



University of North Carolina Wilmington

What are Resident and Nonresident Aliens?

Aliens are classified as resident and nonresident aliens by Bureau of Citizenship and Immigration Services. An alien is an individual who is not considered a U.S. Citizen. However, the definition and tax treatment of a resident and nonresident alien are quite different. Below, you will find some basic definitions and tax information that should help clarify these differences.

Definition of Resident alien

- ❖ Green Card Test
- ❖ Substantial Presence Test

Definition of Nonresident alien

- ❖ For Tax Purpose
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- ❖ General Tax information and forms

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Definition of Resident Alien:

Any person who is not a United States citizen or national, but who is residing in the US legally. Resident aliens generally are taxed on their worldwide income, similar to U.S. citizens. To be classified as a resident alien, the individual must meet one of the two tests:

- ✓ Green Card Test: If you are a Lawful Permanent Resident of the U. S. at any time during the calendar year, this is known as the “green card” test. You are a Lawful Permanent Resident of the U. S., at any time, if you have been given the privilege, according to the

immigration laws, of residing permanently in the U.S. as an immigrant. You generally have this status if the U.S. Citizenship and Immigration Services (USCIS) have issued you an alien registration card, Form I-551, also known as a “green card”.

- ✓ **Substantial Presence Test:** A nonresident alien is classified as a resident alien for tax purposes if they were physically present in the U.S. for 31 days during the current year and 183 days during a three-year period that included the current year and the two years immediately before that.

Definition of Nonresident Alien:

For Tax purposes: Is a person who is not a US citizen and who does not meet either the “green card” test or the “substantial presence” test described in IRS Publication 519, US Tax Guide for Alien. See link below.

For Immigration purposes: Is a person who is not a citizen or permanent resident of the U. S and who has been admitted on a visa for a temporary stay that will end when the purpose of that stay has been met.

General Tax information and Forms:

Nonresident aliens are taxed only on their income from sources within the U.S. and on certain income connected with the conduct of a trade or business in the U.S.

Nonresident aliens are taxed on earnings received while living and working in the U.S. Nonresident aliens, depending on visa type, are exempt from FICA (Social Security tax), for example visa type F-1 and J-1. If the Visa type is F-1 or J-1, the nonresident alien may be exempt from federal taxes, this would apply only if the country the alien previously lived in before arriving in the U.S. has negotiated an income tax treaty (see detail tax treaty information below) with the U.S. government.

If the country of residence has negotiated an income tax treaty and it covers the type of payment the nonresident is going to receive from UNCW, it is possible the nonresident alien might need to fill out one of the following forms depending on payment type:

- ✓ IRS Form 8233 (for earned wages)
- ✓ IRS Form W-8BEN (for beneficial owner of an amount subject to withholding, i.e. scholarship/fellowship payments)

Payments to nonresident alien’s: For tax purposes:

Identifying nonresident alien for tax purposes:

Since there is a different tax structure for a nonresident alien compared to a resident alien, it is important to be sure to have individuals classified correctly. A nonresident alien, for tax purposes, may qualify for some tax relief through a tax treaty benefit, if one exists with the individual's home country. Generally, a resident alien cannot qualify for a tax treaty benefit and for tax purposes; they are taxed on their worldwide income.

Nonresident aliens must pay the correct tax to the U.S. government on any income they earn during their stay. Failure to pay the correct tax can result in an unexpected tax obligation when the individual leaves the U.S. or could jeopardize a future application for residency.

Additionally, UNCW is liable for any tax not withheld and associated fines and penalties. Any tax amount, fines and penalties determine to be owed by the IRS will be charged to the department responsible for the nonresident alien.

Form 1042-S:

UNCW will supply an IRS Form 1042-S to nonresident aliens who have received certain types of payments from UNCW. These types of payments are usually in the form of financial aid/scholarships, wages, honorariums and personal services. If you are a nonresident alien and have received a 1042-S and have questions, please contact the following departments depending on payment type:

Financial aid/Scholarships: Student Accounts @ 23794

Wages: Payroll @ 27522

Honorariums and personal services: Tax Department @ 22757

Links to IRS Website:

Publication 519: <http://www.irs.gov/publications/p519/index.html>

IRS Form 1042-S: <http://www.irs.gov/pub/irs-pdf/f1042s.pdf>

Substantial Presence Test:

<http://www.irs.gov/businesses/small/international/article/0,,id=96352,00.html>

Green Card Test:

<http://www.irs.gov/businesses/small/international/article/0,,id=129390,00.html>

Form I-551: <http://www.usimmigrationsupport.org/I551.html>

Tax Treaties: <http://www.irs.gov/businesses/international/article/0,,id=96739,00.html>

IRS Website: <http://www.irs.gov/>

Tax Treaties:

The U.S. has income tax treaties with a number of foreign 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 income they received from sources within the U.S. The treaty benefits can vary among countries and specific types of income. It is always recommended to check the IRS website for a current list of treaties with the U.S.

If a country does not have a treaty with the U.S. or the treaty doesn't cover a particular kind of income you are still required to pay tax on the income in the same way and at the same rates as shown in the instructions for Form 1040NR. Typically the tax rate for nonresident aliens is 30% however this can vary depending on the situation.

A complete list of tax treaties with the U.S can be found at the IRS website.

For additional information on resident and nonresident aliens please contact the Tax Department at extension 22757.