University of Colorado
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EMPLOYEE SERVICES

International Tax Guide
CU International Employees
Resident Alien (RA) for U.S. Tax Purposes

This guide is for all CU international employees, which includes faculty, researchers and student employees, who are classified for U.S. tax purposes as resident aliens* for the current (or any given) tax year. It outlines important reminders regarding tax information, step-by-step guidance for income tax return filing and links to vital resources.

If you are a newly arrived CU international employee, please refer to the International Tax New Hire Guide to ensure you have completed applicable introductory activities pertaining to your employment with the university.

- A resident alien (RA) for U.S. tax purposes, is a person who is **not** a U.S. citizen and **meets either** the Substantial Presence Test or the Green Card Test described in IRS Publication 519, U.S. Tax Guide for Aliens.
- If you are a nonresident alien (NRA) for U.S. tax purposes, please refer to the International Tax Guide for Nonresident (NRA) for U.S. Tax Purposes (PDF).

IMPORTANT: The terms *resident* or *nonresident* in this guide are related to tax residency only. Residency for purposes of immigration, tuition or other contexts are not discussed in this guide.

*Resident and nonresident aliens are taxed under different sections of the U.S. tax code. If you are unsure of your tax residency, or if you believe your residency status has changed, please contact the International Tax Office at intltax@cu.edu to ensure you are accessing the appropriate resources for your circumstances.

The information in this guide pertains to your employment at the University of Colorado. If you earned income at any other U.S. institution or in any other state, you may have additional obligations to fulfill. We are unable to advise or assist with questions about income received from another institution.

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International Tax Office

The International Tax Office is a department of the University of Colorado Employee Services and is staffed with international tax specialists who work directly with all CU international employees.

The International Tax Office services non-U.S. individuals and entities receiving payment from the University of Colorado through payroll, accounts payable or student finance and their paying departments. The International Tax Office also serves as a system-wide subject matter expert in the area of nonresident alien tax compliance.

Contact information: International Tax Office via intltax@cu.edu. Please allow 2-3 business days for response.

International Tax Requirements

All new international employees (student and non-student) and stipend recipients paid through the university's payroll system are required to provide the university with their U.S. travel history and immigration details for the purposes of tax residency analysis and accurate taxation of payments issued by CU. This process is initiated through Sprintax Calculus.

Completing your Sprintax Calculus profile

The International Tax Office is looking forward to supporting you by providing guidance on your U.S. tax obligations. Your first step in connecting with us is to complete your Sprintax Calculus profile. This will establish your relationship with the International Tax Office and connect you to valuable resources that will help you throughout the year as you navigate your pay and taxation.

The International Tax Office will invite you to activate your Sprintax Calculus profile within approximately 14 days of your hire date through an email from cuintltax@sprintax.com. Please complete your profile as soon as possible to ensure accurate taxation of your pay including any applicable tax treaty or FICA tax exemptions. If you haven't received your Sprintax Calculus activation email within 21 days from your start date, please check your junk mail folder. If you still cannot locate your activation email, please contact intltax@cu.edu.

Upon completion of your Sprintax Calculus profile you will have:

- determined and documented your U.S. tax residency status
- determined your eligibility for tax treaty benefits that can reduce your tax bill
- generated required tax forms for signature (e.g. W-4, 8233, W-8BEN, W-9)
- submitted required immigration documents and signed tax forms for International Tax Office review and approval

Employees should be prepared with the following documents and details to complete their profile:

- Digital copy of passport bio page
- Digital copy of I-94 and U.S. Travel History (available for download at https://i94.cbp.dhs.gov)
- Digital copy of immigration document (1-20, DS-2019, EAD, H1B approval, etc.)
- History of U.S. presence (dates and immigration statuses)
- Social Security Number (if you have one)

Maintaining your Sprintax Calculus profile

You should maintain a relationship with the International Tax Office, and keep your Sprintax Calculus profile updated, throughout your time at the university. You will be notified by email when annual activities require review of your Sprintax Calculus profile. In addition, please review and update your Sprintax Calculus profile when any of the following occur:

- your immigration status changes
- the end date on your immigration document changes
- you suspect you have become a U.S. tax resident
- you have taken steps to obtain lawful permanent residency (green card) in the U.S.
- you have a change of address
- you have tax related questions about your pay

Change of address

If you have a change of address, in addition to updating your Sprintax Calculus profile, please update this information in your employee or student portal. Visit the Payroll Self Service website for detailed instructions.

