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|    | Foreign Student/Scholar Tax Requirements | Residency Status<br>Income<br>Deductions<br>Tax |
|    | Tax Treaties                             |   |
|    | Other Filing Requirements                |   |
|    | Other Issues                             |   |
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|  | Other Resources                          |   |

# TAXES IN THE U.S.— INFORMATION FOR INTERNATIONAL STUDENTS & SCHOLARS

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## Agenda

# INTRODUCTION

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IRS Voluntary Income Tax Assistance (VITA) Program participant since November 2017

- National program run through IRS's SPEC division (Stakeholder Partnerships, Education and Communication)

Some caveats:

- Scope of this presentation is confined by the VITA program resources/requirements
  - But any tax-related questions I don't know the answer to today, I commit to finding the answer for you
- Some individuals may not be able to be assisted by the VITA program (when out-of-scope situations apply)—I'm sorry!
  - But worry not, we have a Sprintax self-preparation option for you

Help me make this successful!

- Ask questions, provide feedback



# TAX REQUIREMENTS

Foreign Students/Scholars

# U.S. TAXES IN GENERAL

The U.S. federal income tax system imposes a tax *based on income* on individuals, corporations, estates, and trusts

The U.S. system is a *self-report* system

- Taxpayers are required to file their own tax returns and self-assess tax
- Why? Taxes are based on personal situations, in addition to just wages

Federal and state income tax is calculated based on the “filing status” of individuals

- Single taxpayers file individually
- Two married individuals may calculate tax and file returns jointly or separately
- Some unmarried individuals supporting children or certain other relatives may file as “head of household”
- Certain individuals may meet requirements for “qualifying surviving spouse” status
- **Generally, *only two filing statuses available to nonresident aliens*: Single or Married Filing Separately**

# U.S. TAXES FOR NONCITIZENS: TAX RESIDENCY

Residency status for federal income tax purposes is *different than for immigration purposes*

Three types of non-citizen (alien) statuses for tax purposes:

1. Resident: Meet the “Green Card” or “Substantial Presence” Tests or Residency Through Marriage
  - Taxed like U.S. citizens
  - Tax return: Form 1040
2. Nonresident: Doesn't meet residency tests
  - **Most international students fall under this category**
  - Tax return: Form **1040-NR**
3. Dual Status: Started the year as a nonresidents and became resident during the year
  - *Out of scope* for our program

# MEETING “RESIDENT” TAX STATUS

E.g., Josue Garcia arrived to the U.S. on December 2, 2024 and has remained in the U.S. Based only on that information, does Josue meet substantial presence test for tax year 2025?

2023: 0 Days \* 1/6 = 0  
2024: 30 Days \* 1/3 = 10  
2025: 365 Days \* 1/1 = 365

Total **375 days** ( $\geq 183$  days), and minimum of 31 in 2025  
– Josue meets the substantial presence test for 2025.

**Green Card Test:** If you had a green card during calendar year 2025, you are considered a resident for tax purposes

## Substantial Presence Test:

- 31 days in the U.S. during 2025, and
- 183 days during a 3-year period (2025, 2024, 2023) calculated as follows:
  - All days of presence in 2025
  - 1/3 of days of presence in 2024
  - 1/6 of days of presence in 2023
- **Commuter days do not count** (e.g., Ciudad Juarez residents who travel to Las Cruces daily), i.e., only overnight stays count
- **Exempt individuals:** Individuals exempt from counting those days
  - Students (F, J, M, or Q visas) during the first 5 years in the U.S., including any previous, non-consecutive years
  - Teachers/Trainees (J or Q visas) for 2 years in any of the 6 preceding calendar years
  - Family members (usually with F-2 or J-2 status, for example) generally follow the same “exempt” rules

## Residency through Marriage:

- Files joint return with U.S. citizen spouse
- Partially **out of scope** for our program (we can file the joint return, with spouse as taxpayer)

# EXAMPLE 1

Marie is a junior at NMSU.

She came to the U.S. in December 2015 from France in F-2 student immigration status with her father while he was completing his doctorate. They remained in the U.S. in the same status until he completed his doctorate in May 2017, and then returned home.

She reentered the U.S. in F-1 student immigration status in 2023 and has not left the U.S. nor changed her immigration status.

For 2025 federal income tax purposes, is Marie a resident alien or a nonresident alien?

Marie is a **resident alien** for 2025.

Marie has already been in the U.S. during five previous calendar years in exempt immigration status (three years with her father in F-2 status in 2015, 2016, 2017, and two more years as a student herself in 2023 and 2024).

## EXAMPLE 2

*Takeaway:  
We must figure out your  
residency status before  
we know what tax  
return applies to you.*

Diego is a graduate student at NMSU.

He received his F-1 student visa in 2018 for the last two years of high school, which he attended in Las Cruces while he lived full time with his aunt at a U.S. address. After high school, Diego moved back to Ciudad Juárez, Mexico, and has been attending NMSU in F-1 status ever since, commuting to Las Cruces on the days he has class, and occasionally spending the night in Las Cruces on weekends.

