

2003

IRS Volunteer Quick Reference Guide

For Use in Preparing 2003 Federal Tax Returns for Nonresident Aliens



Tax Information

1-215-516-2000 (*not toll-free*)

Tax Forms or Pubs Only

1-800-829-3676



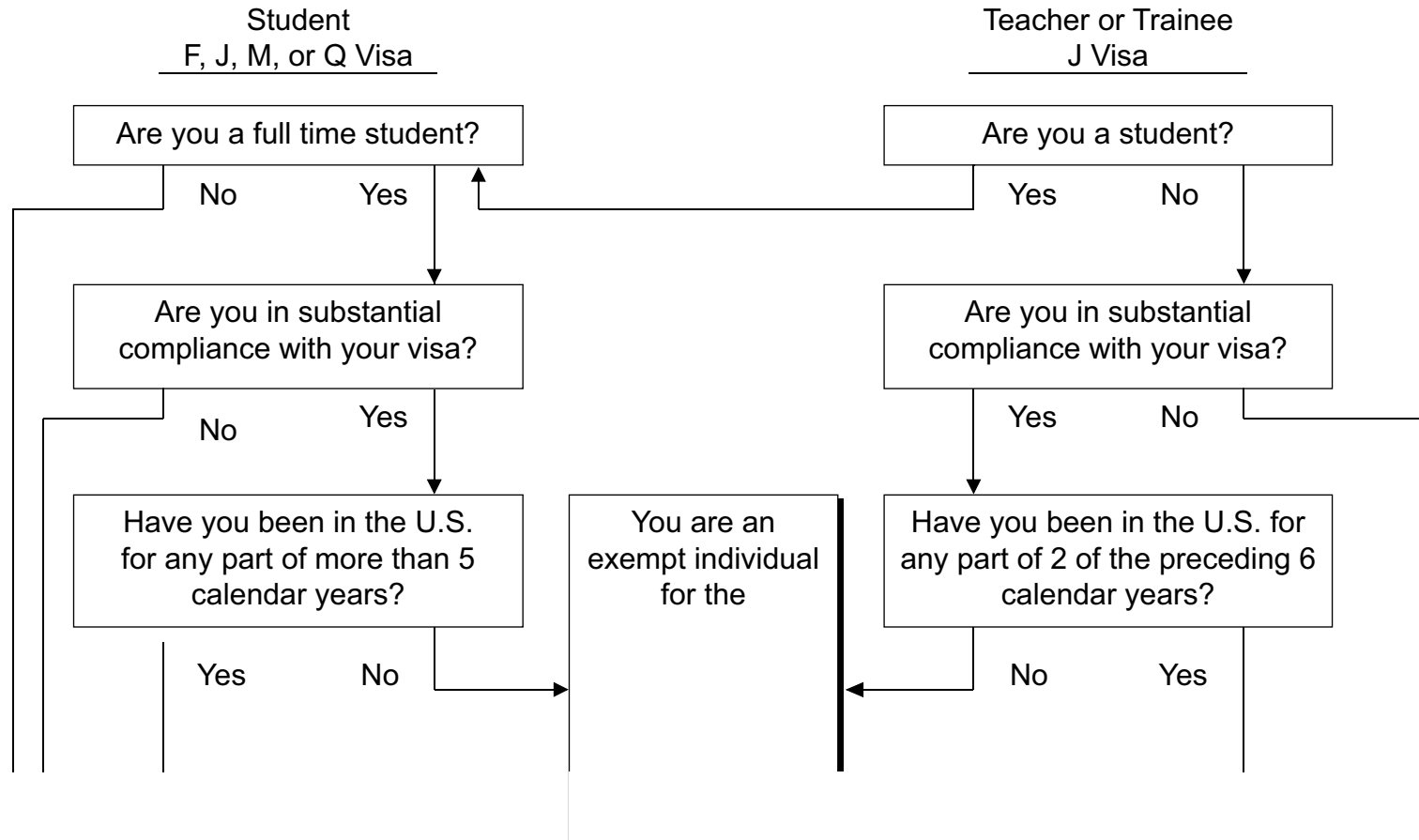
Department of the Treasury
Internal Revenue Service

