

BRIEF SUMMARY OF
INDIA - UNITED STATES TAX TREATY
PROVISIONS FOR STUDENTS

Tax Year 2016

Article 21 of the treaty stipulates that residents of India who are in the United States to study do not need to pay U.S. income tax on any payments received from India (or other country outside the U.S.) for the purposes of maintenance, education or training. Thus, payments received from U.S. sources (such as a scholarship or assistantship from The University of Tennessee) are taxable. As most international students are considered "nonresidents" for tax purposes, they are already exempt from U.S. income tax from income that comes from outside the U.S. **Thus, most Indian students will be required to pay income tax on all U.S. income.** However, students (**not scholars**) from India, unlike other non-residents, may choose to claim the standard deduction, instead of itemizing deductions*. In addition, F-1 and J-1 students may claim an exemption for each spouse or dependent child who meets the following criteria:

- a) is living with the student in the U.S. during the tax year
- b) is not claimed as a dependent by another taxpayer
- c) does not have any gross income in the U.S.
- d) if not a spouse, does not hold F-2 or J-2 immigration status
(a spouse who meets criteria a-c may be claimed as a dependent)
- e) or is a U.S. citizen child.

* In most cases, claiming the standard deduction will result in lower taxes than itemizing deductions.)

[If you have another dependent with you in the U.S., such as a parent, it may be possible to claim this person as a dependent; such a person would have to be considered a U.S. Tax Resident. Consult a tax advisor to discuss this possibility.]

Note: If you claim the standard deduction, you may not deduct any itemized deductions, such as state income tax.

Remember: if you are claiming any dependents, each one must have a Social Security Number or ITIN Individual Taxpayer Identification Number)

For the tax year 2016 this translates to the following dollar amounts:

- a. An Indian student may take an exemption of \$4050 or him/herself and each eligible dependent. (Note eligibility criteria above. No exemption may be claimed for a dependent who has gross U.S. income.)
- b. The standard deduction for a single student or for a married student filing separately is \$6300. ***

When completing the 1040NR-EZ for your 2016 tax return, enter \$6300 on Line 11, and list treaty information in Question J, Page 2. If you are claiming exemptions for dependents use Form 1040NR and enter \$6300 on Line 38. Then add treaty information in Question L on Page 5. Write "India Tax Treaty" on the line next to the \$6300.

*(Married students who are Tax Nonresidents must normally file tax return separately (not jointly) unless the spouse is a Tax Resident).

Indian students will be able to subtract both the exemption(s) and the standard deductions from their income before calculating tax owed (as long as they do not itemize deductions). (\$4050 + \$6300 = \$10,350 for 2016) A nonresident tax software, such as GLACIER TAX PREP (**GTP**) will calculate these tax benefits when completing the tax return.

Note: The amount allowed for exemptions & standard deduction changes each year. This information will be available in Form 1040 or 1040A (Resident) instructions which can be seen on the IRS website at www.irs.gov. If you claimed the India Tax Treaty in **2016**, write "Standard Deduction" in column d of Question J-1 on Page 2 of Form 1040NR-EZ.

Note: See IRS Publication 901, Page 22 for information about tax treaty provisions for students.

When filling out a W-4 form, Indian students may claim exemptions for any eligible dependents. We suggest that Nonresident **students** from India write "**NRA-INDIA**" in large letters on your W-4. **Do NOT file a Form 8233.**

IMPORTANT: The treaty benefits described above do not apply to *Scholars* from India. Scholars may not claim the standard deduction, and may not claim exemptions for their dependents. See IRS Publication 901 (Page 17) for information about tax treaty provisions for scholars.