

***U.S. Income Tax Presentation  
MIT International Scholars  
U.S. Residents for Tax Purposes***

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# *Agenda*

- Filing Requirements & Residency Status
- Wages, Fellowship, & Other U.S. income
- Tax Treaty Benefits
- Q & A

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# *This session is for “scholars”*

Postdoctoral Associates and Fellows

Lecturers

Visiting Scientists, Scholars and Engineers

Visiting Professors

Others who have graduated and are now working at MIT

J-1      H-1      F-1 on Practical Training

TN      O-1      J-1 on Academic Training

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## ***Residency determination for U.S. tax purposes***

- A *resident alien* for U.S. tax purposes is a non U.S. citizen who meets either the “green card” test or “substantial presence” test.
- Scholars in F-1 OPT, J-1, J-1 AT status may have changed over the course of the year 2015 from non-resident to resident for tax purposes.
- Scholars in TN or H-1B status are considered residents for tax purposes when they meet the substantial presence test.

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# ***Resident alien U.S. taxation***

Resident aliens for tax purposes pay tax on their *worldwide* income

- Salaries from all employers
- Fellowships and grants
- Funds from the visitor's country of residence or any other country outside US.
- Bank and investment interest and dividends
- Prize money, royalties, book proceeds

Pay income tax at the “resident” rate

Pay Social Security tax

Pay Medicare tax

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## ***Reporting fellowship income***

- Form 1042S – Foreign Person’s US Source Income Subject to tax withholding
  - Report as wages on line 7 of Form 1040 or line 8 of Form 1040NR
- No 1042S or other year end summary
  - Report as wages on line 7 of Form 1040  
(Maintain documentation in your records to support this income as fellowship income)

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# *Exceptions to worldwide income rule*

No Exceptions for scholars who become US tax residents

Foreign Tax Credit possible on income taxed both in US and foreign jurisdiction

- Report on IRS Form 1116 – Information to report:
  - Type of income (investment (interest; dividends) or earned income (wages, fellowship))
  - Amount of foreign tax paid on each type of income
  - Refer to Form 1116 Instructions, IRS website and Thompson-Reuters
- Disclosure filings may also be required:
  - Form 8938 – Attachment to U.S. resident income tax return
  - Foreign Bank Accounts – FinCEN Form 114 (FBAR)

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## ***Dependents/Filing options***

- Claiming federal exemptions you couldn't claim as a non-resident
- Filing options (jointly versus separately)
  - Filing status limited to “Married Filing Joint”, “Married Filing Separately”, “Single” – (NO Head of Household status allowed)
  - Married Taxpayers with Nonresident spouse limited to “Married Filing Separate” tax status unless election made to file “joint return” with spouse
    - (Caution – Both spouses income taxed on joint return)
- Child tax credit or exemption, if any, for U.S. born child/children
  - Rules applicable to U.S. citizens apply
  - Dependent must be a U.S. citizen or resident of U.S., Canada, or Mexico for at least part of the tax year (South Korea and India by tax treaties)
  - Must have an SSN or ITIN



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## ***Estimated tax payments – Penalty avoidance***

- Tax payments made quarterly by taxpayer to IRS or State
- Taxpayers with no tax withholdings or who have income in addition to wages subject to U.S. taxation, (e.g., fellowships or investment income)
- **Federal** (<https://www.irs.gov/pub/irs-pdf/f1040es.pdf>)
  - Expected tax liability at least \$1,000 AND
  - Tax withholding is less than:
    - 90% of current year tax liability or
    - 100% of prior year tax liability for a *full* year (110% high income tax payers)
- **States**
  - Most have similar rules as Federal with their own thresholds on tax liability & percentages of tax liability that must be met

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# ***Tax treaties***

- Can treaty still apply when you become resident alien for tax purposes?
- Generally only nonresident aliens may claim treaty exemption.
- Exceptions for Resident Aliens:
  - Treaty Savings Clauses – Gives countries the right to tax their own residents as if no tax treaty was in effect. This right is lost once you become a Resident Alien of the U.S. Resulting in loss of treaty benefits to exclude income from U.S. taxation.
  - Exceptions to Savings Clauses (closer connection to home country) allow continuation of treaty benefits:
    - Professors & researchers – Generally 2-3 years.
    - Students – Generally 4-5 years.

**<https://www.irs.gov/pub/irs-pdf/p4011.pdf>, (page 11)**

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## ***Dual status alien – No e-filing allowed***

- Non-resident for part of the year, resident for the other part of the year? How to Determine?
  - Applicable Tests:
    - Substantial Presence Test; or
    - Green Card Test
- Income Subject to Tax
  - Resident Alien portion of year – Taxed on income from all sources even earned while in nonresident alien status
  - Nonresident Alien portion of year – Taxed only on income from U.S. sources & any income from US business
- Tax treaty provisions may exempt some US source income from taxation

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## ***Dual status alien – No e-filing allowed (continued)***

Non-resident for part of the year, resident for the other, which federal form(s) to file?