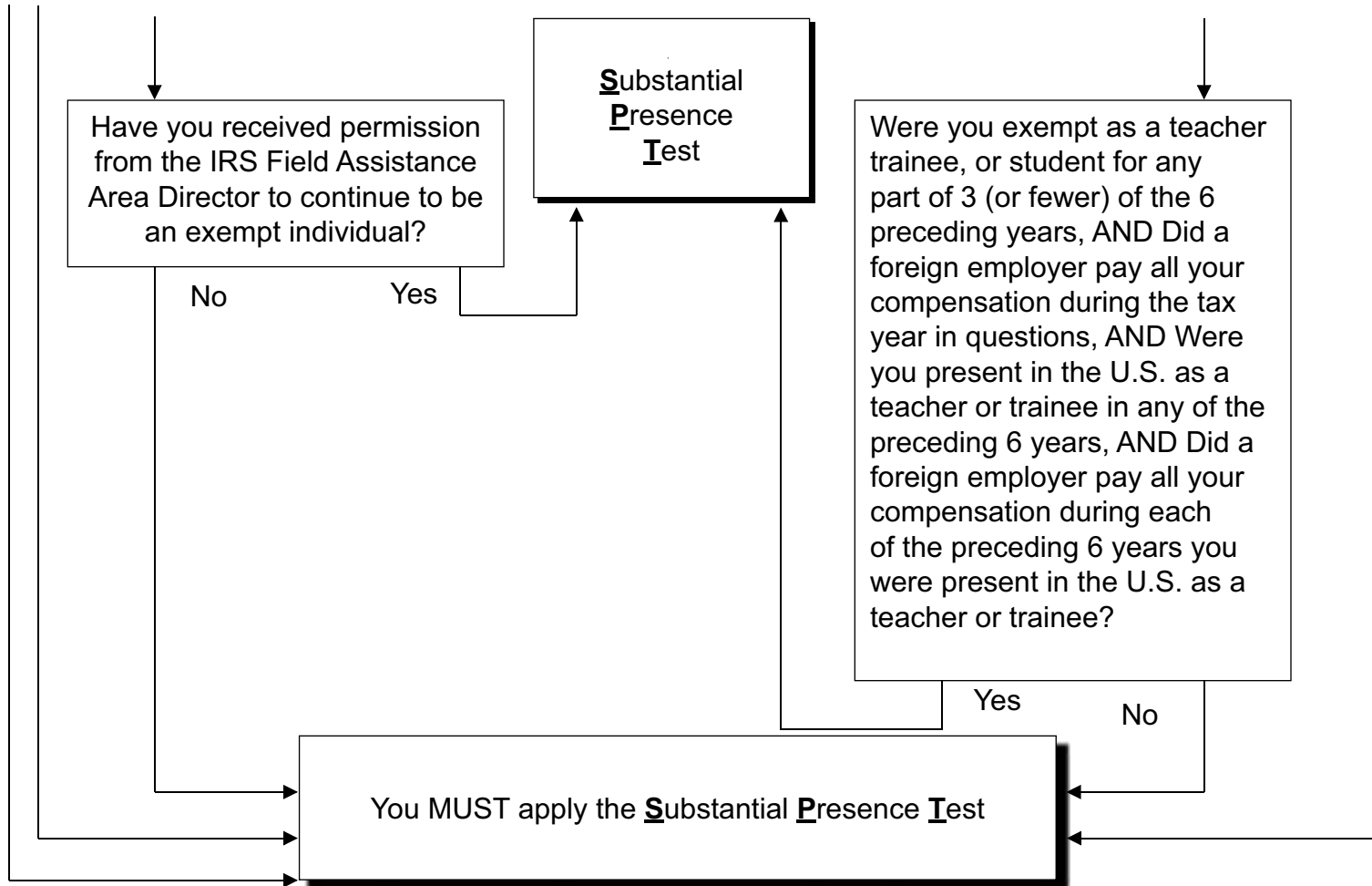
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Publication 4011 (Rev. 2003)
Catalog Number 34182T

