



# International Students



— Introduction to U.S. Tax Issues —

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# Caution!



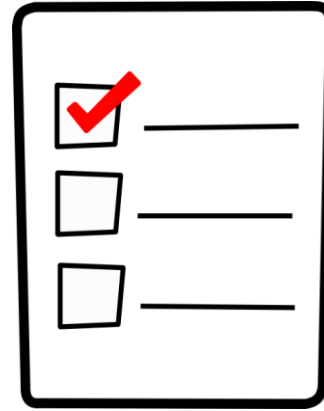
*This presentation is for general guidance only. The University of Louisville cannot provide legal or tax advice to students, employees, or other third parties. Please do not make important decisions based on information presented here. Complex matters should be presented to an accountant or professional 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.

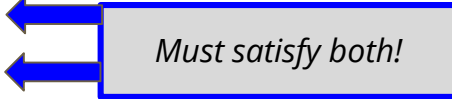
A different tax system applies to “Nonresident Aliens.”

**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
- 
- Must satisfy both!*

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:

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

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 taxable?**

# Answer: Almost all income is taxable.

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

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

← NONTAXABLE ("Qualified")

**Everything else**, including but not limited to:

Stipends  
Housing  
Board, meals  
Living expenses  
Transportation  
Cash

← 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.

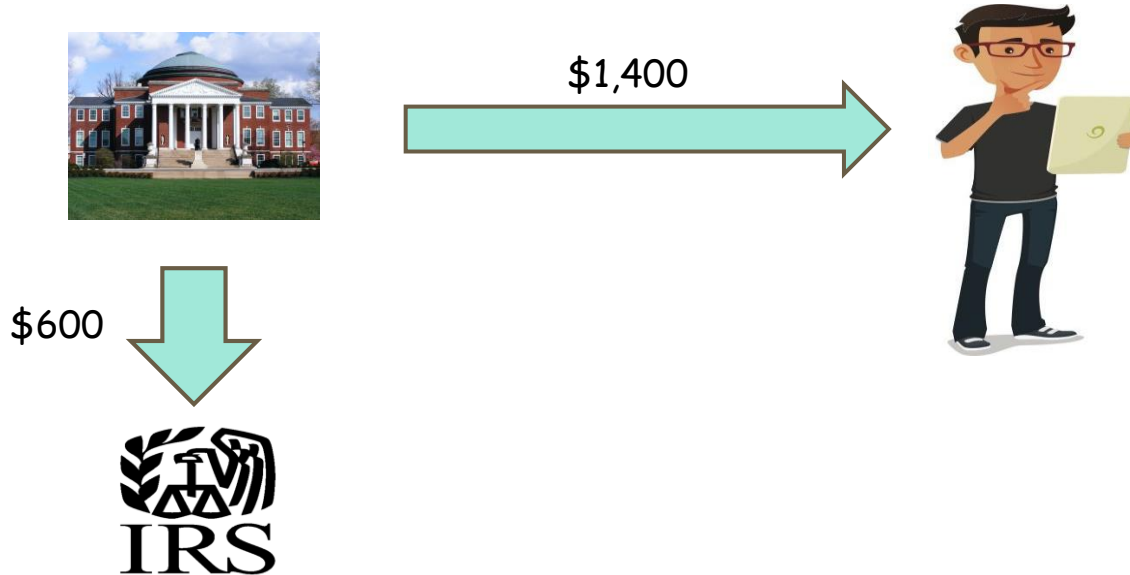
## The “Withholding Agent” Concept

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).

☞ *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?

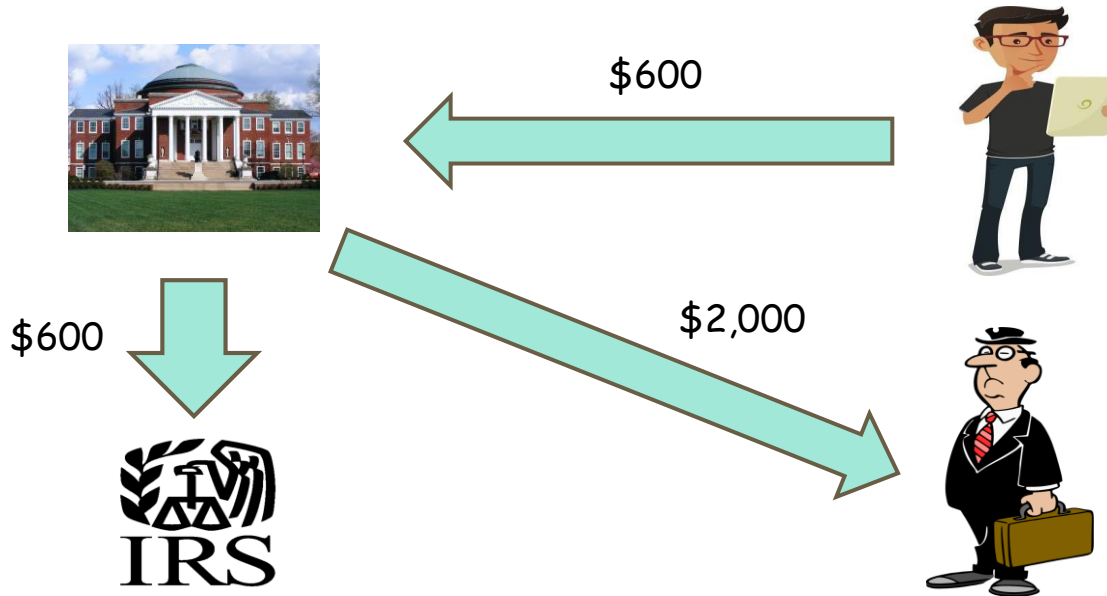
Example: Payment on account, travel payments, housing, daycare, other third party payments, etc.



