Tax Workshop for Foreign Nationals
Preparing 2020 Forms

Dr. Steve Gill
Associate Professor
Charles W. Lamden School of Accountancy
San Diego State University
Before we begin…

● “Filing taxes” means submitting tax forms (or a tax “return”) to the appropriate government agencies.
● YOU may be responsible for “filing taxes” every year
● We are going to discuss “this year” as 2020
  ● That is the period for which your taxes are being filed currently
  ● Each calendar year is generally a separate period
● UCSD offers Glacier Tax software to assist you in preparing your tax returns.
Before we begin

- SDSU’s VITA program is OPEN but appointments are fairly scarce
- Foreign students
- There are other services available
  - Beware of what you find via Google
  - Sprintax.com is reliable. $38 for Federal and starting at $30 for state
  - You CANNOT prepare nonresident tax returns in TurboTax
US Tax System

- Considered a “pay as you go” system
- Income taxes are “withheld” from your pay as it is earned
- The tax return filing process is a “true-up” at year end
  - Your ACTUAL liability is calculated and compared to the amount withheld
    - If Actual > Withheld = Pay taxes with return
    - If Actual < Withheld = Refund to taxpayer
  - The system is “set up” to provide for refunds BUT it does not always work that way
US Tax System

- Comparing refunds can be folly
  - Refund amount depends on
    - Income
    - Withholding
    - Deductions
  - All of which can vary from person to person
US Tax System

- Employment taxes (or “social” taxes)
  - Social security and Medicare
  - Intl students are NOT generally subject to these however, work outside of treaty-permitted work will be subject to employment tax
  - Income tax treaty benefits do not typically extend to employment taxes
    - Those come through a “totalization” agreement with are considerably more rare
U.S. Federal Income Taxation

- The U.S applies both a source based and a resident based approach to income taxation
  - Source based – income earned in the U.S. is largely taxed by the U.S.
  - Resident based – income of U.S. TAX residents, regardless of source is taxed by the U.S.
  - Thus a NON-resident can still be taxed in the U.S. on U.S. sourced income
Resident Aliens

- The issue of status as a resident alien or a nonresident alien is key in determining an individual's U.S. income tax liability.
- A resident alien individual generally is subject to U.S. income tax on the individual's worldwide income (without regard to its source) in much the same manner as a U.S. citizen, with only a few limited exceptions.
Non-Resident Aliens

- By contrast, a nonresident alien individual is subject to U.S. income tax only on the following types of income:
  - U.S.-source, non-U.S. business fixed or determinable annual or periodic income (things like dividends, rent, royalties)
  - Taxable income effectively connected with a trade or business conducted by the nonresident alien within the United States
    - Working as an employee is ECI!
  - Net gain from the sale or exchange of U.S. real property
  - Net U.S.-source capital gains for the taxable year
    - E.g., Robinhood
Why this is important?

U.S. Citizens
Permanent Residents
Resident Aliens (RA)

U.S. Tax System

Nonresident Aliens (NRA)

Nonresident Alien Tax System
Who is a resident?

- Any U.S. citizen –
  - The Code does not define the term “citizen of the United States.” However, the regulations provide that “every person born or naturalized in the United States and subject to its jurisdiction is a citizen.”

- Green card holder – any lawful permanent resident of the U.S. under immigration law
  - Resident status begins in the first year in which the alien is a lawful resident and physically present in the U.S. for at least 1 day.
  - Resident status continues until green card is abandoned.

- Anyone meeting the substantial presence test
Testing for residency status

- US Govt. has a test based on the number of days present in the US to determine if you are a TAX resident
- However – students and researchers MAY be EXEMPT from even having to take the test and will be declared non-resident aliens
Definitions

- **Student** – someone enrolled in classes as part of a degree seeking program

- **Scholar, researcher, teacher:**
  - Professor, research scholar, or person with similar education and background who comes to the U.S. for a short-term visit to lecture, observe, consult, train, and/or demonstrate special skills.
  - Primarily teaches, lectures, observes, consults, and might conduct research if permitted by the program sponsor.
  - Primarily conducts research, observes, consults, and may also teach or lecture if permitted by the program sponsor.
  - Expert in a field of specialized knowledge who comes to the U.S. for observing, consulting, and demonstrating special skills.
1. Determine your federal tax residency status

**How do I know if I am an NRA?**

**Substantial Presence Test (“SPT”)**

- Based on how many days you were physically present in the U.S.
- Two parts
  1. at least 31 days in current year, and
  2. 183 days during the 3-year period based on the formula

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>XX</td>
<td>XX x 1 = _____</td>
<td>YY x 1/3 = _____</td>
<td>ZZ x 1/6 = _____</td>
<td>_____</td>
</tr>
</tbody>
</table>

- Exception – “Exempt Individuals”

Total < 183 days → NRA
Total ≥ 183 days → RA
Exceptions to days present

- Does not include regular commuters from Mexico (and Canada, but not many of those in San Diego)
- Does not include:
  - Days in transit
  - Days that medical condition prevented departure and
  - *Certain teachers, trainees and students*
Testing for residency status - students

- **Am I exempt?**
- **Q1:** Are you temporarily in the US as a student on an F, J, M or Q visa?
- **Q2:** Have you been in the US for no more than 5 calendar years (any 1 day during the year counts as a year)?
- If Yes to both then you are exempt!!!
  - Note: 2021 does not count (until next year) – we are analyzing your 2020 tax status.
Testing for residency status - scholars