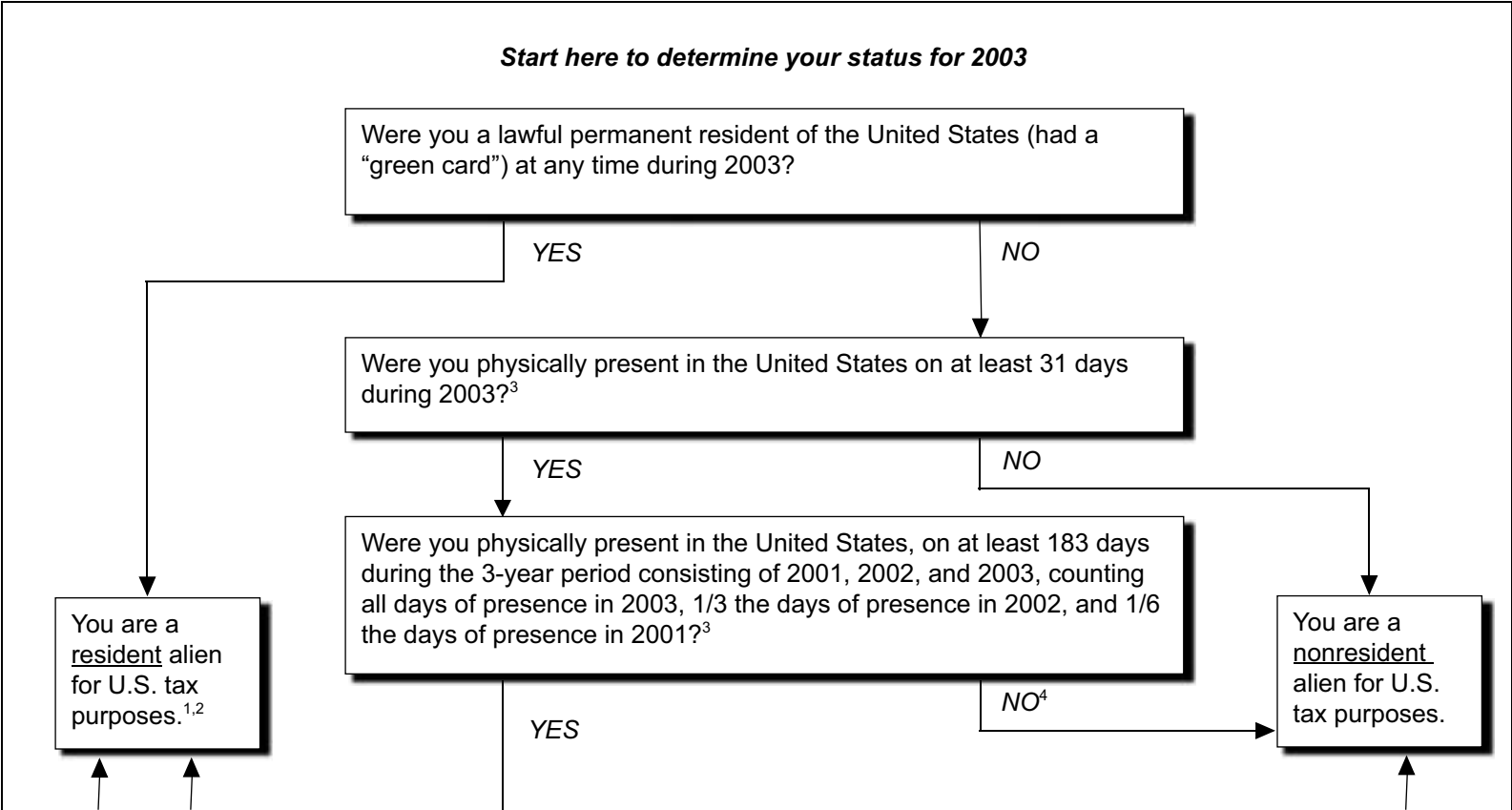
ARE YOU AN EXEMPT INDIVIDUAL?