*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

← NO WITHHOLDING  
REQUIREMENT

**Everything else**, including but not limited to:

Stipends  
Housing  
Board, meals  
Living expenses  
Transportation  
Cash

← WITHHOLDING REQUIRED  
Except: U.S. Residents



**Question: What is the tax rate on my income?**

# Answer: Generally 30%

Type of Income	Tax Rate
Compensation (salary, wages, etc.)	Standard graduated rates
Scholarships/Fellowships (F, J, M, and Q immigration statuses)	14%
Scholarships/Fellowships (all other immigration statuses)	30%
Independent personal services	30%
All other (royalties, awards, etc.)	30%

**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.

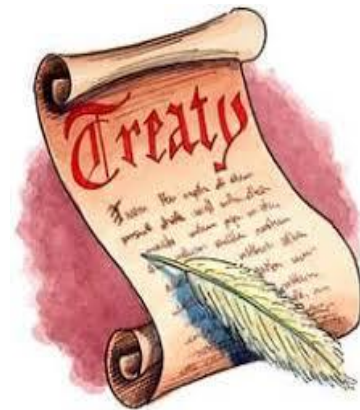
# Tax Treaties (per current listing on IRS website)

Armenia  
Australia  
Austria  
Azerbaijan  
Bangladesh  
Barbados  
Belarus  
Belgium  
Bulgaria  
Canada  
China  
Cyprus  
Czech  
Republic  
Denmark  
Egypt  
Estonia  
Finland  
France

Georgia  
Germany  
Greece  
Hungary  
Iceland  
India  
Indonesia  
Ireland  
Israel  
Italy  
Jamaica  
Japan  
Kazakhstan  
Korea  
Kyrgyzstan  
Latvia  
Lithuania  
Luxembourg  
Malta

Mexico  
Moldova  
Morocco  
Netherlands  
New Zealand  
Norway  
Pakistan  
Philippines  
Poland  
Portugal  
Romania  
Russia  
Slovak Repub.  
Slovenia  
South Africa  
Spain  
Sri Lanka  
Sweden  
Switzerland

Tajikistan  
Thailand  
Trinidad  
Tunisia  
Turkey  
Turkmenistan  
Ukraine  
Union of Soviet Socialist Repub. (USSR)  
United Kingdom  
United States Model  
Uzbekistan  
Venezuela



**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 issue 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.

# ITIN (cont.)

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.

Form **1040NR** U.S. Nonresident Alien Income Tax Return  
Department of the Treasury Internal Revenue Service  
Go to [www.irs.gov/Form1040NR](http://www.irs.gov/Form1040NR) for instructions and the latest information.  
For the year January 1-December 31, 2017, or other tax year

OMB No. 1545-0074  
**2017**

Your first name and initial \_\_\_\_\_ Last name \_\_\_\_\_ Identifying number (see instructions) \_\_\_\_\_

Present home address (number, street, and apt. no., or rural route), if you have a P.O. box, see instructions. Check if:  Individual  Estate or Trust

City, town or post office, state, and ZIP code. If you have a foreign address, also complete spaces below. See instructions.

Foreign country name \_\_\_\_\_ Foreign province/state/country \_\_\_\_\_ Foreign postal code \_\_\_\_\_

**Filing Status**

1  Single resident of Canada or Mexico or single U.S. national  
2  Other single nonresident alien  
3  Married resident of Canada or Mexico or married U.S. national  
4  Married resident of South Korea  
5  Other married nonresident alien  
6  Qualifying widow(er) (see instructions)

If you checked box 3 or 4 above, enter the information below. Child's name ▶ \_\_\_\_\_

Check only one box.  
(i) Spouse's first name and initial \_\_\_\_\_ (ii) Spouse's last name \_\_\_\_\_ (iii) Spouse's identifying number \_\_\_\_\_

**Exemptions**

7a  Yourself. If someone can claim you as a dependent, do not check box 7a  
b  Spouse. Check box 7b only if you checked box 3 or 4 above and your spouse did not have any U.S. gross income

**c Dependents:** (see instructions)

(1) First name	Last name	(2) Dependent's identifying number	(3) Dependent's relationship to you	(4) <input checked="" type="checkbox"/> Qualifying child for child tax credit (see instr.)
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>

If more than four dependents, see instructions.

