

# **CINTAX AND INCOME TAX FAQ'S**

## **for International Students and Scholars**

(Frequently Asked Questions)

**Updated January 28, 2009**  
**The University of Tennessee, Knoxville**

**NOTE:** If you are having technical problems with CINTAX, send an e-mail to:  
[support@cintax.us](mailto:support@cintax.us).

**REMEMBER:** Volunteer UT law students are available to answer tax questions in Room 124 in the UT Law School Library from 4:00 to 6:00, on Tuesdays (From February 17 - April 7, except March 17).

**REMEMBER:** All IRS forms and publications can be downloaded from [www.irs.gov](http://www.irs.gov).

### Questions

We will keep adding to this list if other questions arise, [until April 15.] Please write questions on the feedback form in the CIE Tax Center and leave in the box. Please read the handouts in the CIE Tax Center before leaving your questions. (They may answer your questions!) You will NOT get an individual response to your question.

**QUESTIONS ADDED AFTER JANUARY 2009 WILL BE AT THE TOP OF THE LIST.**

**Questions added in 2009:**

**I got a letter from the IRS saying that I should have paid Social Security and Medicare Tax in 2007. I thought I was exempt from this tax.**

Persons with F-1 and J-1 immigration status are exempt from these two taxes **as long as they are still Tax Non-residents**. If the IRS thinks you owe these taxes, it is possible that 1) You were a Tax Resident in 2007 or 2) The IRS THINKS you were a Non-resident because you filed your 2007 Tax Return using a form for Residents. If you still think you should have been exempt from these taxes, make sure you used the correct form for your 2007 tax return. If you used the wrong form, you will need to file a corrected tax return on the correct forms, along with a Form 1040X. (We suggest that you ask for help at the VITA Center at the UT Law School) If you believe you were still a Non-resident and that you filed the correct tax return, call the telephone number on your letter and remind them that you were a Tax Non-resident with F-1 or J-1 status.

**I just got an e-mail from the IRS asking me to fill out another form. What does this mean?**

**WATCH OUT!!!!** The IRS will never contact you by e-mail. If you receive an e-mail that looks like it is from the IRS, IT IS NOT! Do not answer the e-mail and DO NOT ever send your Social Security Number to ANYONE by e-mail! These e-mails, called "phishing" are from people trying to get your SSN so they can steal your money or your identity. The IRS would like you to report such fraud to them on their website.

## **QUESTIONS INCLUDED BEFORE 2009**

### **I am still not sure if I am a Tax Resident or Non-resident.**

See the purple handout, the various worksheets, and the sheet of examples in the CIE Tax Center. If you use the CINTAX program, it should also calculate your residency for you before collecting all other income information from you. If you have an extremely complicated immigration history, and none of these resources work, make an appointment with Wendy Syer in CIE for help in calculating your residency. **Please bring with you the relevant Residency worksheet from the CIE Tax Center, already completed.**

### **My spouse is a Tax Non-resident and I am a Tax Resident. Can we file jointly? Does my spouse need Form 8843?**

Yes! You can choose to file your return jointly as tax residents. See IRS Pub. 519 for instructions. It does not matter what immigration status you and your spouse have. If you both file as residents, neither of you will file a Form 8843.

### **I changed from F-1 to H-1B in 2008. Am I a tax resident or non-resident?**

This depends on a) how many days you had H-1B status and b) whether you started the year as a tax resident. We suggest you read the yellow handout in the CIE Tax Center called "For Tax Purpose Are You a Resident, Non-resident or Dual-status Resident?"

### **I have H-1B status, but I am still enrolled in classes at UT. How do I calculate my Tax Residency status?**

Tax Residency is calculated based on your immigration status (along with your days of physical presence). Thus, if you have H-1B status, follow the H-1B worksheet (in the CIE Tax Center) to calculate your residency status. And if you are on Optional Practical Training and working full-time, you still use the residency calculation form for F-1 students. (OPT is still F-1 status.) (Remember: **CINTAX** will also calculate your residency) Also, if you are in H-1B status, you may not use the student provisions of a tax treaty

### **When my Tax Residency is calculated (by me or by CINTAX), how do I count the time I was on Practical Training (OPT or CPT)?**

You are still in F-1 status when you are on OPT or CPT. Just calculate it as F-1 time.

### **I heard that I might have a choice about filing as a Tax Resident or Non-resident. Is this true?**

While some people can make this choice, most cannot. For example, If you are an F-1 or J-1 student, you must normally file as a Non-resident for the first five tax years. If you are a J-1 Scholar or trainee, you must normally file as a Non-Resident for the first two tax years. The following people may be able to choose a different filing status:

1. A Tax Non-resident married to a Tax Resident may choose to file jointly with the spouse; both will file as Residents. (See IRS Publication 519)
2. A student who has been in the U.S. more than five years may ask IRS for permission to file as a Tax Non-resident. Write a letter to IRS requesting this

permission, documenting closer connection with your home country.  
[Note: Most students pay *lower* taxes as Residents.]

