UNDERSTANDING TAXES IN THE UNITED STATES

“Tis impossible to be sure of any thing but Death and Taxes”
- The Cobbler of Preston, by Christopher Bullock (1716)
AGENDA

- Tax types—Income vs Payroll (FICA)
- Tax residency status—Resident vs Nonresident
- Tax treaties
- Taxation process
- Tax forms: W-2, W-4, DE 4, and 1042S; 1040, 1040NR, 8843, CA 540, CA 540 NR
- Tax filing resources
- Tax filing timeline
WHY SHOULD I PAY TAXES?

COMPLY WITH FEDERAL IMMIGRATION LAWS—FAILURE TO COMPLY CAN HAVE NEGATIVE CONSEQUENCES FOR PERMANENT RESIDENCY APPLICATIONS (SUBMISSION OF TAX DOCUMENTS)

COMPLY WITH FEDERAL AND STATE TAX LAWS—FAILURE TO COMPLY CAN RESULT IN CIVIL OR CRIMINAL PENALTIES, AND/OR ASSESSED FINES
Federal Income Tax versus Payroll (FICA) Tax

• Income tax—graduated rates

**Marginal Rates:** For tax year 2022, the top tax rate remains 37% for individual single taxpayers with incomes greater than $539,900 ($647,850 for married couples filing jointly).

The other rates are:
- 35%, for incomes over $215,950 ($431,900 for married couples filing jointly);
- 32% for incomes over $170,050 ($340,100 for married couples filing jointly);
- 24% for incomes over $89,075 ($178,150 for married couples filing jointly);
- 22% for incomes over $41,775 ($83,550 for married couples filing jointly);
- 12% for incomes over $10,275 ($20,550 for married couples filing jointly).

The lowest rate is 10% for incomes of single individuals with incomes of $10,275 or less ($20,550 for married couples filing jointly).

• Payroll Tax: “FICA”—Federal Insurance Contributions Act—includes social security and medicare taxes (for disability/retirement and health care)
  - 6.2% of individual’s pay and 6.2% match by employer for social security
  - 1.45% of individual’s pay and 1.45% match by employer for medicare
Tax Jurisdictions

Federal (Internal Revenue Service “IRS”)
- Income Tax
- FICA tax (social security, medicare)

State (California Franchise Tax Board “FTB”)
- Income Tax (not all states levy an income tax!)
- Sales Tax

Local (county, municipality)
- Sales Tax
Tax Residency Status (Federal)

Nonresident Aliens for Tax Purposes (NRAs)

- Taxed only on U.S. source income (income from an entity inside the U.S.)
- Certain nonimmigrant statuses do NOT pay FICA taxes (F1 and J1; H-1Bs do pay FICA taxes)
- Excluded from taking most tax benefits (e.g., claiming allowances for dependents, most itemized deductions, child care credit)
- Complete the FORM 8843 and, if required, the FORM 1040NR, to meet compliance

Resident Aliens for Tax Purposes (RAs)

- Taxed on worldwide income
- Pay FICA taxes
- Eligible for all tax benefits for which U.S. citizens are eligible
- Complete the FORM 1040 to meet compliance
Determining Federal Tax Residency Status

**Green Card Test**

**Substantial Presence Test: complicated formula**

- At least 31 days of presence in tax year, AND
- 183 days of presence during the three-year period:
  - Tax Year 2021 XX x 1 = _______
  - Tax Year 2020 XX x 1/3 = _______
  - Tax Year 2019 XX x 1/6 = _______
- Exception: “Exempt Individuals” in J or F status—can exclude days of presence for purposes of the above test:
  - F/J students: exempt individuals for up to five years of presence—lifetime total
  - J scholars: exempt individuals for two years of presence over prior six years
Federal Tax Residency Status: Examples

• J-1 Postdoctoral Scholar Employee (paid by UCSD): arrived Dec. 14th, 2021 and still working here; no prior visits in J/F status to U.S.
  • NRA or RA for 2022? How about 2023?

• F-1 First Year PhD student: attended UG program in New York starting Sept 1st, 2018 as F-1 student and transferred to UCSD in 2022 for PhD; no prior F or J history
  • NRA or RA for 2022? How about 2023?

• F-1 OPT employee: started F-1 Master’s program on September 1st, 2019, graduated in 2021 and on OPT since. No prior F-1 or J-1 history.
  • NRA or RA for 2022? How about 2023?

• H-1B employee: arrived September 1, 2022
  • NRA or RA for 2022?

