

Non-Resident Alien

Frequently Asked Questions

TAX FILING: DO I NEED TO FILE / WHEN DO I FILE?

What happens if I fail to file my taxes?

If you owe taxes and don't file, the IRS can assess penalty and interest and seize U.S. bank assets for repayment. Fines and penalties can often amount to more than the original tax debt.

There can also be immigration consequences for failing to file taxes. Applicants for permanent residency "green cards" are frequently asked to show proof of tax filing for previous years in the U.S. Tax forms for previous years can be downloaded from the [IRS website](#)

I'm an F-1 or J-1 student and I had no U.S. earned income or scholarships. Do I need to file?

Yes. You must file IRS Form 8843. Dependents in F-2 and J-2 status must file IRS Form 8843.

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

Yes. If you were in the U.S. even 1 day in the tax year, you must file Form 8843.

I'm unable to file by the deadline, what do I do?

File Form 4868, "Extension of Time to File", which extends the deadline to file till August 15th. If you owe any taxes, you must still mail your tax payment by April 15 or you will be assessed penalty and interest as of April 15th, Mail Form 4848 and payment check to: Internal Revenue service, P.O. Box 37009, Hartford, CT 06176-7009. Be sure to sign and date the forms and keep copies for your records. If not making a payment mail Form 4868 to: Dept. of the Treasury, Internal Revenue Service Center, Kansas City, MO 64999-0045. Be sure to sign and date the forms and keep copies for your records.

What is the deadline for filing my tax return?

If you are filing Form 1040NR-EZ or Form 1040NR, the deadline to file is April 15. If you are filing Form 8843 only, the deadline is June 15.

I worked for a very short time in 2016 and I didn't even earn very much. Do I still have to file?

Possibly, if the total sum of your U.S. source income was less than the personal exemption (\$4,050 for 2016) you are not required to file IRS Form 1040NR-EZ or Form 1040NR. However, if you had any taxes withheld, you should file IRS Form 1040NR-EZ or Form 1040NR to get a refund of these taxes and you must still file Form 8433.

I am leaving the country before I can file my taxes. What should I do?

Make sure SUNY Downstate Payroll office has your foreign address so that your Form W-2 and/or Form 1042-S can be mailed to you. Download the appropriate forms and instructions and file your U.S. taxes from abroad. Save copies of all forms submitted for your records.

I just received my W-2 for the wages I earned in 2016. Can I file my taxes now?

Not necessarily. If you are from a country which has a tax treaty with the U.S., or you received a U.S. based scholarship or fellowship, you may also receive Form 1042-S. This form is generally mailed around March 15th. And you will need to have both forms before you can file your taxes.

SOCIAL SECURITY / ITIN NUMBER

I tried to get a Social Security number for my spouse or dependent child and was refused. What do I do?

For dependents not eligible for a Social Security number, you must apply for an Individual Taxpayer Identification Number (ITIN). To apply for an ITIN for your dependents, complete Form W-7 and submit along with the required supporting documents to the Austin IRS Office. Completed forms W-7(s) and supporting documents are then included with your tax return. ITIN numbers are for tax filing purposes only.

I have a student ID starting with the numbers 997 or 999 that looks just like a social security number. Can I use this number as my tax payer identification number?

No. You must have a valid social security number or an ITIN.

I am from one of the countries that can claim an exemption for my spouse and/or child. Can I claim them if they do not have a social security number or an ITIN?

No. In order to claim personal exemptions for dependents they must have a valid social security number or an ITIN (Individual Taxpayer Identification Number). To apply for an ITIN for your dependents, complete Form W-7 and mail the form and required documentation to the Austin IRS Office. Completed forms W-7(s) and supporting documents are then included with your tax return.

TAX CREDITS, DEDUCTIONS and EXEMPTIONS

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

Generally no, only students & scholars from certain countries can claim exemptions for their dependents (Mexico, Canada, India and Korea).

All 5 dependency tests must be met before you can claim any individual as your dependent:

1. **Member of Household/Relationship Test** - Dependent must be:
 - A relative or;
 - Live in taxpayer's household all year (for more information see Publication 17 or tax form instruction booklet)
2. **Joint Return Test** - Dependents can't file joint return with someone else unless it is only to claim a refund of tax withheld
3. **Citizenship Test** - Dependents must be:
 - - A U.S. Citizen, resident, or national; and
 - - A resident of Canada, Mexico or Korea
4. **Gross Income Test** - Dependent must have less than \$4,050 of gross income unless he/she is taxpayer's child and is
 - - Under 19 years of age, or
 - - A full-time student (5 months of the year) and under age 24
5. **Support Test** - Must provide over ½ the total support (includes: food, clothing, shelter, education, medical, recreation)

My young children live with me. Can I claim the Child Care Tax Credit?