Meeting Your Tax Obligations

Keeping track of your U.S. tax obligations throughout your time at CU is important. Building and maintaining your relationship with the International Tax Office is a first and vital step in your success. Additional proactive steps can help you stay on track:

- **Create** a folder in your files to save all your important tax documents.
- **Save** this guide for future reference.
- **Review** this guide as you prepare for tax filing season.
- **Bookmark** the University of Colorado International Tax website in your browser so you can check for important updates.
- **Mark** your calendar with key dates:

Important Dates	Actions
Mid-January	Deadline for treaty eligible employees to submit signed tax treaty renewal forms to prevent delayed benefit.
Mid-February	Confirm that you have received Form W-2 if you were paid wages during the prior year.
Mid-March	Confirm that you have received Form 1042-S if you were paid wages exempt from tax through a tax treaty during the prior year.
April 15th	U.S. annual tax filing deadline.
Mid-July	Update your Sprintax Calculus profile if you've had a change of tax residency status.
Early December	Watch for annual tax treaty renewal forms if you have previously signed a treaty form with the International Tax Office.

Tax Reminders

Form W-4: Resident aliens are not restricted, as nonresident aliens are, and can update their W-4 as needed to meet their personal financial requirements. Employees with a previous NRA W-4 on file should provide documentation of their change of residency status and an e-signed W-4 to the International Tax Office through Sprintax Calculus in order to have the NRA flag removed from their payroll record initially. Once that is done, employees can make W-4 changes through their employee portal as needed.

Form W9 (resident tax treaty form): If you are receiving an upfront tax treaty benefit, you're required to **renew** your treaty form annually. Renewal forms will be generated in Sprintax Calculus for your completion in December and you will be notified that forms are ready for your review and e-signature. To prevent interruption of your treaty exemption, e-sign forms by January 10th.

Remote work abroad: CU is not a global employer and is unable to service employees working from outside the U.S. Remote work from abroad may be possible partnership with Safeguard Global, to ensure the university's compliance with foreign tax requirements, but requires careful advanced consideration and commitment by the hiring department.

Income Tax Filing Information

Deadlines: Federal and state income tax returns are due by April 15th of each year to report the prior calendar year's income and tax payments. Complete your tax returns as early as possible. As soon as you receive tax reporting forms (i.e., W-2, 1042-S) reporting your income from all payers during the tax year, you can get started. The earlier you submit your tax returns, the faster the federal and state governments will be able to process them. Assistance and resources become more limited the longer you wait.

Tax advice: International tax specialists do not provide individual tax advice to students or employees. Please contact a personal tax advisor, the IRS, Social Security Administration, the State of Colorado or local government directly for professional tax advice. International tax specialists can answer general questions and direct you to appropriate resources when needed.

Filing Income Tax Returns

The following steps provide some reminders and guidance for when it comes time to file U.S. income tax returns.

- You will receive one or both of the following forms from Employee Services:
  - **Form W-2**: Taxable wages from employment are reported on Form W-2. If you are expecting a W-2 and have not received one by the **second week of February**, please visit the CU W-2 website for more information about how to obtain one. Current employees may access their W-2 through their campus portal. Guidance is also available to help you learn how to read your W-2.
  - **Form 1042-S**: Treaty-exempt wages are reported on Form 1042-S. If you are expecting a 1042-S and have not received one by the **end of March**, please refer to International Tax website for information about how request a reissue or access your 1042-S online through Sprintax Calculus.
- Complete the federal income tax return and supplemental schedules (Form 1040 and Schedules 1 through 6, as applicable). Visit www.IRS.gov to download federal forms and instructions or to access free filing information.
  - Resident aliens with tax treaty exempt wages can find information about how to report the income in IRS Publication 519, Chapter 9 under the heading 'Resident Aliens'.

