

This guide has been developed to help international students better understand some of the IRS specific tax issues they may encounter while enrolled at EWU. Please note, EWU and employees of EWU cannot offer you tax advice. The following is for informational purposes only.

**Why should I worry about tax filings?** Failing to file complete and accurate tax returns may hinder your ability to either remain in the U.S. or return to the U.S. in the future and subject you to penalties and interest. If you are not up to date or your previous filings are incorrect it is best to fix the issues, this may require consulting with a tax advisor.

**Tax Filing deadline:** April 15<sup>th</sup>, if the date falls on weekend or holiday it will be the next business day.

### **Tax Residency:**

There are 2 tax residency statuses to keep in mind, U.S. nonresident, and U.S. resident.

**U.S. Nonresidents** – Anyone that is not a U.S. resident or citizen. Students on J-1 and F-1 visas are considered exempt individuals (nonresidents) for the first 5 calendar years they are present in the U.S., this includes any part of 5 calendar years while in that status. If for example an individual arrives in the U.S. on December 26<sup>th</sup>, that year would be counted as the first calendar year on that status even though they were only in the U.S. for a few days. Teachers and researchers on J-1 visas are entitled to 2 years of exemption from substantial presence tests.

**U.S. residents** – are generally taxed in the same way as U.S. citizens. A U.S. resident is someone that meets either the green card test or the substantial presence test. Having a green card means that the individual is a U.S. Resident. The substantial presence test is a calculation of days spent in the U.S. over the past 3 years (at least 31 days in the current year and a total of 183 days or more, counted as 1) all the days of the current year, 2) 1/3 of the days in the first prior year, and 3) 1/6 of all the days present in the second prior year).

**Why is tax residency important?** The tax filing obligations are different for residents and nonresidents, including the tax forms that must be filed. We will only discuss nonresident filing obligations, if you are a resident the IRS offers many guides and handouts on their website.

### **Tax Filings:**

**Form 8843** – All F-1 and J-1 visa holders that are exempt individuals (nonresidents) for tax purposes must file a form 8843 even if you did not receive any income. A form 8843 may be required as an attachment to a form 1040-NR.

**Form 1040-NR** – Any nonresident that earned or received income in the calendar year must file a form 1040-NR. This is the nonresident version of the form 1040 individual income tax return.

**State Income Tax Filings** – Washington state does not have an income tax, there is no required filing. If you earned income in other states, you may have a state income tax filing with those states.

**What is taxable income?** Income that is subject to tax in the United States includes: employment income, nonqualified scholarship income, investment income, or any number of sources of other income (prizes, awards, and rental income)

**What is nontaxable income?** Common examples of income not subject to tax in the United States are scholarships received for qualified tuition and related expenses, income earned outside of the United States, and foreign scholarships.

**What is withholding?** These are funds that are held back from a payment of income and paid to the IRS on your behalf based on a calculation estimating what your tax owed will be. Most commonly these can be seen on forms W-2 and 1042-S. If the amount that was withheld is greater than the amount of tax you owe on your return, the excess will be refunded to you.

**Nonqualified scholarship income** – scholarships, fellowships, grants, or stipends are taxable income if they are used to pay for expenses such as room and board, travel, research, and nonmandatory fees. If you are a nonresident, your nonqualified scholarship income will be reported to you on a form 1042-S and will be subject to 14% withholding unless a treaty applies. Residents will not receive a tax form for nonqualified scholarship income.

**Tax Forms:** A copy of each of the forms listed is provided to both you and the IRS. When filing your tax return it is important to first verify that the forms agree to what you expected to receive and include the income on your individual income

**Form W-2** – This is a statement of earnings from employment. Employers must provide this form by January 31<sup>st</sup> and the form will contain any amounts withheld in box 2.

**Form 1099** – These forms come in several varieties and are used to report income earned as an independent contractor, investment income, or from winnings or prizes.

**Form 1042-S** – Is used to report nonqualified (taxable) scholarship income and income that is exempt under a treaty.

#### **ITIN – Individual Taxpayer Identification Number:**

ITINs are used by individuals that either wish to claim treaty benefits or earned taxable income but are not eligible for a Social Security Number (SSN) to file a form 1040-NR. An ITIN is not required to file form 8843 but is required to file a form 1040-NR or claim treaty benefits. If you have an SSN, you will use your SSN and do not need an ITIN. A common example of someone that has an SSN is an employed individual in the U.S. A common example of an individual that requires an ITIN to file their tax return is a scholarship recipient where the scholarship is more than the qualified tuition and required fees (nonqualified scholarship income). ITINs can be applied for in 1 of the 3 following ways:

- Mail your return and documents together to the IRS (14 week expected time to return documents)
- Meet with a local certifying acceptance agent to complete form W-7
- Make an appointment with the local IRS office to provide documentation and complete application

IRS office information and a list of local businesses able to act as certifying acceptance agents are available on the IRS website.

**Tax Treaties** – The United States has signed tax treaty agreements with many countries that offer benefits for U.S. nonresidents from those countries allowing them to exclude wages, taxable scholarships/fellowship grants, and independent personal services from tax. Many of the treaties are limited to a certain dollar amount over a period of time, such as one year, and the treaty benefits can typically only be claimed for a specified number of years. The treaties for each country are unique so each situation must be analyzed individually. To claim a treaty benefit, form 8233 can be completed and filed. Incomplete forms 8233 will be rejected by the IRS.

**Errors in filing** – If you are aware of mistakes in your previously filed returns or you did not file returns that you should have, it is important to correct these mistakes. If you owe tax, the IRS will assess penalties and interest on any amounts owed even if you are not receiving notices. Compliance with tax laws can be reviewed when applying for or maintaining visa status so it is recommended to remain current on all tax related issues. Non-filing or underpaid tax must be actively resolved and will not disappear if ignored.