- Am I exempt?
- Q1: Are you temporarily in the US as a teacher or trainee on a J visa (and not also a full-time student)?
- Q2: Have you been in the US for no more than any part of 2 of the preceding 6 calendar years?
- If Yes to both then you are exempt!!!
<table>
<thead>
<tr>
<th>Symbol</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>F-1</td>
<td>Students and exchange visitors: academic students</td>
</tr>
<tr>
<td>F-2</td>
<td>Students and exchange visitors: spouses and children of academic students</td>
</tr>
<tr>
<td>F-3</td>
<td>Students and exchange visitors: Canadian or Mexican national academic commuter students</td>
</tr>
<tr>
<td>H-1B</td>
<td>Temporary workers and trainees: specialty occupations</td>
</tr>
<tr>
<td>H-1B1</td>
<td>Temporary workers and trainees: Chile and Singapore Free Trade Agreement</td>
</tr>
<tr>
<td>H-1C</td>
<td>Temporary workers and trainees: registered nurses participating in the Nursing Relief for Disadvantaged Areas</td>
</tr>
<tr>
<td>H-2A</td>
<td>Temporary workers and trainees: seasonal agricultural workers</td>
</tr>
<tr>
<td>H-2B</td>
<td>Temporary workers and trainees: seasonal nonagricultural workers</td>
</tr>
<tr>
<td>H-3</td>
<td>Temporary workers and trainees: industrial trainees</td>
</tr>
<tr>
<td>H-4</td>
<td>Temporary workers and trainees: spouses and children of H-1, H-2, and H-3 workers</td>
</tr>
<tr>
<td>J-1</td>
<td>Students and exchange visitors: exchange visitors</td>
</tr>
<tr>
<td>J-2</td>
<td>Students and exchange visitors: spouses and children of exchange visitors</td>
</tr>
<tr>
<td>M-1</td>
<td>Students and exchange visitors: vocational students</td>
</tr>
<tr>
<td>M-2</td>
<td>Students and exchange visitors: spouses and children of vocational students</td>
</tr>
<tr>
<td>O-1</td>
<td>Temporary workers and trainees: extraordinary ability or achievement</td>
</tr>
<tr>
<td>O-2</td>
<td>Temporary workers and trainees: accompanying and assisting in performance of O-1 workers</td>
</tr>
<tr>
<td>O-3</td>
<td>Temporary workers and trainees: spouses and children of O-1 and O-2 workers</td>
</tr>
<tr>
<td>P-1</td>
<td>Temporary workers and trainees: internationally recognized athletes or entertainers</td>
</tr>
<tr>
<td>P-2</td>
<td>Temporary workers and trainees: artists or entertainers in reciprocal exchange programs</td>
</tr>
<tr>
<td>P-3</td>
<td>Temporary workers and trainees: artists or entertainers in culturally unique programs</td>
</tr>
<tr>
<td>P-4</td>
<td>Temporary workers and trainees: spouses and children of P-1, P-2, and P-3 workers</td>
</tr>
<tr>
<td>Q-1</td>
<td>Temporary workers and trainees: workers in international cultural exchange programs</td>
</tr>
<tr>
<td>R-1</td>
<td>Temporary workers and trainees: workers in religious occupations</td>
</tr>
<tr>
<td>R-2</td>
<td>Temporary workers and trainees: spouses and children of R-1 workers</td>
</tr>
</tbody>
</table>
**Are you an exempt individual?—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 from the Substantial Presence Test (SPT).

**Student**
- **F, J, M, or Q Visa**
  - Are you a full-time student?
    - No
    - Yes
      - Are you in substantial compliance with your visa?
        - No
        - Yes
          - Have you been in the U.S. for any part of more than 5 calendar years?
            - Yes
            - No
              - Have you received permission from the IRS Field Assistance Area Director to continue to be an exempt individual?
                - No
                - Yes
                  - You are an exempt individual for the Substantial Presence Test
                    - No
                    - Yes
                      - Were you exempt as a teacher, trainee, or student for any part of 3 (or fewer) of the preceding 6 years, AND did a foreign employer pay all your compensation during the tax year in question, AND were you present in the U.S. as a teacher or trainee in any of the preceding 6 years, AND did a foreign employer pay all your compensation during each of the preceding 6 years you were present in the U.S. as a teacher or trainee?
                        - Yes
                        - No
                          - You must apply the Substantial Presence Test
                            * 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 2011.
                            To meet this test, you must be physically present in the United States as at least:
                            1. 31 days during 2011
                            2. 183 days during the 3-year period that includes 2011, 2010, and 2009, counting:
                               a. All the days you were present in 2011 and
                               b. 1/2 of the days you were present in 2010, and
                               c. 1/6 of the days you were present in 2009.
Exception: “Exempt individuals”

- “Exempt” from counting days for SPT, not “exempt” from taxes!
- F/J students
  - Exempt from counting days for first 5 calendar years under F/J student status
- J non-students (e.g. scholars)
  - Exempt from counting days for 2 out of current 6 years under F/J student OR non-student status
Example 1 – “Exempt Individual”

- Immigration Status: F-1 or J-1 (student)
- Arrival Date: 12/30/2016 (first visit to the U.S.)
- This student was physically present in the U.S. every semester since arriving but left the U.S. for 2 months during each summer.