Remember: when a J-1/F-1 becomes a Resident Alien for federal tax purposes, they start paying FICA taxes—7.65% of your income—starting on Jan 1 of the year they become an RA (note IRS exception for enrolled students employed by their schools: https://www.irs.gov/charities-non-profits/student-exception-to-fica-tax)

F-1 or J-1 Students on OPT/AT: if you’re still going to be an NRA or eligible for tax treaty benefits, make sure your employer understands this during your onboarding and takes appropriate action (not withholding FICA and/or applying appropriate tax treaty benefits)
**Tax Treaties**

- Both Treaties and “Technical Explanations”
- Look for relevant “Article”

**Article: determined by immigration status:**
- F-1 in degree program or on OPT: Student – even if Lecturer or Ladder Rank faculty!
- J-1: category determines: student or scholar?
- VGS is a J-1 “Research Scholar” and thus “Researcher” and not “Student” article applies

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**Tax Treaty with China:**

**ARTICLE 19
Teachers, Professors and Researchers**

This article provides that a resident of a Contracting State who goes to the other Contracting State for the primary purpose of teaching, lecturing, or conducting research at an accredited educational institution or scientific research institution in that other State will be exempt from tax in that other State on the remuneration for such activities for a period of up to three years in the aggregate. Thus, for example, a resident of China who visits the United States to conduct research at the National Institute of Health (NIH) for two years, 1986 and 1987, returns to China for a year, and then comes back for another year of research at NIH in 1989 would be exempt from tax on his NIH remuneration for each of the three years. However, if he stayed at NIH in 1990 or returned at a later time the exemption would no longer be available. The exemption provided in this article is not available if the research is not undertaken in the...
Tax Treaties--Benefits

- **Publication 4011**: lists countries, time/dollar limits, articles

Student income:

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

<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(1)</td>
</tr>
<tr>
<td>Bulgaria</td>
<td>2</td>
<td>No Limit</td>
<td>21(1)</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>3</td>
<td>No Limit</td>
<td>21(1)</td>
</tr>
<tr>
<td>Czech Republic</td>
<td>2</td>
<td>No Limit</td>
<td>21(1)</td>
</tr>
<tr>
<td>Egypt</td>
<td>2</td>
<td>No Limit</td>
<td>20(1)</td>
</tr>
<tr>
<td>Estonia</td>
<td>2</td>
<td>No Limit</td>
<td>20(1)</td>
</tr>
<tr>
<td>France</td>
<td>2</td>
<td>No Limit</td>
<td>19</td>
</tr>
<tr>
<td>Germany</td>
<td>5</td>
<td>No Limit</td>
<td>20(1)</td>
</tr>
<tr>
<td>Iceland</td>
<td>5</td>
<td>No Limit</td>
<td>20(1)</td>
</tr>
<tr>
<td>Indonesia</td>
<td>5</td>
<td>No Limit</td>
<td>19</td>
</tr>
<tr>
<td>Israel</td>
<td>5</td>
<td>No Limit</td>
<td>24(1)</td>
</tr>
<tr>
<td>Korea, South</td>
<td>2</td>
<td>No Limit</td>
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</tr>
<tr>
<td>Latvia</td>
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<td>5,000</td>
<td>20</td>
</tr>
<tr>
<td>Lithuania</td>
<td>5</td>
<td>5,000</td>
<td>20</td>
</tr>
<tr>
<td>Luxembourg</td>
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<td>No Limit</td>
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</tr>
<tr>
<td>Malta</td>
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<td>9,000</td>
<td>19(1)</td>
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<td>Morocco</td>
<td>5</td>
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<td>19</td>
</tr>
<tr>
<td>Netherlands</td>
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<td>2,000</td>
<td>22(1)</td>
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<tr>
<td>Norway</td>
<td>5</td>
<td>2,000</td>
<td>19(1)</td>
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<td>5,000</td>
<td>22(1)</td>
</tr>
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<td>Poland</td>
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<td>5,000</td>
<td>19</td>
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<td>Romania</td>
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<td>2,000</td>
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<td>Spain</td>
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<td>5,000</td>
<td>20(1)</td>
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<td>5,000</td>
<td>20(1)</td>
</tr>
<tr>
<td>Trinidad and Tobago</td>
<td>5</td>
<td>2,000</td>
<td>21(1)</td>
</tr>
<tr>
<td>Turkey</td>
<td>5</td>
<td>5,000</td>
<td>21(1)</td>
</tr>
<tr>
<td>United Kingdom</td>
<td>2</td>
<td>No Limit</td>
<td>20(1)</td>
</tr>
</tbody>
</table>

* 2-year limit applies to business or technical apprentices.
** Commonwealth of Independent States (Azerbaijan, Armenia, Belarus, Georgia, Kyrgyzstan, Moldova, Tajikistan, Turkmenistan, and Uzbekistan.)