**d Total number of exemptions claimed** \_\_\_\_\_

**Income Effectively Connected With U.S. Trade/ Business**

8	9a	10a	11	12	13	14	15	16a	16b	17a	17b	18	19	20	21	22	23	24	25	26		
Wages, salaries, tips, etc. Attach Form(s) W-2	Taxable interest	Tax-exempt interest. Do not include on line 9a	Ordinary dividends (see instructions)	Qualified dividends (see instructions)	Taxable refunds, credits, or offsets of state and local income taxes (see instructions)	Scholarship and fellowship grants. Attach Form(s) 1042-S or required statement (see instructions)	Business income or (loss). Attach Schedule C or C-EZ (Form 1040)	Capital gain or (loss). Attach Schedule D (Form 1040) if required. If not required, check here <input type="checkbox"/>	Other gains or (losses). Attach Form 4797	IRA distributions	Taxable amount (see instructions)	Pensions and annuities	Taxable amount (see instructions)	Rental real estate, royalties, partnerships, trusts, etc. Attach Schedule E (Form 1040)	Farm income or (loss). Attach Schedule F (Form 1040)	Unemployment compensation	Other income. List type and amount (see instructions)	Total income exempt by a treaty from page S, Schedule OI, item L (1)(b)	Combine the amounts in the far right column for lines 8 through 21. This is your total effectively connected income	Educator expenses (see instructions)	Health savings account deduction. Attach Form 8889	Moving expenses. Attach Form 3903

Attach Form(s) W-2, 1042-S, SSA-1042S, RRB-1042S, and 8289-A here. Also attach Form(s) 1099-R if tax was withheld.

**Adjusted Gross**

**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).

Form <b>1042-S</b>		Foreign Person's U.S. Source Income Subject to Withholding <b>2018</b>		OMB No. 1545-0096	
Department of the Treasury Internal Revenue Service		Go to <a href="http://www.irs.gov/Form1042S">www.irs.gov/Form1042S</a> for instructions and the latest information.		Copy A for Internal Revenue Service	
UNIQUE FORM IDENTIFIER		AMENDED		AMENDMENT NO.	
1 Income code	2 Gross income	3 Chapter indicator. Enter "3" or "4"	13a Recipient's U.S. TIN, if any	13f Ch. 3 status code	
3a Exemption code	4a Exemption code	3b Tax rate	4b Tax rate	13g Ch. 4 status code	13h Ch. 4 status code
5 Withholding allowance		13i Recipient's GIN		13j Recipient's foreign tax identification number, if any	13k LOB code
6 Net income	7a Federal tax withheld		13l Recipient's account number		
7b Check if federal tax withheld was not deposited with the IRS because escrow procedures were applied (see instructions) <input type="checkbox"/>		13m Recipient's date of birth (YYYYMMDD)			
8 Tax withheld by other agents		14a Primary Withholding Agent's Name (if applicable)			
9 Overwithheld tax repaid to recipient pursuant to adjustment procedures (see instructions) ( )		14b Primary Withholding Agent's EIN		15 Check if pro-rata basis reporting <input type="checkbox"/>	
10 Total withholding credit (combine boxes 7a, 8, and 9)		15a Intermediary or flow-through entity's EIN, if any		15b Ch. 3 status code	15c Ch. 4 status code
11 Tax paid by withholding agent (amounts not withheld) (see instructions)		15d Intermediary or flow-through entity's name			
12a Withholding agent's EIN	12b Ch. 3 status code	12c Ch. 4 status code		15e Intermediary or flow-through entity's GIN	
12d Withholding agent's name		15f Country code	15g Foreign tax identification number, if any		
12e Withholding agent's Global Intermediary Identification Number (GIIN)		15h Address (number and street)			
12f Country code	12g Foreign taxpayer identification number, if any		15i City or town, state or province, country, ZIP or foreign postal code		
12h Address (number and street)		16a Payer's name			
12i City or town, state or province, country, ZIP or foreign postal code		16b Payer's TIN		16c Payer's GIN	
13a Recipient's name		13b Recipient's country code		16d Ch. 3 status code	16e Ch. 4 status code
13c Address (number and street)		17a State income tax withheld		17b Payer's state tax no.	17c Name of state
13d City or town, state or province, country, ZIP or foreign postal code					

For Privacy Act and Paperwork Reduction Act Notice, see instructions.

Cat. No. 11386R

Form **1042-S** (2018)

# Additional Resources

## Helpful IRS Sites

- <https://www.irs.gov/individuals/international-taxpayers/foreign-students-and-scholars>
- <https://www.irs.gov/individuals/international-taxpayers/references-for-foreign-students-and-scholars>
- <https://www.irs.gov/individuals/new-itin-acceptance-agent-program-changes>

## IRS Publications

- [Pub. 519 U.S. Tax Guide for Aliens](#)
- [Pub. 901 U.S. Tax Treaties](#)
- [Pub. 970 Tax Benefits for Education](#)
- [Pub. 4011 Foreign Student and Scholar Resource Guide](#)

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)

# Questions

