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Tax Information for Visitors to the United States



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Introduction

If you have income from sources within the United States, you may have to file a U.S. income tax return even if you are only visiting this country. This publication summarizes the requirements of U.S. income tax law. See *How To Get Tax Help* at the end of this publication for ways to get tax assistance.

Some of the tax laws that apply to nonresident aliens are different from those that apply to U.S. resident aliens. You are a nonresident alien if you are not a U.S. citizen and you do not meet either the **substantial presence** test or the **green card** (Alien Registration Receipt Card) test.

Under U.S. tax law, you may be a resident alien if you are in the United States for at least 31 days during the calendar year, and your stay during the current year and the preceding 2 years is long enough to meet the substantial presence test. For details on this test and the "green card" test, get Publication 519, *U.S. Tax Guide for Aliens*.



Under U.S. immigration law most visitors who come to the United States are not allowed to work here. You must check with the Immigration and Naturalization Service before getting a job.

Comments and suggestions. We welcome your comments about this publication and your suggestions for future editions.

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We respond to many letters by telephone. Therefore, it would be helpful if you would include your daytime phone number, including the area code, in your correspondence.

Who Must File an Income Tax Return

If you are a nonresident alien individual visiting the United States only for pleasure, receive no income from U.S. sources, and are not **engaged or considered to be engaged in a trade or business** in the United States, you do not have to file a U.S. income tax return.

If, in 2001, you are a nonresident alien and you work or are engaged or considered to be engaged in a trade or

business in the United States, you must file a U.S. income tax return even if:

- 1) Your income did not come from a trade or business conducted in the United States,
- 2) You have no income from U.S. sources, or
- 3) Your income is exempt from U.S. income tax.

If you perform personal services in the United States at any time during the tax year, you usually are considered engaged in a trade or business in the United States. For an exception to this rule, see *Employees of foreign persons, organizations, or offices*, next.

Employees of foreign persons, organizations, or offices. Income for personal services performed in the United States as a nonresident alien is not considered to be from U.S. sources and is tax exempt if you meet **all three** of the following conditions.

- 1) You either:
 - a) Perform personal services as an employee of or under a contract with a nonresident alien individual, foreign partnership, or foreign corporation, not engaged in a trade or business in the United States, or
 - b) Work for an office or place of business maintained in a foreign country or possession of the United States by a U.S. corporation, a U.S. partnership, or a U.S. citizen or resident.
- 2) You perform these services while you are a nonresident alien temporarily present in the United States for a period or periods of not more than a total of 90 days during the tax year.
- 3) Your pay for these services is not more than \$3,000.

If you do not meet all three conditions, your income from personal services performed in the United States is U.S. source income and is taxed according to the rules found in chapter 4 of Publication 519.

Others who must file. If you are not engaged in a trade or business in the United States, you must file a return if you have U.S. income on which the tax liability was not satisfied by the withholding of tax at the source.

You must file a return if you are claiming a refund of overwithheld or overpaid tax. Also, you must file a return if you want to claim the benefit of any deductions or credits. For example, if you do not have a job or trade or business in the United States, but you do have rental or royalty income from an interest in U.S. real property, you may choose to treat that activity as a U.S. trade or

business. To claim a deduction for any allowable expenses related to that business, you must timely file a true and accurate return.

With certain exceptions, you must file a return when you take the position that a U.S. tax treaty overrules or modifies a U.S. tax law. You must provide special information with the return, including a statement of facts supporting your position. For details, see *Reporting Treaty Benefits Claimed* in chapter 9 of Publication 519.

Identification number. You must furnish a taxpayer identification number on returns, statements, and other tax related documents. You can get a taxpayer identification number by filing Form W-7, *Application for IRS Individual Taxpayer Identification Number*, with the IRS.

What Income Is Taxed

A nonresident alien usually is subject to U.S. income tax only on U.S. source income. Under limited circumstances, certain foreign source income is subject to U.S. tax. See *Foreign Income* in chapter 4 of Publication 519.

Taxable income from U.S. sources includes, but is not limited to:

- Wages, salaries, commissions, fees, tips, etc., for services performed in the United States,
- Interest (with certain exceptions) and dividends,
- Rents and royalties,
- Profits or losses from the sale of inventory property in the United States whether you purchased it in the United States or in a foreign country, and
- Gains and losses from the sale or other disposition of real property located in the United States.

