

Tax Talk

Taxes for Foreign Students

Al Atherton, EA

H&R Block

822 State Street

atherton@aya.yale.edu

Tax Talk

Your Tax Return

Income

Adjustments

Adjusted Gross Income

Itemized or Standard Deduction

Total Taxable Income

Tax on Total Taxable Income

Credits and Payments to Date

Taxes Due or Refund

Tax Talk

Resident or Non-Resident?

- F-1's File 1040 NR for 5 years
- Teacher or Researcher J-1's File 1040 NR for two years
- Student J-1's File 1040 NR for five years

Otherwise, file a 1040 resident return if they pass the substantial presence test -

That is to say -

- F-1's exempt from the presence test for 5 years
- Teacher or Researcher J-1's exempt from presence test for 2 yrs (but not exempt if formerly exempt for any part of at least 2 of the past 6 calendar yrs)
- Student J-1's exempt from presence test for 5 yrs (but not exempt if formerly exempt for any part of at least 5 of the preceding yrs)

NOTE: The state of CT does not recognize exemptions to the presence test.

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Substantial Presence Test

Must be physically present in the United States on at least:

31 days during the current year, and

183 days during the 3-year period - Includes

- all days present in the current year
 - 1/3 days present in the previous year
 - 1/6 days present in the 2nd previous year
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Tax Talk

Income

- Employment Wages (W2, 1042S)
 - Self Employment (1099)
 - Interest, Dividends, Gains
 - Some Scholarship
 - Fellowships
 - Foreign Income (Resident Return)
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Income - Scholarships, Fellowships

Tax-Free if -

- You are a candidate for a degree at an educational institution that maintains a regular faculty and curriculum and
 - The amounts received are used to pay for tuition and fees required for enrollment or attendance at the educational institution, or for fees, books, supplies, and equipment required for courses at the educational institution.
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U.S.-India Income Tax Treaty

1. Under Article 21(2) a student or business apprentice from India may be able to claim the standard deduction on their federal return even if they are a [nonresident alien](#).
2. A student or business apprentice may also exclude from tax payments which arise from outside the United States if they are for the purposes of maintenance, education, or training.

The treaty benefits for students and business apprentices extend for the period of time that is reasonable and customarily required to complete the education or training undertaken.

Note: For tax years before 2018 and after 2025, Indian students and business apprentices are allowed to claim an exemption for their spouse if the spouse had no gross income during the year. (The Tax Cuts and Jobs Act (TCJA) eliminated all dependent exemptions for 2018 until 2026)

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U.S.-China Income Tax Treaty for Chinese students and trainees

Under Article 20 of the U.S.-China Tax Treaty, a Chinese resident who goes to the U.S. as a student or trainee is exempt from U.S. tax on:

- Payments received from abroad for the purpose of the taxpayer's maintenance, education, research, or training,
- Grants from a tax-exempt organization, and
- Up to \$5,000 per year of income for personal services performed in the U.S.

Exemptions may be claimed only for a reasonable period -

In some cases, the course of study or training may last less than a year.

For most undergraduate college or university degrees the appropriate period will be four years.

For some advanced degrees, such as in medicine, the required period may be longer, e.g. seven years.

Under Article 19 of the U.S.-China Treaty, a Chinese resident who goes to the U.S. as a teacher, professor, or researcher and is temporarily present in the U.S. for the primary purpose of teaching, giving lectures or conducting research at a university, college, school, or other accredited educational institution or scientific institution in the U.S. will be exempt from tax in the U.S. on the pay from such activities for a period of up to three years in the aggregate.

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Adjusted Gross Income

Itemized or Standard Deduction

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What Can You Itemize?

	1040	1040NR
Medical Expense	X	
State and Local Taxes	X	X
Charitable Donations	X	X
Mortgage Interest	X	
Casualty and Theft Losses	X	X

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Tax on Total Taxable Income

Credits

Payments

Withholding

Estimated Payments

Taxes Due or Refund

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FICA (Federal Insurance Contributions Act) Payments

Generally, services performed by a [nonresident alien](#) under an “F” or “J”, “M” visa should have no withholding of FICA (Social Security or Medicare) taxes from the pay received for:

- On-campus student employment up to 20 hours a week (40 hours during summer vacations)
- Off-campus student employment allowed by USCIS
- Practical Training student employment on or off campus
- On-campus employment as a professor, teacher, or researcher

Social security and Medicare taxes should be withheld from the taxpayer’s pay in the following situations:

- Services as a [resident alien](#) for tax purposes.
- Services performed by spouses and children on F-2, J-2, M-2, or Q-3 nonimmigrant visas.
- Services performed that are not allowed by USCIS or services not closely connected to the purpose for which the taxpayer was admitted into the U.S.
- Services performed after change to a non-exempt visa status (such as an H-1B visa).

If social security tax and Medicare taxes were withheld in error see employer.

If employer cant fix, file Form 843

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References

Publication 17 (for Residents) (138 pp)

Publication 519 “US Tax Guide for Aliens” (68 pp)

Form 8843 and Instructions (5 pp)

Instructions for Form 1040 (111 pp)

Instructions for Form 1040 NR (48 pp)

Go to www.irs.gov - “Forms and Publications”

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**Ask me now, or ...
Come and See Me!**

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