For 2025 federal income tax purposes, is Diego a resident alien or a non-resident alien?

Diego is a **non-resident** alien for 2025.

Diego has exceeded the 5 years of “exempt” status (2018-2022), which means we must apply the substantial presence test and count the days he was present in the U.S. during 2025.

However, because Diego is a commuter, and commuting days don’t count, Diego likely does not meet the substantial presence test.

# QUESTIONS?

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Filing status or tax residency status

Helpful link in determining residency  
status:

<https://tools.nrtaxhelp.org/aminra>



# 1040-NR PREVIEW

## Basic Tax Return Formula:

+ Income

- Adjustments or Deductions

= Taxable Income

\* Tax Rate (approx. 10-11%)

= Tax Owed

- Credits Available (rare)

- Taxes Already Paid (withholdings)

= Refund/Amount Owed

Form **1040-NR** U.S. Nonresident Alien Income Tax Return **2025** Department of the Treasury—Internal Revenue Service OMB No. 1545-0074 IRS Use Only—Do not write or staple in this space.

For the year Jan. 1–Dec. 31, 2025, or other tax year beginning \_\_\_\_\_, 2025, ending \_\_\_\_\_, 2025. See separate instructions.

Filed pursuant to section 301.9100-2  Combat zone  Deceased MM / DD / YYYY Spouse MM / DD / YYYY  
 Other \_\_\_\_\_

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

Home address (number and street). If you have a P.O. box, see instructions. \_\_\_\_\_ Apt. no. \_\_\_\_\_

City, town, or post office. If you have a foreign address, also complete spaces below. \_\_\_\_\_ State \_\_\_\_\_ ZIP code \_\_\_\_\_

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

**Filing Status**  Single  Married filing separately (MFS)  Qualifying surviving spouse (QSS)  Estate  Trust  
 Check only one box. If you checked the QSS box, enter the child's name if the qualifying person is a child but not your dependent: \_\_\_\_\_

**Digital Assets** At any time during 2025, did you: (a) receive (as a reward, award, or payment for property or services); or (b) sell, exchange, or otherwise dispose of a digital asset (or a financial interest in a digital asset)? (See instructions.) . . .  Yes  No

| Dependents<br>(see instructions)                   | Dependent 1                               | Dependent 2  | Dependent 3                               | Dependent 4  |
|--|---|--|---|--|
| (1) First name                                     |   |  |   |  |
| (2) Last name                                      |   |  |   |  |
| (3) Identifying number                             |   |  |   |  |
| (4) Relationship                                   |   |  |   |  |
| (5) Check if lived with you more than half of 2025 | <input type="checkbox"/> Yes              | <input type="checkbox"/> Yes                         | <input type="checkbox"/> Yes              | <input type="checkbox"/> Yes                         |
| (6) Credits  | <input type="checkbox"/> Child tax credit | <input type="checkbox"/> Credit for other dependents | <input type="checkbox"/> Child tax credit | <input type="checkbox"/> Credit for other dependents |

|   |   |   |     |    |
|---|---|---|-----|----|
| <b>Income Effectively Connected With U.S. Trade or Business</b><br>Attach Form(s) W-2, 1042-S, SSA-1042-S, RRB-1042-S, and 8288-A here. Also attach Form(s) 1099-R if tax was withheld.<br>If you did not get a Form W-2, see instructions. | 1a  | Total amount from Form(s) W-2, box 1 (see instructions)                 |     | 1a |
|   | b   | Household employee wages not reported on Form(s) W-2                    |     | 1b |
|   | c   | Tip income not reported on line 1a (see instructions)                   |     | 1c |
|   | d   | Medicaid waiver payments not reported on Form(s) W-2 (see instructions) |     | 1d |
|   | e   | Taxable dependent care benefits from Form 2441, line 26                 |     | 1e |
|   | f   | Employer-provided adoption benefits from Form 8839, line 31             |     | 1f |
|   | g   | Wages from Form 8919, line 6  |     | 1g |
|   | h   | Other earned income (see instructions). Enter type and amount: _____    |     | 1h |
|   | i   | Reserved for future use   | 1i  |    |
|   | j   | Reserved for future use   |     | 1j |
| k   | Total income exempt by a treaty from Schedule OI (Form 1040-NR), item L, line 1(e)  |   | 1k  |    |
| z   | Add lines 1a through 1h   |   | 1z  |    |
| 2a  | Tax-exempt interest   | 2a  | 2b  |    |
| 3a  | Qualified dividends   | 3a  | 3b  |    |
| c   | Check if your child's dividends are included in <input type="checkbox"/> Line 3a  | 2 <input type="checkbox"/> Line 3b                                      |     |    |
| 4a  | IRA distributions   | 4a  | 4b  |    |
| c   | Check if (see instructions)   | 2 <input type="checkbox"/> QCD 3 <input type="checkbox"/>               |     |    |
| 5a  | Pensions and annuities  | 5a  | 5b  |    |
| c   | Check if (see instructions)   | 2 <input type="checkbox"/> PSO 3 <input type="checkbox"/>               |     |    |
| 6   | Reserved for future use   |   | 6   |    |
| 7a  | Capital gain or (loss). Attach Schedule D if required   |   | 7a  |    |
| b   | Check if: <input type="checkbox"/> Schedule D not required <input type="checkbox"/> Includes child's capital gain or (loss) |   |     |    |
| 8   | Additional income from Schedule 1 (Form 1040), line 10  |   | 8   |    |
| 9   | Add lines 1z, 2b, 3b, 4b, 5b, 7a, and 8. This is your <b>total effectively connected income</b>                             |   | 9   |    |
| 10  | Adjustments to income from Schedule 1 (Form 1040), line 26. These are your <b>total adjustments to income</b>               |   | 10  |    |
| 11a   | Subtract line 10 from line 9. This is your <b>adjusted gross income</b>   |   | 11a |    |

