



## Tax Information for Foreign National Students, Scholars and Staff

### I. Introduction

For federal income tax purposes, foreign national students and scholars are categorized in one of two ways:

**Nonresident alien** for tax purposes, or  
**Resident alien** for tax purposes

Nonresident aliens are subject to U.S. federal income tax only on earnings received from U.S. source income. Resident aliens are subject to U.S. federal income tax on their U.S source income AND their foreign source income.

Whether a foreign national is a nonresident or resident alien for tax purposes is determined based on the person's immigration (visa) status, purpose of the current visit, the person's current length of stay in the U.S., and prior visits or other prior primary purposes, if any. Most foreign nationals are classified as nonresident aliens during the first part of a visit; this classification remains in effect for various lengths of time depending on visa type and purpose of the visit. A new arrival into the U.S. on a J-1 or F-1 visa is generally a nonresident alien for federal income tax purposes.

### II. Nonresident vs. Resident Alien: Distinction for federal income tax purposes

The University must comply with a specific income reporting and federal tax withholding rules for any payments made to its foreign national students and scholars who are nonresident aliens for U.S. income tax purposes. Foreign nationals sponsored by or employed by the University of Vermont are required to provide and certify relevant information that will allow the University to determine their income tax residency status. Accordingly, upon registering with the Office of International Education, a foreign national will be requested to complete an International Information Form (IIF) and/or enter data via the Foreign National Information System (FNIS). This information will be reviewed and maintained by the Assistant Controller for Tax & Treasury Services, Office of the Controller, or designee.

To be classified as a resident alien for U.S. income tax purposes, a foreign national student or scholar must meet one of two tests. (If the foreign national does not meet one of the tests, then the person is considered a nonresident alien for federal income tax purposes.)

**Green Card Test:** possession of a 'Resident Alien' card, also known as 'green card,' issued by USCIS.

**Substantial Presence Test:** A calculation of number of days of physical presence in the U.S. during a three-year period (as described below) and during the current calendar year. If the computed number of days for the three-year period is equal to or greater than 183 days, and the number of days in the current year is at least 31, then the foreign national has met the substantial presence test, and is a resident alien for tax purposes in the current calendar year.

The **substantial presence test** for a given calendar/tax year is computed by adding:

1. All of the days of physical presence in the U.S. in the current calendar year
2. One-third (1/3) of the days in the U.S. in the previous calendar year,
3. One-sixth (1/6) of the days in the U.S. in the second preceding year.

When counting the number of days of physical presence in the U.S., any days during which the foreign national is considered an "**exempt individual**" are excluded from consideration. Being an "exempt individual" for the purposes of the substantial presence test does not mean exempt from paying tax. An "exempt individual" is a person who is in the U.S. to teach, conduct research, or study, under the following circumstances:

-A teacher, researcher, professor or trainee who is temporarily present in the US under a J or Q visa for two calendar years or less;

-A student who is temporarily present in the US under an F, J, M, or Q visa for five calendar years or less; or

-A foreign government-related individual (an "A" visaholder).

If an individual is physically present in the U.S. for any part of a calendar year, that year counts as a full calendar year. For example, a J-1 research scholar who arrives in the U.S. on December 29, 2017 counts calendar year 2017 as a full calendar year for the "exempt individual" requirement. Year 2018 is the second year of the "exempt individual" requirement. January 1, 2019 would be the first day for counting days toward the substantial presence test. Once classified as a resident alien for tax purposes, the individual typically remains a resident alien for the remainder of that visit to the U.S. See [IRS Publication 519](#), U.S. Tax Guide for Aliens, for more details.