<table>
<thead>
<tr>
<th>Exempt Years</th>
<th># of Days</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016 - Yr 1</td>
<td>0 x 1 = 0</td>
</tr>
<tr>
<td>2017 - Yr 2</td>
<td>0 x 1/3 = 0</td>
</tr>
<tr>
<td>2018 - Yr 3</td>
<td>0 x 1/6 = 0</td>
</tr>
<tr>
<td>2019 - Yr 4</td>
<td></td>
</tr>
<tr>
<td>2020 - Yr 5</td>
<td></td>
</tr>
</tbody>
</table>

2020 (Tax Year) 0 x 1 = 0
2019 0 x 1/3 = 0
2018 0 x 1/6 = 0
TOTAL = 0

Total < 183 days → NRA
Example 2 – “Exempt Individual”

- Immigration Status: F-1 or J-1 (student)
- Arrival Date: 8/1/2019
  - this student was also an undergrad student in the U.S. under F-1 from May 2014 – August 2017
- This student was physically present in the U.S. since arriving but left the U.S. for 60 days during summer of 2020.

Exempt Years

<table>
<thead>
<tr>
<th>Year</th>
<th>Yr 1</th>
<th>Yr 2</th>
<th>Yr 3</th>
<th>Yr 4</th>
<th>Yr 5</th>
</tr>
</thead>
<tbody>
<tr>
<td>2014</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2015</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2016</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2017</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2019</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

# of Days

<table>
<thead>
<tr>
<th>Year</th>
<th># of Days</th>
</tr>
</thead>
<tbody>
<tr>
<td>2020</td>
<td>305</td>
</tr>
<tr>
<td>2019</td>
<td>0</td>
</tr>
<tr>
<td>2018</td>
<td>0</td>
</tr>
</tbody>
</table>

At least 31 days in current year & Total ≥ 183 days → RA
Example 3 – “Exempt Individual”

- Immigration Status: J-1 (scholar)
- Arrival Date: 8/29/2018

<table>
<thead>
<tr>
<th>Exempt Years</th>
<th># of Days</th>
</tr>
</thead>
<tbody>
<tr>
<td>2018 - Yr 1</td>
<td>365 x 1 = 365</td>
</tr>
<tr>
<td>2019 - Yr 2</td>
<td>0 x 1/3 = 0</td>
</tr>
<tr>
<td>2018</td>
<td>0 x 1/6 = 0</td>
</tr>
<tr>
<td>TOTAL</td>
<td>= 365</td>
</tr>
</tbody>
</table>

At least 31 days in current year & Total ≥ 183 days → RA
Example 4 – “Exempt Individual”

- Immigration Status: J-1 (scholar)
- Arrival Date: 8/15/2015 – 6/30/2019 as a student
- Returned to US on 8/15/2020 as J-1 scholar

6 year lookback
Exempt Years
2020
2019
2018
2017
2016
2015

# of Days

2020 (Tax Year) \[ \frac{153 \times 1}{1} = 153 \]
2019 \[ \frac{181 \times 1/3}{1/3} = 60 \]
2018 \[ \frac{0 \times 1/6}{1/6} = 0 \]
TOTAL \[ = 213 \]

At least 31 days in current year & Total ≥ 183 days → RA
Example 5 – “Exempt Individual”

- Immigration Status: J-1 (scholar)
- Arrival Date: 8/15/2015 – 5/31/2016 as a scholar
- Returned to US on 8/15/2020 as a scholar

6 year lookback

|--------------|------|------|------|------|------|------|

# of Days

- **2020 (Tax Year)**: \( \frac{153 \times 1}{1} = 153 \)
- **2019**: \( 0 \times \frac{1}{3} = 0 \)
- **2018**: \( 0 \times \frac{1}{6} = 0 \)

**TOTAL** = **153**

At least 31 days in current year & Total < 183 days → NRA
Exempt individuals

- Benefit to exemption – exclude days present in substantial presence test
  - Much less likely to trigger tax resident (RA) status
- Must complete Form 8843
- Still liable for income taxes
Form 8843

- You must file if you were an “exempt individual” for SPT purposes even if you had NO income
  - F/J students - First 5 yrs as F/ J students
  - J non-students - 2 out of current 6 yrs as F/J students OR J non-students
- Family members also must file this form if they were present in the U.S. under an F or J status in 2020, regardless of whether any U.S. income was received.
- Informational return to let the IRS know that you were an “exempt individual”
- Included in your income tax return if required to file
Form 8843

- No US income but claiming exemption from substantial presence test
- Watch the video at https://newscenter.sdsu.edu/student_affairs/internationalstudents/istaxes.aspx
I am an NRA with taxable income. What do I need to file?

Form 1040NR-EZ or 1040NR

- You do **NOT** need to file Federal if you have no taxable income

  **AND**

- You have no other reasons to file, such as
  - you had wages or scholarship income **exempt by a tax treaty**, or
  - you had a taxable scholarship, or
  - Income tax was withheld (i.e. eligible for refund)
# Overview of US Taxable Income for NRAs

<table>
<thead>
<tr>
<th>Wages received in 2020</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Amount exempted by tax treaty, if any</td>
</tr>
<tr>
<td>+ Other taxable income in US</td>
</tr>
<tr>
<td>- Certain deductions</td>
</tr>
<tr>
<td>= Adjusted gross income</td>
</tr>
<tr>
<td>- Itemized/standard deductions</td>
</tr>
<tr>
<td>= Taxable income</td>
</tr>
<tr>
<td>x Tax Rate</td>
</tr>
<tr>
<td>= Tax before credits and payments</td>
</tr>
<tr>
<td>- Tax credits</td>
</tr>
<tr>
<td>- Tax payments</td>
</tr>
<tr>
<td>= Tax due or refund</td>
</tr>
</tbody>
</table>

Dividends, taxable scholarships, US gains

Student loan interest

State income tax or standard for India

Withholding on W-2 and 1042-S
**Treaties**

- Different treatment for students and teachers/researchers and different types of income
  - Most permit a certain amount of income to be treated as “exempt” from income tax
  - Each treaty is different
    - You need to understand the treaty that applies to you!
    - Treaties are available online
      - Focus on Articles (typically numbered 19 to 21 or so) related to
        - Teachers, Professors, Researchers (scholars)
        - Students
Treaties

- IRS Publication 901

China, People’s Republic of

An individual who is a resident of the People’s Republic of China and who is temporarily in the United States primarily to teach, lecture, or conduct research at a university or other accredited educational institution or scientific research institution is exempt from U.S. income tax on income for the teaching, lecturing, or research for a total of not more than 3 years.

