

GENERAL FILING REQUIREMENTS

1. Who needs to file an income tax return?

If you are visiting the U.S. from another country on an F, J, M or Q visa and are classified as a nonresident for U.S. tax purposes, you are required to file an income tax return each year that you have U.S.-source income. If you did not earn any income, you must file IRS Form 8843. Form 8843 must also be filed for every family member who is in the U.S. on an F-2 or J-2 visa.

2. Since I already had taxes withheld from my paycheck, do I need to file an income tax return?

Yes. The U.S. tax system is considered a "pay as you go" plan. Therefore, taxes are withheld from your pay as you earn it. You file a federal (IRS) income tax return after the end of the calendar year to reconcile the withholdings from your paycheck with your actual tax liability.

3. I arrived in the U.S. in December of 2006 and I didn't work. Do I still have to file IRS Form 8843?

Yes. If you were in the U.S. only for one day in 2006, you must file IRS Form 8843. If any family members are here with you, they must also file Form 8843.

4. I'm an F-1 or J-1 student and had no U.S.-source income or scholarships for 2006. Do I need to file an income tax return?

Although you don't have to file an income tax return, you must file IRS Form 8843. Dependent spouses in F-2 and J-2 status must also file Form 8843.

5. I only worked for a very short time in 2006 and didn't earn very much money. Do I still have to file an income tax return?

Yes. If you have any U.S.-source income, including taxable scholarship/fellowship grants, you must file IRS Form 1040NR-EZ (or 1040NR) and IRS Form 8843.

6. I was in the U.S. for only a few months in 2006 and did not work or receive a taxable scholarship/fellowship grant. I have since returned to my country. Do I still have to file IRS Form 8843?

If you are in the U.S. on an F or J visa, you must file IRS Form 8843 for each year that you are in the U.S. If any family members are here with you, they must also file Form 8843.

7. What happens if I fail to file an income tax return?

If you owe taxes and don't file an income tax return, the Internal Revenue Service (IRS) can charge you penalty and interest on any tax owed. Fines and penalties can often amount to more than the original tax debt. If you are eligible for a tax refund and do not file an income tax return, you will not receive a refund. There can also be immigration consequences for failing to file an income tax return. For example, applicants for permanent residency ("green card") are frequently asked to provide proof of tax filing for previous years in the U.S.

8. What if I am being paid by a foreign employer?

Normally, amounts received from a foreign employer are not taxable to individuals who are classified as nonresidents for tax purposes. Nonresidents are taxed on their U.S.-source income only.

9. I did not have enough money taken out of my paycheck. What can I do? What happens if I do not pay all of my taxes?

If an insufficient amount of money was withheld from your paycheck, you must pay the additional tax when you file your income tax return. Please note that the IRS receives copies of all Forms W-2 and 1099 and matches these forms against your income tax return. If the IRS determines that you did not report some of your income, it will send you a notice reflecting this failure to report income. Failure to report all income can result in severe penalties, including imprisonment.

10. I've been in the U.S. as an F-1 student for more than five years or as a J-1 scholar for more than two years. What forms should I fill out?

If you have been in the U.S. as an F-1 student for more than five years or as a J-1 scholar for more than two years, you must begin counting days present in the U.S. to see if you pass the Substantial Presence Test. This test can be found in IRS Publication 519, *U.S. Tax Guide for Aliens*. It is also explained in Question #11 below. You may ask for permission from the IRS Field Assistance Area Director to continue to be an exempt individual. Otherwise, you will be considered a resident for tax purposes and must file IRS Form 1040 (1040-EZ or 1040-A) (resident income tax returns).

11. What is the Substantial Presence Test?

It is a test to determine if you are to be considered a resident alien for tax purposes. To meet this test, you must have been physically present in the United States on at least 31 days during the current year, and 183 days during the 3-year period that includes the current year and the 2 years immediately before. To satisfy the 183-day requirement, count all of the days you were present in the current year, and one-third of the days you were present in the first year before the current year, and one-sixth of the days you were present in the second year before the current year. Do not count any day you were present in the United States as an "exempt individual" or commuted from Canada or Mexico to

work in the United States on more than 75% of the workdays during your working period.