### III. IRS Tax Forms and Terminology

Foreign nationals with U.S. source income must file federal and state tax returns each year. In order to understand the upcoming section on tax withholding and reporting, the following terms and form numbers warrant definition:

#### A. Terminology:

**Resident Alien for tax purposes:** An international person who meets one of two tests: (1) the green card test or (2) the substantial presence test. The substantial presence test is met if an individual is present in the U.S. more than 183 days during a three-year period that includes the current calendar year and the preceding two years. "Presence in the U.S." excludes days during which an individual is classified as an "exempt individual" - "J" and "F" visa holders are "exempt

individuals" for a period of time when they arrive (see [IRS Publication 519](#), U.S. Tax Guide for Aliens).

**Nonresident Alien for tax purposes:** An international person who does not meet the test for a resident alien. Most persons on an F-1 or J-1 visa who recently arrived in the U.S. are nonresident aliens for tax purposes. Nonresident aliens are required to report U.S. source income on Form 1040NR or 1040NR-EZ.

**U.S. Source Income:** Compensation paid for services rendered in the U.S. Scholarship or fellowship income paid by a U.S. payer to an individual studying or engaging in research activities in the U.S.

**Foreign Source Income:** Income received for services performed outside of the U.S., or a scholarship/fellowship/grant paid by a non-U.S. payer (usually a foreign government or corporation). See IRS Publication 519 for sourcing rules. Foreign source income is not taxable income for a nonresident alien. Foreign source income is taxable income to a resident alien.

**FICA Tax:** An employment tax enacted by the Federal Insurance Contributions Act that funds the Social Security (also referred to as "OASDI" or Old Age, Survivor and Disability Insurance) and Medicare programs. Generally, individuals classified as a nonresident alien for tax purposes with either a J-1 or F-1 visa, are not subject to FICA. Resident aliens or those with a visa status other than F-1 or J-1 are subject to this tax withholding from their payroll payment.

**Nonqualified Scholarship:** Scholarship income that is not applied toward tuition, books and required fees. Nonqualified scholarships are taxable income to the recipient. For nonresident alien students, nonqualified scholarships are subject to 14% federal income tax withholding (plus state income tax withholding) in the absence of income tax treaty benefits.

**Qualified Scholarship:** Non-service scholarship income that is credited toward tuition, books and/or required fees. Qualified scholarships are not taxable to the recipient, regardless of tax residency status. Compensation for services rendered that is used to cover tuition and required fees, or used to purchase textbooks, is considered taxable earnings, rather than non-service scholarship income.

**Treaty Benefits:** An exemption from U.S. federal income taxes pursuant to a bilateral treaty between the U.S. and an individual's country of residence. A tax treaty exemption may be available only if the country where the foreign national lived before arriving in the U.S. has negotiated an income tax treaty with the United States government.

## **B. Exemption and withholding forms:**

**Form W-8BEN:** Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding - A federal form completed by foreign nationals to certify their foreign status (i.e. nonresident alien tax residency) and U.S. taxpayer identification number (SSN or ITIN) in conjunction with payments requiring withholding. This form is also used to claim a tax treaty exemption from federal tax withholding for a nonresident's taxable scholarship and fellowship grant payments. Form is to be filed with Tax Administration.

**Form 8233:** Exemption From Withholding on Compensation for Independent (and Certain Dependent) Personal Services of a Nonresident Alien Individual - A federal form completed by foreign national persons to request an exemption from federal tax withholding pursuant to an income tax treaty for all or part of the nonresident's compensation for services rendered.

**Form W-4:** Employee's Withholding Allowance Certificate - a federal form completed by employees to specify their income tax withholding election. There are specific guidelines for nonresident aliens completing this form. See section IV.A.2. below.

### **C. Annual forms and tax returns:**

**Form 1042-S:** Foreign Person's U.S. Source Income Subject to Withholding

An IRS form issued by the University to nonresident aliens that summarizes certain payments made to or on behalf of nonresident aliens during a calendar year and any taxes withheld. Amounts reported include salary or wages exempt under a tax treaty, fellowship payments, nonqualified scholarships, and prizes subject to tax withholding.