# NONRESIDENT INCOME

The U.S. does not tax foreign-sourced income received by nonresident aliens

However, nonresident aliens **are** subject to taxation of income from **U.S. sources** (e.g., wages, scholarships, fellowships)

Filing is *not* required if income is *only* from:

- Foreign sources
- Interest income from a U.S. financial institution
- A scholarship or fellowship that is entirely tax-free (most are not like this)

Note: Income that is not taxable because of an income tax treaty must be reported on a U.S. tax return, even if no tax is due

Note: Income from peer-to-peer services (Uber, Lyft, AirBnB) is generally taxable, but **out of scope** for VITA's nonresident filings

# WAGES AND SALARIES

*Takeaway:*  
You may have a W-2,  
a 1042-S, or both.

Wages are generally subject to taxes, and as such, subject to tax withholdings by employer

Some tax treaties (discussed in more detail later) allow an exemption from tax for wages earned while studying in the U.S.

- To avoid withholding on wages eligible for this exception, students should fill out **Form 8233** with their employer (NMSU)
  - Income not subject to withholding because of a treaty is reported on **Form 1042-S** (employer gives this form to employee)
  - **NMSU Treasury Services must mail these by no later than March 15 ([treassvcs@nmsu.edu](mailto:treassvcs@nmsu.edu))**
- If student fails to give Form 8233 to employer, erroneous amounts of federal tax may be withheld from wages, and amounts earned will be reported to student on **Form W-2** as regular wages instead of on Form 1042-S
  - Do not worry, treaty provisions can still be claimed on tax return in this case
- Wages earned above the tax treaty exempt amount will also be reported to student on **Form W-2** and will have federal taxes withheld
  - In this case, student would have both a 1042-S and a W-2

# SCHOLARSHIPS AND FELLOWSHIPS

Scholarships or fellowships are treated in one of three ways:

- Excludable under the Internal Revenue Code (section 117 exclusion)
  - An amount received as a scholarship or fellowship grant used for tuition, fees, books, and other equipment student is required to buy – main example: tuition waiver
  - Amounts used for other purposes (e.g., room and board) are not excludable
- Exempt by treaty
  - Will also be reported to student on form **1042-S**, with income code “16”
- Taxable
  - Treated as normal income