- Complete the state income tax return (Colorado Form 104). Visit the Colorado Department of Revenue's website, www.Colorado.gov/revenue, to download forms and instructions.
    - **IMPORTANT:** Individuals who earned income in another U.S. state should contact that state's tax agency to determine whether they have a filing obligation to that state and, if so, what forms are required.
- When all your forms are completed, make copies for your own records. If you aren't eligible to submit your income tax returns electronically, the address where forms should be mailed is provided in the instructions to each specific form. Any questions about the status of your submitted returns should be directed to the IRS or relevant state(s).

Tax Treaties

The U.S. has ratified tax treaty agreements with more than 60 countries around the world. Tax treaties are designed to provide limited tax benefits to eligible individuals to eliminate the double taxation of income.

Eligibility

Tax treaty eligibility is based on an individual's country of tax residency, not citizenship, and every treaty is different. If an individual determines they meet the qualifications for treaty exemption, they may make a claim for benefits on their federal income tax return.

The University of Colorado can facilitate an upfront treaty exemption for individuals whose treaty eligibility is straightforward. CU is never obligated to facilitate tax treaty exemption when eligibility is unclear. When a treaty and potentially applicable treaty article exist, factors affecting eligibility include, but are not limited to:

a. Countries of residency prior to U.S. entry
b. Prior history of U.S. presence
c. Social Security Number requirements
d. Specific criteria set forth within the treaty related to back-to-back or one-time use clauses, foreign residency throughout exemption period, applicability of the saving clause, etc.
e. Changes of status or taking steps to become a U.S. permanent resident

The university's ability to facilitate benefits is determined using details provided by individuals in their Sprintax profile. Upfront tax treaty exemptions commence only after all necessary paperwork has been completed and received by the International Tax Office; treaty exemptions may not be applied retroactively. Employees receiving upfront tax treaty exemptions are required to notify the International Tax Office immediately of any changes to their immigration status or if they take steps to apply for permanent residency; failure to do so can create significant tax burdens for the employee.

Prospective loss provisions

Certain treaties include a time-limited prospective loss provision (appendix 1) whereby if an *individual's initial visit to the U.S. is expected to exceed two years*, they are **not eligible** to benefit, even if they meet the other qualifications for eligibility. In this case, CU is unable to facilitate treaty exemption, even if an amendment is later made to shorten the program end date on the individual's immigration document.

Retroactive clause

Some treaties include a retroactive clause (appendix 2), whereby if *an individual's visit exceeds a specified timeframe* or if their *earnings exceed a certain dollar amount*, they are **not eligible** to benefit. Triggering the retroactive clause in a treaty results in the retroactive loss of benefits requiring the taxpayer to pay back taxes and potentially interest and penalties for underpayment. Therefore, CU will not facilitate treaty exemptions for treaties with retroactive clauses if:

a. The time limit specified in the treaty, between the individual's date of U.S. entry for treaty purposes and their program end date, is exceeded.
b. The individual indicates a desire, expectation or likelihood of remaining in the U.S. beyond the specified timeframe.

Employees from countries with retroactive clauses who do not initially appear to be at risk of violating the treaty terms may have the choice to receive an upfront treaty exemption but will be required to initial a statement documenting they have been educated on the risks of claiming treaty benefits, when the article includes a retroactive loss clause, and will notify the International Tax Office if at any time they have or will violate the treaty's terms:

For international employees electing to receive upfront tax treaty benefit for a country with a retroactive clause:

☐ Please initial to acknowledge that you have received the handout, "Implications of Tax Treaties with Retroactive Clauses," and that you understand your responsibility to notify the International Tax Office, immediately, if your stay or earnings exceed the limits established in the retroactive clause of the treaty you have elected to take advantage of.

