



# Taxation of Nonresident Aliens

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An alien is any individual who is not a [U.S. citizen](#) or [U.S. national](#). A nonresident alien is an alien who has not passed the [green card test](#) or the [substantial presence test](#).

## A. Who Must File

If you are any of the following, you must file a return:

1. A nonresident alien individual engaged or considered to be engaged in a trade or business in the United States during the year.
2. A nonresident alien individual who is not engaged in a trade or business in the United States and has U.S. income on which the tax liability was not satisfied by the withholding of tax at the source.
3. A representative or agent responsible for filing the return of an individual described in (1) or (2),
4. A fiduciary for a nonresident alien estate or trust, or
5. A resident or domestic fiduciary, or other person, charged with the care of the person or property of a nonresident individual may be required to file an income tax return for that individual and pay the tax (Refer to Treas. Reg. 1.6012-3(b)).

**NOTE:** If you were a nonresident alien student, teacher, or trainee who was temporarily present in the United States on an "F," "J," "M," or "Q" visa, you are considered engaged in a trade or business in the United States. You must file [Form 1040NR, U.S. Nonresident Alien Income Tax Return](#) (or [Form 1040NR-EZ, U.S. Income Tax Return for Certain Nonresident Aliens With No Dependents](#)) only if you have income that is subject to tax, such as wages, tips, scholarship and fellowship grants, dividends, etc. Refer to [Foreign Students and Scholars](#) for more information.

## Claiming a Refund or Benefit

You must also file an income tax return if you want to:

1. Claim a refund of overwithheld or overpaid tax, or

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2. Claim the benefit of any deductions or credits. For example, if you have no U.S. business activities but have income from real property that you choose to treat as effectively connected income, you must timely file a true and accurate return to take any allowable deductions against that income.

## **B. Which Income to Report**

A nonresident alien's income that is subject to U.S. income tax must generally be divided into two categories:

- Income that is [Effectively Connected](#) with a trade or business in the United States
- U.S. source income that is [Fixed, Determinable, Annual, or Periodical \(FDAP\)](#)

Effectively Connected Income, after allowable deductions, is taxed at graduated rates. These are the same rates that apply to U.S. citizens and residents. Effectively Connected Income should be reported on page one of [Form 1040NR, U.S. Nonresident Alien Income Tax Return](#). FDAP income is taxed at a flat 30 percent (or lower treaty rate, if qualify) and no deductions are allowed against such income. FDAP income should be reported on page four of Form 1040NR.

## **C. Which Form to File**

Nonresident aliens who are required to file an income tax return must use:

- [Form 1040NR, U.S. Nonresident Alien Income Tax Return](#) or,
- [Form 1040NR-EZ, U.S. Income Tax Return for Certain Nonresident Aliens With No Dependents](#), if qualified. Refer to the Instructions for Form 1040NR-EZ to determine if you qualify.

Find more information at [Which Form to File](#).

## **When and Where To File**

If you are an employee and you receive wages subject to U.S. income tax withholding, or you have an office or place of business in the United States, you must generally file by the 15th day of the 4th month after your tax year ends. For a person filing using a calendar year this is generally April 15.

If you are not an employee or self-employed person who receives wages or non-employee compensation subject to U.S. income tax withholding, or if you do not have an office or place of business in the United States, you must file by

the 15th day of the 6th month after your tax year ends. For a person filing using a calendar year this is generally June 15.

File Form 1040NR-EZ and Form 1040NR at the address shown in the instructions for Form 1040NR-EZ and 1040NR.

## **Extension of time to file**

If you cannot file your return by the due date, you should file [Form 4868](#) to request an automatic extension of time to file. You must file Form 4868 by the regular due date of the return.

## **You Could Lose Your Deductions and Credits**

To get the benefit of any allowable deductions or credits, you must timely file a true and accurate income tax return. For this purpose, a return is timely if it is filed within 16 months of the due date just discussed. The Internal Revenue Service has the right to deny deductions and credits on tax returns filed more than 16 months after the due dates of the returns. For additional details, refer to When To File in the Filing Information chapter of [Publication 519, U.S. Tax Guide for Aliens](#).

## **Departing Alien**

Before leaving the United States, all aliens (with certain exceptions) must obtain a certificate of compliance. This document, also popularly known as the [sailing permit or departure permit](#), must be secured from the IRS before leaving the U.S. You will receive a sailing or departure permit after filing a [Form 1040-C, U.S. Departing Alien Income Tax Return](#), or [Form 2063, U.S. Departing Alien Income Tax Statement](#).

Even if you have left the United States and filed a Form 1040-C on departure, you still must file an annual U.S. income tax return. If you are married and both you and your spouse are required to file, you must each file a separate return, unless one of the spouses is a U.S. citizen or a resident alien, in which case the departing alien could file a joint return with his or her spouse (Refer to [Nonresident Spouse Treated as a Resident](#)).

## **References/Related Topics**

- [Source of Income](#)
- [Exclusions From Income](#)
- [Real Property](#)

- [Figuring Your Tax](#)
- [Tax Treaties](#)
- [The Taxation of Capital Gains of Nonresident Alien Students, Scholars and Employees of Foreign Governments](#)
- [Taxpayer Identification Numbers \(TIN\)](#)
- [Some Nonresidents with U.S. Assets Must File Estate Tax Returns](#)

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