# OTHER INCOME

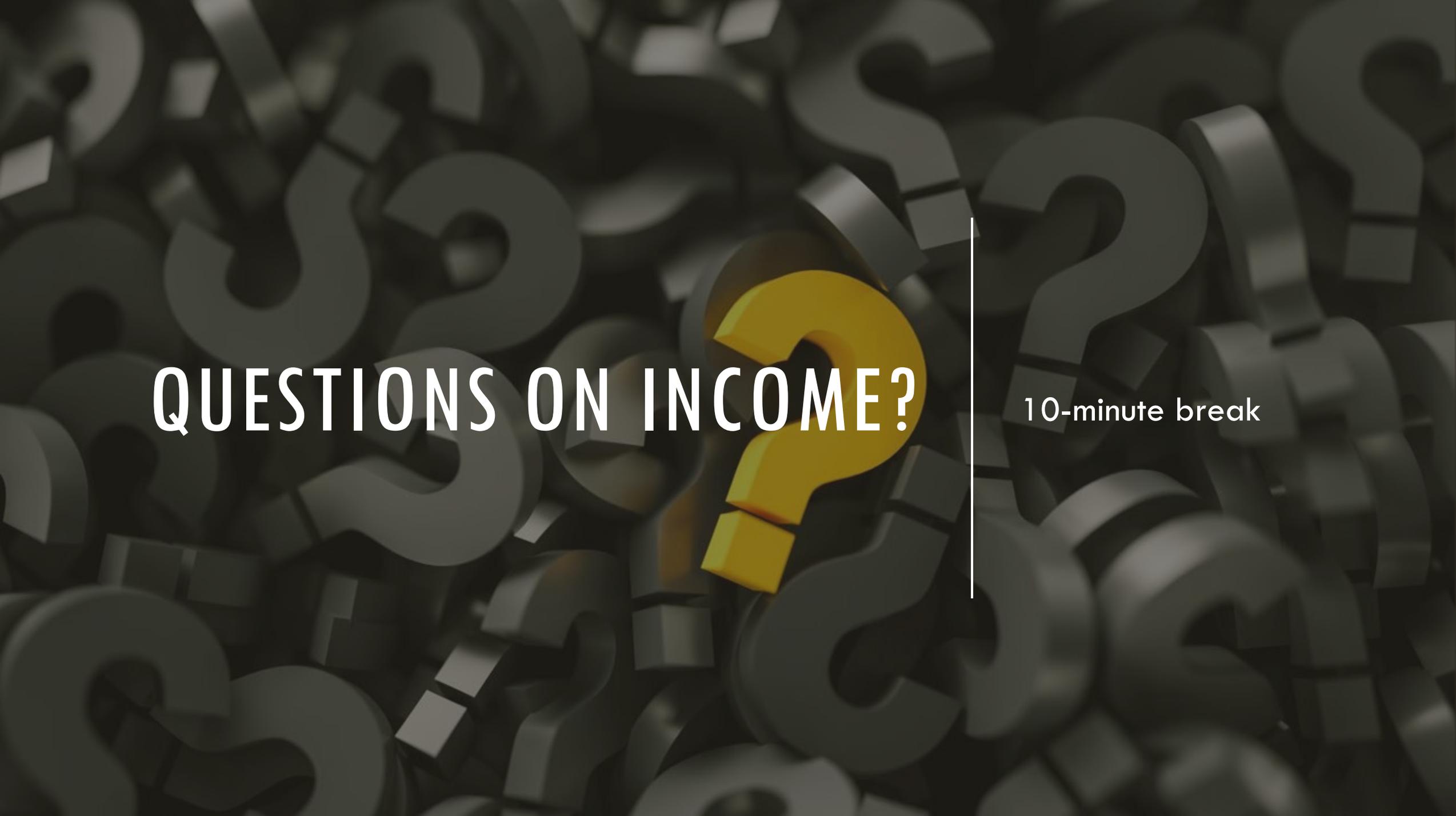
In general, income not “effectively connected to a U.S. trade or business” earned by nonresident alien students and/or scholars is taxed at a **higher rate of 30%**

- “Effectively connected” income is the income earned as part of the reason the student/scholar is in the U.S., e.g., income from their position at the university or scholarships related to education
- Common exception is bank interest income – even though it is not “effectively connected” to the student’s U.S. trade or business, it is generally non-taxable

Dividends/Capital Gains income – is not considered “effectively connected” to a student’s trade or business and thus is generally taxed at the 30% rate

- Brokerage firm should provide **1042-S** or **1099** form
- Digital currency transactions (e.g., bitcoin) are also taxable, but **out of scope** for our program

Other income (e.g., gambling, p-t-p income) is taxable, but **out of scope** for the VITA program



# QUESTIONS ON INCOME?

10-minute break

# 1040-NR PREVIEW

## Basic Tax Return Formula:

+ Income

- Adjustments or Deductions

= Taxable Income

\* Tax Rate (approx. 10-11%)

= Tax Owed

- Credits Available (rare)

- Taxes Already Paid (withholdings)

= Refund/Amount Owed

|     |   |     |  |
|-----|---|-----|--|
| 6   | Reserved for future use   | 6   |  |
| 7a  | Capital gain or (loss). Attach Schedule D if required   | 7a  |  |
| b   | Check if: <input type="checkbox"/> Schedule D not required <input type="checkbox"/> Includes child's capital gain or (loss) |     |  |
| 8   | Additional income from Schedule 1 (Form 1040), line 10  | 8   |  |
| 9   | Add lines 1z, 2b, 3b, 4b, 5b, 7a, and 8. This is your <b>total effectively connected income</b>                             | 9   |  |
| 10  | Adjustments to income from Schedule 1 (Form 1040), line 26. These are your <b>total adjustments to income</b>               | 10  |  |
| 11a | Subtract line 10 from line 9. This is your <b>adjusted gross income</b>   | 11a |  |

For Disclosure, Privacy Act, and Paperwork Reduction Act Notice, see separate instructions. Cat. No. 11364D Form 1040-NR (2025) Created 9/8/25

|                        |   |            |
|------------------------|---|------------|
| Form 1040-NR (2025)    |   | Page 2     |
| <b>Tax and Credits</b> | <b>11b</b> Amount from line 11a (adjusted gross income)   | <b>11b</b> |
|                        | <b>12</b> <b>Itemized deductions</b> (from Schedule A (Form 1040-NR)) or, for certain residents of India, standard deduction (see instructions) | <b>12</b>  |