12. Sometimes it would be better for a nonresident alien to be considered a resident alien for tax purposes. Can they choose to be treated this way if it benefits them?

No, a nonresident for tax purposes cannot be considered a resident for tax purposes unless s/he is married to a U.S. citizen or permanent resident. In that case, the individual can elect to file a joint return and be treated as a resident for tax purposes. The only exception is students and trainees from Barbados, Hungary and Jamaica, who may elect to be treated as residents for tax purposes regardless of their marital status. For additional information, see IRS Publication 519, *U.S. Tax Guide for Aliens*.

13. What is the difference between Form 1040NR and Form 1040NR-EZ? Which form should I use? Will using the longer form save me some money?

It is always advisable to use the simplest form that will accommodate all of your income and deductions. The instructions to the forms explain who can file the form. Using the longer form will only save you money if you have items to list on it that you could not list on the shorter form (e.g. gifts to U.S. charities)

14. I worked in another state in 2006 and paid state taxes. How do I report this on my federal income tax return? Am I required to file a state income tax return?

You may claim an itemized deduction on Form 1040NR-EZ or Form 1040NR for any state taxes withheld. You may also be required to file a state income tax return in addition to the federal income tax return. Check with the tax department of the state you worked in.

DEPENDENTS

15. I'm married and have a child who was born in the U.S. Can I claim personal exemptions for my wife and child?

Maybe. Only students and scholars from the following countries can claim exemptions for their dependents: Mexico, Canada, Korea and Japan (if you choose to use and are eligible to use the old treaty with Japan). In addition, Indians are sometimes able to claim exemptions for their children. However, there are restrictions on how this is done so Indians should see page 27 of IRS Publication 519, *U.S. Tax Guide for Aliens*, to find out if it is possible to claim a personal exemption for a child born in the U.S.

16. I'm from one of the countries that can claim an exemption for my spouse and/or child. Can I claim them if they don't have a Social Security number or ITIN (Individual Taxpayer Identification Number)?

No. In order to claim personal exemptions for dependents, they must have valid Social Security numbers or ITIN's.

To apply for ITIN's, your spouse/dependents should fill out Form W-7 and attach the form to the 1040-NR along with the required documentation. **DO NOT** send original documents to the IRS. Instead, you should send certified, notarized copies of your documents.

Form W-7 can be downloaded from the ISSS website (http://wings.buffalo.edu/intlservices/iss_s_tax.html) or IRS website (<http://www.irs.gov>).

17. My young children live with me. My spouse and I are both students and we must pay someone to watch our children. Can I claim the Child Care Tax Credit?

Maybe. Only nonresident aliens from Mexico, Canada, Korea, Japan or India can claim dependents, and possibly qualify to take the Child Tax or Dependent Care Credit. For additional information, see page 29 of IRS Publication 519, *U.S. Tax Guide for Aliens*.

TAX TREATY BENEFIT

18. How do I know if the U.S. has an income tax treaty with another country?

IRS Publication 901, *U.S. Tax Treaties*, has information regarding U.S. tax treaties with other countries. You can download this publication from the ISSS or IRS websites.

19. If an individual has a tax treaty, how does this help him on his income tax return?

Tax treaties generally allow a nonresident to exclude a specified amount of U.S.-source income on their U.S. tax return. This in turn reduces the tax liability because they do not have to pay taxes on that amount.

20. I am a student from the People's Republic of China currently studying in the U.S. How does the income tax treaty between the U.S. and China apply, especially for students with scholarships and fellowships?

If you are Chinese and in the U.S. solely for the purpose of your education, you may be able to exclude up to \$5,000 of income that you receive from work performed in the U.S. Under the U.S.-China treaty, taxable scholarships and fellowships are also excluded from income. For additional information, please refer to IRS Publication 901, *U.S. Tax Treaties*.

21. My country has a tax treaty with the U.S. and I earned below \$5000, which is the amount of wages exempt by my treaty. Do I still need to file an income tax return?