### Tax Form Required

- Resident at End of Year – IRS Form 1040 – “DUAL-STATUS RETURN” should be written across the top of the return
  - A statement reporting the income for the portion of year *Non-resident* in U.S. should be attached to the return. Your Form 1040NR can be attached as this statement
- Non-resident at End of Year – IRS Form 1040NR
  - Same “DUAL STATUS RETURN” and statement reporting the income for portion of the year you are a *Resident in U.S.* Your Form 1040 can be attached as this statement

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## ***Dual status alien – No e-filing allowed (continued)***

### Time and Place for Filing Returns

- Resident on last day of the year
  - Filing Deadline is April 15 of the following tax year
  - File return at IRS address for dual-status aliens included in Form 1040 filing instructions
- Nonresident on last day of tax year
  - If income is from wages subject to withholding taxes – April 15
  - If income is other than from wages – June 15

File returns with IRS: No Tax Due: Austin, TX 73301-0215;

If Tax Due: PO Box 1303, Charlotte, NC

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## ***Dual status alien – No e-filing allowed (continued)***

### Special Tax Filing Rules

- No standard deduction allowed (may itemize allowed deductions)
- Filing status limited to Married Filing Joint, Married Filing Separately, Single – (No Head of Household status allowed)
- Married Taxpayers where one spouse is nonresident limited to married filing separate tax form unless election made to file joint return with spouse
  - Joint election results in both spouses taxed as US residents for entire tax year

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# Healthcare

- The Affordable Care Act requires employers to send their employees, fellows and visitors who participate in their health plans a new form:
  - 1095B or 1095C – Form does not need to be attached, just check the box on tax return
- Forms are not required to file returns and very possible they will not be received before individuals file 2015 tax returns. (If received keep in your records)
  - Health insurance coverage from foreign employer generally satisfies the minimum essential coverage required
  - Health Insurance purchased directly from a foreign insurance issuer or provided by a foreign government must be recognized by the US Department of Health & Human Services:  
<http://www.cms.gov/CCIIO/Programs-and-Initiatives/Health-Insurance-Market-Reforms/minimum-essential-coverage.html>
  - MA 1099-HC required to be issued same as in prior years

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## ***State taxation in multiple states***

If you worked or were a student in **more than one state**, (CA and MA for example), in the same year because you moved from one state to another, you may be required to file tax forms in each state.

Which form to use?

- Non-resident/Part-year resident – generally less than 183 days present in a state or no place of abode, (rental apartment, home, or similar dwelling)
  - Taxed on only income earned in the state and/or all income received or earned during part-year residency
- Resident – living in a state, or more than 183 days presence, with place of abode
  - Taxed on income from all sources
- Tax credits may be available on income taxed by both states



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# ***Tax preparation***

Many tax preparation software products available for purchase online, at stores, etc.

Free tax preparation software are available through IRS.gov for basic federal returns (or MIT Federal Credit Union)

Professional tax assistance from accountants, tax attorneys

Take care, if dual status alien, to use the correct forms/product for your particular situation

VITA (free tax help for people who generally make \$54,000 or less, persons with disabilities, the elderly and limited English speaking taxpayers)

**If you use a tax preparer or get tax assistance from another person or organization, be SURE they understand the tax rules that apply to foreign nationals.**

See **IRS Publication 519**

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# ***Thomson Reuters Foreign National Tax Resource (FNTR)***

<https://web.mit.edu/scholars/mitonly/windstarliks.html>

International Scholars Office purchased a license allowing MIT scholars to use this extensive informational resource.

Get info on almost any tax topic you can think of. Type a question in the search box to get to the correct information.

*Note: the tax prep module of FNTR is for **nonresidents** only.*

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# Q & A

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## *Reserve slides*

- Tax Treaties
- IRS Identity Theft Guidance

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# *Reserve slides*

- Tax Treaties Slides

## *Tax treaties – Savings clause example*

- Language to look for in a treaty (Ex: U.S.-India Income Tax Treaty Article 1(3)):
  - “Notwithstanding any provision of the Convention except paragraph 4, a Contracting State may tax its residents (as determined under Article 4 (*Residence*)), and by reason of citizenship may tax its citizens, as if the Convention had not come into effect. For this purpose, the term “citizen” shall include a former citizen whose loss of citizenship had as one of its principal purposes the avoidance of tax, but only for a period of 10 years following such loss.”
- Meaning:
  - Either U.S. or India may tax an individual regardless of treaty provisions if residency as defined under the treaty ties the individual closer to that country. (Good news is the 2Yr presence for teachers & researchers is exempted from this savings clause).

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## ***Tax treaties – Savings clause example (continued)***

- Example fact pattern:
  - An Indian citizen, resident in the U.S. performs services in India that would otherwise be non-taxable by that country under the tax treaty with the U.S., but as that taxpayer is also an Indian citizen, this income will be taxable by India.

