International Students

Introduction to U.S. Tax Issues
Caution!

This presentation is for general guidance only. The University of Louisville cannot provide legal or tax advice to students, employees, or other third parties. Please do not make important decisions based on information presented here. Complex matters should be presented to an accountant or professional familiar with your tax situation as these individuals are more qualified to assist in making decisions appropriate to your specific facts and circumstances.
Question: What factors affect how I am taxed?
Answer: There are several ...

- U.S. tax residency status
- Type of income
- “Source” of the income
- Withholding requirements
- Tax rate
- Treaty availability
Question: Why does residency status matter? Are the rules different for nonresidents?
Answer: Yes.

U.S. tax law carves out a separate set of rules for U.S. nonresidents.

If you are ...

→ U.S. Citizen
→ Permanent Resident Alien (“Green Card” holder), OR
→ “Resident Alien”

... you fall under the “regular” U.S. tax system.

A different tax system applies to “Nonresident Aliens.”
Question: How do I know if I am a “resident alien” vs. a “nonresident alien”?
Answer: Use the “substantial presence” test.

Note: UofL uses the GLACIER tax compliance system to make this determination.

The substantial presence test is comprised of two parts:

- The 31-day test
- The 183-day test

An individual will satisfy substantial presence if he/she is physically present in the U.S. for at least 31 days during the current calendar year AND 183 days during the three-year period that includes the current year and two years preceding.
**Substantial Presence: The 183-Day Test**

The 183-day component is a calculation of:

\[
\begin{align*}
\text{Days present in U.S. during current calendar year} \\
+ \quad \frac{1}{3} \text{ days present during 1st preceding calendar year} \\
+ \quad \frac{1}{6} \text{ days present during 2nd preceding calendar year} \\
= \quad \text{Total days present}
\end{align*}
\]

IF the total days is 183 or more, the individual is considered a “Resident Alien” for U.S. tax purposes.
Substantial Presence: Exceptions

There are exceptions to the SPT ... ... and exceptions to the exceptions!

The most important exception is the “exempt individual”.

“Exempt” in this instance only means the individual is exempt from counting days toward the SPT.

“Exempt” does NOT mean you are exempt from tax!
Substantial Presence: Exempt individuals

Those who are present in the U.S. for the primary purpose of being a:

- Teacher or trainee (usually under a J or Q immigration status)
- Student (usually an F, J, M, or Q status)
- Full-time employee of international organization or government (example: a diplomat)
- Professional athlete

We look to the individual's immigration documentation to make these determinations.
Substantial Presence: Exempt individuals (cont.)

Each “exempt individual” category is also subject to time limitations.

**Non-students:** You no longer qualify for exemption if you were exempt under J or Q as a teacher or trainee for any two of the current and past six calendar years.

**Students:** You no longer qualify if you had an F, J, M, or Q student immigration status for any part of more than five calendar years.

A “calendar year” for this purpose includes parts of years. Example: you arrive in the U.S. on December 15, 2017 under a J-student visa.
Question: Now that I know my U.S. tax residency status, what income is taxable?
Answer: Almost all income is taxable.

<table>
<thead>
<tr>
<th>Income Category</th>
<th>General Description</th>
<th>Examples</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dependent Compensation</td>
<td>You provide <strong>services</strong> as faculty, staff, or other employee</td>
<td>Salary, wages</td>
</tr>
<tr>
<td>Independent Compensation</td>
<td>You provide <strong>services</strong> as a non-employee (independent contractor)</td>
<td>Consulting fees, honoraria, speaking fees</td>
</tr>
<tr>
<td>“Nonqualified” Scholarship/Fellowship</td>
<td>No services required</td>
<td>Room/board, living allowance</td>
</tr>
<tr>
<td>Other</td>
<td>No services required</td>
<td>Royalty, prize, rent</td>
</tr>
</tbody>
</table>

Under U.S. tax law, **all income** is taxable unless specifically exempted.
Question: Are scholarships taxable?
Answer: Yes and no ... depending on how the funds are used.

What is a “scholarship”?

U.S. Treas. Reg. §1.117-3(a):

A scholarship generally means an amount paid or allowed to, or for the benefit of, a student, whether an undergraduate or a graduate, to aid such individual in pursuing his studies.