Yes. You must file IRS Form 1040NR (or 1040NR-EZ) to claim a tax treaty benefit. If you earned more than the amount exempted by your treaty, you may still have taxable income. For additional information, see IRS Publication 901, *U.S. Tax Treaties*.

22. If my total wages do not exceed the amount which is exempt because of a tax treaty, do I still need to fill out IRS Form 8233?

Yes.

23. What does the term “unlimited” mean in the amount column of the charts in IRS Publication 901, *U.S. Tax Treaties*?

“Unlimited” means that there is no maximum limit on the dollar amount that the individual can exclude. For additional information, see IRS Publication 901, *U.S. Tax Treaties*.

24. Where do you put the treaty information on the Form 1040NR?

On line 22 on the first page of Form 1040NR, you report the total income exempt by a treaty. You must also complete question M on page 5 of the form. It is very important that you include the treaty article number in question M. The article number can be found in IRS Publication 901, *U.S. Tax Treaties*. If the article number is omitted, the form will be returned to the taxpayer. For additional information, see the instructions for Form 1040NR.

25. Where do you put the treaty information on the Form 1040NR-EZ?

On line 6 on Form 1040NR-EZ, you report the total wages and scholarship exempt by a treaty. You must also complete question J on the back of the form. It is very important that you include the treaty article number in question J. The article number can be found in IRS Publication 901, *U.S. Tax Treaties*. If the article number is omitted, the form will be returned to the taxpayer.

SCHOLARSHIPS, FELLOWSHIPS AND ASSISTANTSHIPS

26. I had a teaching or research assistantship at UB. Is this the same as a scholarship or fellowship?

NO!!!!!!!!!! Teaching and research assistantships are payment for services and are not considered scholarship or fellowship income. This income is not excludable under the scholarship/fellowship income rules. For additional information, see IRS Publication 970, *Tax Benefits for Higher Education*.

27. Are graduate assistantships taxable?

Yes, the salary portion of an assistantship is fully taxable (unless excluded by treaty). A tuition waiver is considered a scholarship and is exempt from taxation. For additional information, see IRS Publication 970, *Tax Benefits for Higher Education*.

28. I had a teaching or research assistantship at UB. Can I deduct or exclude the cost of my tuition and/or fees?

No. Only degree-seeking students with bona fide scholarships or fellowships (no work was required as a condition of receiving the award) may exclude the amount paid for tuition and fees.

UB will report to you only your taxable scholarship/fellowship on Form 1042-S. If you have a scholarship, you should report on your income tax return the amount of your scholarship minus your tuition and/or fees. You cannot reduce the scholarship by room and board. For additional information, see IRS Publication 970 *Tax Benefits for Higher Education*.

29. Can I deduct the cost of a computer as a valid educational expense?

No. Generally, equipment, such as computers or educational supplies that are not required course items, are not deductible expenses.

30. Can I deduct my books from my assistantship income?

No.

31. Which forms do students who hold U.S. government scholarships (e.g. Fulbright) have to fill out?

Students who hold U.S. government scholarships must file Form 8843 if they are a non-resident for tax purposes. They must also file Form 1040NR if any part of their scholarship is taxable (e.g. used for room and board).

32. As a condition of their employment, Resident Assistants are required to live in the dorm. The room is provided for free. Is this taxable income?

Since the employment required the student to live in the dorm for the convenience of the employer, the housing is not taxable. For additional information, see IRS Publication 970, *Tax Benefits for Higher Education*.

33. Are athletic scholarships taxable income?

No. Athletic scholarships are not considered to be taxable income unless the amount of the scholarship exceeds the costs of tuition, fees, and books and supplies which are required for the course.

STANDARD & ITEMIZED DEDUCTIONS

34. I'm from India. Can I claim the standard deduction?

Maybe. The U.S.-India tax treaty allows ONLY STUDENTS to claim the standard deduction on nonresident income tax returns. Visiting scholars and researchers from India cannot claim the standard deduction. For 2006, the standard deduction for filing single is \$5,150. If you are married and claiming your spouse (who must have no U.S.-source income) as a dependent, you can still only claim \$5,150 for the standard deduction.