**Form W-2:** Wage and Tax Statement

A tax form issued by the University that summarizes salary and wages paid and taxes withheld for the calendar year, except for wages exempt under a tax treaty (see Form 1042-S).

**Form 1040NR or 1040NR-EZ:** U.S. Nonresident Alien Income Tax Return

A federal tax return filed by an individual who was classified as a nonresident alien during all or part of a tax year or any individual who qualifies under a tax treaty. The filing deadline is usually April 15th, following the applicable calendar/tax year. Refer to instructions.

**Form 8843:** Statement for Exempt Individuals

A federal form required to be filed by an "exempt individual," as described above, regardless of whether he or she has U.S. source income. If an individual has U.S. source income, Form 8843 is filed as an attachment to Form 1040NR or Form 1040NR-EZ. Else, it is filed on its own. The filing deadline is usually April 15th. Refer to instructions.

**Form IN-111:** Vermont Income Tax Return

A Vermont state income tax return for individuals. The filing deadline is usually April 15th following the end of the applicable calendar/tax year. Refer to instructions.

## **IV. Tax Withholding & Reporting for Wages, Fellowships, & Scholarships**

### **A. Nonresident Alien - Tax Withholding and Reporting**

#### **1. Basic information regarding the taxation of a nonresident alien:**

- Salary and wages are subject to federal (and VT state) income tax withholding, with restricted withholding (**Form W-4**) requirements, in the absence of income tax treaty benefits.
- Salary and wages are exempt from FICA taxes, if the individual is a J-1 or F-1 visaholder.
- Fellowship payments and nonqualified scholarship payments are subject to 14% federal (plus state) income tax withholding.

-Salary and wages and nonqualified scholarship and fellowship payments may be exempt from federal income taxes if the nonresident alien's country of tax residence has a tax treaty with the U.S. that covers the type of payment. For more information on tax treaties, refer to IRS Publication 901.

## 2. Nonresident Alien - Completing Form W-4: Employee's Withholding Allowance Certificate

When completing the Form W-4, Employee's Withholding Allowance Certificate, nonresident alien employees must disregard the instructions and worksheets included on the Form W-4 since they only apply to U.S. citizens and residents. Nonresident aliens are subject to restricted tax withholding requirements, as set forth in [IRS Notice 1392](#), Supplemental Form W-4 instructions for Non-Resident Aliens. Refer to Appendix A for sample completed Form W-4, and exceptions.

If a nonresident alien completes Form W-4 in any other manner than prescribed, the individual's withholding is to be set to the highest default rate of withholding (single marital status, zero personal withholding allowances).

## 3. Nonresident Alien - Treaty Benefits

If there is an income tax treaty in force between the US and the foreign national's country of tax residence, and it contains an article covering the type of payment the individual will be receiving while visiting the United States, an exemption from income tax withholding may be pursued by the individual. Eligibility for an exemption from tax withholding depends on many factors including, but not limited to: the individual's country of tax residence, the primary purpose of the individual's visit, previous visa history, time and dollar limits set forth in the treaty, and any retroactive or prospective loss provisions in the treaty language. Final determination of eligibility for an exemption from tax withholding pursuant to a tax treaty will be made by Assistant Controller for Tax & Treasury Services, on behalf of the University.

If the individual is deemed eligible for treaty benefits, an income tax treaty benefit form will be prepared at the individual's request. The appropriate form (either Form 8233 and accompanying statement for compensation for services rendered, or Form W-8BEN for scholarship/fellowship payments) for the respective tax year, must be executed in advance of payment in order to exempt federal (and state) income tax withholding from the individual's payment.

## 4. Tax Withholding Rates for Nonresident Aliens

The IRS requires that special income tax withholding rates be applied to payments made to or on behalf of nonresident alien individuals. The rate of income tax withholding is dependent upon the type of income paid. The following chart sets forth the **generally** applicable income tax withholding rates.