### Scholar income (note Retroactive clauses for India, Netherlands, Thailand, UK):

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

*Treasury contains provisions that retroactively eliminates benefits. The allowable period in the U.S. or income amounts are exceeded as defined in the treaty.*
How Are Taxes Paid?

**DUE DATE: APRIL 15**

Federal/State income taxes are “Pay as you go”—throughout the year. U.S. employers are required to withhold taxes (FICA/Income) on employees and pay these to the federal/state governments throughout the tax year.

Employee estimates their tax liability on the Form W-4 and comparable state form. NRAs must complete the W-4, but they are not given choices (must indicate “single” and no more than “1” see: IRS Notice 1392). RAs can make choices. The employer then withholds this amount from the employee’s paycheck.

Tax Treaty benefits, NRA status may affect withholding—no FICA taxes for NRA J1s and F1s; tax treaty may exempt employee from any federal withholding (but not state withholding!)

April 15th of year following tax year: Federal and State tax returns due!
Reconciliation process: Total tax liability is determined and then compared with tax paid in throughout the year, and the refund due or amount still owed is determined in the actual tax return.
• UCSD uses the software application “Glacier” to help determine both federal tax residency status and federal withholding requirements on each international scholar/student—and for distribution of the 1042-S form

• All internationals must complete an online Glacier Record if they will be receiving payments from UCSD. To do so, see: https://blink.ucsd.edu/finance/payroll/foreign/visitors/Glacierforeign.html?ga=2.113594244.24229848.1534195399-963265510.1529613322

• After completing the Glacier Record, the employee will receive documentation that indicates their tax residency status and any applicable treaty benefits (must print and sign forms and return them to payroll office!)

• UCSD withholding will reflect information in the Glacier record
### Tax Summary Report

Based on the information provided, GLACIER has made the following determination:

<table>
<thead>
<tr>
<th>Property</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name</td>
<td>[Redacted]</td>
</tr>
<tr>
<td>Tax Residency Status</td>
<td>Nonresident Alien for U.S. Tax Purposes</td>
</tr>
<tr>
<td>Tax Residency Status Change Date</td>
<td>July 3, 2023 to Resident Alien</td>
</tr>
<tr>
<td>Tax Residency Status Start Date</td>
<td>January 1, 2023 to Resident Alien</td>
</tr>
<tr>
<td>Future Tax Residency Status Change Date</td>
<td>January 1, 2025 to Nonresident Alien</td>
</tr>
<tr>
<td>Future Tax Residency Status Start Date</td>
<td>January 1, 2025 to Nonresident Alien</td>
</tr>
<tr>
<td>Tax Treaty Exemption Status (Compensation)</td>
<td>Exempt</td>
</tr>
<tr>
<td>Tax Treaty Time Limit (Compensation)</td>
<td>Three Years From Date of Arrival</td>
</tr>
<tr>
<td>Tax Treaty Exemption Period (Compensation)</td>
<td>January 20, 2022 - January 18, 2025</td>
</tr>
<tr>
<td>Tax Treaty Dollar Limit (Compensation)</td>
<td>Unlimited Dollar Amount</td>
</tr>
<tr>
<td>Applicable Tax Withholding Rate (Compensation)</td>
<td>Single (Monthly)</td>
</tr>
<tr>
<td>FICA Tax Status</td>
<td>Taxable</td>
</tr>
<tr>
<td>FICA Tax Start Date</td>
<td>January 1, 2023</td>
</tr>
<tr>
<td>Forms Required</td>
<td>Tax Summary Report Form W-4, Form W-9 / Statement Form 8233 Treaty Attachment</td>
</tr>
</tbody>
</table>
| Document Copies Required                      | I-94 / I-94W Card, Visa Sticker/Stamp (in passport), Form DS-2019 }
Federal withholding form W-4

- RA: can make choices on how to fill out form based on personal circumstances; instructions help identify best estimate for meeting tax obligations—especially the “Personal Allowances Worksheet” (see: https://www.irs.gov/pub/irs-pdf/fw4.pdf)