- Provides summary of treaty provisions specific to scholars and students
Treaties

- A student or scholar must have been a resident of the treaty country prior to entering the U.S. for the provisions of that treaty to apply.
- The key factor is the residency and NOT citizenship of the individual.
- In most cases, the person will be both a citizen and resident of the same treaty country. However, it is very important to determine the country of residency in order to apply the proper treaty benefits.
Common treaty terms

- Different income exclusions amounts
  - Will vary by student vs. scholar

- Different length of time
  - Treaty exemptions to apply (e.g., 2 years, 5 years, unlimited)
Retro treaties

- A few countries have treaty clauses saying that if the maximum years of presence are exceeded, the entire treaty benefit is lost.
  - German **students** after 4
  - India, UK, Netherlands, Luxembourg **scholars** after 2
  - May be others (Canada is weird – the treaty, not the country)
- Requires a taxpayer to file amended returns and pay tax on previous years' income.
- Find IRS Publication 901 and read the section/country that applies to you (www.irs.gov)
  - Non-students starts on p. 15
  - Students starts on p. 19
Reporting Treaty Income

- Each type of income that an alien can earn is identified by a numeric code on Form 1042-S, box 1. International students and scholars should receive Form 1042-S in lieu of Form W-2 for any income that is covered by a treaty. The codes are helpful in determining the application of the treaty benefits.
  - The most common codes used by international students and scholars are:
    - Code 16: Scholarship or fellowship grants
    - Code 19: Compensation for teaching or researching
    - Code 20: Compensation during study and training
Treaties

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

Caution: The following is a quick-reference summary of treaty benefits. For more information about the application of these treaty benefits, see Publication 901, *U.S. Tax Treaties*.

<table>
<thead>
<tr>
<th>Country</th>
<th>Maximum Years in U.S</th>
<th>Maximum Dollar Amounts</th>
<th>Treaty Article</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bangladesh</td>
<td>No Limit*</td>
<td>$8,000</td>
<td>21(2)</td>
</tr>
<tr>
<td>Belgium</td>
<td>No Limit</td>
<td>9,000</td>
<td>19(1)(b)</td>
</tr>
<tr>
<td>Bulgaria</td>
<td>No Limit</td>
<td>9,000</td>
<td>19(1)(b)</td>
</tr>
<tr>
<td>China</td>
<td>No Limit</td>
<td>5,000</td>
<td>20(c)</td>
</tr>
<tr>
<td>Cyprus</td>
<td>5</td>
<td>2,000</td>
<td>21(1)</td>
</tr>
<tr>
<td>Czech Republic</td>
<td>5</td>
<td>5,000</td>
<td>21(1)</td>
</tr>
<tr>
<td>Egypt</td>
<td>5</td>
<td>3,000</td>
<td>23(1)</td>
</tr>
<tr>
<td>Estonia</td>
<td>5</td>
<td>5,000</td>
<td>20(1)</td>
</tr>
<tr>
<td>France</td>
<td>5</td>
<td>5,000</td>
<td>21(1)</td>
</tr>
<tr>
<td>Germany</td>
<td>4*</td>
<td>9,000</td>
<td>20(4)</td>
</tr>
<tr>
<td>Iceland</td>
<td>5\textsuperscript{7}</td>
<td>9,000</td>
<td>19(1)</td>
</tr>
</tbody>
</table>
Treaties

**Countries With Treaty Benefits for Teaching (Income Code 19)**

*Caution:* The following is a quick-reference summary of treaty benefits. For more information about the application of these treaty benefits, see Publication 901, U.S. Tax Treaties.

<table>
<thead>
<tr>
<th>Country</th>
<th>Maximum Years in U.S</th>
<th>Maximum Dollar Amounts</th>
<th>Treaty Article</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bangladesh</td>
<td>2</td>
<td>No Limit*</td>
<td>21(1)</td>
</tr>
<tr>
<td>Belgium</td>
<td>2</td>
<td>No Limit</td>
<td>19(2)</td>
</tr>
<tr>
<td>Bulgaria</td>
<td>2</td>
<td>No Limit</td>
<td>19(2)</td>
</tr>
<tr>
<td>China</td>
<td>3</td>
<td>No Limit</td>
<td>19</td>
</tr>
<tr>
<td>Commonwealth of Independent States**</td>
<td>2</td>
<td>No Limit</td>
<td>VI(1)</td>
</tr>
<tr>
<td>Czech Republic</td>
<td>2</td>
<td>No Limit</td>
<td>21(5)</td>
</tr>
<tr>
<td>Egypt</td>
<td>2</td>
<td>No Limit</td>
<td>22</td>
</tr>
<tr>
<td>France</td>
<td>2</td>
<td>No Limit</td>
<td>20</td>
</tr>
<tr>
<td>Germany</td>
<td>2</td>
<td>No Limit</td>
<td>20(1)</td>
</tr>
<tr>
<td>Greece</td>
<td>3</td>
<td>No Limit</td>
<td>XII</td>
</tr>
<tr>
<td>Hungary</td>
<td>2</td>
<td>No Limit</td>
<td>17</td>
</tr>
<tr>
<td>India</td>
<td>38 yr*</td>
<td>No Limit</td>
<td>32(1)</td>
</tr>
</tbody>
</table>
## Treaties