What Tax Forms You May Need

If you are a nonresident alien and you must file an income tax return, use Form 1040NR, *U.S. Nonresident Alien Income Tax Return*, unless you qualify to use Form 1040NR-EZ, *U.S. Income Tax Return for Certain Nonresident Aliens With No Dependents*.

If you have income from which no (or not enough) U.S. tax is withheld, you also may need to file Form 1040-ES(NR), *U.S. Estimated Tax for Nonresident Alien Individuals*.

Before leaving the United States, you may have to file Form 1040-C, *U.S. Departing Alien Income Tax Return* or Form 2063, *U.S. Departing Alien Income Tax Statement*.

These forms are briefly discussed later. Be sure to get Publication 519, which is a complete tax guide for aliens.

Income Tax Withholding

If you are an employee, your employer will usually take income tax out of your wages and pay it to the U.S. Treasury in your name. This is called withholding. The rate of withholding depends on the amount of your income and the information you give your employer on Form W-4, *Employee's Withholding Allowance Certificate*. The amount withheld is credited against the tax you owe when you file your U.S. tax return.

Household employees. If you work as a household employee, your employer does not have to withhold income tax. However, you may agree to voluntary income tax withholding by filing a Form W-4 with your employer. The agreement goes into effect when your employer accepts the agreement by beginning the withholding. You or your employer may end the agreement by letting the other know in writing.

30% flat rate. If you do not work as an employee, any pay you receive for your services is subject to withholding at a 30% flat rate. Income tax must be withheld at a flat rate of 30% on the following types of income from U.S. sources unless they are connected with the conduct of a U.S. trade or business, or the rate has been lowered by tax law or income tax treaty.

- Interest (other than interest on bank deposits, savings and loan, credit union, or similar accounts, amounts held by insurance companies under agreements to pay interest, or certain portfolio debt obligations).
- Dividends.
- Rents.
- 85% of social security benefits paid to nonresident aliens.
- Annuities (payments from pensions, trusts, etc.).
- Royalties.

When and Where To File

If you are an employee and you receive wages subject to U.S. income tax withholding, you will generally file by the 15th day of the 4th month after your tax year ends. If you file for the 2001 calendar year, your return is due April 15, 2002. (If you have not previously established a tax year other than the calendar year, you **must** use the calendar year as your tax year.)

If you did not receive wages subject to U.S. income tax withholding, you must file by the 15th day of the 6th month after your tax year ends. For the 2001 calendar year, file your return by June 17, 2002 because June 15, 2002 is a Saturday.



Form 1040NR-EZ or Form 1040NR must be sent to the following address.

Internal Revenue Service Center
Philadelphia, PA 19255

If you cannot file your return by the due date, file Form 4868, *Application for Automatic Extension of Time To File U.S. Individual Income Tax Return*, or use one of the electronic filing options explained in the Form 4868 instructions. This will extend the due date to August 15. You must file the extension by the regular due date of your return.

When to file for deductions and credits. To get the benefit of any allowable deductions or credits, you must timely file a true and accurate return. For information on what is considered timely for this purpose, see chapter 7 in Publication 519.

Penalties. The law imposes penalties for filing your tax return late or for late payment of any tax due. However, a penalty is not charged if you can show that there was reasonable cause for your filing or paying late.

Estimated Tax Payments

You may have income from which no U.S. income tax is withheld. Or, the amount of tax withheld may not equal the income tax you estimate you will owe at the end of the year. If this is true, and if you have income effectively connected with a trade or business in the United States, you may have to pay estimated tax and file Form 1040-ES(NR). A penalty may be charged if you underpay your estimated tax by a certain amount.

Income effectively connected with a trade or business includes pay received as an employee that is subject to withholding. It does not, however, include pay subject to withholding at a flat 30% rate or lower treaty rate.

Generally, there will be no penalty for the underpayment of estimated tax if the total income tax to be withheld from your 2002 income is at least:

- 1) 90% of the tax to be shown on your 2002 U.S. income tax return, or
- 2) 100% of the tax shown on your 2001 income tax return (if your 2001 return covered all 12 months of the year).

Also, you will not have to pay a penalty if the tax due (after subtracting withheld tax) for 2002 is less than \$1,000.



If your adjusted gross income for 2001 (Form 1040NR, line 33) was more than \$150,000 (\$75,000 if your filing status for 2002 is married filing separately), see Publication 505, Tax Withholding and Estimated Tax.

When to pay estimated tax. Generally, you must make your first payment of estimated tax by the due date for filing the previous year's Form 1040NR or Form 1040NR-EZ.