Treaty renewal

Except in limited cases, individuals receiving upfront treaty benefits are required to renew their treaty paperwork each year. Annual treaty renewal forms for eligible individuals will be available for download in Sprintax Calculus in December. Individuals will receive an email notification sent from cuintltax@sprintax.com alerting them to take action. For your treaty exemption to take effect in the following January, our office must receive your signed form by January 10th; if your form is received after that date, you will still receive your benefit, but it will be delayed.

Additional Resources

Internal Revenue Service, 'Foreign Students and Scholars'

Internal Revenue Service, Publication 519 (U.S. Tax Guide for Aliens) (PDF)

Colorado Department of Revenue

University of Colorado Campus Portals

University of Colorado International Tax

Frequently Asked Questions – Filing Income Tax Returns

Q. What is an income tax return?

A. Income tax returns are forms submitted annually by taxpayers to federal, state or local tax authorities to report taxable income, and to calculate and reconcile annual tax liability.

Q. Do I have to file tax forms?

A. Generally, foreign nationals who received compensation, including but not limited to wages and non-qualified scholarships/fellowships, must file income tax return forms to report their earnings and reconcile their taxes with the federal, state or local tax authorities.

- Federal filing requirements for resident and nonresident taxpayers are detailed in Chapter 7 of IRS Publication 519.
- State of Colorado filing requirements are detailed here (https://tax.colorado.gov/individual-income-tax-filing-requirements).
- Individuals who earned income in another U.S. state should contact that state's tax agency for detailed filing requirements.

Q. Which federal forms should I file?

A. Resident aliens with a federal tax filing requirement should file IRS Form 1040 or 1040-SR. Refer to Chapter 7 Filing Information of IRS Publication 519 for more information.

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

A. International visitors to the United States are considered residents for U.S. tax purposes for any calendar year in which they meet **either** the Substantial Presence Test or the Green Card Test described in IRS Publication 519, U.S. Tax Guide for Aliens.

It is important to know one's residency status because resident and nonresident taxpayers are subject to different tax rates, are required to file different tax forms and are eligible for different tax benefits from one another.

Q. What is the Substantial Presence Test (SPT)?

A. The Substantial Presence Test is a formula used to analyze an international visitor's immigration status and history of presence in the U.S in order to determine if the individual has spent enough time in the U.S. in order to be considered a resident alien for U.S. tax purposes.

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

A. The University of Colorado issues various tax reporting forms annually as required to report taxable and tax-exempt income and tax withheld. You must wait to receive applicable forms before completing your income tax returns as the amounts reported on these forms must be included on your income tax returns. In addition to reporting directly to taxpayers, The University of Colorado will report to the IRS and the state tax agencies as obliged.

You may review Employee Service's W-2 and 1042-S Reissue Request Policy, as well as the Reissue Request Form on the Employee Services Website.

See table on next page

Form	Reports	Comments
W-2	Taxable wages	Issued by January 31st and available through employee portal, contact Payroll with questions.
1042-S	Tax-treaty exempt wages, Taxable and tax-treaty exempt non-qualified scholarship/fellowship	Issued by March 15th and mailed via U.S. post. Contact an international tax specialist with questions.
1098-T	Tuition payments for purpose of claiming education benefits	Nonresident filers are generally not eligible for tax deductions, contact Campus Bursar's office with questions.
1099-MISC	Payment for independent personal services	Questions about Form 1099-MISC should be directed to PSC.

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

A. Resident aliens have a multitude of reliable software options available to assist with tax preparation. The International Tax Office does not recommend any specific product. The IRS provides free tax filing tools for eligible individuals through their website: https://www.irs.gov/filing/free-file-do-your-federal-taxes-for-free. Resident aliens should not use Glacier Tax Prep or Sprintax as they are intended for use by nonresident aliens.

For additional assistance, you can also pay for the services of a professional tax adviser or preparer, but it is important that you find someone experienced with international taxation. Employee services' international tax specialists cannot help you with the preparation of your income tax returns or advise you on your tax situation.

