

Introductory Income Tax Seminar for Visiting Foreign Scientists at the National Institutes of Health

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Reporting Requirements

As a Visiting Scientist or Fellow at the National Institutes of Health, you are required to file an annual income tax return with the US federal government to report amounts paid to you by the NIH, as well as other types of income. You must also file a tax return with the government of the state in which you live.

The following are the Government Agencies responsible for assessing and collecting taxes:

- **Federal Government:** Internal Revenue Service (IRS), www.irs.gov.
- **Maryland:** Comptroller of Maryland, Revenue Administration Division, www.marylandtaxes.com.
- **Virginia:** Virginia Department of Taxation, www.tax.virginia.gov.
- **District of Columbia:** Office of Tax and Revenue, www.otr.cfo.dc.gov.

Tax Resources

The following IRS publications are available from the IRS website and can be valuable sources of information for tax issues specific to Visiting Scientists and Fellows:

- [Publication 519, U.S. Tax Guide for Aliens](#)
- [Publication 901, U.S. Tax Treaties](#)
- [Instructions for Form 1040NR](#)

Income Tax Terms and Concepts

- **Gross Income:** Your income before subtractions for adjustments, deductions, exemptions, and other items that reduce income. It includes all income you receive in the form of money, goods, property, and services that is not exempt from tax.
- **Adjusted Gross Income (AGI):** Gross income reduced by certain adjustments defined by statute. Examples include adjustments for moving expenses and contributions to Individual Retirement Accounts (IRAs).
- **Deduction:** An item that reduces AGI. Deductions are defined by statute and characterized by type. Examples include charitable contributions and state taxes paid. What deductions are allowed depend on your residency and filing status.
- **Exemption:** A specific dollar amount provided by statute that reduces your income. You are generally allowed one exemption for yourself. Whether you can claim additional exemptions for your spouse or dependent children depends on your residency and filing status.

Income Tax Terms and Concepts

- **Taxable Income:** Your AGI reduced by allowable deductions and exemptions.
- **Tax Liability:** The amount of income tax calculated on your tax return based on your taxable income. This is not the same as tax withheld.
- **Tax Rate:** The percentage applied to taxable income that determines your tax liability. Federal tax rates range from 10% to 39.6%. State tax rates vary by state.
- **Tax Credit:** An amount that reduces your tax liability dollar for dollar. Examples include the foreign tax credit and the credit for child care expenses.
- **Tax Withheld:** The amount of tax withheld from your pay during the year and remitted by the NIH to the taxing authorities. It may include both income tax and FICA taxes (Social Security and Medicare). Tax withheld is reported as a tax payment on your tax return.

Social Security and Tax Identification Numbers

- Every US citizen and anyone who works in the US must have a social security number (SSN). If you do not yet have an SSN, you must apply for one on Form SS-5, “Application for a Social Security Card”. This form is available at www.socialsecurity.gov/online/ss-5.pdf and from any Social Security Administration office.
- If you are not eligible to get an SSN, you must get an individual taxpayer identification number (ITIN). Every dependent claimed on a tax return must have either an SSN or an ITIN. Apply for an ITIN by filing Form W-7 with your federal income tax return.

Factors to Consider

Whether your income is taxable, how much is reportable, how much tax is due, what forms to file, and when they must be filed depend on a variety of factors:

- Visiting Scientist or Visiting Fellow?
- Resident or Nonresident Alien?
- Included Income or Excluded Income?
- Source of income
- Tax Treaty Implications
- What, Where, and When to file tax returns

Visiting Scientist or Visiting Fellow?

Visiting Scientist

- Visiting Scientists include the following categories of individuals: Research Fellow, Clinical Fellow, Staff Scientist, Staff Clinician, Investigator, and Senior Investigator.
- Visiting Scientists are considered employees of the NIH and receive a salary for performing services.
- Salaries paid are considered “earned income” subject to income, Social Security, and Medicare taxes.
- The amount of salaries paid and taxes withheld are reported to recipients on Form W-2, “Wage and Tax Statement”.

Visiting Scientist or Visiting Fellow?