### 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.

<table>
<thead>
<tr>
<th>Country</th>
<th>Maximum Years in U.S</th>
<th>Maximum Dollar Amounts</th>
<th>Treaty Article</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bangladesh</td>
<td>2</td>
<td>No Limit</td>
<td>21(2)</td>
</tr>
<tr>
<td>China</td>
<td>No Limit</td>
<td>No Limit</td>
<td>20(b)</td>
</tr>
<tr>
<td>Commonwealth of Independent States*</td>
<td>5</td>
<td>Limited</td>
<td>VI(1)</td>
</tr>
<tr>
<td>Cyprus</td>
<td>5</td>
<td>No Limit</td>
<td>21(1)</td>
</tr>
<tr>
<td>Czech Republic</td>
<td>5</td>
<td>No Limit</td>
<td>21(1)</td>
</tr>
<tr>
<td>Egypt</td>
<td>5</td>
<td>No Limit</td>
<td>23(1)</td>
</tr>
<tr>
<td>Estonia</td>
<td>5</td>
<td>No Limit</td>
<td>20(1)</td>
</tr>
<tr>
<td>France</td>
<td>5</td>
<td>No Limit</td>
<td>21(1)</td>
</tr>
<tr>
<td>Germany</td>
<td>No Limit</td>
<td>No Limit</td>
<td>20(3)</td>
</tr>
</tbody>
</table>
Reporting Treaty Exempt Income

- Wages or scholarship income exempt by a tax treaty
- Taxable scholarship income

Did you receive Form 1042-S?
1042-S from UCSD

- The 1042-S prepared by UCSD
- Not everyone gets a 1042-S
  - For example: No treaty exemption
    - India students
Working on/off campus

- Income Code 20—Compensation During Study and Training
- Students and trainees from many countries are allowed to earn some money tax-free in the U.S.
- Many international students earn money from the university they attend. If a student earns more wages than their treaty benefit allows, the excess must be reported on their tax return.
  - International students and scholars who qualify can avoid withholding federal income tax on the students' and scholars' earnings until the applicable treaty benefit amount is exceeded.
Scholarships

- Income in the form of a scholarship or fellowship is treated in one of three ways.

1. Excludable under the Internal Revenue Code (this is called the Section 117 exclusion)
   - A qualified scholarship is any amount received as a scholarship or fellowship grant, and used for tuition, fees, books, supplies, and equipment that the student is required to buy. Amounts used for other purposes, such as room and board or travel, are not excludable. Section 117 does not apply if the student must perform services to receive the money (i.e. teaching assistant).

2. Exempt by treaty, or

3. Taxable
Types of Scholarships

- Tuition, fees, books, and/or supplies is not taxable if it was spent for the purpose intended and there was no requirement to perform services.
- Room and board is normally taxable, but some countries have treaty provisions making it nontaxable. Usually there are a maximum number of years during which the income is nontaxable.
- Performing services such as teaching or research is treated as wages.
Working Off Campus

- Sometimes students and scholars try to make use of the treaty benefits for dependent and independent personal service income (Income Codes 17 and 18).
  - Many treaties do not permit students and scholars to earn those types of income; they are only allowed to engage in employment that is related to the reason they were admitted to the country (as a student or scholar).
  - This will be ineligible for treaty exemption and taxed
    - Both income and employment taxes can apply
Other income

- Some outside employers will not handle your taxes correctly
  - Common mistakes
  - No 1042-S (you will need to apply the treaty)
  - They might apply employment taxes
    - Students and scholars – as long as permitted work and you are here on your F, J, M or Q visa exempt from employment taxes
    - As long as you remain a NRA
    - Spouses on F-2 or J-2 not exempt
  - They may also issue you a Form 1099-MISC
Other Income

- Dealing with a 1099-MISC
  - If Resident, self-employment income should be reported on Schedule C (you are a business!)
    - Also need to file for self-employment taxes
  - If NRA, also a business but you remain exempt from self-employment taxes
    - Can file Sch C and deduct business expenses but may get questions about self-employment taxes so may want to attach a statement
    - Can report as “Other Income”
Other Income

- If your employer mistakenly withholds employment taxes
  - Social Security and Medicare
    - Step 1: Ask for refund from employer
    - Step 2: File Form 843
    - Follow instructions for this form and mail separate from your income tax returns
“Weird” Treaties

- India - students on an F, J, or M visa are allowed to use the standard deduction instead of itemizing deductions.
  - An Indian student may take a standard deduction equal to the amount allowable on Form 1040 ($12,400 for single)
Weird Treaties - China

- A student from China is entitled to the $5,000 exemption each year for the amount of time reasonably necessary to complete education or training.
  - Students will become resident aliens for tax purposes after five years, but would still be entitled to the treaty benefit as long as they remain students.
- A scholar is exempt from tax on earned income for three years. After two years, a scholar will become a resident alien for tax purposes, but is still entitled to one more year of tax benefits under the treaty.
Tax withheld from wages/scholarships