3. A J-1 Scholar in the third year of J-1 status, *with no U.S. salary* may request to file as a Tax Non-resident. (See IRS Pub. 519)
4. If you were in the U.S. for less than 183 days in 2008, but still meet the substantial presence test, you may file a Form 8840 to request Non-resident status.
5. If you first entered the U.S. in 2008 (not in F or J status), and you become a Tax Resident in 2009, you may use the First Year Choice to file as a Resident for 2008. (See IRS publication 519).

**I file the 1040NR, but it will not let me claim exemptions for my dependents. Can I file a 1040EZ instead?**

Probably not. If you are considered a Tax Non-resident, you must file a 1040NR or 1040NR-EZ. Most Non-residents may not claim exemptions for dependents. Once you become a Tax Resident, you may claim exemptions for any dependents who are also Tax Residents.

**I just found out that I was a Tax Resident in 2008, but UT Payroll had me coded as a Tax Non-resident by mistake. What should I do?**

Contact the UT Payroll Office so that they can correct their records. They will not make any adjustment to your federal income tax for 2008; you can file your 2008 tax return as a resident and claim any refund due to you, if too much tax was withheld. It is possible that you will owe Social Security Tax for 2008. In this case, the Payroll Office will deduct the Social Security Tax from your paycheck now. (You might ask them if they can do this over several months and not in one single payment.) You will not enter any information about Social Security Tax on your federal income tax return. (It is the responsibility of the Payroll Office to collect Social Security Tax)

Note: If you are a regular, full-time employee at UT, then you are eligible for retirement income (at no cost to you) but only if you pay Social Security Tax. If you did not get any retirement payments because you were wrongly coded as a tax non-resident, contact the UT Retirement Office to ask about your retirement income.

**My employer withheld Social Security Tax (FICA and Medicare) from my salary. Was this correct? If not, how can I get it back?**

If you were a Tax Resident, it was probably correct. If you were a Tax Non-resident with F-1 or J-1 status, it was not correct. [But persons with J-2 status must pay Social Security tax.] See IRS Publication 519 and a separate handout in the CIE Tax Center for instructions for requesting a refund of Social Security tax withheld by mistake. [First request the refund from the employer. If they refuse, file a Form 843] You may NOT request this refund on your regular tax return.

**There is a tax treaty with my country, but I did not fill out a Form 8233 last year. Can I still claim the treaty benefits?**

Yes. You can still claim treaty benefits on your tax return, even if all tax was withheld from your salary. CINTAX will do this for you. You may want to complete a Form 8233 now if you are still claiming a tax treaty for 2009.

**All my income is exempt from tax, based on a tax treaty. Do I still need to file a tax return?**

If your total salary for 2008 was more than \$3500, you will need to file a Tax Return. If your total salary was less than \$3500, and you have no other U.S. income, you only need to file a Tax return if you think you will get a refund (and you want your refund). See the orange handout in the CIE Tax Center, marked "General Information". If you have any non-salary U.S. income, you must file a return.

**Should I send Form 8833 to claim tax treaty benefits?**

If you are a Tax Non-Resident, you do not file a Form 8833. You will enter your treaty information on Form 1040NR or 1040NR-EZ. If you are a Tax Resident, we suggest you complete Form 8833 and send it with your Tax Return. (See question below).

**How can I claim a tax treaty benefit if I am a tax resident?**

Use the regular resident forms to file your tax return (1040, 1040A or 1040EZ). Do **NOT** list any income which is tax-exempt under a tax treaty. Then complete a Form 8833 to explain why you did not list all of your income on the 1040. Complete Page 2 (only) of the 1040NR-EZ. Send all forms to the **IRS address used for Non-Residents** in Austin, Texas.

Note: IRS regulations do not normally require Form 8833 for students and scholars. However, we suggest Tax Residents complete it anyway to help clarify the tax treaty declaration.

See Pages 51-52 in the 2007 version of IRS Pub. 519 for more detailed information.

**I received Form W-2 from the UT Payroll Office but no 1042-S. What do I do?**

Some people get a W-2, some get a 1042-S, and some get both. If the amount on the single form or the total of the two forms combined equals your total UT salary for 2008, then you do not need another form. You may enter the amount(s) into the CINTAX program, and it should calculate your entire treaty exemption. If your form(s) show(s) a total salary which is more or less than your actual 2008 salary, contact the Payroll Office in P115 Andy Holt Tower for corrected forms.

**What is the 1098-T that I got from the Bursar's Office?**

Tax residents can usually take an "Education Credit" if they paid tuition or fees to the university. (Note that there is no credit for room and board charges or insurance.) Complete a Form 8863 and use Form 1040A (or 1040) for your tax return. Use the figure on the 1098-T to calculate your education credit, but do not mail the 1098-T to the IRS. If you have questions about this, we suggest the VITA site at the Law School for free assistance. Tax Non-residents do NOT get an education credit. ***If you are Tax Non-resident, you will NOT use your 1098-T.***

**I had two employers in 2008, and received two W-2 forms. Do I need to file two tax returns? What should I do?**

You file only one tax return for 2008. On the line for “wages, salaries, tips”, add the TOTAL of both (or all) of your W-2's.

