Ch. 4 status code	15d Intermediary or flow-through entity's name	15e Intermediary or flow-through entity's GIIN		
12d Withholding agent's name	12e Withholding agent's Global Intermediary Identification Number (GIIN)			15f Country code	15g Foreign tax identification number, if any		
12f Country code	12g Foreign tax identification number, if any			15h Address (number and street)	15i City or town, state or province, country, ZIP or foreign postal code		
12h Address (number and street)	12i City or town, state or province, country, ZIP or foreign postal code			16a Payer's name	16b Payer's TIN		
13a Recipient's name	13b Recipient's country code			16c Payer's GIIN	16d Ch. 3 status code	16e Ch. 4 status code	
13c Address (number and street)	13d City or town, state or province, country, ZIP or foreign postal code			17a State income tax withheld	17b Payer's state tax no.	17c Name of state	

For Privacy Act and Paperwork Reduction Act Notice, see instructions.

Cat. No. 11386R

Form **1042-S** (2022)

Filing Status

Generally, nonresident aliens must use either the **Single** or the **Married Filing Separately** filing status. (Only residents of Canada, Mexico, Republic of Korea (S. Korea), and India may qualify for the Qualifying Widow(er) with Dependent Child(ren) status, if applicable.)

Head of household filing status cannot be used if the taxpayer was a nonresident alien during any part of a year.

Nonresidents who are married to U.S. Citizens or resident aliens can make an election to file a joint return for tax purposes and file as **Married Filing Jointly**. (Preparation of the required attached statement outlined in Publication 519 is **Out-of-Scope**.) If both married taxpayers are nonresident aliens, they **CANNOT** file as Married Filing Jointly, they must file as Married Filing Separately.

STATE RETURNS: Check with the state income tax authorities regarding the correct filing status that applies to any state return being prepared.

Exemption Personal/Dependent Issues

The personal and/or dependency exemption deduction for 2022 is \$0 through 2025.

Nonresidents from the following countries may be able to claim their children as dependents. Everyone claimed on the return must have either a Social Security number (SSN) or a valid Individual Taxpayer Identification Number (ITIN).

Canada

Mexico

India

South Korea

The exemption amount for **2022** is **\$0**. For India and South Korea, refer to Publication 519 for additional information.

Standard or Itemized Deduction

Standard Deduction - Nonresident aliens are generally **not** eligible for the standard deduction. For those eligible (India Treaty), they must use the amount for the single or married filing separately filing status being used (if legally blind, or over 65, see Publication 501).

Generally, the standard deduction amount for single or married filing separately for **2022** is **\$12,950**.

Itemized Deductions - The Tax Reform Act of 2017 limits the dollar amount of state and local income taxes that are allowable to \$10,000. Miscellaneous Itemized deductions for employee business expenses, tax preparation fees, etc. have been eliminated. Casualty Losses are now only permitted for Presidentially Declared Disaster areas (and remain **Out-Of-Scope**). You may now deduct up to 60% of your AGI for U.S. charitable contributions made. All other allowable itemized deductions on Form 1040-NR remain unchanged.

Wage Calculation Worksheet

Since some employers do **not** issue the correct reporting documents to international students and scholars, the following formula will help you to accurately compute the amount of wages to be shown on the income tax return.

Wages from Form W-2, box 1 (if any)	_____
Add: Code 19 or 20 income from Form, 1042-S, box 2 (if any)	_____
Total W-2 and 1042-S	_____
Subtract: Code 19 or 20 treaty benefit	_____
Equals: Wages to be reported on	_____
Form 1040-NR, line 8	_____

Tax Credits and Nonresident Aliens

Tax credits are allowed to nonresident aliens only if they receive effectively connected income. Generally, nonresident alien students and scholars will **not** qualify for tax credits.



Nonresident aliens cannot elect to be treated as resident aliens in order to claim these credits. (See exception for Married Filing Jointly on page 20 of this publication, and certain treaty provisions for students from Barbados, Hungary, and Jamaica, as well as trainees from Jamaica. These exception elections and treaty provisions are both Out-of-Scope.)