-- A very broad definition!
Scholarships (cont.) -- Taxable vs. Nontaxable

Tuition
Enrollment fees
Required books and supplies

Everything else, including but not limited to:

Stipends
Housing
Board, meals
Living expenses
Transportation
Cash

NONTAXABLE (“Qualified”)

TAXABLE (“Nonqualified”)

Scholarships (cont.) -- A brief note about sourcing

U.S. residents are taxed on worldwide income.

U.S. nonresidents are only taxed on U.S.-sourced income.

Scholarships are considered U.S.-sourced only if both the payor and the location of the educational activity are located in the U.S.

If UofL processes and pays a scholarship or grant on behalf of a non-U.S. organization, we need to closely examine the arrangement to ascertain the taxability of the grant.
Question: Does the University have to withhold tax from my scholarship?
Answer: Maybe.

The “Withholding Agent” Concept

Under U.S. law, payors of income are generally required to withhold tax from such payments at rates prescribed by law (generally 30% for U.S. nonresident payees).

 dịp A payor of withholdable income is known as the “withholding agent.”
Withholding (cont.) -- Direct payment

Example: Cash payment of $2,000 living expenses directly to student, subject to 30% tax withholding rate.
Withholding (cont.) -- Noncash or indirect payment

What if the payment is not made directly to the scholarship recipient?

Example: Payment on account, travel payments, housing, daycare, other third party payments, etc.

The withholding agent is legally liable to the U.S. government for the tax, even if tax cannot be withheld from the payment!
Withholding (cont.) -- Indirect payment

Example: Cash payment of $2,000 living expenses directly to student’s landlord, subject to 30% tax withholding rate.
Withholding (cont.) -- Requirement on scholarships

Tuition
Enrollment fees
Required books and supplies

Everything else, including but not limited to:

- Stipends
- Housing
- Board, meals
- Living expenses
- Transportation
- Cash

NO WITHHOLDING REQUIREMENT

WITHHOLDING REQUIRED

Except: U.S. Residents
Question: What is the tax rate on my income?
**Answer: Generally 30%**

<table>
<thead>
<tr>
<th>Type of Income</th>
<th>Tax Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Compensation (salary, wages, etc.)</td>
<td>Standard graduated rates</td>
</tr>
<tr>
<td>Scholarships/Fellowships (F, J, M, and Q immigration statuses)</td>
<td>14%</td>
</tr>
<tr>
<td>Scholarships/Fellowships (all other immigration statuses)</td>
<td>30%</td>
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<tr>
<td>Independent personal services</td>
<td>30%</td>
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<tr>
<td>All other (royalties, awards, etc.)</td>
<td>30%</td>
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</tbody>
</table>
Question: Can I use a tax treaty to exempt my income from withholding?
Answer: Possibly, if...

- Your country of tax residence has a treaty currently in force with the U.S.;
- You complete your record in the GLACIER tax compliance system;
- You have a Social Security Number (SSN) or an Individual Taxpayer Identification Number (ITIN); AND
- You return all the applicable documentation generated in GLACIER to the appropriate UofL department (Payroll Services or Tax Department) for review and approval.
## Tax Treaties (per current listing on IRS website)

<table>
<thead>
<tr>
<th>Armenia</th>
<th>Georgia</th>
<th>Mexico</th>
<th>Tajikistan</th>
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<tbody>
<tr>
<td>Australia</td>
<td>Germany</td>
<td>Moldova</td>
<td>Thailand</td>
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<td>Austria</td>
<td>Greece</td>
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<td>Azerbaijan</td>
<td>Hungary</td>
<td>Netherlands</td>
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<td>Bangladesh</td>
<td>Iceland</td>
<td>New Zealand</td>
<td>Turkey</td>
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<td>Barbados</td>
<td>India</td>
<td>Norway</td>
<td>Turkmenistan</td>
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<td>Belarus</td>
<td>Indonesia</td>
<td>Pakistan</td>
<td>Ukraine</td>
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<td>Belgium</td>
<td>Ireland</td>
<td>Philippines</td>
<td>Union of Soviet Socialist Repub. (USSR)</td>
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<td>Bulgaria</td>
<td>Israel</td>
<td>Poland</td>
<td>United Kingdom</td>
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<td>Canada</td>
<td>Italy</td>
<td>Portugal</td>
<td>United States Model</td>
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<td>China</td>
<td>Jamaica</td>
<td>Romania</td>
<td>Uzbekistan</td>
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<td>Cyprus</td>
<td>Japan</td>
<td>Russia</td>
<td>Venezuela</td>
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<td>Czech Republic</td>
<td>Kazakhstan</td>
<td>Slovak Repub.</td>
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<td>Denmark</td>
<td>Korea</td>
<td>Slovenia</td>
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<td>Egypt</td>
<td>Kyrgyzstan</td>
<td>South Africa</td>
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<td>Estonia</td>
<td>Latvia</td>
<td>Spain</td>
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<td>Finland</td>
<td>Lithuania</td>
<td>Sri Lanka</td>
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<td>France</td>
<td>Luxembourg</td>
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<td></td>
<td>Malta</td>
<td>Switzerland</td>
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Question: What is an SSN and do I need one?
Answer: An SSN is an identifying number generally needed for employment.

