

Unique Filing Status and Exemption Situations

Entire Lesson

Taxpayers who are not U.S. Citizens – Pub 4491 – Part 2



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Alien



- An alien is any individual who is not a U.S. citizen or U.S. national
- A nonresident alien is an alien who has not passed:
 - The green card test, or
 - The substantial presence test



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U.S. National



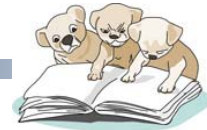
- An individual who owes his sole allegiance to the United States, including all U.S. citizens and some individuals who are not U.S. citizens
- The term "U.S. national" includes American Samoans or Northern Mariana Islanders who choose not to be U.S. citizens

U.S. Citizen



- An individual born in United States
- An individual whose parent is a U.S. citizen
- A former alien who has been naturalized as a U.S. citizen
- An individual born in a U.S. Territory

Green Card Test



- **Person passes test and is a resident, for U.S. federal tax purposes, if a Lawful Permanent Resident of United States at any time during calendar year**
 - **Has or can get a social security number**

Substantial Presence Test



- **Considered U.S. resident for tax purposes if physically present, at any time of the day, in United States for at least minimum number of days over past three years.**
- **Special counting rules may apply – see [Pub 519](#)**

Exempt Individuals

- Special day-counting rules apply to substantial presence test for:
 - Foreign government-related person
 - Teacher or trainee – J or Q visa
 - Student – F, J, M, or Q visa
 - Professional athlete
- Refer to **Pub 519**



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Check the Intake Sheet



| Are you a U.S. citizen? | | Is your spouse a U.S. citizen? | |
|------------------------------|-----------------------------|--------------------------------|-----------------------------|
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

| US Citizen (yes/no) | | Resident of US, Canada, or Mexico last year (yes/no) | |
|---------------------|-----|--|-----|
| (e) | (f) | (g) | (h) |

| To be completed by a Certified Volunteer Preparer | |
|---|--|
| Can this person be claimed by someone else as a dependent on their return? (yes/no) | Did the person have less than \$2,000 of income? (yes/no) |
| Can this person provide more than 50% of their own support? (yes/no) | Did the person (taxpayer) provide more than 50% of support for this person? (yes/no) |



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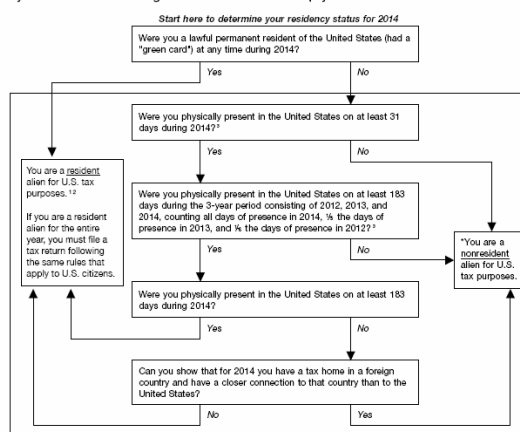
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Resident or Nonresident Alien?

- Use Chart on Pub 4012 Page L-1
- F, J, M or Q visas are out of scope

Determining Residency Status – Decision Tree

Resident Alien or Nonresident Alien?
Nonresident aliens are taxed differently from resident aliens, which is why it is important to determine their residency status. Use the following chart to determine if the taxpayer is a resident alien or a nonresident alien.



Resident or Nonresident?



- Nonresident aliens are taxed differently from resident aliens (generally taxed on U.S. income only)
- A resident alien must
 - Have a green card -OR-
 - Meet substantial presence test
 - Taxed the same as U.S. citizen – on worldwide income

Nonresident Alien Spouse



- Treat spouse as resident alien on MFJ return and include worldwide income OR
- Treat spouse as nonresident alien on HH or MFS return
 - Cannot file Single if lawfully married in any country
- Election to treat spouse as resident alien must be made in writing – see [Pub 519](#)

Head of Household Return

- IF
 - Taxpayer is U.S. citizen or resident alien for entire year -AND-
 - Nonresident Spouse chooses not to file MFJ,
 - Taxpayer pays more than ½ the costs of maintaining household for self and a qualifying person (other than the spouse)
- Then – taxpayer can file as Head of Household
- But – **cannot** claim EIC

Nonresident Spouse's Exemption

- IF
 - Nonresident spouse had no U.S. income -
 - AND-
 - Cannot be claimed as dependent on anyone else's return
- THEN – taxpayer can claim personal exemption for nonresident spouse, if spouse has SSN or ITIN



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Head of Household Return

- Filing HH and claiming NRA spouse, on Main Info Page:

| | | | |
|--|--|---|---------------------------------------|
| 6 Exemptions | a <input checked="" type="checkbox"/> Yourself | b <input checked="" type="checkbox"/> Spouse | Number of boxes checked on 6a and 6b. |
| Check if | | | |
| (a) you can be claimed on another person's return | | | <input type="checkbox"/> |
| (b) filing status 2 and spouse can be claimed on another person's return | | | <input type="checkbox"/> |
| (c) you are using filing status 4 and claiming nonresident alien spouse | | | <input checked="" type="checkbox"/> |
| Spouse's first name: _____ | | Spouse's last name: _____ | |
| Spouse's SSN or ITIN: _____ | | | |

Checking (c) automatically checks b Spouse

- Must have SSN or ITIN for spouse



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Dependent's Exemption

- **Nonresident alien stepchild is not a dependent unless child is resident of Canada or Mexico**
- **A resident alien stepchild can be a dependent (if tests met)**
 - **Determine residency status first**
 - **Dependent must have SSN, ITIN or ATIN**



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Dependent's Exemption

- **An adopted nonresident alien child is a dependent if lives with taxpayer entire year**
 - **Dependent must have SSN, ITIN or ATIN**



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Child Tax Credit with a nonresident dependent?

- **No – qualifying child for child tax credit must be a U.S. citizen, national or resident**
- **TaxWise should recognize an ITIN and disallow CTC automatically**



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EIC with a nonresident spouse?

- **No – both taxpayer and spouse must be citizens or residents for entire year**
- **Mark “no” at top of Schedule EIC**



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Quality Review



- If MFJ, written election made in prior year or attached
- If MFJ, worldwide income included and correctly converted to U.S. dollars
- If HH or MFS, spousal exemption properly claimed or not
- No EIC claimed

Unique Filing Status

Questions?



Comments?