

FOR TAX PURPOSES ARE YOU A RESIDENT, NONRESIDENT OR DUAL STATUS-RESIDENT? TAX YEAR 2016

Note: For more information, see IRS Publication 519 and other handouts on the UT/CIE website. You may also enter your immigration history into GLACIER TAX PREP, and it should tell you if you are a Tax Resident or NonResident.

Examples:

1. Anita entered the U.S. on Oct. 1, 2011 with an F-1 visa. She has remained here since that time with F-1 status, except for brief trips outside the U.S..

She is a tax resident for all of 2016 because she was a non-resident for five years (2011 - 2015) and was here > 183 days in 2016

2. Bassem is a J-1 **scholar**. He entered the U.S. **for the first time** on December 15, 2014 with a J-1 visa and has been here since in J status (except for brief absences)

He is a resident for all of 2016 because he was a non-resident for two years (2014-2015) and was here >183 days in 2016.)

3. Caihong entered the U.S. on Nov. 1, 2015 with an H-1B visa. She has been here since then with H-1B status.

She is a Resident for all of 2016 because she was here >183 days in 2016.

4. Devi entered the U.S. for the first time with an H-1B visa on Aug. 1, 2016 and did not leave. It was her first visit to the U.S.

She is a Nonresident for all of 2016 because she was here for < 183 days in 2016 and she counts no days in 2014 and 2015.

BUT: She may choose to file as a Dual Resident (As a Tax Resident after August 1, 2016) if she wants, and if she files her tax return after May 11, 2017. This is calculated as follows:

On May 11, she calculates her status for 2017:

(132 days in 2017) + 1/3 (153 days in 2016) = 132 + 51 = 183 days.

She is then a Resident for 2017 and can use the "first year option" to claim residency status for the last part of 2016. To use this option, she must request an extension of time for her 2016 tax return. See IRS Publication 519 for more details.

5. Emmanuel entered the U.S. for the first time on Mar. 1, 2016 with H-1B status.

He is a Dual Status Resident for 2016, as he spent >183 days in the U.S. in 2016. (Nonresident until February 28, and Resident for the remainder of the year)

(However, if he is married, and his wife has been in the U.S. in H-4 status for the same dates, they may choose to file jointly as tax resident for the entire year.)

6. Fabio entered the U.S. with F-1 visa in 2013. USCIS approved a change of status to H-1B on April 1, 2016.

He is a Dual Status Resident for 2016, because he spent > 183 days with H-1B status. While he had F-1 status, he was still a Nonresident in 2016 because it was only his fourth year with F status. If his wife changed to H-4 status at the same time and has remained in the U.S. (Or is a Tax Resident by herself), they may choose to file a joint return as Resident for the entire year.)

7. Hashima visited the U.S. for 60 days (with B-2 visa) in 2014 and again for 60 days in 2015. She returned on August 1, 2015 with an H-1B visa and did not leave again in 2016.

*She is a Tax Resident for at least part of 2016, calculated as follows:
(153 days in 2016) + 1/3 (60 days in 2015) + 1/6 (60 days in 2014) =
153 + 20 + 10 = 183 days.*

If 2016 is her first year of residency, she is a dual resident for 2016, with her residency beginning on August 1, 2016 .

8. Isabella was an F-1 student from August 2007 to June 2011. She returned to the U.S. with a J-1 scholar visa on Jan. 1, 2015 and is still here.

*She is a Tax Resident for all of 2015, calculated as follows:
In 2015, she looks at the previous 6 years (2009 - 2014); during two of those years she had F or J status (2009 and 2010) and was “exempt from the substantial presence test”. Therefore she counts all days in the U.S. in 2014 and becomes a Tax Resident from Jan. 1, 2014. [But she will probably be a Nonresident for 2015!]*

9. Jeonghoon was in the U.S. with his parents from 1992 - 1997. He had F-2 status. He returned to the U.S. with an F-1 visa on June 1, 2015.

He is a Dual Status Resident for 2015. Because he had F-2 status for 5 years in the past, he counts all days he was physically present in 2015. As he was here >183 days in 2015, he is a Tax Resident from the date of entry.

10. Kazuo was a J-1 scholar in the U.S. in 2008, 2009, and 2010. In 2010 he was in the U.S. for 240 days before leaving. He arrived again on February 1, 2014 as a J-1 scholar.

In 2008 and 2009, he did not count days for substantial presence (Those are “exempt” years), and so was a Nonresident. In 2010 he does count days for physical presence (because he had two “exempt” years during the previous 6 years or 2008/2009, so is a Tax Resident. In 2014, he looks at the previous 6 years (2008 - 2013). During those years, he had two “exempt years” [2008/2009]. So he counts days in 2014 and is Tax Resident. In 2015, he again looks at the last 6 years (2009 – 2014). He had “exempt” days in only one year [2009], so he is again “exempt “ from counting days in 2015, and is again a Nonresident in 2015!!!!.

NOTE: If you have a very complicated history, including multiple visits with BOTH F/J student status and J Scholar status, see a CIE Advisor for help in calculating residency, after you have read all relevant handouts and completed the worksheets..