- NRA Filing Status: must fill out as “Single” or “Married filing separately;” see IRS “Notice 1392” for specific information—these instructions supersede those for the W-4: https://www.irs.gov/pub/irs-pdf/n1392.pdf
CA FTB withholding form DE 4

- FTB approach to taxation is different from the IRS; but CA does state to use the same filing status as for federal.
- DE 4 has worksheet to help you predict appropriate withholding (see: https://www.edd.ca.gov/pdf_pub_ctr/de4.pdf)
UC San Diego Tax Forms: W-2

- Employees access this form online; see: https://blink.ucsd.edu/finance/payroll/w2/online.html?_ga=2.1534322.2104490675.1566235862-294974019.1537917223

### Summary of annual income and withholding

#### Box 1: Income (does not include pretax deductions, such as health insurance)

#### Box 2: Federal income tax withheld

#### Box 3: Total income for FICA taxation purposes

#### Box 4, 6: FICA taxes

#### Box 17: State income tax withheld
UC San Diego Tax Forms: 1042-S

- Wage/Salary payments exempt from withholding based on tax treaty
- Fellowship payments to NRAs
- Note: you may receive multiple 1042-S forms! (e.g., if you receive both wages and fellowship as an NRA)
- UCSD delivers these either online (sign up through Glacier) or physical mail

Box 1: Income Code (16: scholarship/fellowship; 19: teaching; 20: studying)
Box 2: Total income covered under treaty benefits
Box 7/23: federal/state income tax withheld
See UCSD information on Form 1042-S

NOTE: UCSD will issue a W-2 as well for state tax purposes
FEDERAL TAX RETURN—WHICH FORMS?

<table>
<thead>
<tr>
<th></th>
<th>NRA</th>
<th>RA</th>
</tr>
</thead>
<tbody>
<tr>
<td>If no U.S. source funding:</td>
<td>Form 8843</td>
<td>Form 1040*</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>If U.S. source funding:</td>
<td>Form 8843, Form 1040NR</td>
<td>Form 1040</td>
</tr>
</tbody>
</table>

Instructions and Forms downloadable at IRS.gov website:

RESOURCES FOR COMPLETING FEDERAL TAX RETURNS

<table>
<thead>
<tr>
<th>NRAs</th>
<th>RAs</th>
</tr>
</thead>
<tbody>
<tr>
<td>• web-based application to help NRAs complete 1040NR (federal tax return only!)</td>
<td>• VITA (Volunteer Income Tax Assistance)—only if Adjusted Gross Income is below $60,000: <a href="https://www.irs.gov/individuals/free-tax-return-preparation-for-you-by-volunteers">https://www.irs.gov/individuals/free-tax-return-preparation-for-you-by-volunteers</a></td>
</tr>
<tr>
<td>• available free-of-charge to NRAs affiliated with UCSD during the tax year (starting mid-February of the following year)</td>
<td>• Tax/accountant firms (costs will vary significantly)</td>
</tr>
<tr>
<td>• will transfer certain data from your institutional Glacier record to GTP</td>
<td>NOTE: if as an RA you are still claiming tax treaty benefits, electronic software will generally NOT be able to handle this. For instructions on how to report this on the 1040, see IRS Publication 519, p. 47: <a href="https://www.irs.gov/pub/irs-pdf/p519.pdf">https://www.irs.gov/pub/irs-pdf/p519.pdf</a></td>
</tr>
<tr>
<td>• You still need to print out, sign, and physically mail the tax return to the IRS</td>
<td></td>
</tr>
</tbody>
</table>
Residency: California has a different definition of residency: “closest connections”

- Amount of time you spend in California versus amount of time you spend outside California
- Location of your spouse/RDP and children
- Location of your principal residence
- State that issued your driver’s license
- State where your vehicles are registered
- State where you maintain your professional licenses.
- Location of the banks where you maintain accounts
- The origination point of your financial transactions
- Location of your medical professionals and other healthcare providers (doctors, dentists etc.), accountants, and attorneys.
- See: https://www.ftb.ca.gov/forms/2018/18_1031.pdf

Sourcing income: California considers income to be sourced based on where the work was done—if done in California, it is California source income! Even if employer is abroad.

