

Notice 1392

Supplemental Form W-4 Instructions for Nonresident Aliens



Department of the Treasury
Internal Revenue Service

Notice 1392 (Rev. 01-2022) Catalog Number 66001V
Department of the Treasury **Internal Revenue Service** www.irs.gov



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Nonresident aliens must follow special instructions when completing Form W-4, Employee's Withholding Certificate, for compensation paid to such individuals as employees performing dependent personal services in the United States. Compensation for dependent personal services includes amounts paid as wages, salaries, fees, bonuses, commissions, compensatory scholarships, fellowship income, and similar designations for amounts paid to an employee.

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Are you a nonresident alien? If so, these special instructions apply to you. Resident aliens should follow the instructions on Form W-4.

If you are an alien individual (that is, an individual who is not a U.S. citizen), specific rules apply to determine if you are a resident alien or a nonresident alien for federal income tax purposes. Generally, you are a resident alien if you meet either the “green card test,” or the “substantial presence test,” for the calendar year. Any alien individual not meeting either test is generally a nonresident alien. Additionally, a dual-resident alien who applies the so-called “tie-breaker” rules contained within the Resident (or Residence or Fiscal Residence) article of an applicable U.S. income tax treaty in favor of the other Contracting State is treated as a nonresident alien. See Pub. 519, U.S. Tax Guide for Aliens, for more information on the green card test, the substantial presence test, and the first-year choice.

What compensation is subject to withholding and requires a Form W-4?

Compensation paid to a nonresident alien for performing personal services as an employee in the United States is subject to graduated withholding. Compensation for personal services also includes amounts paid as a scholarship or fellowship grant to the extent it represents payment for past, present, or future services performed as an employee in the United States. Nonresident aliens must complete Form W-4 using the modified instructions provided later, so that employers can withhold the correct amount of federal income tax from compensation paid for personal services performed in the United States. This Notice modifies the instructions to Form W-4 to

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take into account the restriction on a nonresident alien's filing status, the restriction on claiming the standard deduction, and the restriction on claiming tax credits and deductions for certain Nonresident aliens.

Are there any exceptions to this withholding?

Yes. Nonresident aliens may be exempt from wage withholding on the following amounts.

- Compensation paid to employees of foreign employers if such pay is not more than \$3,000 and the employee is temporarily present in the United States for not more than a total of 90 days during the tax year.
- Compensation paid to regular crew members of a foreign vessel.
- Compensation paid to residents of Canada or Mexico engaged in transportation-related employment.
- Certain compensation paid to residents of American Samoa, Puerto Rico, or the U.S. Virgin Islands.
- Compensation paid to foreign agricultural workers temporarily admitted into the United States on H-2A visas.

See Pub. 519 to see if you qualify for one of these exemptions.

Nonresident aliens may be exempt from wage withholding on part or all of their compensation for dependent personal services under an income tax treaty. If you are claiming a tax treaty withholding exemption, do not complete Form W-4. Instead, complete Form 8233, Exemption from Withholding on Compensation for Independent (and Certain Dependent) Personal Services of a Nonresident Alien Individual, and give it to each withholding agent from whom amounts will be received.

Even if you submit Form 8233, the withholding agent may have to withhold tax from your income because the factors on which the treaty exemption is based may not be determinable until after the close of the tax year. In this case, you must file Form 1040-NR, U.S. Nonresident Alien Income Tax Return (or Form 1040-NR-EZ, U.S. Income Tax Return for Certain Nonresident Aliens With No Dependents, if you qualify), to recover any overwithheld tax and to provide the IRS with proof that you are entitled to the treaty exemption. See Form 8233 and the Instructions for Form 8233, Pub. 901, U.S. Tax Treaties, and Pub. 519 for more information on treaty benefits.

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Am I required to file a U.S. tax return even if I am a nonresident alien?

Yes. Nonresident aliens who perform personal services in the United States are considered to be engaged in a trade or business in the United States and generally are required to file Form 1040-NR (or Form 1040-NR-EZ). Also, you will need to file Form 1040-NR (or Form 1040-NR-EZ) to claim a refund of any overwithheld taxes. See the Instructions for Form 1040-NR, or the Instructions for Form 1040-NR-EZ, for more information.