Not as a rule. Only those students and scholars in non-resident tax status who are from one of the countries that can claim dependents (Mexico, Canada, Korea and India) can claim the Child Care Tax Credit.

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

No. Non-resident aliens cannot claim the HOPE or Tuition Tax Credit or the Earned Income Credit. Once you qualify to file as a resident alien for tax purposes, you may be eligible to claim these credits.

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

Normally no, equipment, such as a computer or educational supplies that are not required course items, is not deductible expenses. If it is required for everyone in a particular class or major, then the expense would be deductible.

I had a TA, GA or RA position. Can I deduct or exclude the cost of my tuition, books and/or fees?

No. Only those students who had bona fide scholarships or fellowships (no work was required as a condition of receiving the award) may deduct expenses paid for tuition, books and fees up to the amount of the scholarship/fellowship.

Can students and scholars claim itemized deductions?

Yes, but they are limited itemized deductions for nonresident aliens. You can claim itemized deductions for state & local taxes, charitable contributions to churches or charities, casualty and theft losses, certain unreimbursed job expenses and tax preparation fees. For those claiming only deduction for state and local taxes, you may use Form 1040NR-EZ. For those claiming other itemized deduction, you must use Form 1040NR

I am a student from India. Can I claim the standard deduction?

Yes. Due to a tax treaty provision, **ONLY students** from India may claim the standard deduction on the non-resident forms. For 2016 the standard deduction is \$6300 for those filing single or married filing separately. **NOTE:** Visiting Scholars and Researchers from India cannot claim the standard deduction.

TAX TREATIES

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

Yes. You must file Form 1040NR-EZ or Form 1040NR. In the case where you earned more than the exempt amount of your treaty, you may receive both a Form W-2 and Form 1042-S or you may just receive only a Form 1042-S.

PAYMENTS, WITHHOLDINGS & BANK INTEREST

I was a teaching assistant, graduate assistant or a research assistant. Is this the same as a scholarship or fellowship?

No. A TA, GA or RA salary payments are not considered scholarships or fellowships. Income from TA, GA and RA positions and tuition remission is considered earned income and is taxable.

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

Yes. F and J visa holders are not subject to Social Security or Medicare taxes as long as they are considered a "non-resident alien for tax purposes" Please notify Suny Downstate Payroll or State Payroll office if you paid these taxes and should not be liable for them.

I worked or attended a university in another state and paid state taxes. How do I report this on my federal tax return and am I required to file a state tax return?

You may claim an itemized deduction on Form 1040NR-EZ (line 11) or Form 1040NR (line 37) 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.

I had bank interest on my checking or savings accounts, is that earned income and must I file other tax forms?

No. Simple bank interest and interest on CD's are not considered earned income for non-resident aliens, and therefore are not reportable. Your bank generally reports this interest on Form 1099 and you should retain this form for your records, but not mail it with your tax filing. If you file taxes as a "resident alien", bank interest is taxable income.

COMPLETING THE TAX RETURN

Should I keep copies of my tax returns and other tax forms?

Yes. Always keep copies of your tax return, W-2, 1042-S, 1099 bank interest statements and any other pertinent forms as proof that you have filed. 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.

If I owe tax, to whom do I make the check payable?

If you owe taxes, make the check payable to the United States Treasury. Make sure that your social security number is on the check and that in the memo section you write, "For 2016 Income taxes"

Where do I mail my tax return?

If you are enclosing a payment, mail Forms 1040NR-EZ and Form 8833 or Forms 1040NR and Forms 8843 to: Internal Revenue Service, P.O. Box 1303, Charlotte, NC 28201-1303.

If you are NOT sending a payment or if receiving a refund mail to:
Department of the Treasury, Internal Revenue Service Center Austin, TX 73301-0215

FINDING ADDITIONAL HELP

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

For questions about refund checks call 1-800-829-1954 for problem resolution, call Technical Services Division of the IRS at 1-800-829-1040 to download tax form and publications go to the IRS web site at: <http://www.irs.ustreas.gov/formspubs/index.html>