| SCHEDULE A<br>(Form 1040-NR)                           |    | Itemized Deductions   |                         | OMB No. 1545-0074                            |
|--|----|---|-------------------------|--|
| Department of the Treasury<br>Internal Revenue Service |    | Attach to Form 1040-NR.<br>Go to <a href="http://www.irs.gov/Form1040NR">www.irs.gov/Form1040NR</a> for instructions and the latest information.<br>Caution: If you are claiming a net qualified disaster loss on Form 4684, see instructions for line 7. |                         | <b>2025</b><br>Attachment<br>Sequence No. 7A |
| Name shown on Form 1040-NR                             |    |   | Your identifying number |  |
| <b>Taxes You Paid</b>                                  | 1a | State and local income taxes  | 1a                      |  |
|  | b  | Enter the smaller of line 1a or \$40,000 (\$20,000 if married filing separately). If Form 1040-NR, line 11b is more than \$500,000 (\$250,000 if married filing separately), see instructions   | 1b                      |  |
| <b>Gifts to U.S. Charities</b>                         | 2  | Gifts by cash or check. If you made any gift of \$250 or more, see instructions   | 2                       |  |
|  | 3  | Other than by cash or check. If you made any gift of \$250 or more, see instructions. You <b>must</b> attach Form 8283 if over \$500  | 3                       |  |
|  | 4  | Carryover from prior year   | 4                       |  |
|  | 5  | Add lines 2 through 4   | 5                       |  |
| <b>Casualty and Theft Losses</b>                       | 6  | Casualty and theft loss(es) from a federally declared disaster (other than net qualified disaster losses). Attach Form 4684 and enter the amount from line 18 of that form. See instructions  | 6                       |  |
| <b>Other Itemized Deductions</b>                       | 7  | Other—from list in instructions. List type and amount:<br>_____<br>_____<br>_____<br>_____<br>_____   | 7                       |  |
| <b>Total Itemized Deductions</b>                       | 8  | Add the amounts in the far right column for lines 1b through 7. Also, enter this amount on Form 1040-NR, line 12  | 8                       |  |

# ADJUSTMENTS OR DEDUCTIONS

Adjustments or deductions reduce taxable income, such that taxes owed are lower

Nonresident students and scholars are not permitted to take the “Standard Deduction” like U.S. citizens/residents

- Exception is students from India

But nonresidents *are* permitted some adjustments and itemized deductions:

- Qualified student loan interest adjustment
- State and local taxes paid, including property taxes
  - Normally listed on W-2 or 1042-S, if applicable
- Charitable contributions to qualifying U.S. entities
  - Must be a valid, eligible charitable or nonprofit organization
  - Cash contributions must be supported by bank statement or written receipt from the charity
- Medical and dental expenses that exceed 10% of Adjusted Gross Income