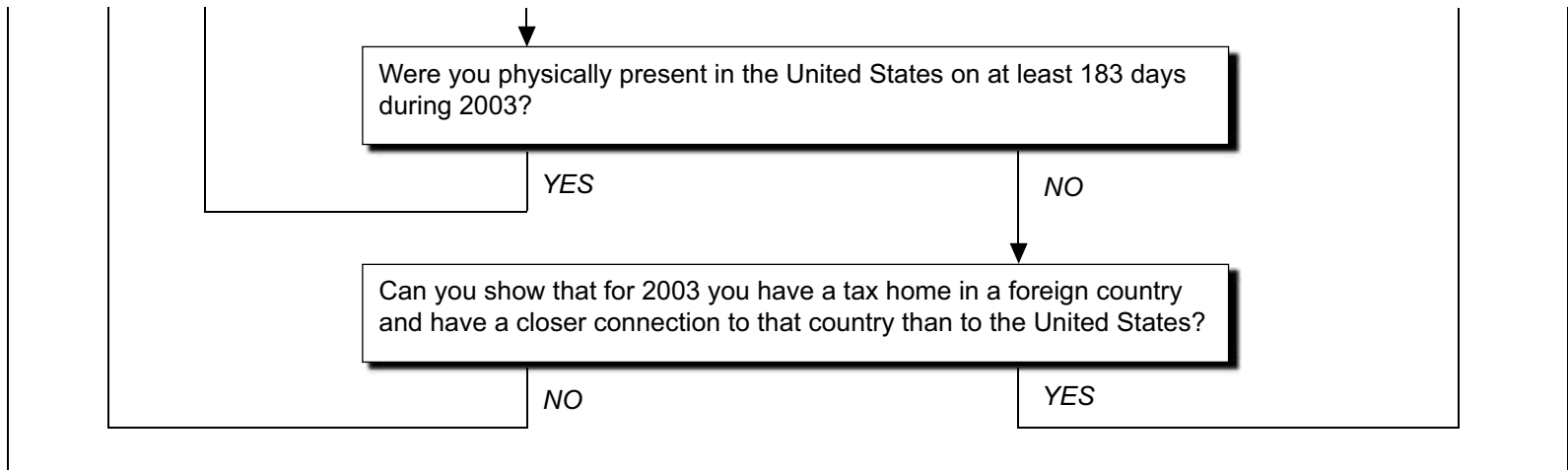
If you are temporarily present in the United States on an “F”, “J”, “M”, or “Q” visa, use this chart to determine if you are an exempt individual for purposes of the **S**ubstantial **P**resence **T**est (**SPT**).





Nonresident Alien or Resident Alien?





1 if this is your first or last year of residency, you may have a dual status for the year.

2 In some circumstances you may still be considered a nonresident alien under an income tax treaty between the U.S. and your country. Check the provision of the treaty carefully.

3 See *Days of Presence in the United States* in this chapter for days that do not count as days of presence in the United States.

4 If you meet the substantial presence test for 2004, you may be able to choose treatment as a U.S. resident alien for part of 2003.

**Countries With Treaty Benefits for Income From Teaching
(income code 18)**

<i>Country</i>	<i>Maximum years in U.S.</i>	<i>Amount</i>	<i>Treaty article</i>
Belgium	2	Unlimited	20
China, People's Rep.	3	Unlimited	19
C.I.S.	2	Unlimited	VI(1)
Czech Rep.	2	Unlimited	21(5)
Denmark [†]	2	Unlimited	XIV
Egypt	2	Unlimited	22
France	2	Unlimited	20
Germany	2	Unlimited	20(1)
Greece	3	Unlimited	XII
Hungary	2	Unlimited	17
Iceland	2	Unlimited	21
India	2	Unlimited	22
Indonesia	2	Unlimited	20
Israel	2	Unlimited	23
Italy	2	Unlimited	20
Jamaica	2	Unlimited	22

**Countries With Treaty Benefits for Income From Teaching
(income code 18) (continued)**

<i>Country</i>	<i>Maximum years in U.S.</i>	<i>Amount</i>	<i>Treaty article</i>
Japan	2	Unlimited	19
Korea	2	Unlimited	20
Luxembourg	2	Unlimited	XIII
Luxembourg (New Treaty)	2	Unlimited	21(2)
Netherlands	2	Unlimited	21(1)
Norway	2	Unlimited	15
Pakistan	2	Unlimited	XII
Philippines	2	Unlimited	21
Poland	2	Unlimited	17
Portugal	2	Unlimited	22
Romania	2	Unlimited	19
Slovak Rep.	2	Unlimited	21(5)
Thailand	2	Unlimited	23
Trinidad & Tobago	2	Unlimited	18
United Kingdom	2	Unlimited	20
Venezuela	2	Unlimited	21(3)

†Applies to users of the old treaty only.