W-2, Box 2

1042-S, Box 7
Deductions

● Itemized Deductions
  ● Nonresident students and scholars (except students from India) are not permitted to take the standard deduction.
  ● Itemize deductions are limited
    ● State and local taxes
    ● Charitable contributions (to US charities only)
    ● Casualty or theft loss (must be related to a Federally declared disaster)
    ● Student loan interest
Dependents and Exemptions

- US Income tax provides a “blanket” deductions against taxable income
  - Standard deduction
    - Generally $12,400 for a single taxpayer and $24,800 for a married BUT NOT APPLICABLE TO NONRESIDENTS
    - We will see that NR do not generally have “spouses” (even when you actually have a spouse)!
Dependent issues

- All unmarried nonresidents must use the Single filing status.
- Married nonresidents must use the Other Married Nonresident Alien status, even if their spouse is not present in the U.S.
  - Special rules for Canada, Mexico and South Korea
- A nonresident alien who is married to a U.S. citizen or resident can choose to be treated as a resident and file a joint return (Form 1040).
Dependents

- Generally none except
  - Canada and Mexico: Dependents can be claimed if they meet all of the tests for dependency.
  - South Korea: Dependents must live with the nonresident in the U.S. at least part of the year. The dependency exemption will need to be prorated if the nonresident has both U.S. income and foreign income.
  - If this is you, go to p. 27 of IRS Publication 519 and read!
    - www.irs.gov
Married to US resident

- Typically, child tax credits and earned income credits are NOT available to non-residents
  - However – non-resident married to a US resident may be permitted to under certain circumstances
Dual status residents

- Marco came to US as a scholar on Aug 1, 2019
  - Not subject to SPT for either or 2019 or 2020
  - Now March 15, 2021 and looks like Marco will be in US long enough to “fail” the SPT

- May elect to be treated as a Resident for part of 2019
  - Must be present in US for 31 days in a row (check)
  - Must be present in US for 75% of the days of the year
  - Must meet SPT in 2021 (at earliest July 2) – thus must extend tax return
Dual status residents

- Become a resident in 2020 but spouse not a resident
  - May file jointly both as residents
  - Income is worldwide income (so might make sense if trailing spouse has no income)
Timing issues

- Treaty exclusion does NOT match up with exemption from SPT
  - Anwar came to US on F-1 on August 1, 2015
    - Exempt from counting days: 2015, 2016, 2017, 2018, 2019 but NOT 2020
    - He is a resident for tax purposes for 2020 tax year
    - However, his treaty runs from August 1, 2015 – July 31, 2020
    - He can still have treaty excluded income!!!!
Going to cover Glacier Prep Next

- If Glacier Prep cannot handle your tax situation
  - You have treaty provisions to apply to a resident return - Timing with treaty and SPT
  - You wish to make the election to treat a non-resident spouse as a resident
  - You have retro treaty issues
- If you are a student – book an appointment with SDSU VITA
  - [https://business.sdsu.edu/vita](https://business.sdsu.edu/vita)
- If you are a scholar – you need a paid preparer
Paid Preparers

- Most trained: CPA
- Least trained: H&R Block, Liberty Tax
- Do NOT try this with Turbo Tax
- You need to find a preparer that specializes in nonresidents and international issue
Other forms you may have received

- **Form 1099-INT (Interest Income)**
  - Probably disregard because interest received on deposits held in U.S. banks are **NOT taxable** if you’re an NRA, generally

- **Form 1098-T (Tuition Statement)**
  - Disregard because educational credits are **NOT allowed** for an NRA

- **Others?**
  - Form 1099-DIV dividends
  - Form 1099-B broker’s statement listing security sales
Getting Started

Welcome to GTP Fake Student

To prepare your federal tax return, simply start on Step One and enter your information until you have completed Step Four. You may save and exit GTP at any time by selecting "Log Out" at the top right of any screen. You may then return to GTP at any time and continue to enter your information until you have completed your federal tax return – GTP will keep track of where you are in the process!

Prepare a 2020 Federal Tax Return

➡️ Step ONE: Determine U.S. Tax Residency Status

- Step TWO: Select and Complete Income Forms
- Step THREE: Complete Additional Information
- Step FOUR: Generate and Print Forms

FAQ and BLANK Tax Forms for Prior Years
Typically, your Country of Tax Residence is the same as your Country of Permanent Residence; however, if you have lived in a country other than your Country of Permanent Residence immediately before coming to the U.S. to study/work, you may have established Tax Residency in that country. This will dictate the treaty application!
# Comings and goings

Enter Information About Your Visits to the U.S.

## Immigration and Visit Information

For EVERY time that you have been present in the U.S. between 2020 all the way back to 1986, including your current visit, you must enter the information below. You do not need to enter the information in chronological order – simply enter your time spent in the U.S. in whatever order you remember it. If you cannot remember the specific dates of arrival/departure and/or the immigration status, please estimate to the best of your ability.

If you were NOT present in the U.S. during 2020, but you received income, select the box at the bottom of the chart. In such case, you must file a U.S. tax return for 2020.