Tax Treaties: CALIFORNIA DOES NOT RECOGNIZE TAX TREATIES!
# California Income Tax Brackets

(Tax Year 2022 rates)

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>$0+</td>
<td>$0+</td>
<td>1.00%</td>
</tr>
<tr>
<td>$8,609+</td>
<td>$17,618+</td>
<td>2.00%</td>
</tr>
<tr>
<td>$20,883+</td>
<td>$41,766+</td>
<td>4.00%</td>
</tr>
<tr>
<td>$32,960+</td>
<td>$56,920+</td>
<td>6.00%</td>
</tr>
<tr>
<td>$46,753+</td>
<td>$91,506+</td>
<td>8.00%</td>
</tr>
<tr>
<td>$57,824+</td>
<td>$115,648+</td>
<td>9.30%</td>
</tr>
<tr>
<td>$295,373+</td>
<td>$590,746+</td>
<td>10.30%</td>
</tr>
<tr>
<td>$354,445+</td>
<td>$708,890+</td>
<td>11.30%</td>
</tr>
<tr>
<td>$590,742+</td>
<td>$1,000,000+</td>
<td>12.30%</td>
</tr>
<tr>
<td>$1,000,000+</td>
<td>$1,181,484+</td>
<td>13.30%</td>
</tr>
</tbody>
</table>

Source: [https://www.nerdwallet.com/article/taxes/california-state-tax](https://www.nerdwallet.com/article/taxes/california-state-tax)
## California FTB: Income Threshold for Filing

(Note: 2021 information)

### Total gross income (worldwide)

<table>
<thead>
<tr>
<th>Age as of December 31, 2021*</th>
<th>0 dependents</th>
<th>1 dependent</th>
<th>2 or more dependents</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 65</td>
<td>$19,310</td>
<td>$32,643</td>
<td>$42,643</td>
</tr>
<tr>
<td>65 or older</td>
<td>$25,760</td>
<td>$35,760</td>
<td>$43,760</td>
</tr>
</tbody>
</table>

### California adjusted gross income

<table>
<thead>
<tr>
<th>Age as of December 31, 2021*</th>
<th>0 dependents</th>
<th>1 dependent</th>
<th>2 or more dependents</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 65</td>
<td>$15,448</td>
<td>$28,781</td>
<td>$38,781</td>
</tr>
<tr>
<td>65 or older</td>
<td>$21,898</td>
<td>$31,898</td>
<td>$39,898</td>
</tr>
</tbody>
</table>

### Part-year residents and nonresidents:

- [Residents: https://www.ftb.ca.gov/file/personal/residency-status/index.html](https://www.ftb.ca.gov/file/personal/residency-status/index.html)
Filing Your Individual Tax Returns

**APRIL 15th**

STATE FORMS:

- 540NR (nonresidents or part-year residents)
- 540 or 540 2EZ—residents
- 540NR Schedule CA—nonresidents
- 540 Schedule CA—residents

NOTE: Current forms not available
Filing Your Individual Tax Returns: Timeline

- **End of January:** UCSD issues W-2

- **Form 8843 Workshop**
  - FEB 2022 TBD
  - (for NRAs with NO U.S. source income and thus no 1040NR filing requirement)

- **By Mid-February:** UCSD issues 1042-S

- **By Mid-February:** Glacier Tax Prep access codes are released

- **March:** Federal and State Tax Workshops
  - Federal: 3/13/23 12:00 – 2:00
  - State: 3/22/23 12:00 – 2:00

- **April 18th:** Individual tax returns (federal and state) must be postmarked
Resources

- Payroll website: [https://blink.ucsd.edu/finance/payroll/foreign/visitors/index.html](https://blink.ucsd.edu/finance/payroll/foreign/visitors/index.html)
- Tax FAQ for International Visitors (UCSD Blink):
  - [https://blink.ucsd.edu/finance/payroll/foreign/visitors/faq.html](https://blink.ucsd.edu/finance/payroll/foreign/visitors/faq.html)
- [internationaltaxhelp@ucsd.edu](mailto:internationaltaxhelp@ucsd.edu): generic email account for help understanding what resources exist to aid you with your filing
- [glacier@ucsd.edu](mailto:glacier@ucsd.edu): generic email account for help with your Glacier record and understanding withholding from your paycheck
- GTP: online tax preparation (UCSD provides free of charge in February): [https://www.glaciertax.com/](https://www.glaciertax.com/)
- Tax Workshops: hosted in March every year
  - Federal tax workshop: Accounting Professor from SDSU Steve Gill presents on federal taxes and using GTP
  - California Franchise Tax Board representatives present on completing the California Tax return
Questions?

• Questions of general nature that will help multiple persons, please post to chat and I will attempt to answer them

• Questions about your personal situation whose answers are not transferable to others, please submit to internationaltaxhelp@ucsd.edu and I will attempt to answer them from that email account