Nonresident aliens who are bona fide residents of U.S. possessions should consult Pub. 570, for information on whether compensation is subject to wage withholding in the United States.

Will my withholding amounts be different from withholding for my U.S. coworkers?

Yes. Nonresident aliens cannot claim the standard deduction. The benefits of the standard deduction are included in the existing wage withholding tables published in Pub. 15-T, Federal Income Tax Withholding Methods.

Because nonresident aliens may not claim the standard deduction, employers are instructed to withhold an additional amount from a nonresident alien's wages. For the specific amounts to be added to wages before application of the wage tables, see Pub. 15-T.

Note. A special rule applies to nonresident alien students from India and business apprentices from India who are eligible for the benefits of Article 21(2) of the United States-India income tax treaty. Employers are not required to withhold an additional amount for the standard deduction from the wages of these individuals, as they may be entitled to claim the standard deduction. See Pub. 15-T and Pub. 519 for more information.

What are the special Form W-4 instructions?

Nonresident aliens should pay particular attention to the following lines when completing Form W-4.

Step 1(b): Personal Information. You are required to enter a social security number (SSN) on Step 1(b) of Form W-4. If you do not have an SSN, contact the Social Security Administration (SSA) to find out if you are eligible for one.

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You can visit any SSA office or call the SSA at 800-772-1213. For the deaf or hard-of-hearing, call 800-325-0778 (TTY/TTD number).

For more information, go to www.ssa.gov/ssnumber.

Note. You cannot enter an individual taxpayer identification number (ITIN) in Step 1(b) of Form W-4.

Step 1(c): Personal Information. Check the Single or Married filing separately box regardless of your actual marital status.

Step 2: Multiple Jobs or Spouse Works. Do not complete this section unless you have more than one job at the same time. Do not account for your spouse's job because nonresident aliens may not file jointly.

If you have more than one job, you may complete Step 2(b) or Step 2(c).

If you chose Step 2(b), complete the Step 2(b) Multiple Jobs Worksheet for **only one** job and write “nonresident alien” or “NRA” below Step 4(c) for **only one** job.

If you have only two jobs, you may choose Step 2(c), check the box on **both** Forms W-4, and write “NRA” or “nonresident alien” below Step 4(c) for the Form W-4 for the highest paying job. Do not write “nonresident alien” or “NRA” below Step 4(c) for the other job.

Nonresident aliens should not use the Tax Withholding Estimator.

Multiple withholding agents. If you are completing Form W-4 for more than one withholding agent (for example, you have more than one employer), complete Steps 3-4(b) on only one Form W-4. Withholding will be most accurate if you do this on the Form W-4 for the highest paying job.

Step 3: Claim Dependents. Only certain nonresident aliens should use Step 3. Nonresident aliens from Canada, Mexico, South Korea, or India may be able to claim the child tax credit or the credit for other dependents. See Pub. 519 and Pub. 972 for more information.

Nonresident aliens are generally not entitled to education credits. See Pub. 519 for more information.

Add the total credits that you may claim and enter the total in Step 3.

Step 4. Optional

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Step 4(a). If you want tax withheld for other income this year that won't have withholding and the income is taxable in the United States, enter the amount of other income here. Do not include any income from any jobs or self-employment. See Pub. 519 for more information.

Step 4(b). Nonresident alien itemized deductions and adjustments to income may be limited. See Pub. 519 for more information. If you expect to claim itemized deductions and/or adjustments to income (such as the student loan interest deduction), add your itemized deductions and adjustments to income and enter the amount in Step 4(b).

Step 4(c). Write "nonresident alien" or "NRA" in the space below Step 4(c). If you would like to have an additional amount withheld, enter the amount in Step 4(c).

Exempt from withholding. Do not claim that you are exempt from withholding in the space below Step 4(c) of Form W-4 (even if you meet both of the conditions to claim exemption from withholding listed in the instructions to the Form W-4).

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