



Frequently Asked Questions – Filing Income Tax Forms

1. What is an income tax return?

Income tax returns are forms submitted by individual and joint taxpayers to federal, and, in some cases, state and local, taxing authorities, to report various types of income and to calculate and reconcile tax liability.

In the U.S., we file a federal income tax return during the first part of each calendar year to report our earnings and reconcile our taxes with the IRS for the previous year. For example, in 2013, those who are required to file will fill out and submit a 2012 income tax return. In Colorado, we also file a state income tax return with the State of Colorado's Department of Revenue to reconcile our state income tax bill.

2. Do I have to file tax forms?

Except under certain circumstances, all foreign nationals that received compensation, including, but not limited to, wages and non-qualified scholarship/fellowship, must file a federal income tax return to report their earnings and reconcile their taxes with the IRS. See question 3, below, for additional information about your specific filing requirements.

Many individuals earning income in Colorado will also be required to fill out and submit a State of Colorado tax return. See question 8 for more information.

3. Which federal forms should I file?

Even if they did not earn any income in the U.S. and are not required to submit a federal income tax return, **all** nonresident aliens in F,J,Q, or M status, as well as their dependents, are required to submit Form 8843 to the IRS to report their presence in the U.S. in an exempt individual status. Form 8843 can be downloaded at www.IRS.gov.

Nonresident aliens should file either IRS Form 1040NR or 1040NR-EZ. To determine whether you are required to file and which form is appropriate for you, review the sections titled **Can I Use Form 1040NR-EZ** and **Who Must File** in the instructions to form 1040NR-EZ, available at www.IRS.gov.

Resident aliens should file IRS Form 1040, 1040A, or 1040-EZ. The IRS 1040 Central webpage provides useful information for tax residents, including links to each version of the 1040. To determine which form is appropriate for you, read the instructions, available with each form, at www.IRS.gov.

Some nonresident aliens, if qualified, may elect to be treated as residents for taxation purposes, which may or may not be more fiscally advantageous than filing as nonresidents. Refer to [IRS Publication 519](#), for more information.

4. How do I know if I am a resident or nonresident for taxation purposes?

International visitors to the U.S. use a formula called the Substantial Presence Test (SPT) to determine whether they have spent enough days in the U.S. to be considered residents for tax purposes. Once a person meets the SPT, however, it does not mean that person is a resident

alien forever. The conditions of the SPT must be met in each subsequent year to retain tax residency. Additionally, different immigration statuses follow different tax rules, so if a person becomes a resident alien in a particular immigration status but later changes that status, there is a chance he or she could fall out of tax residency. For this reason, it is very important that all international employees at the University of Colorado inform the International Tax Office whenever there is a change or extension of their immigration status.

F, J, Q and M statuses are often called “exempt” or “exempt individual” statuses. This does not mean exempt from tax but that an individual in one of these immigration statuses is exempt from counting certain days spent in the U.S. toward the SPT. Students in F and J status are, generally, exempt from counting days toward the SPT for their first five calendar years in the U.S., including prior visits in any of the exempt statuses. Most students will become residents for tax purposes in their sixth calendar year in the U.S. J status non-students are, generally, exempt for their first two calendar years in the U.S. but also follow another rule called the six-year look back. Many J non-students will become tax residents in their third calendar year in the U.S., but can move in and out of tax residency depending on their length of stay in the U.S.

Foreign nationals in all other statuses are never exempt from applying their days in the U.S. toward the SPT and begin counting their days in the U.S. toward tax residency immediately.

When a person is in a status and a year in which he or she can count days toward tax residency, the SPT will add up all of his or her days in the U.S. during the current year, 1/3 of his or her days from the previous year and 1/6 of his or her days during the second previous year, providing that the time spent in the U.S. during those previous years is not exempt. If the person is present in the U.S. at least 31 days during the current year in a non-exempt status, and the sum of days from all applicable years is 183 or greater, this individual will be considered a resident for taxation purposes for the year being tested.