<table>
<thead>
<tr>
<th>Date of Arrival in U.S. OR Date Immigration Status Started</th>
<th>Estimated or Actual Date of Exit From U.S. OR Date Immigration Status Changed/Ended</th>
<th>Still In U.S.?</th>
<th>Immigration Status of Visit</th>
</tr>
</thead>
<tbody>
<tr>
<td>March 31, 2019</td>
<td></td>
<td>☑️</td>
<td>F-1 Student or OPT or CPT</td>
</tr>
<tr>
<td>August 17, 2015</td>
<td>August 24, 2015</td>
<td>☑️</td>
<td>B-2 Tourist</td>
</tr>
<tr>
<td></td>
<td></td>
<td>☑️</td>
<td>Select an Immigration Status</td>
</tr>
<tr>
<td></td>
<td></td>
<td>☑️</td>
<td>Select an Immigration Status</td>
</tr>
<tr>
<td></td>
<td></td>
<td>☑️</td>
<td>Select an Immigration Status</td>
</tr>
</tbody>
</table>

Delete
### Current Visit For Tax Purposes Summary

<table>
<thead>
<tr>
<th>Current Visit</th>
<th>Current Immigration Status at Departure from U.S.</th>
<th>Date of Arrival for Tax Purposes</th>
<th>Date of Departure</th>
</tr>
</thead>
<tbody>
<tr>
<td>Current Visit</td>
<td>F-1 Student or OPT or CPT</td>
<td>March 31, 2019</td>
<td>Still Present in the U.S.</td>
</tr>
</tbody>
</table>

### U.S. Visits Summary

<table>
<thead>
<tr>
<th>Year</th>
<th>Immigration Status</th>
<th>Total Number of Days Present in the U.S.</th>
</tr>
</thead>
<tbody>
<tr>
<td>2020</td>
<td>F-1 Student or OPT or CPT</td>
<td>366</td>
</tr>
<tr>
<td>2019</td>
<td>F-1 Student or OPT or CPT</td>
<td>276</td>
</tr>
<tr>
<td>2015</td>
<td>B-2 Tourist</td>
<td>8</td>
</tr>
</tbody>
</table>

Change of Immigration Status during Current Visit? No
Residency Status

U.S. Tax Residency Determination Results

You Are A NONRESIDENT ALIEN for U.S. Tax Purposes

Based on the information entered into GTP, you are a Nonresident Alien for U.S. federal tax purposes. A Nonresident Alien for Tax Purposes is required to file different tax forms than a U.S. Citizen or Resident Alien. To claim the same deductions and allowances as a U.S. Citizen or Resident Alien. Please select "Go to Step Two" to complete your federal tax return.

If says resident:
(1) You made a mistake entering your dates and visa status – check again
(2) You are a resident and need to file US Resident tax return. You are done with Glacier and need to find some other way to file.
Residency Status

- Your residency status should agree to your UCSD information
- You prepare a 8233 for UCSD
  - UCSD uses that information to determine residency status
  - If your 1042-S or W2 does not align with your residency status you may want to ask
## Entering income data

What Income Statements Did You Receive in 2020?

For **EACH UNIQUE** Form that you received, select "Add Form" to enter the information for that form. DO NOT combine information from different forms, even if the forms have the same amounts; **enter EACH form separately**. You may enter as many of each form as necessary until you have entered all of your U.S. income.

If you did not receive any income from U.S. sources during 2020, select "I Did Not Receive ANY Income From U.S. Sources During 2020".

### Income Statements

<table>
<thead>
<tr>
<th>Form</th>
<th>Payor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Form W-2</td>
<td>Add Form</td>
</tr>
<tr>
<td>Form 1042-S</td>
<td>Add Form</td>
</tr>
<tr>
<td>Form 1099-B</td>
<td>Add Form</td>
</tr>
<tr>
<td>Form 1099-DIV</td>
<td>Add Form</td>
</tr>
<tr>
<td>Form 1099-G</td>
<td>Add Form</td>
</tr>
<tr>
<td>Form 1099-INT</td>
<td>Add Form</td>
</tr>
<tr>
<td>Form 1099-MISC</td>
<td>Add Form</td>
</tr>
<tr>
<td>Form 1099-NEC</td>
<td>Add Form</td>
</tr>
<tr>
<td>Form 1099-R</td>
<td>Add Form</td>
</tr>
<tr>
<td>I Received Additional Income From U.S. Sources Not Reported On Any of the Forms Above</td>
<td>Add Income</td>
</tr>
</tbody>
</table>

- Bought or sold investments
- Received dividends from a US company
- Received a state tax refund
- Received interest on US investments
- Worked as an independent contractor

**Note:** No entry for 1098-T
Enter info as shown on your actual document

CASDI sometimes reported as a local tax – if NR, ignore

Probably the University or Research Foundation
Form W-2

- Don’t forget the state information!

- Probably no social security taxes – if yes, Glacier will provide instruction at end of process

Add each W-2 individually
Do NOT add them together and input once
Income Code

Do not overlook state info
Treaty exemption

Income Tax Treaty Verification

GTP has made the following income tax treaty exemption determination.

Review of Income Tax Treaty Exemption for Compensation / Salary / Wages

Based on the information entered, the U.S.- China, People's Republic of Income Tax Treaty allows an exemption from tax for your Compensation / Salary / Wages.

Article 20(C) of the U.S.- China, People's Republic of Income Tax Treaty allows an exemption for Unlimited Days for the Compensation / Salary / Wages.

The possible tax treaty exemption applies to $5,000.00 of your Compensation / Salary / Wages.

Would you like to claim the maximum amount of exemption from tax allowed under the income tax treaty?

- Yes, I would like to claim the maximum amount of exemption from tax for the Compensation / Salary / Wages; I understand that I must meet any qualifications listed above.
- No, I DO NOT want to claim an exemption from tax for my Compensation / Salary / Wages.

If you claim an income tax treaty exemption in the U.S., the IRS requires you to declare whether this income is subject to taxation in China, People's Republic of or other foreign country.