Visiting Fellow

- Visiting Fellows are individuals participating in a research training program at the NIH who are awarded fellowship grants in the form of monthly stipends to provide for their living expenses.
- Visiting Fellows are not considered employees of the NIH and do not perform services.
- Fellowship grants are not considered “earned income”, although they are generally subject to U.S. income tax.
- Because the fellowship grants are not earned income, tax deductions or credits that require the presence of earned income – such as moving expenses, contributions to an IRA, and the dependent care credit – are not allowed.

Visiting Scientist or Visiting Fellow?

Visiting Fellow (continued)

- Because the fellowship grants are not earned income, they are not subject to Social Security and Medicare taxes.
- The amount of fellowship grants paid and federal taxes withheld are reported to recipients on Form 1042-S, “Foreign Person’s U.S. Source Income Subject to Withholding” .

Resident or Nonresident Alien?

Residency Status Determines:

- What tax return forms to file
- What income is taxed
- What tax rates apply
- What deductions against income are allowed
- Where to file tax returns

Resident or Nonresident Alien?

Taxation of Resident Aliens:

- Generally taxed in the same way as U.S. citizens
- Worldwide income is subject to U.S. tax and is reportable on a U.S. tax return (Form 1040)
- Worldwide income is subject to graduated tax rates that apply to U.S. citizens

Resident or Nonresident Alien?

Taxation of Nonresident Aliens:

- Generally taxed only on U.S.-source income
- Tax rates depend on whether or not income is effectively connected with a U.S. trade or business
- Effectively connected income (ECI) is taxed at graduated tax rates
- Income that is not ECI is taxed at a flat 30% (or lower treaty) rate
- Personal services are usually considered to be ECI

Resident or Nonresident Alien?

Table Summary of Source Rules for Income of Nonresident Aliens	
Income	Source
Compensation for personal service	Where services are performed
Dividends	Residence of paying corporation (U.S. domestic or foreign)
Interest	Residence of payer
Rents	Where property is located
Royalties	Where property is used
Pensions	Where services were performed
Sale of inventory property	Where property is sold
Sale of other personal property	Tax home of seller
Sale of real property	Where property is located

Resident or Nonresident Alien?

Determining Residency Status:

- An alien is an individual who is not a U.S. citizen
- An alien is a resident alien if he or she meets either the green card test or the substantial presence test
- An alien is a nonresident alien if he or she does not meet one of these two tests

Resident or Nonresident Alien?

Green Card Test

- A green card gives you the right to reside permanently in the U.S. as an immigrant
- A permanent resident is a resident for tax purposes
- Resident status continues unless it is taken away or is administratively or judicially determined to have been abandoned

Resident or Nonresident Alien?

Substantial Presence Test

- Arithmetic test based on the number of days physically present in the U.S.
- The test is met for 2015 if you are physically present in the U.S. for at least 31 days during 2015 and 183 days during the 3-year period that includes 2015, 2014, and 2013
- The 183-day test counts 100% of the days present in 2015, 33.33% of the days present in 2014, and 16.67% of the days present in 2013 (See Chart)
- A day of presence in the U.S. means being physically present in the country at any time during the day

Resident or Nonresident Alien?

Substantial Presence Test

(a) Year	(b) Days of physical presence	(c) Multiplier	(d) Testing day (multiply (b) x (c))
2015		1.000	
2014		.333	
2013		.167	
Total Testing Days (add column (d))			

Resident or Nonresident Alien?

Substantial Presence Test (continued)

- Even if you meet the substantial presence test, you can be treated as a nonresident if:
 - You are present in the U.S. for less than 183 days in 2015
 - You maintain a tax home in a foreign country during the year, and
 - You have a closer connection to that foreign country than to the U.S.
- Substantial Presence Test: Example
 - Maria was physically present in the U.S. on 120 days in each of the years 2013, 2014, and 2015. To determine if she meets the substantial presence test for 2015, she counts the full 120 days of presence in 2015, 40 days in 2014 ($33.33\% \times 120$), and 20 days in 2013 ($16.67\% \times 120$). Because the total for the 3-year period is 180 days, she is not considered a resident under the substantial presence test for 2015.

Resident or Nonresident Alien?

