

Internal Revenue Code requires that **14%** tax be withheld on nonqualified scholarships received by a nonresident alien individual who are temporarily present in the United States as a nonimmigrant under F, J, M or Q immigration status.

### **Nonqualified Scholarship/Fellowship**

1. Housing
2. Meals
3. Insurance
4. Travel
5. Cost of Attendance (COA- Athletics)

### **Exemption on 14% withholding requirement**

1. Tax Treaty (must have TIN or SSN)
2. Has met the substantial presence test and is considered a resident alien (RA) for tax purposes. (RA will be taxed on worldwide income)

### **Residency for Tax Purposes and the Substantial Presence Test**

Generally, most international students & scholars who are on F, J, M or Q visas are considered nonresidents for tax purposes. International undergraduate students on J1 & F1 visas are automatically considered nonresident for their first 5 calendar years in the US, whilst Scholars/Researchers on J visas are automatically considered nonresidents for 2 out of the last 6 calendar years in the US. If you have been in the US for longer than the 5 or 2-year periods, the [Substantial Presence Test](#) will determine your tax residency.

The Substantial Presence Test is a calculation that determines the resident or nonresident status of a foreign national for tax purposes in the United States. The Substantial Presence Test must be applied on a yearly basis. However, during the first five calendar years the student on an F-1 or J-1 immigration status is present in the U.S., he or she is considered an "Exempt Individual." This status means merely that the individual does not count days of actual presence in the U.S. for purposes of satisfying the Substantial Presence Test. Therefore, assuming the individual had no previous visits to the U.S., the individual will be a nonresident alien for U.S. tax purposes during the first five calendar years of presence in the U.S.

For a teacher or a student on a J-1 immigration status, the determination of his or her "Exempt Individual" years are based on any two years within the current and past six calendar years. The term "calendar year" refers to the period from January 1 - December 31, not

twelve consecutive months. Therefore, if the individual is present in the U.S. as an "Exempt Individual" for any part of one calendar year, that year is calculated as a whole year. Consequently, an individual present in the U.S. under a J-1 non-student immigration status may fall in and out of nonresident alien status for U.S. tax purposes depending on the results of the Substantial Presence Test as it is applied on a yearly basis.

**The following calculation determines the number of days to satisfy the substantial presence test:**

1. The individual must be present in the U.S. for at least 31 days during the current calendar year.
2. The individual must use the following calculation to satisfy the substantial presence test:
  - a. ALL of the days physically present in the U.S. in the current calendar year
  - b. PLUS 1/3 the number of days physically present in the U.S. during the first preceding year
  - c. PLUS 1/6 the number of days physically present in the U.S. during the second preceding year
  - d. EQUALS 183 days or greater, the individual is considered resident alien for tax purposes

**To satisfy the Substantial Presence Test:**

1. A student, temporarily present in the United States under an "F" or "J" visa, must be in the U.S. for five (5) calendar years (counting all or part of a year as a full year) plus 183 days in the current year. The five (5) calendar years need not be consecutive. Once a cumulative total of five (5) calendar years is reached during the student's lifetime s/he will never be an exempt individual as a student again.
2. A teacher or trainee, temporarily present in the United States under a "J" visa, must be in the U.S. for at least two (2) calendar years (counting all or part of a year as a full year) plus 183 days in the current year.
3. Aliens on all other Visa types must be present in the United States for 183 days or more during the calendar year to claim resident alien status for U.S. tax purposes.

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Please reference IRS link below for Substantial Presence Test Explanations:

<https://www.irs.gov/individuals/international-taxpayers/substantial-presence-test>

<https://www.irsstreamlinedprocedures.com/what-is-the-substantial-presence-test/>