Additional information. For more information refer to the instructions for Form 1040-ES(NR) and see *Estimated Tax Form 1040-ES(NR)* in chapter 8 of Publication 519.

Residents of Puerto Rico. If you expect to be a resident of Puerto Rico during the entire year, use Form 1040-ES.

Departing Aliens and the Sailing or Departure Permit

Before leaving the United States, you must come to an IRS office to file Form 1040-C or Form 2063. You must file these forms to get a certificate of compliance or clearance (known as a sailing permit or departure permit) from the Internal Revenue Service. However, see *Aliens Not Required To Obtain Sailing or Departure Permits*, next.



A certificate of compliance certifies that you have satisfied the U.S. income tax laws. **This is not your final tax return.**

If you are required to file a U.S. income tax return for the year, file Form 1040NR or Form 1040NR-EZ after the end of the year. You have to file this form whether or not you owe more tax or are entitled to a refund of tax paid. Treat the tax you paid with Form 1040-C as a credit against the tax on your income tax return.

Aliens Not Required To Obtain Sailing or Departure Permits

If you are included in one of the following categories, you do not have to get a sailing or departure permit before leaving the United States.

If you are in one of these categories and do not have to get a sailing or departure permit, you must be able to support your claim for exemption with proper identification or give the authority for the exemption.

Category 1. Representatives of foreign governments with diplomatic passports, whether accredited to the

United States or other countries, members of their households, and servants accompanying them.

Category 2. Employees of international organizations and foreign governments (other than diplomatic representatives covered under category (1)) and members of their households:

- 1) Whose compensation for official services is exempt from U.S. tax under U.S. tax laws, and
- 2) Who receive no other income from U.S. sources.



If you are an alien in category (1) or (2) above who filed the waiver under section 247(b) of the Immigration and Nationality Act, you must get a sailing or departure permit. This is true even though you filed the waiver and your income is exempt from U.S. tax because of an income tax treaty, consular agreement, or an international agreement.

Category 3. Alien students, industrial trainees, or exchange visitors, including their spouses and children, who come to the United States on "F-1," "F-2," "H-3," "H-4," "J-1," "J-2," or "Q" visas only and who receive no income from U.S. sources while in the United States under those visas other than:

- 1) Allowances to cover expenses incident to study or training in the United States, such as expenses for travel, maintenance, and tuition,
- 2) The value of any services or food and lodging connected with this study or training,
- 3) Income from employment authorized by the Immigration and Naturalization Service (INS), or
- 4) Interest income on deposits that is not effectively connected with a U.S. trade or business.

Category 4. Alien students, including their spouses and children, who come to the United States on an "M-1" or "M-2" visa only and who receive no income from U.S. sources while in the United States on those visas, other than:

- 1) Income from employment authorized by the Immigration and Naturalization Service (INS), or
- 2) Interest income on deposits that is not effectively connected with a U.S. trade or business.

Category 5. Certain other aliens temporarily in the United States who have received no taxable income during the tax year up to and including the date of departure or during the preceding tax year. If the IRS has

reason to believe that an alien has received income subject to tax and that the collection of income tax is jeopardized by departure, it may then require the alien to obtain a sailing or departure permit. Aliens covered by this paragraph are:

- 1) Alien military trainees who come to the United States for training under the sponsorship of the Department of Defense and who leave the United States on official military travel orders,
- 2) Alien visitors for business on a "B-1" visa, or on both a "B-1" visa and a "B-2" visa, who do not remain in the United States or a U.S. possession for more than 90 days during the tax year,
- 3) Alien visitors for pleasure on a "B-2" visa,
- 4) Aliens in transit through the United States or any of its possessions on a "C-1" visa, or under a contract, such as a bond agreement between a transportation line and the Attorney General, and
- 5) Aliens who enter the United States on a border-crossing identification card or for whom passports, visas, and border-crossing identification cards are not required. These aliens must be visitors for pleasure, visitors for business who do not remain in the United States or a U.S. possession for more than 90 days during the tax year, or visitors in transit through the United States or any of its possessions.

Category 6. Alien residents of Canada or Mexico who frequently commute between that country and the United States for employment, and whose wages are subject to the withholding of U.S. tax.

When To Get a Sailing or Departure Permit

You should get your sailing or departure permit at least 2 weeks before you plan to leave the United States. The clearance, however, may not be issued more than 30 days before you leave. If both you and your spouse are aliens and are leaving together, both of you must go to the IRS office.