**Countries With Treaty Benefits for Student Wages
(income code 19)**

<i>Country</i>	<i>Maximum years in U.S.</i>	<i>Amount</i>	<i>Treaty article</i>
Belgium	5	\$2,000	21(1)
China, People's Rep.	No limit	5,000	20(c)
C.I.S.	5	Limited	VI(1)
Cyprus	5	2,000	21(1)
Czech Rep.	5	5,000	21(1)
Egypt	5	3,000	23(1)
Estonia	5	5,000	20(1)
France	5	5,000	21(1)
Germany	4	5,000	20(4)
Iceland	5	2,000	22(1)
Indonesia	5	2,000	19(1)
Israel	5	3,000	24(1)
Japan	5	2,000	20(1)
Korea	5	2,000	21(1)
Latvia	5	5,000	20(1)

**Countries With Treaty Benefits for Student Wages
(income code 19) (continued)**

<i>Country</i>	<i>Maximum years in U.S.</i>	<i>Amount</i>	<i>Treaty article</i>
Lithuania	5	5,000	20(1)
Luxembourg	2	Unlimited	21(1)
Morocco	5	2,000	18
Netherlands	No limit	2,000	22(1)
Norway	5	2,000	16(1)
Pakistan	No limit	5,000	XIII(1)
Philippines	5	3,000	22(1)
Poland	5	2,000	18(1)
Portugal	5	5,000	23(1)
Romania	5	2,000	20(1)
Slovak Republic	5	5,000	21(1)
Spain	5	5,000	22(1)
Thailand	5	3,000	22(1)
Trinidad & Tobago	5	2,000	19(1)
Tunisia	5	4,000	20
Venezuela	5	5,000	21(1)

India Treaty

The IRS issued procedures for a new tax treaty with India in 1993. The treaty's benefits apply to tax years beginning on or after January 1, 1992.

An Indian **student** may take a **standard deduction** equal to the amount allowable on Form 1040 and may be able to claim the personal exemptions for a non-working spouse and U.S. born children.

Treaty benefits for a **scholar** from India are very different from those for a **student**. The **scholar** benefit for income code 18 is lost retroactively if the visit exceeds 2 years.

The standard deduction for single taxpayers in 2003 is \$4,750. The deduction for married filing separately is \$4,750.

China Treaty

Almost all U.S. tax treaties are limited to a specific number of years and may not be available for residents for tax purposes. But the U.S. treaty with China is different. Many of its provisions are available to both nonresident **and** resident aliens.

The treaty provides that a scholar is exempt from tax on earned income for 3 years. After 2 years a scholar will become a resident alien for tax purposes, but is still entitled to 1 more year of tax benefits under the treaty.

Canada Treaty

The students and scholars are permitted to use article 15 of the tax treaty, which applies to dependent personal services.

The tax treaty with Canada is different from all other tax treaties because it (1) exempts all earned income if the non-resident earned no more than \$10,000 in the tax year, but (2) taxes all income if the nonresident earned over \$10,000. This treaty benefit is lost if the non-resident becomes a resident for tax purposes.

Wage Calculation Worksheet

Since some employers do not issue the correct reporting documents to international students and scholars, the following formula will help you to accurately compute the amount of wages to be shown on the income tax return.

Wages from Box 1 of Form W-2 (if any)	_____
Add: Code 18 or 19 income from Form, 1042-S (if any)	+ _____
Subtract: Code 18 or 19 treaty benefit (if any)	- _____
EQUALS: Wages to be reported	_____

Interest Income

Generally, the interest that International Students and Scholars earn is not taxable. U.S. source interest income that is not connected with a U.S. trade or business is excluded from income. This rule applies to only nonresident aliens.

Filing Status

Generally, non-resident aliens must either select the **single** filing status or the **married filing separate** status.

Head of household filing status can not be used if the taxpayer was a nonresident alien during any part of a year.

Nonresidents who are married to U.S. citizens or other residents for tax purposes can elect to be treated as a resident alien and file a **joint** return.

See Publication 519 for additional information.

Dependent Issues

Generally, nonresident aliens can claim only one personal exemption.

Nonresidents from the following countries may be able to claim their spouse and children as dependents. Everyone claimed on the return must have either a Social Security number or an Individual Tax Identification Number (ITIN).