Q. When are my tax forms due?

A. Generally, tax forms are due by April 15th annually. Refer to When to File in Chapter 7 of IRS Publication 519 (PDF) for information about extensions of time to file (IMPORTANT: filing an extension does not allow you to delay payment due to IRS).

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

A. You are generally required to file a state income tax return, Colorado Form DR 0104, 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 your filing requirements at the Colorado Department of Revenue website.
   - **IMPORTANT:** Individuals who earned income in another U.S. state should contact that state's tax agency to determine whether they have a filing obligation to that state and, if so, what forms are required.

Definitions and Terms

CU international employee: Any **employee** of the University of Colorado who is a resident or nonresident alien, or a legal permanent resident of the U.S., working in the U.S. Employees are paid wages in exchange for personal services.

International student: An undergraduate, graduate or exchange **student** present in the U.S. with a non-immigrant temporary visa.

International scholar: A **post-graduate** individual present in the U.S., for purposes of teaching or conducting research at a sponsoring institution, with a non-immigrant temporary visa.

Nonqualified expenses: Expenses separate from or in excess of tuition, fees and course-related expenses, required by all students in the same program of study, for enrollment at an eligible educational institution. Nonqualified expenses include but are not limited to room and board, travel, meals, and equipment not required for enrollment.

Nonresident alien: A person who is not a U.S. citizen and who does not meet either the Substantial Presence Test or the Green Card Test described in IRS Publication 519, U.S. Tax Guide for Aliens.

Qualified expenses: Expenses for tuition, fees and course-related expenses, required by all students in the same program of study, for enrollment at an eligible educational institution.

Resident alien: A person who is not a U.S. citizen and who meets either the Substantial Presence Test or the Green Card Test described in IRS Publication 519, U.S. Tax Guide for Aliens.

Scholarship or Fellowship: A payment intended to benefit a student or scholar in the pursuit of their personal education or research. Payments are distinguished from wages in that there can be no expectation of personal services in exchange for the payment. Amounts paid for qualified expenses are generally nontaxable where amounts paid for nonqualified expenses are generally taxable. Additionally, nonresident alien recipients are subject to tax withholding on the nonqualified portions of scholarship or fellowship income.

Sprintax Calculus: A software platform designed to help U.S. payors collect information necessary for accurate U.S. taxation from foreign national payees.

Stipend recipient: Any **recipient** of non-service scholarship or fellowship intended to support personal study or research.

Wages: A payment made in exchange for personal services provided as an employee. Payments are distinguished from scholarship/fellowship (sometimes referred to as stipend) payments which cannot require services in exchange for payment.

Appendix 1: Tax Treaties with Prospective Loss Provisions

Tax Treaties with a Prospective Loss Provision

As July 15th, 2021, tax treaties listed in the table below include a time limited **prospective loss provision:** Individuals will be eligible for the treaty benefit only if they come to the United States for a period not expected to exceed two years in addition to meeting the remaining terms of the specified article.

- The university will offer upfront treaty benefits for these countries only if we can readily determine that, upon entry to the United States, an employee does not expect to exceed the limitations set forth in the relevant treaty.
- The university will look, primarily, to the employee's date of arrival in the U.S., in combination with the expiration date of the employee's original immigration document, in order to make this determination.
- If there is an unexpected change of immigration status, after an employees' arrival in the U.S., which results in the employee overstaying the time limit set forth in the prospective loss provision, there will be no change to the way the treaty was initially applied or any requirement for retroactive taxation of compensation.