Child Tax Credit — Nonresident aliens may be able to claim the child tax credit if all of the following conditions are met:

- The child is a U.S. citizen, national, or resident alien who resides with the taxpayer, and
- The child is a son, daughter, adopted child, grandchild, stepchild, or foster child, and
- The child was under age 17 at the end of the year, and
- The child qualifies as their dependent.
- The child **MUST** have a valid Social Security number

Credit for Other Dependents — If the taxpayer has a qualifying dependent who does **not** meet some of the requirements for the Child Tax Credit, they may qualify for the new Credit for Other Dependents. The child must reside in the U.S. with the taxpayer and have a valid SSN or ITIN. (See **Publication 17**, Your Federal Income Tax (For Individuals) for details.)

Earned Income Credit — If the taxpayer is a nonresident for any part of the year, the earned income credit is **not** available.

Education Credits — If the taxpayer is a nonresident alien for any part of the year, they generally can't claim the educational credits, such as the American Opportunity Credit and Lifetime Learning Credit.

Foreign Tax Credit — This credit will usually **not** be available to nonresident alien students and scholars. Their foreign-source income is usually **not** reported on their U.S. income tax return.

Advanced Premium Tax Credit — (As with many other credits, married taxpayers filing separately do **NOT** qualify for the Premium Tax Credit.) If the taxpayer obtained insurance through the Marketplace and received an Advanced Premium Tax Credit (listed on Form 1095-A, Health Insurance Marketplace Statement), this must be reported. The following instructions should be followed to report the credit and, if necessary, repay it:

1. In TaxSlayer's Health Insurance section, answer "Yes" to having received a Form 1095-A, and "Yes" to "Are you required to repay all of the APTC?" This will cause the software to add the repayment required into the tax liability.
or
2. Complete and attach Form 8962, Premium Tax Credit (PTC), to calculate the repayment amount.

Social Security and Medicare Taxes

Generally, a nonresident alien temporarily admitted in the United States as a student is **not** permitted to work for a wage or salary or to engage in business while in the United States. However, if a student is granted permission to work, Social Security and Medicare taxes are **not** withheld from their pay. This exclusion **ONLY** applies to the student, **not** their spouse or dependents under accompaniment statuses.

If Social Security or Medicare taxes are withheld from pay that is **not** subject to these taxes, contact the employer who withheld the taxes in error for a refund. The employer would also be eligible for a refund of their portion of the erroneously withheld taxes.

If that employer does not refund the withheld taxes, file Form 843, Claim for Refund and Request for Abatement and attach supporting documentation for reimbursement.

See Publication 519, Chapter 8, Paying Tax Through Withholding or Estimated Tax, for a list of items to attach as supporting documentation. Mail Form 843 (with attachments, including Form 8316, Information Regarding Request for Refund of Social Security Tax) to the following address:

Department of the Treasury
Internal Revenue Service Center
Ogden, UT 84201-0038

What Form(s) to File

Form 8843: If any of the following applies: If you are a nonresident alien, excluding days of presence in the United States for purposes of the substantial presence test because you:

- were an exempt individual (temporarily in the United States as a teacher or trainee in “J” or “Q” immigration status; temporarily in the United States as a student in an “F”, “J”, “M”, or “Q” immigration status; or you were a professional athlete competing in a charitable event, or
- were unable to leave the United States as planned because of a medical condition or problem.
- meet the qualifications of Rev. Proc. 2020-20 for COVID-19 travel restrictions.

Even if the student or scholar had no income, they still must file Form 8843 and file one for each family member who is in the United States also excluding days of presence. (The test for residency must be applied separately for each individual under the above immigration statuses).

Form 1040-NR: For all filing of income and/or treaty benefits.

When to File

Taxpayers will have until April 18, 2023 to file their 2022 return because of the Emancipation Day holiday in Washington, D.C. Taxpayers in Maine and Massachusetts will have until April 19, 2023 because of the Patriots' Day holiday in those states.

If you did not receive wages subject to U.S. income tax withholding, file your return and pay any taxes due by June 15, 2023 for the calendar year 2022.