Salary and Wages  All Employee Classifications, including Student Employees	Independent Contractor Payments and Honoraria	Scholarships and Fellowship Payments in excess of tuition and required fees (taxable)
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With Income Tax Treaty Exemption	Without Income Tax Treaty Exemption	With Income Tax Treaty Exemption	Without Income Tax Treaty Exemption	With Income Tax Treaty Exemption	Without Income Tax Treaty Exemption
0%*	Graduated** rate of withholding; restricted Form W-4 withholding election: “Single” filing status; 1 allowance; adding a specific payperiod amount to wages before calculating “NRA” withholding	0%*	30% federal income tax, and 8.1% VT income tax	0%*	14% federal income tax, and 3.78% VT income tax

\* Please note that income tax treaties contain annual dollar and/or time limits for income tax exemption. If an individual meets or exceeds the dollar and/or time limits, the tax treaty exemption is no longer applicable.

\*\* Refer to IRS Publication 15 (Circular E) <http://www.irs.gov/pub/irs-pdf/p15.pdf>, Table for Single Persons - Biweekly Payroll Period, or Table for Single Persons - Semimonthly Payroll Period, as applicable, for estimated federal income tax withholding, based on restricted withholding election (*Appendix A*). Vermont state income tax withholding also applies, at approximately 27% of the federal rate. Social Security (FICA/Medicare) tax applies unless eligible for a student-exemption, or the nonresident alien individual is either a J1 or F1 visaholder.

## 5. Nonresident Alien - Filing an Annual Tax Return

After calendar year end, the University will issue Form 1042-S and/or a Form W-2 to the nonresident alien student or scholar if applicable. Each form summarizes payments made to the individual, and any taxes withheld, for the calendar year, depending on the type of income.

Annually, the nonresident alien must file the federal Form 1040NR or Form 1040NR-EZ, and the appropriate state income tax form(s), if the individual has U.S. earned income in excess of one

personal exemption (2017: \$4,050), wages or scholarship income exempt by treaty, taxable scholarship income, or are due a refund of taxes.

J-1 and F-1 nonresident aliens must file Form 8843 (if an “exempt” individual).

**B. Resident Alien - Tax Withholding and Reporting**

Resident Aliens are generally subject to the same income reporting, tax withholding, and tax return filing rules as US citizens and lawful permanent residents.

**1. Basic information regarding the taxation of a resident alien:**

- Salary and wages are subject to FICA/Medicare taxes unless student-exemption applies.
- Salary and wages are subject to federal and state taxes, unless an income tax treaty applies.
- If the Resident Alien is eligible for an exemption from tax withholding pursuant to an income tax treaty, the individual needs to sign a completed Form W-9 to claim an exemption.

**2. Tax Withholding Rates for Resident Aliens**

The following chart sets forth the **generally** applicable income tax withholding rates.

Salary and Wages All Employee Classifications, including Student Employees		Independent Contractor Payments and Honoraria		Scholarships and Fellowship Payments in excess of tuition and required fees (taxable)	
With Income Tax Treaty Exemption	Without Income Tax Treaty Exemption	With Income Tax Treaty Exemption	Without Income Tax Treaty Exemption	With Income Tax Treaty Exemption	Without Income Tax Treaty Exemption
N/A*	Graduated** rate of withholding	N/A*	No federal or state income tax withholding from source; \$600 1099- Misc reporting threshold.	N/A*	No federal or state income tax withholding from source. No reporting obligation by payer.

\* Income tax treaty benefits are generally not available to Resident Alien taxpayers; tax withholding applies only for payroll (salary and wages).

\*\* Refer to IRS Publication 15 (Circular E) <http://www.irs.gov/pub/irs-pdf/p15.pdf> for withholding Table for Single Persons/Biweekly Payroll Period, Married Person/Biweekly Payroll Period, Single Persons/Semimonthly Payroll Period, or Married Person/Semimonthly Payroll Period, as applicable, for estimated federal income tax withholding. Vermont state income tax withholding also applies, at approximately 27% of the federal rate. Social Security (FICA/Medicare) tax withholding applies unless eligible for a student-exemption.