Tax Treaties Including Prospective Loss Provisions

Country	Article Number	Primary Purpose	Max Amount of Compensation	Time Limitation per Prospective Loss Provision
Egypt	22	Teacher/Researcher	No Limit	2 years from date of arrival
Israel	23	Teacher/Researcher	No Limit	2 years from date of arrival
Italy	20	Teacher/Researcher	No Limit	2 years from date of arrival
Jamaica	22	Teacher/Researcher	No Limit	2 years from date of arrival
Korea	20	Teacher/Researcher	No Limit	2 years from date of arrival
Norway	15	Teacher/Researcher	No Limit	2 years from date of arrival
Philippines	21	Teacher/Researcher	No Limit	2 years from date of arrival
Poland	17	Teacher/Researcher	No Limit	2 years from date of arrival
Romania	19	Teacher/Researcher	No Limit	2 years from date of arrival

Appendix 2: Tax Treaties with Retroactive Provisions

Implications of Tax Treaties with Retroactive Clauses

As of July 15th, 2021, tax treaties between the United States and India, Germany, Luxembourg, Netherlands, Philippines, Thailand, U.K. and Canada include a time or dollar limited **retroactive clause*** which results in the *retroactive loss of treaty benefits if exceeded*.

- The university will offer upfront treaty benefits for these countries only if we can readily determine that an employee will not exceed the limitations set forth in the relevant treaty.
- By initialing the retroactive treaty statement and signing the required attachment to IRS Form 8233, you acknowledge that you understand the potential tax implications of the retroactive clause that exists in the treaty between the United States and your country of tax residency.

Time or earnings exceed limits: If you have signed up for treaty benefits and later come to expect that your stay or earnings will exceed the limits established in the retroactive clause of the treaty from your country of tax residency:

- You MUST notify the International Tax Office immediately.
- The university is obliged to begin withholding income tax. The university is further obliged to report all your current and prior calendar year income to the IRS as taxable. Forms W-2c will be issued to you to declare any prior year's income, originally reported as non-taxable under the terms of the tax treaty agreement, as taxable income.
- You are obligated to file amended tax returns declaring any income previously claimed as exempt from tax, under a tax treaty, as taxable**. In addition to the back taxes that you will be required to pay, amended returns may also result in IRS imposed interest. If amended returns are not voluntarily submitted, you may be subject to IRS penalties in addition to the taxes plus interest.

IMPORTANT: If you are not certain whether you will exceed time or dollar limits related to your treaty benefits, it is our recommendation that you DO NOT sign up for tax treaty benefits due to the retroactive clauses that exists in the tax treaty between the United States and your country of tax residency.

Claiming tax treaty benefit on amended returns: If you do not sign up for treaty benefits with an international tax specialist, you can still claim the tax treaty benefit on amended returns if the length of your stay or amount of your earnings does not exceed the limits established in the retroactive clause of the treaty and you will avoid the possibility of incurring IRS imposed interest and penalties due to under-withholding.

*The U.S.- Jamaica also includes a retroactive clause but only in the independent Personal Services article (Article 14) which does not generally apply to employees.

**Employees who are claiming benefits under the U.S. – Canada treaty might not require prior year adjustments to taxable income (W2-c) and amended tax returns because if the individual is a nonresident for tax purposes, the treaty-based tax exemption may be valid one year and not the next depending on total annual earnings.

See Tax Treaty Tables next page

Tax Treaties with Time Limited Retroactive Clauses

Country	Article Number	Primary Purpose	Max Amount of Compensation	Time Limitation per Prospective Loss Provision
Germany	20(4)	Student	$9,000.00	4 years from date of arrival
India	22	Teacher/Researcher	No Limit	2 years from date of arrival
Luxembourg	21(2)	Teacher/Researcher	No Limit	2 years from date of arrival
Netherlands	21(1)	Teacher/Researcher	No Limit	2 years from date of arrival
Thailand	23	Teacher/Researcher	No Limit	2 years from date of arrival
United Kingdom	20	Teacher/Researcher	No Limit	2 years from date of arrival

NOTE: A short absence from the United States during or at the end of the time limited benefit period will NOT act to preserve treaty benefits in the case of a retroactive clause. The employee must be physically absent from the U.S. by the end of the time limited period and must not return to the U.S. to engage in similar activity for at least 365 days or the entire treaty benefit will be lost.

Tax Treaties with Dollar Limited Retroactive Clauses

Country	Article Number	Primary Purpose	Max Amount of Compensation
Canada	17	Dependent Personal Services (includes potential exemption for Teachers/Researchers and Students)	$10,000/year