5. What information do I need from the University of Colorado in order to complete my income tax returns?

You must wait to receive Forms W-2 and/or 1042-S from your employer before you can fill out your income tax returns. These forms will report your taxable and tax exempt income, as well as any taxes that were withheld, and provide the figures you will use to fill out your income tax return forms. The University of Colorado will report the same information to the IRS and Colorado Department of Revenue.

If you received taxable wages during the previous year, you should receive Form W-2 no later than February 15, provided a current mailing address has been maintained in the payroll system by your department. If you received an upfront tax treaty exemption or taxable stipend, scholarship or fellowship, you may also receive Form 1042-S no later than March 20. If you have not received your forms by the above dates, you may request that they be reissued to you. Payroll & Benefit Service’s W-2 and 1042-S Reissue Request Policy and a link to the request form can be found at: https://www.cu.edu/pbs/payroll/policies/downloads/W-2_reissue-policy.pdf

If you are a student, you may also receive a 1098-T from the Bursar’s Office. This reports tuition payments and is used by U.S citizens, permanent residents and tax residents to claim benefits for tuition payments on their income tax returns. Nonresident aliens are not eligible for these benefits, unless they choose to file a joint tax return with a spouse who is a resident alien. For

more information about electing to be treated as a resident alien, please refer to [IRS Publication 519](#).

6. Are there resources or tax preparation packages I can use to help me fill out my income tax returns?

Nonresidents cannot use prepackaged software programs or other online programs, such as Turbo Tax, which are intended for use by residents only. There are tax return preparation programs, Arctic International's, Glacier Tax Prep, and Windstar's, Foreign National Tax Resource (FNTR), however, which are designed specifically for use by nonresident aliens in the preparation of their federal income tax returns. These programs will not help prepare state income tax returns, which must be filled out separately, if required. You can contact your campus ISSS/ISS office during tax season to obtain more information about gaining access to Glacier Tax Prep or FNTR. You may be charged a fee to use these programs. Please be aware that even if you use Glacier Tax Prep or FNTR, **YOU MUST PRINT AND MAIL YOUR COMPLETED FEDERAL TAX RETURN FORMS** – you cannot submit them electronically.

For additional assistance, you can also pay for the services of a professional tax advisor or preparer, but it is extremely important that you find someone with experience in dealing with international taxation. The International Tax Office at the University of Colorado cannot help you with the preparation of your income tax returns or advise you on your tax situation.

7. When are my tax forms due?

If you received compensation that was subject to the withholding of federal income tax, your tax return must be postmarked by 11:59 p.m., April 15. If April 15 falls on a weekend or holiday, the return must be postmarked by 11:59 p.m. on the next business day. If you are a nonresident alien and all of your U.S. income was exempt from federal withholding due to a tax treaty, or if your only income was from non-qualified scholarship, your tax return must be postmarked by 11:59 p.m., June 15, or the next business day if June 15 falls on a weekend or holiday. The International Tax Office is unable to help you determine if you are eligible to submit after April 15; therefore, if you are unsure about your particular situation, it is always safest to have your tax returns completed and postmarked by the April 15 deadline.

If you are a nonresident alien who is not required to submit an income tax return, the due date for submission of the 8843 to the IRS is June 15.

8. Am I required to file a tax return with the State of Colorado?

You may be required to file a state income tax return, Colorado Form 104, if you had any taxable income, or if you expect to receive a refund of state income tax that was deducted from your pay. Please review the section titled **Who Must File a Return** in the Individual Tax Income Booklet available with the Form 104 at the Colorado Department of Revenue website, www.Colorado.gov/revenue.

Nonresident aliens using Glacier Tax Prep or FNTR (see question 6, above) to complete their federal income tax returns will not be able to use the programs to complete their state returns. While your federal return must be submitted by mail, state returns can be completed either on paper or online.