When the regular due date for filing falls on a Saturday, Sunday, or legal holiday, file by the next business day.

Extensions of time to file. If you cannot file your return by the regular due date, file **Form 4868, Application for Automatic Extension of Time To File U.S. Individual Income Tax Return**.

For the 2022 calendar year, the due date is April 18, 2023 making any extension due October 17, 2023 (December 15, 2023 if the due date of your return is June 15, 2023).

You must file the extension by the regular due date of your tax return and pay any tax due with the request for extension.

Amended Returns. If you later have changes in your income, deductions, or credits after you mail in your return, file **Form 1040-X, Amended U.S. Individual Income Tax Return**.

Also use Form 1040-X if you should have filed Form 1040 instead of Form 1040-NR or vice versa.

If you amend Form 1040-NR or filed a previous Form 1040-X, attach the most recently filed form to the correct Form 1040-X. Print **"Amended"** across the top of the attached corrected forms or schedules.

If you are claiming a refund, the amended return must be filed within 3 years from the date the return was filed or within 2 years from the time the tax was paid, whichever is later.

A tax return filed before the final due date is considered to have been filed on the due date.



Amending the Form 1040-NR using Form 1040-X is handled differently from other amended returns. Please see Form 1040-X instructions for the proper procedures.

www.irs.gov/pub/irs-pdf/i1040x.pdf

Where to File

Forms 8843 and 1040-NR

must be mailed to:

Department of the Treasury
Internal Revenue Service
Austin, TX 73301-0215
USA

For Form 1040-NR,

if enclosing a payment, mail to:

Department of the Treasury
Internal Revenue Service
P.O. Box 1303
Charlotte, NC 28201-1303
USA



For those returns that cannot be efiled, the returns must be mailed. Tax returns cannot be faxed or emailed to the Internal Revenue Service (IRS).

Source Documents

You may see many types of income documents when you are assisting international students and scholars. The following list may help you in identifying the documents you may see.

Form 1042-S, Foreign Person's U.S. Source Income Subject to Withholding - Many students and scholars will receive this form if they have income and/or a scholarship that is subject to treaty benefits. [Link & Learn Taxes for Foreign Student and Scholar](#) provide more information on how to record the entries from this form.

Form W-2, Wage and Tax Statement - Most students and scholars are allowed to work. If they earn more than the amount exempted by their treaty, the excess should be reported on the W-2. When students and scholars work off campus, they often receive a W-2 for the full amount they earned. That is why it is important to use the wage calculation worksheet on page 17 of this guide.

Form 1098-T, Tuition Statement - Academic institutions issue Form 1098-T to students who paid tuition during the tax year. This form helps the students calculate the educational credits. Since nonresident aliens usually **cannot** claim the educational credits, the form is **not** part of their tax return.

Form 1099-INT, Interest Income - Many banks and savings institutions issue the 1099-INT to nonresident alien and scholars. Since most nonresident student and scholars do **not** need to report their interest income, the form is **not** part of their tax return. To avoid receiving a Form 1099-INT, file Form W-8 BEN with the bank or financial institution.

Form 1099-NEC, Nonemployee Compensation - Sometimes a nonresident alien student or scholar will give you a 1099-NEC. There are several complicated issues involved when this happens. Refer the taxpayer to a tax professional.

Forms 1095-A, Health Insurance Marketplace Statement - If the taxpayer has a F1095-A that indicates an Advanced Premium Tax Credit was allowed, the taxpayer will need to complete Form 8962, calculating the proper credit amount and repaying any excess advances, as necessary.