Canada
Mexico
Japan
South Korea
India

See Publication 519 for additional information.

Dependency Tests

Must Meet ALL 5 Tests

Member of Household/Relationship Test — Dependent must be:

- a. relative, or;
- b. live in taxpayer's household all year. (For more information see Publication 17 or tax form instruction booklet.)

Joint Return Test — Dependent can't file a joint return with someone else unless it is only to claim a refund of tax withheld.

Citizenship Test — Dependent must be:

- a. a U.S. citizen, resident or national or;
- b. a resident of Canada or Mexico

Gross Income Test — Dependent must have less than \$3,000 of gross income unless he/she is taxpayer's child and is:

- a. under 19 years of age, or;
- b. a full-time student (5 months of the year) and under age 24.

Support Test — Must provide over 1/2 the total support (includes: food, clothing, shelter, education, medical, recreation).

Tax Credits and Nonresident Aliens

Tax credits are allowed to nonresident aliens only if they receive effectively connected income. Generally, nonresident alien students and scholars will **not** qualify for tax credits.

Education Credits — If the taxpayer is a nonresident alien for any part of the year, they generally can't claim the educational credits, such as the Hope and Lifetime Learning Credits.

Foreign Tax Credit — This credit will usually not be available to nonresident alien students and scholars. Their foreign source income is usually not reported on their US income tax return.

Child Tax Credit — Nonresident aliens may be able to claim the child tax credit if all of the following conditions are met:

- The child is a US citizen, national or resident alien, and
- The child is claimed as a dependent on the return, and
- The child is a son, daughter, adopted child, grandchild, stepchild or foster child, and
- The child was under age 17 at the end of the year.

Earned Income Credit — If the taxpayer is a nonresident for any part of the year, the earned income credit is not available.

Source Documents

You may see many types of income documents when you are assisting International Students and Scholars. The following list may help you in identifying the documents you may see.

Form 1042-S, Foreign Person's US Source Income Subject to Withholding

Many students and scholars will receive this form if they have income that is subject to treaty benefits. Publication 678FS provides more information on how to record the entries from this form.

Form W-2, Wage and Tax Statement

Most students and scholars are allowed to work. If they earn more than the amount exempt by their treaty, the excess should be reported on the W-2. When students and scholars work off campus, they often receive a W-2 for the full amount they earned. That is why it is important to use the wage calculation worksheet on page 12 of this guide.

Form 1098-T, Tuition Payments Statement

Academic institutions issue form 1098T to students who paid tuition during the tax year. This form helps the students calculate the educational credits. Since nonresident aliens usually can not claim the educational credits, the form is not part of their tax return.

Form 1099INT, Interest Income

Many banks and savings institutions issue the 1099INT to nonresident alien and scholars. Since most nonresident student and scholars do not need to report their interest income, the form is not part of their tax return.

Form 1099MISC, Miscellaneous Income

Sometimes a nonresident alien student or scholar will give you a 1099MISC. There are several complicated issues involved when this happens. If you or the other volunteers at your site do not know the procedures to follow when a nonresident alien student or scholar receives a 1099MISC, refer the taxpayer to a paid professional.

▶▶ QUALITY REVIEW CHECKLIST◀◀

- ▶ Are the name, address, and Social Security number correct?
- ▶ Is the Social Security number written to the right of the label?
- ▶ Is the filing status correct? Is the box marked?
- ▶ Are any allowable dependents properly listed?
- ▶ Are the dependents' identification numbers written correctly?
- ▶ Are income items correctly transferred from Form W-2, Form 1042S, and Form 1099?
- ▶ Is all income reported? Be sure to include any gambling winnings and stock sales.
- ▶ Is the itemized deduction line completed accurately?
- ▶ Are the correct number of dependents claimed?
- ▶ If the taxpayer was eligible for any credits, have they been computed correctly?
- ▶ Does the amount of tax reported as withheld agree with the amounts listed on the Forms W-2 and 1042S? Did you include any withholding shown on Form 1099?
- ▶ Is the overpayment (balance due) computed correctly?
- ▶ Did you use a calculator to check your math?
- ▶ Is the return signed?
- ▶ Are all Forms W-2 and 1042S, as well as schedules and forms, attached to the return?
- ▶ Is the volunteer designation on the return?