What Is Needed To Get a Sailing or Departure Permit

Please be prepared to give your planned date of departure and bring the following records with you if they apply.

- 1) Your passport and alien registration card or visa.
- 2) Copies of your U.S. income tax returns filed for the past 2 years. If you were in the United States for less than 2 years, bring copies of the income tax returns you filed for that period.
- 3) Receipts for income taxes paid on these returns.

- 4) Receipts, bank records, canceled checks, and other documents that prove your deductions, business expenses, and dependents claimed on the returns.
- 5) A statement from each employer you worked for this year, showing wages paid and tax withheld from January 1 of the current year to the date of departure if you were an employee. If you are self-employed, you must bring a statement of income and expenses up to the date you plan to leave.
- 6) Proof of estimated tax payments for the past year and this year.
- 7) Documents showing any gain or loss from the sale of personal property, including capital assets and merchandise.
- 8) Documents relating to scholarships or fellowship grants, including verification of the grantor, source, and purpose of the grant.
- 9) Documents indicating you qualify for any special tax treaty benefits claimed.

How To Get Tax Help

You can get help with unresolved tax issues, order free publications and forms, ask tax questions, and get more information from the IRS in several ways. By selecting the method that is best for you, you will have quick and easy access to tax help.

Contacting your Taxpayer Advocate. If you have attempted to deal with an IRS problem unsuccessfully, you should contact your Taxpayer Advocate.

The Taxpayer Advocate represents your interests and concerns within the IRS by protecting your rights and resolving problems that have not been fixed through normal channels. While Taxpayer Advocates cannot change the tax law or make a technical tax decision, they can clear up problems that resulted from previous contacts and ensure that your case is given a complete and impartial review.

To contact your Taxpayer Advocate:

- Call the Taxpayer Advocate at **1-877-777-4778**.
- Call the IRS at **1-800-829-1040**.
- Call, write, or fax the Taxpayer Advocate office in your area.
- Call **1-800-829-4059** if you are a TTY/TDD user.

For more information, see Publication 1546, *The Taxpayer Advocate Service of the IRS*.

Free tax services. To find out what services are available, get Publication 910, *Guide to Free Tax Services*. It contains a list of free tax publications and an index of tax topics. It also describes other free tax information services, including tax education and assistance programs and a list of TeleTax topics.



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- Find answers to questions you may have.
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- View forms that may be filled in electronically, print the completed form, and then save the form for recordkeeping.
- View Internal Revenue Bulletins published in the last few years.
- Search regulations and the Internal Revenue Code.
- Receive our electronic newsletters on hot tax issues and news.
- Get information on starting and operating a small business.

You can also reach us with your computer using File Transfer Protocol at [ftp.irs.gov](ftp://ftp.irs.gov).



TaxFax Service. Using the phone attached to your fax machine, you can receive forms and instructions by calling **703-368-9694**. Follow the directions from the prompts. When you order forms, enter the catalog number for the form you need. The items you request will be faxed to you.

For help with transmission problems, call the FedWorld Help Desk at **703-487-4608**.



Phone. Many services are available by phone.

- *Ordering forms, instructions, and publications.* Call **1-800-829-3676** to order current and prior year forms, instructions, and publications.
- *Asking tax questions.* Call the IRS with your tax questions at **1-800-829-1040**.
- *TTY/TDD equipment.* If you have access to TTY/TDD equipment, call **1-800-829-4059** to ask tax questions or to order forms and publications.

- *TeleTax topics.* Call **1-800-829-4477** to listen to pre-recorded messages covering various tax topics.

Evaluating the quality of our telephone services. To ensure that IRS representatives give accurate, courteous, and professional answers, we evaluate the quality of our telephone services in several ways.

- A second IRS representative sometimes monitors live telephone calls. That person only evaluates the IRS assistant and does not keep a record of any taxpayer's name or tax identification number.
- We sometimes record telephone calls to evaluate IRS assistants objectively. We hold these recordings no longer than one week and use them only to measure the quality of assistance.
- We value our customers' opinions. Throughout this year, we will be surveying our customers for their opinions on our service.



Walk-in. You can walk in to many post offices, libraries, and IRS offices to pick up certain forms, instructions, and publications. Some IRS offices, libraries, grocery stores, copy centers, city and county governments, credit unions, and office supply stores have an extensive collection of products available to print from a CD-ROM or photocopy from reproducible proofs. Also, some IRS offices and libraries have the Internal Revenue Code, regulations, Internal Revenue Bulletins, and Cumulative Bulletins available for research purposes.



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