Additional Resources

- [Link & Learn Taxes for Foreign Student Course](#)
- **Forms 1040-NR**, U.S. Nonresident Alien Income Tax Return
- **Form 843**, Claim for Refund and Request for Abatement
- **Form 8233**, Exemption from Withholding on Compensation for Independent (& Certain Dependent) Personal Service of a Nonresident Alien Individual
- **Form 8316**, Information Regarding Request for Refund of Social Security Tax Erroneously Withheld on Wages Received by a Nonresident Alien on an F, J, or M Type
- **Form 8843**, Statement for Exempt Individuals and Individuals With a Medical Condition
- **Form 13614-NR**, Nonresident Alien Intake and Interview Sheet
- **Instructions for Schedule 8812**, Credits for Qualifying Children and Other Dependents
- **Publication 519**, U.S. Tax Guide for Aliens
- **Publication 597**, Information on the United States-Canada Income Tax Treaty
- **Publication 901**, U.S. Tax Treaties
- **Publication 1915**, Understanding your IRS Individual Taxpayer Identification Number (ITIN)
- **Publication 970**, Tax Benefits for Education
- **Publication 4152**, Electronic Toolkit for Nonresident Alien VITA/TCE Sites
- **Publication 4756**, Foreign Student and Scholar Volunteer Tax Return Preparation PowerPoint presentation
- **Publication 4757**, Individual Taxpayer Identification Number PowerPoint presentation
- **Publication 5087-FS**, VITA/TCE Foreign Student and Scholar Resource Guide

General Summary of U.S. Immigration Terms

Alien – An individual who is not a U.S. citizen or U.S. national. For Income tax purposes, aliens are classified as Residents or Nonresidents.

Bona fide Resident – A residence established in a foreign country or countries for an uninterrupted period which includes an entire year that extends into the current tax year.

Dual Status – Aliens who are both Residents and Nonresidents of the U.S. within the same tax year.

Exempt Individual – Aliens who, because of the terms of their immigration status, are **not** considered to be “present in the United States” for purposes of the Substantial Presence Test.

Exempt Status – A visa status that provides for a defined period of time in which the days an alien is physically present in the U.S. are **not** counted for purposes of the Substantial Presence Test.

Expatriation Tax – An additional tax that may apply to U.S. citizens who have renounced their citizenship and long-term residents who have ended their US resident status for federal tax purposes. Different rules apply according to the date upon which you expatriated.

Green Card – An alien registration card issued by U.S. Citizenship and Immigration Services (USCIS) giving an individual the privilege, according to the immigration laws, of residing permanently in the United States as an immigrant.

Taxpayer Identification Number – A unique number used by individuals and other tax entities to file tax forms with the IRS.

Individual Taxpayer Identification Number (ITIN) – A tax processing number issued by the Internal Revenue Service. It is a nine-digit number that always begins with the number 9. ITINs are for federal tax reporting only, and are **not** intended to serve any other purpose. IRS issues ITINs to help individuals comply with the U.S. tax laws, and to provide a means to efficiently process and account for tax returns and payments for those **not** eligible for Social Security Numbers (SSNs). An ITIN does **not** authorize work in the U.S. or provide eligibility for Social Security benefits or the Earned Income Tax Credit.



ITINs issued will expire if unused on a federal tax return for 3 consecutive years. If expired, you must reapply for a new number, if needed.

Nonresident Alien – An alien who is temporarily residing in the U.S., a resident alien who has abandoned permanent residence in the U.S. or an alien who has never been in the U.S.

Resident Alien – Aliens admitted to the U.S. under permanent immigration visas are generally resident aliens and meet the substantial presence test or lawful permanent residency test. (Green Card Test)

Substantial Presence Test – A rule applied in determining if an alien is a U.S. Resident for tax purposes. Generally, an individual meets the substantial presence test if the individual was in the United States for at least 31 days during the current calendar year and was present in the United States for at least 183 days during the current year and the two preceding calendar years.



For purposes of the substantial presence test, an individual does not count days of temporary presence in the United States under certain visas.)

Social Security Number (SSN) – A nine-digit number issued by the Social Security Administration to U.S. Citizens and aliens permitted to work in the U.S.

Treaty Benefits – Provisions of a tax treaty that allow for various items of tax relief or responsibility **not** provided for under general tax laws.

Nonimmigrant Visas – Allows a nonimmigrant to enter the United States in one of several different categories, which correspond to the reason the nonimmigrant was allowed to enter the United States.

Nonimmigrant – An alien who has been granted the right to reside temporarily in the United States.