You will need a Social Security Number (SSN) only if you are

- Engaged in a trade or business in the U.S. (such as an employee);
  AND
- Required to file U.S. tax returns.

The Social Security Administration (“SSA”) is the only agency with the authority to issues SSNs. Complete Form SS-5 and present it in person to the nearest SSA office.
Question: What is an ITIN and do I need one?
Answer: An ITIN is an identifying number for those unable or ineligible to obtain an SSN.

You will need a Individual Taxpayer Identification Number (ITIN) if you are:

- U.S. resident alien not otherwise eligible to receive an SSN but are required to file a U.S. tax return;
- U.S. nonresident not otherwise eligible to receive an SSN but are required to file a U.S. tax return;
- Spouse or dependent of the above and required to file a U.S. tax return.
ITIN (cont.)

An ITIN is issued by the IRS, not the SSA.

To apply for an ITIN by mail, complete an application package that includes:

1. Form W-7
2. Your original tax return for which the ITIN is needed
3. Original documents as required (e.g., passport, USCIS photo ID, visa, etc.)

Or, you can apply in person at any designated IRS Taxpayer Assistance Center.
Local IRS Taxpayer Assistance Center contact information:

600 Dr. Martin Luther King Jr. Place
Louisville, KY 40202
Office phone: 502-912-5060

Phone number for appointments: 844-545-5640
Advance appointments are required to apply for an ITIN
Question: What is GLACIER?
Answer: GLACIER is an online compliance system for U.S. nonresident tax issues.

You will be assigned a GLACIER account when you have been identified as potentially receiving taxable income. Check your e-mail!

We use GLACIER to:

➔ Determine your U.S. residency status for tax purposes
➔ Assess UofL’s withholding requirements on your income
➔ Evaluate your qualifications for treaty benefits
➔ Produce any required tax forms or other paperwork for you to print, review, sign, and return to us for processing
➔ Generate your Form 1042-S (where applicable) at year end
Question: Do I have to file a U.S. tax return?
Answer: Maybe.

CAUTION: Consult the Instructions to Form 1040NR, the IRS website, and/or a qualified tax professional!

Generally, if you have a taxable scholarship, you are required to file.

If your scholarship is entirely nontaxable and this is the only U.S. income you have, there may be no requirement.
Question: What is Form 1042-S and why am I receiving it?
Answer: Annual report of income subject to withholding.

You will receive Form 1042-S by March 15 every year if UofL paid you any taxable wages, salary, scholarships, or other income that was subject to withholding during the preceding year.

Use Form 1042-S to prepare your annual income tax return (Form 1040NR or 1040NR-EZ).
Additional Resources

Helpful IRS Sites
- [https://www.irs.gov/individuals/international-taxpayers/references-for-foreign-students-and-scholars](https://www.irs.gov/individuals/international-taxpayers/references-for-foreign-students-and-scholars)

IRS Publications
- [Pub. 901 U.S. Tax Treaties](https://pubs.usga.gov/pub.901.pdf)
- [Pub. 970 Tax Benefits for Education](https://pubs.usga.gov/pub.970.pdf)
- [Pub. 4011 Foreign Student and Scholar Resource Guide](https://pubs.usga.gov/pub.4011.pdf)

IRS Hotline for International Taxpayers: 800-829-1040
GLACIER website: [www.online-tax.net](http://www.online-tax.net)
GLACIER support: [support@online-tax.net](mailto:support@online-tax.net)
UofL Tax Department: [taxdept@louisville.edu](mailto:taxdept@louisville.edu)