| If line 15 (taxable income) is— |               | And you are— |                          |                           |                   | If line 15 (taxable income) is— |               | And you are— |                          |                           |                   | If line 15 (taxable income) is— |               | And you are— |                          |                           |                   |
|---------------------------------|---------------|--------------|--------------------------|---------------------------|-------------------|---------------------------------|---------------|--------------|--------------------------|---------------------------|-------------------|---------------------------------|---------------|--------------|--------------------------|---------------------------|-------------------|
| At least                        | But less than | Single       | Married filing jointly * | Married filing separately | Head of household | At least                        | But less than | Single       | Married filing jointly * | Married filing separately | Head of household | At least                        | But less than | Single       | Married filing jointly * | Married filing separately | Head of household |
| Your tax is—                    |               |              |                          |                           |                   | Your tax is—                    |               |              |                          |                           |                   | Your tax is—                    |               |              |                          |                           |                   |
| <b>12,000</b>                   |               |              |                          |                           |                   | <b>15,000</b>                   |               |              |                          |                           |                   | <b>18,000</b>                   |               |              |                          |                           |                   |
| 12,000                          | 12,050        | 1,205        | 1,203                    | 1,205                     | 1,203             | 15,000                          | 15,050        | 1,565        | 1,503                    | 1,565                     | 1,503             | 18,000                          | 18,050        | 1,925        | 1,803                    | 1,925                     | 1,823             |
| 12,050                          | 12,100        | 1,211        | 1,208                    | 1,211                     | 1,208             | 15,050                          | 15,100        | 1,571        | 1,508                    | 1,571                     | 1,508             | 18,050                          | 18,100        | 1,931        | 1,808                    | 1,931                     | 1,829             |
| 12,100                          | 12,150        | 1,217        | 1,213                    | 1,217                     | 1,213             | 15,100                          | 15,150        | 1,577        | 1,513                    | 1,577                     | 1,513             | 18,100                          | 18,150        | 1,937        | 1,813                    | 1,937                     | 1,835             |
| 12,150                          | 12,200        | 1,223        | 1,218                    | 1,223                     | 1,218             | 15,150                          | 15,200        | 1,583        | 1,518                    | 1,583                     | 1,518             | 18,150                          | 18,200        | 1,943        | 1,818                    | 1,943                     | 1,841             |
| 12,200                          | 12,250        | 1,229        | 1,223                    | 1,229                     | 1,223             | 15,200                          | 15,250        | 1,589        | 1,523                    | 1,589                     | 1,523             | 18,200                          | 18,250        | 1,949        | 1,823                    | 1,949                     | 1,847             |
| 12,250                          | 12,300        | 1,235        | 1,228                    | 1,235                     | 1,228             | 15,250                          | 15,300        | 1,595        | 1,528                    | 1,595                     | 1,528             | 18,250                          | 18,300        | 1,955        | 1,828                    | 1,955                     | 1,853             |
| 12,300                          | 12,350        | 1,241        | 1,233                    | 1,241                     | 1,233             | 15,300                          | 15,350        | 1,601        | 1,533                    | 1,601                     | 1,533             | 18,300                          | 18,350        | 1,961        | 1,833                    | 1,961                     | 1,859             |
| 12,350                          | 12,400        | 1,247        | 1,238                    | 1,247                     | 1,238             | 15,350                          | 15,400        | 1,607        | 1,538                    | 1,607                     | 1,538             | 18,350                          | 18,400        | 1,967        | 1,838                    | 1,967                     | 1,865             |
| 12,400                          | 12,450        | 1,253        | 1,243                    | 1,253                     | 1,243             | 15,400                          | 15,450        | 1,613        | 1,543                    | 1,613                     | 1,543             | 18,400                          | 18,450        | 1,973        | 1,843                    | 1,973                     | 1,871             |
| 12,450                          | 12,500        | 1,259        | 1,248                    | 1,259                     | 1,248             | 15,450                          | 15,500        | 1,619        | 1,548                    | 1,619                     | 1,548             | 18,450                          | 18,500        | 1,979        | 1,848                    | 1,979                     | 1,877             |
| 12,500                          | 12,550        | 1,265        | 1,253                    | 1,265                     | 1,253             | 15,500                          | 15,550        | 1,625        | 1,553                    | 1,625                     | 1,553             | 18,500                          | 18,550        | 1,985        | 1,853                    | 1,985                     | 1,883             |
| 12,550                          | 12,600        | 1,271        | 1,258                    | 1,271                     | 1,258             | 15,550                          | 15,600        | 1,631        | 1,558                    | 1,631                     | 1,558             | 18,550                          | 18,600        | 1,991        | 1,858                    | 1,991                     | 1,889             |
| 12,600                          | 12,650        | 1,277        | 1,263                    | 1,277                     | 1,263             | 15,600                          | 15,650        | 1,637        | 1,563                    | 1,637                     | 1,563             | 18,600                          | 18,650        | 1,997        | 1,863                    | 1,997                     | 1,895             |
| 12,650                          | 12,700        | 1,283        | 1,268                    | 1,283                     | 1,268             | 15,650                          | 15,700        | 1,643        | 1,568                    | 1,643                     | 1,568             | 18,650                          | 18,700        | 2,003        | 1,868                    | 2,003                     | 1,901             |
| 12,700                          | 12,750        | 1,289        | 1,273                    | 1,289                     | 1,273             | 15,700                          | 15,750        | 1,649        | 1,573                    | 1,649                     | 1,573             | 18,700                          | 18,750        | 2,009        | 1,873                    | 2,009                     | 1,907             |
| 12,750                          | 12,800        | 1,295        | 1,278                    | 1,295                     | 1,278             | 15,750                          | 15,800        | 1,655        | 1,578                    | 1,655                     | 1,578             | 18,750                          | 18,800        | 2,015        | 1,878                    | 2,015                     | 1,913             |
| 12,800                          | 12,850        | 1,301        | 1,283                    | 1,301                     | 1,283             | 15,800                          | 15,850        | 1,661        | 1,583                    | 1,661                     | 1,583             | 18,800                          | 18,850        | 2,021        | 1,883                    | 2,021                     | 1,919             |
| 12,850                          | 12,900        | 1,307        | 1,288                    | 1,307                     | 1,288             | 15,850                          | 15,900        | 1,667        | 1,588                    | 1,667                     | 1,588             | 18,850                          | 18,900        | 2,027        | 1,888                    | 2,027                     | 1,925             |
| 12,900                          | 12,950        | 1,313        | 1,293                    | 1,313                     | 1,293             | 15,900                          | 15,950        | 1,673        | 1,593                    | 1,673                     | 1,593             | 18,900                          | 18,950        | 2,033        | 1,893                    | 2,033                     | 1,931             |
| 12,950                          | 13,000        | 1,319        | 1,298                    | 1,319                     | 1,298             | 15,950                          | 16,000        | 1,679        | 1,598                    | 1,679                     | 1,598             | 18,950                          | 19,000        | 2,039        | 1,898                    | 2,039                     | 1,937             |
| <b>13,000</b>                   |               |              |                          |                           |                   | <b>16,000</b>                   |               |              |                          |                           |                   | <b>19,000</b>                   |               |              |                          |                           |                   |
| 13,000                          | 13,050        | 1,325        | 1,303                    | 1,325                     | 1,303             | 16,000                          | 16,050        | 1,685        | 1,603                    | 1,685                     | 1,603             | 19,000                          | 19,050        | 2,045        | 1,903                    | 2,045                     | 1,943             |