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# *Tax treaties*

- Tie-Breaker Rule – Resolves conflicting claims of residence
  - Closer connections
  - Center of vital interests
  - Consultation between the two contracting states
- Under either Savings Clause Exceptions or Tie-Breaker Rule no reporting of exempted income required on U.S. return
- However if income is reported on Form W-2 or 1099:
  - Report this income on the appropriate line of U.S. return (e.g., Wages)
  - Report the same income as a negative number on the “other income” line of the return
  - Write on that line:
    - “Exempt Income”
    - Name of the Treaty Country
    - The number of the Treaty Article



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## *Reserve slides*

- IRS Identity Theft

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# *IRS identity theft*

- IRS Website Guidance
  - <https://www.irs.gov/uac/Taxpayer-Guide-to-Identity-Theft>
  - Follow Federal Trade Commission guidance
    - <http://www.consumer.ftc.gov/features/feature-0014-identity-theft>
  - IRS Form 14039 – Identity Theft Affidavit
    - If SSN or ITIN used to file fraudulent federal tax return

**Minimum Essential Coverage Applicants Receiving Approval**

October 28, 2015

The following list enumerates the applicant(s) whose coverage has been recognized as Minimum Essential Coverage (MEC) through the Centers for Medicare & Medicaid Services (CMS) application process. The applicant(s) on the list meet substantially all the requirements of Title I of the Affordable Care Act that pertain to non-grandfathered, individual health insurance coverage, as well as all procedural requirements for application set out by CMS in regulations and guidance. CMS will update this list periodically as more applicants are recognized as MEC.

No.	Applicant Name	Plan/Policy Name	Applicant City	Applicant State <sup>1</sup>	Country	Start Date of Plan Year	Effective Date of Approval
1	Access Health, Inc.	C3 Health Plan	Muskegon	MI	U.S.	01/01/2014	01/01/2014
2	Washington State Health Insurance Pool	Preferred Provider Plan \$500 Deductible; Preferred Provider Plan \$1,000 Deductible; Preferred Provider Plan \$2,500 Deductible; Preferred Provider Plan \$5,000 Deductible; Standard Plan \$500 Deductible; Standard Plan \$1,000 Deductible; Standard Plan \$1,500 Deductible; Standard Plan \$3,000 Deductible; Limited PPOA; Limited PPOB	Great Bend	KS	U.S.	01/01/2015	01/01/2015
3	Forest County Potawatomi Insurance Department	Forest County Potawatomi Non-Tribal Dependent Plan	Crandon	WI	U.S.	01/01/2014	01/01/2014
4	Swiss Federal Office for Social Insurance	Swiss National Health Insurance System	Berne	n/a	Switzerland	01/01/1996	01/01/2014
5	WellAway Limited (dba WellAway World)	Elite Plan, Premier Plan, and Prestige Plan	Hamilton	n/a	Bermuda	07/01/2014	02/02/2015
6	Pennsylvania Bureau of Children's Health Insurance Program (CHIP)	Pennsylvania Children's Health Insurance Full Pay Program	Harrisburg	PA	U.S.	01/01/2014	07/01/2015
7	Trinity School of Medicine	School of Medicine Student Health Plan	Alpharetta	GA	U.S.	09/01/2014	09/01/2015
8	Washington University in St. Louis, MO School of Medicine	School of Medicine Student Health Services Benefit Plan	St. Louis	MO	U.S.	07/01/2014	07/01/2015
9	<del>The Board of Trustees for the City and State of Illinois</del> The University of Illinois	<del>CampusCare</del> do not necessarily refer to the state in which the coverage is offered.	Chicago	IL	U.S.	08/16/2015	08/16/2015
10	Florida Healthy Kids Corporation	Florida Healthy Kids Corporation Full Pay Program	Tallahassee	FL	U.S.	01/01/2015	01/01/2015

11	United States Olympic Committee	Elite Athlete Health Insurance Program (EAHI); Blue Cross BlueShield PPO Plan	Colorado Springs	CO	U.S.	01/01/2015	01/01/2015
12	Cornell University	Cornell University Student Health Insurance Plan (SHIP) & Cornell University Student Health Insurance Plan - Medicaid (SHIP-M)	Ithaca	NY	U.S.	08/17/2015	08/17/2015
13	University of Wisconsin-Madison (University of Wisconsin System)	University of Wisconsin-Madison Student Health Insurance Plan - Domestic & International Plans	Madison	WI	U.S.	08/15/2015	08/15/2015
14	President and Fellows of Harvard College	Harvard University Student Health Program	Cambridge	MA	U.S.	08/01/2015	01/08/2015
15	St. George's University	St. George's University Student Health Plan	Great River	NY	U.S.	08/01/2015	01/08/2015
16	Mercer University	Mercer University Student Health Insurance Plan	Macon	GA	U.S.	08/01/2015	08/01/2015