Immigrant – An alien who has been granted the right to reside permanently in the United States and work without restrictions. Also known as a Lawful Permanent Resident (LPR), they are eventually issued a “green card”.

Passport – An official government document that certifies one’s identity and citizenship and permits a citizen to travel abroad.

U.S. National – An individual who, although **not** a U.S. citizen, owes his/her allegiance to the United States. U.S. nationals include individuals born in American Samoa or the Commonwealth of Northern Mariana Islands.

U.S. Citizen – An individual born in the United States, Puerto Rico, Guam or the U.S. Virgin Islands, or an individual whose parent is a U.S. citizen, or a former alien who has been naturalized as a U.S. citizen.

Job Aid- Filers without an Individual Taxpayer Identification Number (ITIN) or a Social Security Number (SSN)

If	Then
Filers without an ITIN or a SSN that only need to file a Form 8843	Complete Form 8843 leaving the “Your U.S. taxpayer identification number” box blank
Filers without an ITIN (ineligible for SSN) and in addition to the Form 8843 needs to file a Form 1040-NR	<p>The following are the most common ways to apply for an ITIN using Form W-7, Application for IRS Individual Taxpayer Identification Number</p> <ul style="list-style-type: none">• In person at IRS Taxpayer Assistance Center, www.irs.gov search box “Local IRS office” to see list of locations, services provided, and whether an appointment is required.• By mail, follow instructions for the W-7• Through an Acceptance Agent or Certifying Acceptance Agent (CAA), listing at www.irs.gov search box “Acceptance Agent Program”• Through the Student and Exchange Visitor Program (SEVP) for more information www.irs.gov search box “SEVP”
Filers eligible for a SSN	<p>Must apply for SSN at www.ssa.gov/ or a local Social Security Office using Form SS-5, Application for Social Security Card</p> <ul style="list-style-type: none">• Cannot apply for an ITIN

If	Then
ITIN has expired	ITINs, will be deactivated if not used on at least one federal income tax return for three consecutive years. The taxpayer will be notified of the deactivation. <ul style="list-style-type: none"> • Must re-apply for ITIN, if needed, see instructions above

Foreign Student/Scholar VITA-TCE Scope

The scope of the Foreign Student and Scholar Volunteer Income Tax Assistance Program is limited to only those areas of tax law specifically addressed in your *Link and Learn* training. This occurs for many reasons:

1. It is one of our Quality Site Requirements: standards proven to provide the most consistent quality services to the taxpayers.
2. As a volunteer you are only covered for liability while preparing returns within your IRS certification level.
3. Many areas of tax law, specifically treaty issues and nonresident alien issues, can be very time consuming and would prevent the program from assisting other taxpayers with less complex returns.
4. The VITA program should be consistent across the nation and around the globe. Services offered in one site generally should be the same as those offered at other sites which have volunteers of the same certification level.

If your site finds that a number of Foreign Students and/or Scholars have similar **Out-of-Scope** issues, you may want to refer them to other free services that can help them or advise them to seek the services of a professional tax preparer.

Types and Sources of Income

Income type:	Source is determined by	IN	OUT	FORM 1040-NR
Dividends	Where payer is incorporated	X		Schedule NEC
Interest - general business/investment	Payer's place of residence		X	
Interest - Not Effectively Connected to a U.S. Trade or Business	Payer's place of residence	X		Schedule NEC
Interest - Personal Account from a Banking Institution	Payee's place of residence	X*		not taxable in U.S.
Gambling winnings	Payer's place of residence	X*		Schedule NEC
Non-Employee Compensation/ Self Employment (Form 1099-NEC, etc.)	Where services are performed		X	
Pension or Annuity payments attributable to:				
Contributions (employer or employee, pretax) / Earnings of domestic (U.S.) trusts	Where the services were performed/The U.S. is the source	X*		Line 5a/5b
IRA distributions	The U.S. is the source	X*		Line 4a/4b
Refunds of State & Local Income Taxes	The U.S. is the source	X*		Form 1040, Schedule 1, then Form 1040-NR Line 8
Rents	Where property is located		X	
Royalties from natural resources	Where property is located		X	
Royalties from patents, copyrights, etc.	Where property is used		X	