### **3. Resident Alien – Filing an Annual Tax Return**

At time of hire or upon change in tax residency status, as applicable, the resident alien may complete Form W-4 in accordance with the guidelines set forth on the form.

After calendar year end, the resident alien will receive a Form W-2 for earned wages from the University. Annually, the resident alien should file the federal Form 1040, 1040A or 1040-EZ. Those who have become a Resident Alien during the tax year need to follow the rules for 'dual status' taxpayers. See IRS Publication 519 for further information. Further, Resident Aliens who are eligible to claim income tax treaty benefits should refer to Publication 519 for specific instructions. For state taxes, they should file the appropriate state income tax form(s).

### **V. Taxpayer Identification Numbers: Social Security Numbers/ITINs**

Social Security Numbers (SSN) or Individual Taxpayer Identification Numbers (ITIN) are required by the IRS for all individuals receiving any kind of payment, including scholarships in excess of tuition, books and fees, or to be declared as an eligible dependent on a tax return.

Social Security Numbers are required for all individuals employed while in the U.S. A Social Security Number is issued through the Social Security Administration, and is used on all tax returns filed with the IRS. J-1 and F-1 visitors have inherent employment authorization so are eligible for a Social Security Number, provided they have employment; the SSA office may require proof of offer of employment. A passport, Form I-94 (a small, white card), and Form I-20 or DS-2019, as applicable, and a letter from the University's Office of International Education stating that the individual has employment, are required in order for a foreign national to obtain a Social Security Number. Contact the Office of International Education for assistance, see below. The SSA's Burlington Office is located at 58 Pearl Street, within walking distance from campus.

An ITIN is issued by the IRS to an individual who is not eligible for employment and therefore is not eligible for a Social Security Number. In order to receive a refund of federal income taxes withheld, nonresident aliens without a social security number would apply for an ITIN via Form W-7 in conjunction with filing their federal income tax return. After the IRS issues an ITIN, the number should be used on all tax returns filed with the IRS. If the individual subsequently becomes eligible to apply for and receives a Social Security Number, the ITIN should no longer be used; rather, the Social Security Number permanently replaces the ITIN as the individual's taxpayer identification number.



Due to federal educational reporting requirements, the University is required to request a U.S. taxpayer identification number from all of its enrolled students, including foreign nationals and U.S. citizens and residents. The 95xxxxxxx student identification number issued by the University is not a U.S. taxpayer identification number. Rather, it is a computer generated number assigned by the University's student information system during the admissions process.

## **VI. Tax Forms and Publications**

IRS tax forms, instructions and publications are available on the web, at <http://www.irs.gov/>, or by calling the IRS at 1-800-TAX FORM. Vermont income tax forms, schedules and instructions are available through the Vermont Department of Taxes' webpage at <http://tax.vermont.gov/> or by calling 1-802-828-2515.

## **VII. Assistance Filing Tax Returns**

The Office of International Education purchases a license for a web-based federal tax return preparation software for use by foreign national students and scholars who are nonresident aliens for US income tax purposes. Other than making access to the software available, taxpayer assistance is not available on campus. Individuals may consider seeking assistance from the IRS Office located in Burlington at 128 Lakeside Avenue, in order to meet their filing obligations. Taxpayers are assisted by the IRS on a first-come, first-serve basis.

## **VIII. Contacts**

For questions regarding tax withholding, or to apply for an exemption from withholding pursuant to an income tax treaty benefit, please contact:

Tax and Treasury Services / University Financial Services  
Waterman Building, Room 333, by appointment  
[taxadmin@uvm.edu](mailto:taxadmin@uvm.edu)

For information regarding your immigration status, or for a copy of the letter to bring with you to the Social Security Administration when applying for a U.S. social security number, please contact:

Office of International Education  
Living/Learning Center, B-101  
802-656-4296

(Rev. 08/2017)

## Appendix A: Guidelines for Nonresident Aliens completing Form W-4:

(Revised 8/2017)

Nonresident aliens must disregard the published instructions and worksheets contained within [Form W-4](#), Employee's Withholding Allowance Certificate, because they apply only to U.S. citizens and residents (including resident aliens). Rather, nonresident aliens are subject to restricted income tax withholding requirements described in IRS Publications 15 and 515 and [IRS Notice 1392](#).