## Basic Tax Return Formula:

$$\begin{aligned}
 &+ \text{Income} \\
 &- \text{Adjustments or Deductions} \\
 \hline
 &= \text{Taxable Income} \\
 &* \text{Tax Rate} \\
 \hline
 &= \text{Tax Owed} \\
 &- \text{Credits Available (rare)} \\
 &- \text{Taxes Already Paid (withholdings)} \\
 \hline
 &= \text{Refund/Amount Owed}
 \end{aligned}$$

If taxable income is a positive number, the taxpayer has income subject to income tax based on tax tables

# TAX CALCULATION

# TAX CREDITS

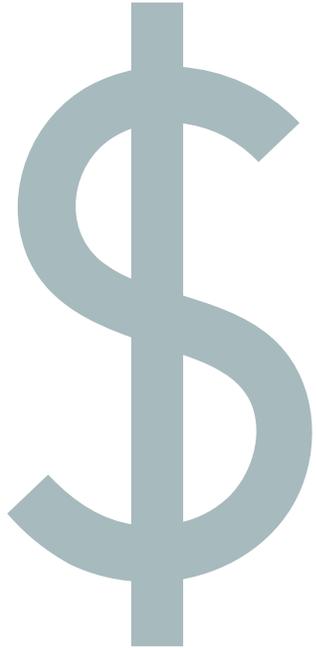
In general, nonresident alien students and scholars will not qualify for tax credits

- E.g., education credits, earned income credit, premium tax credit

Exceptions for residents of Canada, India, Korea, and Mexico:

- Child Tax Credit – may be claimed if *all* the following conditions are met:
  - Child is a U.S. citizen who resides with the taxpayer
  - Child is son, daughter, adopted child, grandchild, stepchild, or foster child
  - Child was under the age of 17 at the end of the year
  - Child qualifies as a dependent of the taxpayer
  - Child must have a valid social security number
- Other Dependents Credit – may be claimed in certain situations when the above requirements for Child Tax Credit are not met (namely, if the age test is not met)
- Child and Dependent Care Credit – paying a qualifying caregiver for care for a dependent less than 13 years of age so that the taxpayer may work, but generally must file MFJ

# TAX AND FILING



*Takeaway:*  
If all forms were filed appropriately when you arrived at NMSU, you will likely even out, i.e., small refund or small amount owed.

Amount owed based on the table is reduced by any credits and reduced by any tax already withheld on behalf of the taxpayer

- If amount owed is greater than amount withheld, taxpayer owes an additional payment
- If amount owed is less than amount withheld, taxpayer will receive a refund from the IRS

Form 1040-NR must be filed by April 15, 2026



# QUESTIONS ON DEDUCTIONS, TAX, OR CREDITS?

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10-minute break



slido

# What country are you from?

ⓘ Start presenting to display the poll results on this slide.

# TAX TREATIES

Many countries have tax treaties with the U.S. that allow their residents to earn money while temporarily living in the U.S. without being subject to income tax on those earnings in both countries

Students or scholars must have been a *resident* (not necessarily citizen) of the treaty country prior to entering the U.S. for the treaty to apply

Details on treaty countries and treaty agreements for foreign students can be found in [Publication 901, U.S. Tax Treaties](#)

# TAX TREATIES (CONT.)

Most treaties have very similar rules for students and scholars

The following countries have unique/uncommon provisions:

- Canada
  - Exempts all earned income up to \$10,000 but taxes all income if taxpayer earns above \$10,000
- China
  - Students entitled to \$5,000 exemption each year, *even if they've already reached resident status for tax purposes (> 5yrs)*
  - Scholar is exempt for income for three years
    - After two years, scholar becomes resident alien for tax purposes, but still entitled to one more year of treaty benefits
  - Treaty does not apply to Hong Kong, Macau, or Taiwan
- India
  - The only country whose students are allowed to use the standard deduction equal to that allowed on form 1040 (for citizens/residents)
  - Scholar's income is not taxable if present in the U.S. for less than two years; benefit is lost retroactively if the visit exceeds two years

# OTHER FILING REQUIREMENTS

Virtually all nonresident students and scholars *must* file **Form 8843**, “Statement for Exempt Individuals”

- Applies to anyone exempted from the substantial presence test due to their F, J, M, or Q immigration status
- This also applies to their accompanying family members in similar statuses
- True even when individuals are not required to file a nonresident tax return
- If tax return is filed, Form 8843 may be filed in conjunction with tax return
- If no tax return is required, Form 8843 must be signed and mailed by itself
  - If mailed without a tax return, deadline to file is **June 15, 2026**

# OTHER ISSUES

Students and scholars are exempt from Social Security and Medicare tax as long as they are nonresidents in compliance with their visa

- If, by some error, SS and Medicare tax was withheld by the institution (shown on W-2), students may claim those withholdings
  - First, by asking the institution (NMSU) to refund
  - If not refunded by the employer, filing IRS [Form 843](#) along with:
    - A copy of Form W-2 to prove the amount of Social Security and Medicare taxes withheld
    - A copy of the original visa
    - Form I-94 (or other documentation showing the dates of arrival or departure)
    - If in F-1 or J-1 immigration status, documentation showing permission to work in the U.S.
    - A statement explaining the taxpayers' attempt to recover the taxes through their employer, including any amounts recovered and amounts for which the employer will be credited
- Dependents in F-2 or J-2 status are NOT exempt from SS and Medicare taxes if they happen to earn income