Income type:	Source is determined by	IN	OUT	FORM 1040-NR
Salaries, wages, and other compensation for personal services (Listed on Forms W-2 and 1042-S codes 18, 19, and 20)	Where services are performed	X*		Line 1a/1b
Sale of inventory that was purchased	Where the inventory is sold (where title passes)		X	
Sale of personal property (except inventory)	Tax home of seller		X	
Sale of real property	Where the property is located		X	

Foreign Student/Scholar VITA-TCE Scope

Types and Sources of Income

Income type:	Source is determined by:	IN	OUT	FORM 1040-NR
Taxable Scholarships and fellowships	Residence of grantor	X*		Line 1b
Social Security Benefits (U.S.)	Where the services were performed	X*		Schedule NEC
Stock sales (Capital Gains/ Losses) sales under \$10,000	Where payer is incorporated	X ^A		Schedule NEC
Unemployment Compensation	Payer's place of residence	X		Form 1040, Schedule 1
Student Loan Interest	Where services are performed	X		Form 1040, Schedule 1
Educator Expenses, Health Savings Account, and IRA Deductions	(Unless VITA Basic or Advanced certified)		X ^A	Form 1040, Schedule 1
Self-Employment Tax, SEP, Penalty on Early Withdrawal of Savings, etc. not covered in Foreign Student Scholar Training	(Due to the complexity of these issues for Nonresident Aliens and possible treaty provisions, etc.)		X	
Deductions:				
State & Local Income Taxes	U.S. Only	X		Form 1040-NR, Schedule A
Gifts to U.S. Charities	U.S. Only	X		Form 1040-NR, Schedule A
Casualty & Theft Losses			X	
Certain Misc. Deductions	(Only to the extent included in the Training Materials.)	X		Form 1040-NR, Schedule A
Medical, Mortgage Interest, Property Taxes, etc. not listed on Form 1040-NR, Sch. A			X	
Other				
Form 1095-A - Premium Tax Credits	(Nonresidents are not eligible, repayments are Out-of-Scope .)		X	
Dual Status Residency			X	
Treaty Provisions claimed by a Resident Alien			X	
Refunds of Social Security Taxes erroneously withheld (Form 843)		X		See Form 843
Election to be treated as a Resident to file MFJ with resident spouse	(Election Statement is Out-of-Scope)		X ^{**}	
Claim of "Closer Connection" or "Dual" Status			X	
Form W-7, ITIN Application			X ^{***}	
Any other issue not addressed in your Link & Learn Certification Training.			X	

* U.S. Source Only is within scope

** A paper return can be done by a VITA/TCE site, but the election/attachment is **Out-of-Scope**.

***Only a qualified CAA site can prepare these to be sent with the return.

^A Advanced certification is also required. Refer to treaty for possible further restrictions.

Quality Review Check List



After reviewing the tax return and verifying that it reflects correct tax law application to the information provided by the taxpayer, notate “*QR Complete*” with initials on the F13614-NR.

A **100% Quality Review** is required on all tax returns using a completed Form 13614-NR, source documents, and this Check List.