Exceptions to the Substantial Presence Test Apply for Exempt Individuals

- You are an exempt individual if you are temporarily present in the US as a student under an “F”, “J”, “M”, or “Q” visa, or as a teacher or trainee under a “J” or “Q” visa, and you substantially comply with the requirements of your visa.
- You do not count days in the US for the Substantial Presence Test during the period you qualify as an exempt individual
- Teachers and trainees in the US under a “J” or “Q” visa can generally qualify as exempt individuals for only 2 years out of a 6-year period. Other rules may also apply.
- If you are an exempt individual, this does not mean you are exempt from income tax. It means you are exempt from counting days for the Substantial Presence Test.

Resident or Nonresident Alien?

Examples

- You arrive in the US in April 2015 under a “J” visa. 2015 is your first calendar year of presence, even though you have only been in the US for part of the year. 2016 will be your second calendar year of presence. January 1, 2017 will begin your third year and you must then begin counting days for the Substantial Presence Test.
- You were present in the US under a “J” visa during 2011 and returned to your home country the same year. You returned to the US in 2015 under a second “J” visa. 2011 is considered your first year as an exempt individual. 2015 is your second year as an exempt individual. January 1, 2016 will begin your third year and you must then begin counting days for the Substantial Presence Test.

Resident or Nonresident Alien?

Examples (continued)

- You were present in the US under a “J” visa during 2011 and 2012 and returned to your home country in 2012. You returned to the US in 2015 under a second “J” visa. 2015 is your third calendar year under a “J” visa. Because you already have 2 exempt years (2011 and 2012) within a 6-year period, you must begin counting days in 2015 for the Substantial Presence Test.
- You arrive in the US in March 2015 under an “H” visa. As an “H” visa holder, you are not exempt from counting days. You must count your days of presence in the US and use the Substantial Presence Test to determine if you are a nonresident or resident alien.

Tax Treaty Implications

Application of Tax Treaties

- The U.S. has income tax treaties with over 50 countries
- Under these treaties, residents of foreign countries are taxed at a reduced rate or are exempt from U.S. income taxes on certain items of U.S.-source income
- Reduced rates and exemptions vary among countries and items of income
- Tax treaties may or may not be recognized by individual states of the U.S., so income that is exempt from U.S. tax under treaty may still be taxed by an individual state
 - Maryland does not recognize federal tax treaties; income excluded by the federal government under a tax treaty is taxable in Maryland
 - The District of Columbia and Virginia recognize federal tax treaty agreements

Tax Treaty Implications

Tax Treaty Benefits: Visiting Fellows

- Treaty benefits for Visiting Fellows and grant recipients are generally included in treaty articles that apply to *Students and Trainees*
- Most treaties extend Student and Trainee benefits to include individuals who perform public research as recipients of a grant, allowance, or award from a governmental, religious, charitable, scientific, literary, or educational organization
- Amounts received from the NIH under provisions of the Visiting Fellows Program are generally treated as a grant, allowance, or award for purposes of whether an exemption is provided by treaty
- Under some treaties, Students and Trainees are exempt from tax for a certain period of time on amounts received; periods of exemption vary and specific treaty provisions should be consulted

Tax Treaty Implications

Tax Treaty Benefits: Visiting Scientists

- In limited circumstances, treaty benefits for Visiting Scientists are included in treaty articles that apply to *Professors and Teachers*
- Under many tax treaties, compensation paid to nonresident alien Professors or Teachers who temporarily visit the U.S. to teach or conduct research at an accredited educational institution is not subject to U.S. income tax for the first 2 or 3 years
- The IRS does not consider the NIH to be an educational institution
- Some tax treaties extend the exemption to individuals working at a research institution
- Amounts received from the NIH under the Visiting Scientist Program are not exempt from U.S. tax as a grant, allowance, or award, so the Students and Trainees exemption does not apply

How Taxes Are Paid

- Pay As You Go – You are required to make tax payments throughout the year as you earn your income. This is done either by having tax withheld from your pay or by making quarterly estimated payments.
- The NIH is required to withhold federal taxes from your income and deposit it with the US Treasury. Both fellowship grant recipients (Visiting Fellows) and wage recipients (Visiting Scientists) have federal tax withheld by the NIH.
- The NIH only withholds state taxes from wage recipients. It does not withhold state taxes from fellowship grant recipients.
- Because fellowship grant recipients do not have state taxes withheld, they may be required to make quarterly estimated payments to their state of residence.