# OTHER ISSUES (CONT.)

NMSU sends all students form 1098-T for tax purposes—this form does not affect or does not apply to students filing a 1040-NR (it relates to the calculation of education credits, which foreign students and scholars do not receive)

Nonresidents with marketplace insurance (i.e., BeWell New Mexico)

- Nonresidents do not qualify for credits, including the Premium Tax Credit, and thus may have to pay back the credit
- Students who had marketplace insurance for any period during 2025 are **out of scope** for our VITA services

Students and scholars who have filed incorrectly in prior years, don't fret!

- Taxpayers may file an amendment (1040-X) to correct prior year filing errors, but unfortunately not at our site (must seek paid preparer or possibly Sprintax)

Nonresidents who are married cannot e-file a New Mexico tax return (NM system will not accept “married” without a SSN for spouse)

- We can assist in preparing and printing the return for you, but you will need to mail it
- Federal returns are not affected

# FAILURE TO FILE



IRS does not penalize foreign students and scholars for not filing if they have no tax liability

However, they still must file Form 8843

If they choose to apply for residency later, they may be asked to show proof of tax compliance

- Therefore, foreign students and scholars should file a tax return if they have circumstances requiring them to file
- This is true even if their tax withholding covers the tax that will be assessed and are not interested in or eligible for a refund

# FORM RECAP/SUMMARY

## Forms to be filed with the IRS, if applicable:

- 1040-NR
  - Tax return for nonresident aliens, must be filed if student/scholar has income subject to withholding. This applies to most international students.
  - If required, must be filed by **April 15, 2026**; or, if only income was from scholarships or income not subject to withholding, June 15, 2026.
  - Instructions for form 1040-NR (if you're curious)
  - Tax rules for non-resident aliens, found in IRS publication 519 (this is like the textbook of filing a tax return)
- Form 8843
  - Form that must be filed if individual was exempt from the Substantial Presence Test. Must be filed even if a tax return is not required to be filed. This applies to most international students, spouses, and children.
  - Must be filed by **June 15, 2026**.
  - If students/scholars file a tax return with VITA, Form 8843 will be electronically submitted with return as well.

# FORM RECAP/SUMMARY

## Other Forms:

- **Form 8233:** Form filed by the employee with NMSU at the start of employment to avoid withholding on wages eligible for exemption
- **W-2:** Form provided by an employer to an employee, that shows all wages paid and any tax withholdings
- **1042-S:** Form provided by an employer/educational institution to a foreign student/scholar, that shows income from wages, scholarships, or grants effectively connected to their trade
- **Form 843:** Form filed with the IRS to claim social security and Medicare taxes withheld by employer in error
  - [Instructions for Form 843](#)

# VITA SERVICES!

(VOLUNTARY INCOME TAX ASSISTANCE)

NMSU VITA services for nonresidents:

- March 6, 2026 (if no 1042-S)
- March 13, 2026 (if no 1042-S)
- March 27, 2026
- April 10, 2026

We are open from 9:00 am to 12:00 pm, BC 108

What to have before your arrival:

- Original Social Security Card or ITIN Card (small, blue card)
  - Copies or pictures *not accepted*
- Passport/Visa
- **W-2:** Please check to see if the total wages amount (box 1 on W-2), has already been adjusted for any treaty benefits and note if it has
- **1042-S:** Obtained from NMSU Treasury services, mailed March 15
- Any other tax form you may have received in the mail

Other VITA sites that help with 1040-NRs

- UTEP VITA (GECU Terrace; <https://www.freetaxeselpaso.org/locations>)
- NoRTH Group (online; <https://www.nrtaxhelp.org/free-tax-assistance>)

*Takeaway:*  
We're here to help! But  
come early—first come,  
first served basis.

# FILING ON YOUR OWN

Tax returns may be filed on your own

- By mail
  - Follow instructions using 1040-NR instructions and Publication 519
- Online through Sprintax (if you are not able to receive our help, please let me know today or through email so that I can give you a Sprintax code—only 100 available)
- If you are a resident for tax purposes, many free, IRS-approved websites are available:  
<https://www.irs.gov/e-file-do-your-taxes-for-free>
- Through a paid preparer (please ensure they know how to file 1040-NRs)

Filing form 8843

- Can be filed in conjunction with a 1040-NR
- If filed separately (because no tax return is required), must be mailed
  - True for all years

# ADDITIONAL RESOURCES

IRS Publication 901, *US Tax Treaties*:

<https://www.irs.gov/pub/irs-pdf/p901.pdf>

List of other VITA drop-off sites (for U.S. citizens and Residents):

- <http://www.freetaxeselpaso.org/locations/>
- <https://irs.treasury.gov/freetaxprep/>

**QUESTIONS?  
COMMENTS?  
CONCERNS?**

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**THANK YOU!**

See you at our VITA site!