35. Can students and scholars claim itemized deductions?

Yes, but they are limited. You can claim itemized deductions for state and local taxes, charitable contributions to U.S. charities, casualty and theft losses, certain unreimbursed job expenses, and tax preparation fees.

BANK INTEREST

36. I had bank interest from my checking or savings account. Is my bank interest taxable income?

No. Interest on personal bank accounts not connected with a trade or business is not taxable to nonresidents. If you are a nonresident for tax purposes who has a personal bank account, you should file Form W-8BEN with your U.S. bank. This will ensure that your bank interest is not subject to U.S. tax. It will also ensure that the bank will not withhold income tax on your bank account.

Your bank generally reports interest on Form 1099-INT. If you received this form, you should retain it for your records. However, do not mail this form with your income tax return.

If you file taxes as a resident for tax purposes, your bank interest is taxable income. For additional information, see page 11 of IRS Publication 519, *U.S. Tax Guide for Aliens*.

37. If we don't have to pay taxes on the interest that we get from the bank, then why does the bank issue a document stating the amount for tax purposes?

The bank issues the same document to all of its customers. Even though you don't have to pay taxes on bank interest, other customers do. If you file Form W-8BEN with the bank to let them know you are a nonresident alien, the bank will stop issuing you a 1099-INT.

TAX REFUNDS

38. Last year, I received a New York State tax refund. Do I enter it as income on line 11 of IRS Form 1040NR-EZ and on lines 4 and 24 of NYS Form IT-203?

If you took a deduction last year for the state income tax withheld, you will need to include the state refund on your 2006 income tax return. This does not apply, however, to students from India who took the standard deduction.

39. Is the federal income tax refund from taxes paid in 2005 taxable in 2006? If so, how do I fill out Form 1040NR (or Form 1040NR-EZ) to reflect this?

No, the federal tax refund for taxes paid in 2005 is not taxable in 2006. However, the state refund is taxable.

SOCIAL SECURITY (FICA) AND MEDICARE TAXES

40. My employer withheld Social Security and Medicare taxes from my salary. Can I get this refunded?

Yes. F-1 and J-1 visa holders who are nonresidents for tax purposes are not subject to Social Security or Medicare taxes for work within the restrictions of their visa category. Refund of these taxes may be requested from your employer. If your employer is unable to refund these taxes, you may file IRS Form 843 with certain attachments for a refund.

41. Why are Social Security taxes taken out of my pay even though I am returning to my home country?

Since F-1 students and J-1 Exchange Visitors who are nonresidents for tax purposes are not eligible to receive Social Security benefits, they are exempt from paying Social Security taxes as long as they are not engaged in unauthorized employment. Therefore, there should be no withholding of Social Security or Medicare taxes from pay they received for on-campus work, practical training or economic hardship employment.

F-1 students and J-1 Exchange Visitors who are residents for tax purposes are covered under the Social Security program. Therefore, they must pay Social Security and Medicare taxes and those will be withheld from their pay. For additional information, see IRS Publication 519, *U.S. Tax Guide for Aliens*.

42. I am an F-1 student who was employed while I was a student and later on Optional Practical Training. Do I have to pay Social Security and Medicare taxes?

You are covered under the Social Security and Medicare programs if you are considered a resident for tax purposes, even though your immigration status is F-1. In that case, Social Security and Medicare taxes will be withheld from your pay. For additional information, see IRS Publication 519, *U.S. Tax Guide for Aliens*.

HOPE, TUITION TAX CREDIT OR EARNED INCOME CREDIT

43. I am a non-resident for income tax purposes. Can I claim the HOPE or Tuition Tax Credit or the Earned Income Credit?

No. Nonresidents for tax purposes cannot claim Hope or Lifetime Learning Education credits, or Earned Income Credit (EIC). For additional information, see page 29 of IRS Publication 519, *U.S. Tax Guide for Aliens*.

DEADLINES

44. What is the deadline for filing my 2006 income tax return?

You need to file all forms by April 17, 2007.