9. If I am a nonresident alien for federal tax purposes, do I have to select Nonresident in the Residency Status section of Colorado Form 104?

Not necessarily. The term “nonresident” pertaining to the Colorado Form 104 has a different meaning than it does when in reference to federal tax purposes. According to the Colorado Department of Revenue, “Resident and nonresident aliens are treated the same as U.S. citizens for Colorado income tax purposes.” Therefore, determining tax residency status in the State of Colorado is unrelated to residency status for federal tax purposes and is, instead, dependent on the length of time a person actually lived in Colorado during the tax year. For more information about determining Colorado residency status, refer to the Colorado Department of Revenue, <http://www.Colorado.gov/revenue>.

10. Do I have to report the interest earned from a checking or savings account to the IRS?

In most cases, nonresident aliens are not liable for tax on bank account interest and are not required to report earned bank interest to the IRS. Sometimes, banks will report this interest income to you on a 1099-INT. Nonresidents should file the 1099-INT away in their records, but should not include it with their income tax returns. If the interest is earned on an account connected with a U.S. trade or business, however, it may be both taxable and reportable.

Resident aliens are subject to the reporting and taxation of bank account interest and must include this income on their income tax returns.

11. Can I claim a tax treaty benefit on my federal income tax return?

If you are a nonresident alien and meet the qualifications for exemption from income tax based on a tax treaty between the U.S. and your country of residency (NOT necessarily the same as your country of citizenship) and you did not receive a full treaty benefit directly through the University of Colorado or another employer, you may claim the appropriate amount of treaty benefit on your federal income tax return. It is extremely important that caution is exercised when claiming tax treaty benefits. An incorrect claim of benefits can result in penalties, fees and fines from the IRS and State of Colorado and may cause repercussions for future immigration into the U.S.

If you did not receive any upfront tax treaty benefit on wages from employment through your employer(s) during the tax year, all of your wages should be reported to you on Form(s) W-2, which reports taxable income. To claim the treaty benefit on your federal income tax return, subtract the amount of wages eligible for tax exemption due to the treaty from your total wages, tips, and other compensation and report it on the income tax return line for ‘Total wages and scholarships exempt by a treaty.’ If you have any remainder of your income reported on Form W-2 that is taxable, report it on the line for ‘Wages, salaries, tips, etc.’

If you received only a partial treaty benefit through your employer(s), for example, if you did not fill out treaty paperwork prior to receiving your first paycheck and had federal income tax withheld, your wages will most likely be reported on both Form(s) W-2 and 1042-S. To claim the full treaty benefit, subtract the additional amount of wages that would be eligible for exemption from Box 1 of the Form W-2, Wages, tips, other compensation, and include it with the treaty wages reported to you on Form 1042-S on the income tax return line, ‘Total wages and

scholarships exempt by a treaty.’ If some of the income reported on Form W-2 is still taxable, put that amount on the income tax return line for ‘Wages, salaries, tips, etc.’

Resident aliens who are eligible for treaty exemptions must follow specific IRS directions to report and claim tax treaty benefits. Please refer to [IRS Publication 519](#), section, “U.S. Residency Under Tax Treaty “Tie-Breaker” Rule, for more information.

12. Where should I put my nonqualified scholarship income?

Nonresident aliens who received nonqualified (NQ) scholarship income that was **NOT** exempt from federal income tax due to a tax treaty should enter the amount on IRS Form 1040NR or 1040NR-EZ on the line for ‘Scholarship and fellowship grants.’ NQ scholarship income that **IS** exempt from tax due to a tax treaty should be entered on the income tax return line, ‘Total wages and scholarships exempt by a treaty.’

Resident aliens who have received scholarship monies should refer to [IRS Publication 970](#), Tax Benefits for Education, to determine whether the scholarship must be reported to the IRS and, if so, how to report it. Because the University of Colorado is not required by law to report scholarships received by residents of the U.S., a resident alien having taxable scholarship income will not be notified by the university.