

I AM A TAX RESIDENT

HOW CAN I CLAIM A TAX TREATY BENEFIT?

Are you eligible for a treaty benefit?

First determine if you are still eligible for the treaty benefit as follows:

1. What is your current immigration status? To use a Student treaty benefit you must be in F-1 or J-1 **Student** (or **Intern**) status (This includes time on F-1 Optional Practical Training or J-1 Academic Training.) To use the Professor/Teacher/Researcher you must probably be in H-1B or J-1 **Scholar** status. In either case, you must have entered the country with this visa, and you must have physically lived in the treaty country for one year immediately before entering the US in that status. If you changed immigration status within the US, or if you left the US for less than one year and then re-entered with a different visa, you probably do not have any treaty benefits. But if the purpose of your visit has not changed since your first entry, you may be able to claim the treaty. (For example, if you changed from F-1 student to J-1 student, you may still be able to use the treaty benefits for students.)
2. Read the treaty information VERY carefully to see if you are still eligible for treaty benefits. (For example, some treaty benefits are limited to a period of two (or 3, 4 etc) years. We recommend that you read IRS Publication 901 for treaty information. You can also see the full text of the treaty at: <https://www.irs.gov/Businesses/International-Businesses/United-States-Income-Tax-Treaties---A-to-Z>
Your treaty must also contain an “exception to the savings clause”. If you are not sure if this exists in your treaty, try claiming the treaty benefits; if you are not eligible, IRS will ask you to pay the tax.

What forms do I fill out?

If you are a Tax Resident, you should file your tax return on Form 1040.

(Tax Nonresidents: See other information handouts. This handout is only for **Tax Residents**).

Also complete Form 8833 and Page 2 (NOT Page 1) of the 1040NR-EZ Form. (Officially, the 8833 Form is not required, but we strongly recommend it).

All tax forms are available at www.irs.gov.

How do I claim the treaty benefits?

1. On the Form **8833**, explain your situation. Include the following information:
 - Your country of tax residence
 - When you first entered the U.S. and with which visa
 - Your current immigration status
 - The purpose of your visit (e.g. student, researcher, etc)
 - The article of the treaty you are using (See the chart starting on Page 41 in the IRS Publication 901).
 - The type and amount of income that is exempt from taxes, based on the tax treaty.

Example: *“I am a resident of China. I first entered the U.S. in August 2011 with an F-1 student visa. I am still in F-1 status. I am excluding \$5000 from my 2015 salary (“compensation during studying”) based on Article 20(c) of the China/U.S. Tax Treaty”*

2. On the **Form 1040**, do the following:

- On Line 7, list all salary income and taxable scholarships.
- On Line 21, list the amount that is tax exempt under a treaty, as a negative amount (with brackets). Example: [\$5000] For "Type", write "treaty"
- When you are adding Lines 7-21, you should subtract (do not add) the amount on Line 21

Example: The Chinese treaty excludes **\$5000** of salary from federal income tax, for F-1 and J-1 students. You received a total salary of **\$18,000** in 2016, and \$30 in Bank Interest. You have no other 2016 income.

On Line 7 enter "\$18,000" and on Line 8a, enter "\$30"

On Line 21, write "U.S- China tax treaty, Article 20(c)". For the amount on Line 21, enter "[\$5000]"

On Line 22, write "\$13,030". (This is \$18,000 plus \$30 minus \$5000. This also assumes that you do not have anything on Lines 9-20)

Note: Do not subtract the \$4050 personal exemption amount anywhere on Page 1. This will be subtracted on Line 42, according to form instructions.

3. Complete Page 2 ONLY (Not Page 1) of Form **1040NR-EZ**. Write your name at the top of the page. Be sure to list complete treaty information under Question J, including the treaty article number and amount exempted by the treaty on Line 21 of the 1040.

Where Do I Send My Tax Return?

All forms listed above should be sent to the filing address for the Form 1040NR (even though you are not filing a Form 1040NR). Read the instruction book for Form 1040NR for accurate information. It will probably go to:

If you are not including a payment:

Department of the Treasury
Internal Revenue Service
Austin TX 73301-0215

If you are including a payment:

Department of the Treasury
Internal Revenue Service
P.O. Box 1303
Charlotte, NC 28201-1303

DON'T FORGET TO MAKE COPIES OF ALL FORMS FOR YOUR OWN RECORDS

What if I, or my dependents, do not have a Social Security Number?

Every person listed on your Tax Return must have a Social Security Number or Individual Taxpayer Identification Number (ITIN). If this is the first year you are filing as a Tax Resident, or if you have new dependents, you may not yet have numbers for each person. If you or your dependents are eligible for a Social Security Number, apply for one immediately at the Social Security Office in Knoxville. If you are not eligible, you, or your dependents, will have to apply for an ITIN. Complete Form W-7 and take it, with your tax return and passport to the IRS Office in Knoxville. The person applying for the ITIN must be present.

See a separate CIE handout for information on applying for an ITIN.