45. I'm unable to file my income tax return by April 17, 2007. What should I do?

If you are unable to meet the tax filing deadline of April 17, 2007, file IRS Form 4868 ("Application for Automatic Extension of Time to File U.S. Individual Income Tax Return") by April 17, 2007. This will extend your filing date to August 17, 2007. An extension does not extend your time to pay, however. Any owed taxes must be paid by April 17, 2007. If not, penalties may be charged.

MAILING INSTRUCTIONS

46. Should I keep copies of my income tax return and other tax forms?

Yes. Always keep copies of your income tax return, Forms W-2, Forms 1042-S, Forms 1099-INT bank interest statements and any other pertinent forms as proof that you have filed your income tax return. The IRS can audit individual returns for up to 3 years following the filing deadline and your tax records are essential in proving your case.

47. If I owe taxes, to whom do I make the check payable?

If you owe taxes, make your check payable to "United States Treasury." Make sure that your Social Security number is on the check. In the memo section on the check, write "For 2006 Income taxes."

48. Can nonresident aliens pay their taxes by credit card?

Yes. You can use your American Express, Discover, MasterCard or Visa cards to pay your taxes. To pay by credit card, call toll free or visit the website of either provider listed and follow the instructions.

Link2Gov Corporation
1-888-729-1040 (Customer Service 1-888-658-5465)
www.PAY1040.com

Official Payments Corporation
1-800-272-9829 (Customer Service 1-877-754-4413)
www.officialpayments.com

49. Can the income tax forms be folded? What size envelope is needed? What needs to be attached to the form?

Yes, you may fold the income tax return before sending it. There is no specified envelope size for your income tax return. Attach one copy of each Form W-2 or Form 1042-S that you received to the income tax return. For additional information, see the *Instructions to Form 1040NR, U.S. Nonresident Alien Tax Return*.

50. Where do I mail my return?

Mail Form 1040NR (or Form 1040NR-EZ) and Form 8843 to: Internal Revenue Service Center, Austin, Texas 73301-0215.

51. I am leaving the U.S. before I can file my taxes. What should I do?

If you are leaving the U.S. before filing your taxes, be sure the UB Payroll Office has your foreign address so that your IRS Form W-2 and/or IRS Form 1042-S can be mailed to you.

Download IRS Form 1040-C and the instructions booklet from the IRS website (<http://www.irs.gov/formspubs/index.html>) and file your income tax return from abroad. Save copies of all forms submitted for your records.

52. Will the IRS send me anything to let me know that they received my income tax return?

No. You can, however, take the income tax return to the local IRS office to turn it in. They can stamp your copy of the return with a receipt stamp.

53. Can Form 1040NR be filed electronically?

Not at this time. Private companies offer software that helps prepare the forms, but the forms must be printed out and mailed to the Internal Revenue Service. The forms can't be faxed. For additional information, see the *Instructions to Form 1040NR, U.S. Nonresident Alien Tax Return*.

ASSISTANCE

54. I need tax forms or additional help or information. Where can I get the necessary forms or assistance?

Walk-in service is free at IRS Customer Service Centers. An office is located at 130 South Elmwood Avenue, Buffalo, NY. It is open Monday through Friday, 8:30 a.m. - 4:30 p.m. For questions about refund checks, call 1-800-829-4477 (toll free). For an automated line or for general questions, call 1-800-829-1040 (toll free). The best source

of assistance for international tax filing questions is the IRS International Customer Service at 215-516-2000 (toll number). To download tax forms and IRS Publications, go to the ISSS web site (<http://wings.buffalo.edu/intlservices/iss tax.html>) or the IRS web site (<http://www.irs.gov/formspubs/index.html>).

55. My address in Buffalo has changed since I began working at UB, or I am on Optional Practical Training and now living in another city. How do I notify UB's payroll office of my address change so that I will receive my W-2 and/or 1042-S?

To notify UB's payroll office of your change of address, phone (716) 645-2646 Ext. 1274 (last names beginning A-M) or (716) 645-2646 Ext. 1226 (last names beginning N-Z).

To update UB's payroll office of your change of address online, go to <http://ubbusiness.buffalo.edu> and click on "Forms-Change of name/address/marital status form."