Are you subject to taxation in China, People's Republic of or other foreign country for any of the amounts for which you claimed a tax treaty exemption above?

- Yes, I was subject to tax in China, People's Republic of or other foreign country on the amounts for which I claimed a tax treaty exemption above.
- No, I was NOT subject to tax in China, People's Republic of or other foreign country on the amounts for which I claimed a tax treaty exemption above.

- After a preliminary review, GlacierTax will ask if you want treaty exemption (if available)
- You almost certainly DO!
## Summary of Income

### Summary of Total Income From U.S. Sources

Based on the information entered from the IRS Statements and other documents you received, along with your eligibility and preference to claim an income tax treaty exemption, following is a summary of your Total Income From U.S. Sources.

<table>
<thead>
<tr>
<th>Type of U.S. Income</th>
<th>Taxable Amount</th>
<th>Tax Treaty Exempt Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Compensation / Salary / Wages</td>
<td>$1,000.00</td>
<td>$5,000.00</td>
</tr>
<tr>
<td>TOTAL U.S. Income (Taxable and Tax Treaty Exempt)</td>
<td></td>
<td>$6,000.00</td>
</tr>
</tbody>
</table>

Please note that the following amounts are NOT considered U.S. Income and should NOT be included above:

- Amounts credited directly to your student account for Tuition, Required Fees and Books, if applicable.
- Interest paid by a U.S. bank for money held in a checking or savings account or a certificate of deposit.
- Any income that you received from sources outside the U.S. or for work performed outside the U.S.

If the amounts above do not represent your TOTAL INCOME FROM U.S. Sources, click on Back to update your information. Otherwise, continue to Step Three.
Next Screens

- Fill in US address
- Foreign address
- SSN or ITIN
  - Assuming UCSD makes you get an SSN/ITIN
  - If not, software will help complete paperwork
- Marital status
- Sponsor – this is typically your program adviser or chair (someone that can vouch your status as student/researcher/trainee)
Screens you might see

- Did you pay interest on a student loan?
  - System says US bank BUT any bank will do
    - Must be 1/1 to 12/31/2020 interest
    - Must be YOUR loan
    - Must be used solely for education expenses

Additional Information

**Student Loan Interest**

During 2019, did you pay any interest on a loan from a U.S. bank or financial institution to pay for tuition at a U.S. college or university?

- ☐ No
- ☐ YES, during 2019, I paid interest of $0 to a U.S. bank for a loan used to pay for tuition.
Screens you might see

- Did you make any charitable contributions?
  - You should be able to support these
    - Credit card receipt
    - Acknowledgement from charity
    - For example, spare change to homeless will NOT qualify

**Contributions to U.S. Charities**

During 2019 did you make any contributions to U.S. charities?
- Yes, during 2019, I contributed a TOTAL of $____0 to U.S. charities.
- No, I made no contributions to U.S. charities.
Additional Questions

● Estimated payments – probably no
● Overpayment from last year applied to this year – probably no
● Ever tried to be a US citizen or green card holder?
● File a US tax return last year?
  ● 1040NR or 1040NREZ? Make your best guess
  ● Say YES if only Form 8843
● Treaty exemption?
  ● Did you have one this year? Did you have income last year?
Getting the refund

- Enter bank info or request check
- Will ask about dependents with J-2 (they need a Form 8843)
Save and PRINT Your Tax Documents

Based on the information entered, the following tax documents were prepared for you.

You MUST review each document to ensure that the information is correct and complete. IF you need to make changes, please update your GLACIER Tax Prep record and review the updated documents.

Once you have reviewed the documents, you MUST PRINT, SIGN and MAIL the forms to the IRS. Please note that GLACIER Tax Prep CANNOT electronically submit your documents because the IRS does not allow any nonresident alien to file their tax documents electronically.

YOU MUST MAKE A COPY OF THE SIGNED TAX DOCUMENTS BEFORE YOU MAIL THEM TO THE IRS. Then, keep that [No Title] signed tax documents for THREE CALENDAR YEARS. The copies are very important.

You may also wish to save your forms to your computer. For security reasons, Do NOT save the tax documents to a computer that is not your computer.

BE SURE TO FOLLOW the instructions for How to File Your Tax Return that will print as the first page of your forms. The document contains all of the instructions you will need so please read AND FOLLOW the instructions carefully.

- Instructions Sheet
- Form W-7
- Form W-7 Instructions
- Form 1040NR-EZ
- Form 8843

Note: GTP only supports the use of Adobe Acrobat Reader. Do not try to view your forms in a non-Adobe Reader. If you do not have Adobe Reader installed, please download Adobe Reader BEFORE selecting "Print/View Forms"

Print/View Forms

WAIT – you are NOT FINISHED. Click NEXT to find out if you may be required to file a STATE tax return.
All done with U.S.

- GlacierTax will print off forms and you must sign and date and send to the address indicated in your instructions
  Department of the Treasury
  Internal Revenue Service Center
  Austin, TX 73301-0215

- You will probably have
  - 1040-NR or 1040-NREZ
  - Form 8843
  - If need taxpayer ID – Form W-7

- Keep a copy for yourself!
Where/When to File

- **CANNOT** e-file or fax forms
- Recommend **certified mail** so you will have the proof of receipt by the IRS
- **April 15th, 2021**
Resources

- IRS Website  www.irs.gov
- IRS article on foreign students and scholars  
  http://www.irs.gov/businesses/small/international/article/0,,id=96431,00.html
- IRS Forms and Instructions
- IRS Publications
- California Franchise Tax Board  www.ftb.ca.gov
Questions?