How Taxes Are Paid

- The fellowship grant paid to a Visiting Fellow in the US under a “J” visa is generally subject to withholding at a rate of 14%.
- If you are a Visiting Fellow and are entitled to tax treaty benefits, you may claim an exemption from withholding by completing Form W-8BEN, *Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding*, and submitting it to the NIH.
- If you are a Visiting Scientist, you will be asked to complete Form W-4, *Employee’s Withholding Allowance Certificate*, for federal withholding, as well as a comparable withholding form for your state of residence. Nonresident aliens must check the “Single” box regardless of marital status and should generally claim one withholding allowance. Exceptions apply for residents of Canada, Mexico, South Korea, and certain residents of India. Refer to Notice 1392 available on the IRS website for more information.

Tax Reporting Forms

The annual federal tax form you are required to file depends on your residency status.

- Nonresident Aliens must file Form 1040NR, *US Nonresident Alien Income Tax Return*
- Resident Aliens must file Form 1040, *US Individual Tax Return*

Each state has its own annual tax reporting forms.

- Maryland Form 502 reports the income of Maryland full-year and part-year residents.
- Maryland Form 505 reports the income of Maryland nonresidents.
- DC Form D-40 reports the income of DC full-year and part-year residents. There is no nonresident DC form.
- Virginia Form 760 reports the income of Virginia residents.
- Virginia Form 760PY reports the income of Virginia part-year residents.
- Virginia Form 763 reports the income of Virginia nonresidents.

Important Tax Filing Deadlines

April 15th

- Filing deadline for federal individual income tax returns of
 - All Resident Aliens, and
 - Those Nonresident Aliens who were employees and received wages subject to US income tax withholding
- Filing deadline for Maryland and DC individual income tax returns .
Virginia returns are due on May 1st.

June 15th

- Filing deadline for federal and state individual income tax returns of Nonresident Aliens who did not receive wages as employees subject to U.S. income tax withholding

Important Tax Filing Deadlines

If you need to make estimated tax payments for federal or state taxes, those payments must be made quarterly and are due by April 15th, June 15th, and September 15th of the current year, and by January 15th of the following year.

State Income Taxes

Maryland, DC, and Virginia tax returns begin with federal Adjusted Gross Income. Federal AGI is then increased or decreased by certain adjustments. These adjustments are made for items of income and deduction whose tax treatment under state tax statutes differ from the federal tax treatment. These adjustments vary from state to state.

- Additions to Income are amounts added to federal AGI that increase state income. A typical example is tax-exempt interest on state bonds issued by a nonresident state.
- Subtractions from income are amounts subtracted from federal AGI that reduce state income. Examples include Social Security benefits and income from US obligations such as treasury bills.
- Maryland has an addition to income for tax treaty benefits that are exempt from federal tax but not from Maryland tax. Virginia and DC do not have this addition.

State Income Taxes

Reciprocal Agreements

- Maryland has reciprocal agreements with DC, Virginia, Pennsylvania, and West Virginia. Under these agreements, residents of these states are exempt from Maryland tax if their only Maryland income is from wages, salary, or compensation for personal services rendered in Maryland. Therefore, if you live in DC, Virginia, Pennsylvania, or West Virginia but work in Maryland, you may be exempt from filing a Maryland nonresident tax return.

State Income Taxes

State Residency Rules

- Rules that determine state residency are not the same as the federal residency rules
- You are a resident of Maryland if you maintained and occupied a place of abode for more than 6 months of the tax year. You are a part-year resident if you began or ended residence in Maryland during the tax year. Part-year residents must file a Maryland resident tax return.
- You are a resident of DC if you resided in DC at any time during the tax year or if you maintained a place of abode in DC for 183 days or more during the tax year.
- You are a resident of Virginia if you maintained a place of abode in Virginia for 183 days or more during the tax year.

State Income Taxes

Local Taxes

- If you are a resident or part-year resident of Maryland, you must pay a local county income tax in addition to your state income tax. Your county of residence determines which local tax rate to use. These rates range from 1.25% to 3.2%. The tax is calculated as a percentage of your Maryland taxable income.
- DC and Virginia do not have a local income tax in addition to the state tax.

Tax Resources

The following are the Government Agencies responsible for assessing and collecting taxes:

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