- ☐ A signed Form 14446, Virtual VITA/TCE Taxpayer Consent, was received before preparing a virtual return.
 - ☐ Return was accurately determined to be within the scope of the VITA/TCE Foreign Student and Scholar program.
 - ☐ Volunteer return preparer and quality reviewer had proper certification levels for the return.
 - ☐ Residency status for tax purposes was properly determined
 - ☐ Taxpayer's identity, address, and phone numbers were verified. (Govt. issued photo ID)
 - ☐ Names, SSN or ITINs and dates of birth of taxpayer (and spouse and dependents, if from Canada, Mexico, India, or South Korea) match supporting documents
- NOTE:** *ITINs will expire if not used on a federal income tax return for three consecutive years.*
- ☐ Filing status is correctly determined (single or the proper married status, etc.).
 - ☐ All allowable dependents properly listed for eligible credits, etc. (Canada, Mexico, India and South Korea)
 - ☐ Dependents' identification numbers and names listed correctly
 - ☐ Income items correctly transferred from Form W-2, Form 1042-S, and Form 1099 (amounts paid, name, address, income codes, EIN, etc. properly listed)
 - ☐ Is all income reported? Including taxable amounts not reported on an income statement or from the payer including, but not limited to all gambling and lottery winnings, prizes and awards, rents, royalties, stock sales, etc.
 - ☐ Itemized deduction section line completed accurately or Standard deduction (students from India only) is correct.
 - ☐ All allowable credits are correctly entered.
 - ☐ Withholding shown on Forms W-2, 1042-S, 1099, and estimated tax reported correctly.
 - ☐ All calculations are correct.
 - ☐ If a treaty benefit was claimed, the proper treaty article was listed in the proper section(s).
 - ☐ Has a Form 8843 completed, as necessary, for the taxpayer and any accompanying spouse and children.
 - ☐ Overpayment (or balance due) computed correctly
 - ☐ Direct Debit or Direct Deposit information was entered correctly, as applicable.
 - ☐ Advise the taxpayer of their responsibility to provide correct information in the preparation of the return prior to signing.
 - ☐ Advise the taxpayer of where to sign the return: Form 8843, Form 1040-NR, or Form 8879, IRS e-file Signature Authorization. [If a child has to file a tax return or Form 8843, but can't sign the form, the child's parent, guardian, or another legally responsible person must sign the child's name, followed by the words “By (Your signature) Parent for Minor Child”.]
 - ☐ If filing by paper, all Forms W-2 and 1042-S, as well as schedules and forms, are attached to the return. Advised of proper mailing address.
 - ☐ SIDN and Site Name are properly listed on the return.



Your online resource for volunteer and taxpayer assistance

Partner and Volunteer Resource Center

www.irs.gov/Individuals/Partner-and-Volunteer-Resource-Center

- What's Hot!
- Partner and Volunteer Quality

Quality and Tax Alerts for IRS Volunteer Programs

www.irs.gov/Individuals/Quality-and-Tax-Alerts-for-IRS-Volunteer-Programs

- Volunteer Tax Alerts (VTA)

Volunteer Training Resources

www.irs.gov/Individuals/Volunteer-Training-Resources

Outreach Connection

www.irs.gov/Outreach-Connection

Interactive Tax Assistant (ITA)

www.irs.gov/help/ita

Tax Information for Individuals

www.irs.gov/Individuals

File

- Don't lose your refund by not filing
- Filing past due returns
- Taxpayers living overseas
- Disaster victims
- Use IRS Free File online
- Find tips for choosing a tax professional
- Get free tax help from volunteers
- Refund different than expected?
- Understanding your IRS notice or letter
- Need to correct your taxes? Amend a tax return
- Check the status of your amended return
- How to correct an electronically filed 2021 return rejected for a missing Form 8962
- Reconcile advance payments of the Child Tax Credit received in 2021
- Recovery Rebate Credit
- How to sign your e-file return
- Get your Social Security Benefit Statement
- HealthCare.gov
- Update your address or name

Tools

- View Your Tax Account
- Get Your Transcript
- Where's My Refund

Types of Filers

- Students
- Parents
- Military
- Seniors & Retirees
- Self-Employed
- Gig Economy Workers
- Employees

Pay

- Options for Paying Your Taxes
- How to Choose a Payment Option
- Tax Withholding
- Estimated Taxes
- Understanding Your IRS Notice or Letter
- What to Do If You Can't Pay

Identity Theft Protections

Get Help Now

eBooks

Want to view our training products on your mobile or tablet devices? Click here to access our eBooks: www.irs.gov/Individuals/Site-Coordinator-Corner

IRS2Go Mobile App

Another device to use for additional information is IRS2Go. [Click here to download](#)

IRS2Go mobile app:

www.irs.gov/newsroom/irs2goapp

and much more!

Your direct link to tax information 24/7: www.irs.gov