### In completing Form W-4, nonresident aliens *must*:

- Claim "single" on Line 3, regardless of actual marital status
- Claim only one withholding allowance (with few exceptions, noted below)
- Write "nonresident alien" or "NRA" on the dotted line of Line 6 (\* except students from India)
- Not claim exemption from withholding on Line 7

*Exception 1: Nonresident aliens from Canada, Mexico, or American Samoa may claim (i) a personal exemption for their spouses (but only if they had no gross income for U.S. income tax purposes and were not claimed as a dependent of another taxpayer), and (ii) a dependency exemption for each of their children.*

*Exception 2: Nonresident aliens who are residents of Japan or South Korea may claim an exemption for spouse and children, but only if they lived in the U.S. at some time during the taxable year.*

Employers are required to add an amount to the wages of a nonresident alien employee solely for the purpose of calculating federal income tax withholding. The specific amount added depends on the payroll cycle (For 2017: biweekly: \$88.50; semimonthly: \$95.80)

\*Students from India are not subject to the "NRA" income tax withholding calculation (Line 6) because they are able to claim the standard deduction on their income tax return pursuant to Article 21 of the U.S.-India income tax treaty.

### Sample Form W-4: Withholding Election for a Nonresident Alien (NRA)

Separate here and give Form W-4 to your employer. Keep the top part for your records.

<b>Form W-4</b> Department of the Treasury Internal Revenue Service		<b>Employee's Withholding Allowance Certificate</b> ▶ Whether you are entitled to claim a certain number of allowances or exemption from withholding is subject to review by the IRS. Your employer may be required to send a copy of this form to the IRS.		OMB No. 1545-0074 <b>2017</b>
<b>1</b> Your first name and middle initial _____ Last name _____		<b>2</b> Your social security number XXX XX XXXX		
Home address (number and street or rural route) _____ City or town, state, and ZIP code _____		<b>3</b> <input checked="" type="checkbox"/> Single <input type="checkbox"/> Married <input type="checkbox"/> Married, but withhold at higher Single rate. Note: If married, but legally separated, or spouse is a nonresident alien, check the "Single" box.		
		<b>4</b> If your last name differs from that shown on your social security card, check here. You must call 1-800-772-1213 for a replacement card. <input type="checkbox"/>		
<b>5</b> Total number of allowances you are claiming (from line H above or from the applicable worksheet on page 2)		<b>5</b> 1		
<b>6</b> Additional amount, if any, you want withheld from each paycheck		<b>6</b> \$ <u>NRA</u>		
<b>7</b> I claim exemption from withholding for 2017, and I certify that I meet <b>both</b> of the following conditions for exemption. <ul style="list-style-type: none"> <li>• Last year I had a right to a refund of <b>all</b> federal income tax withheld because I had <b>no</b> tax liability, <b>and</b></li> <li>• This year I expect a refund of <b>all</b> federal income tax withheld because I expect to have <b>no</b> tax liability.</li> </ul> If you meet both conditions, write "Exempt" here . . . . . ▶		<b>7</b>		
Under penalties of perjury, I declare that I have examined this certificate and, to the best of my knowledge and belief, it is true, correct, and complete.				
<b>Employee's signature</b> (This form is not valid unless you sign it.) ▶		<b>Date</b> ▶		
<b>8</b> Employer's name and address (Employer: Complete lines 8 and 10 only if sending to the IRS.)		<b>9</b> Office code (optional)	<b>10</b> Employer identification number (EIN)	