**I had an internship last summer and received a salary. How do I claim this income on my tax return?**

(We assume, first of all, that you had work authorization for the internship, such as OPT or CPR). Yes, you must claim any salary you received on your tax return. You should receive a W-2 or 1042-S from each employer. (Contact the employer if you did not receive this form.) Then list the total of all your salaries on Line 3 on the 1040NR-EZ

**Do I need to put my bank interest on the Tax Return?**

If you are a Tax Non-resident, you do not need to enter your bank interest on the tax return.

**I got a paycheck in 2009 for work I did in 2008. Do I claim this on my 2008 tax return?**

No. You claim the income on the tax return for the year that you received the money, not the year you earned it.

**Are my tuition payments deductible on my tax return?**

If you are a Tax Non-resident, all deductible expenses are listed on Page 3 of the 1040NR. (Tuition payments are not deductible.) The **CINTAX** Software program will also tell you what is deductible.

If you are a Tax Resident, then you may be able to take a Tax Credit for tuition payments. (See question below about Form 1098-T). Other tax credits or deductible expenses for Tax Residents are listed in the Instruction books for the 1040 or 1040A.

**I do not have a copy of my tax return from last year. What can I do?**

This is answered on the IRS website “Frequently asked questions”. You can get a transcript of your old tax return by filing a Form 4506-T. This gives all information on your previous tax return. There is no charge and it takes about 10 days. To get an exact copy, file a Form 4506. There is a fee of \$57 for this.

(This year ***please please please*** make and keep copies of your tax return!!!!)

**I have never filed a Form 8843 in the past, but I just learned that I should have done that. What should I do?**

We suggest you download copies of the 8843 for previous years from [www.irs.gov](http://www.irs.gov). Complete and sign the forms now and mail to the IRS.

**I am a student from India, and I always claim the standard deduction. What should I write for the amount that was tax exempt for 2007 in Question J of the 1040NR-EZ?**

We suggest you simply write "standard deduction". If CINTAX does not allow you to do this, we suggest you contact the CINTAX technical assistance for advice, or simply add the information by hand after CINTAX prints your form.

**My bank wants me to fill out a form to report my Social Security Number (SSN). What do I do?**

If you are a Tax Non-resident, you can probably complete a form W-8BEN and give it to the bank. This is a statement that you are Non-resident, and your bank interest is not taxable interest. If you are a Tax Resident, you can probably complete a Form W-9 to report your Social Security Number or ITIN. If you are a Tax Resident and still do not have a SSN or ITIN, tell the bank you have no number. If they still want a number, see if they can put the request in writing. Then go to the IRS Office to see if you can apply for an ITIN. If all these options fail, we suggest changing banks!

**CINTAX only prints the forms for me. What about the 8843 for my spouse and children?**

To use **CINTAX** for your dependents, you may pick up separate passwords for them and do separate **CINTAX** entries. However, since the Form 8843 is so simple, you can also fill it out by hand without using **CINTAX**. (Get the blank Form 8843 from [www.irs.gov](http://www.irs.gov)).

**I do not have a Social Security Number or ITIN. (Or my dependents do not.) What should I do?**

Every person listed on the actual tax return (1040, 1040NR, etc.) must have a number. If you or your dependents do not have a number, complete the tax return without the number, but do not mail it. Then take your tax return to the nearest IRS Office to apply for an ITIN. (There is an IRS Office in Knoxville at 710 Locust Street). Do NOT mail your passport to the IRS (You may never see your passport again!) You can also send a notarized copy of your passport and other documents to the IRS, but we suggest a personal visit to the local office if possible.

If you or your dependents are ONLY filing a Form 8843, you can send in the form with no number on it.

(Remember, most tax non-residents do not list dependents on the 1040NR. If you are a tax non-resident, and you are not from Canada, Mexico, Korea, or a student from India, you will probably not need a number for your dependents, unless they have U.S. income and are filing their own tax returns.)

**The address on my W-2 is no longer correct. I have moved since then.**

Don't worry about this. Enter your CURRENT address on the tax return form (1040NR-EZ, etc.), or in the **CINTAX** program. Any tax refund will be sent to this address (or deposited in your bank account if you request this). It does not have to match the address on your W-2. If you move AFTER you file your tax return, file an IRS form 8822 (available from [www.irs.gov](http://www.irs.gov)).

### **What names and addresses should I list for my institution and advisor?**

Form 8843 asks for your institution and the name/address of the director of your academic program. CINTAX also asks for this so it can be entered on the Form 8843. If you were a student or scholar at UT in 2007, we suggest you use the CIE address for the institution (1620 Melrose Avenue, Knoxville, TN 37996-3531; phone 865-974-3177). For the director of your academic program, we suggest you use the name and address of your academic advisor, or any other person who can verify your enrollment or presence on campus.

### **I never got my tax refund from last year.**

It should not take that long to get a refund. Go to the IRS website ([www.irs.gov](http://www.irs.gov) or <https://sa1.www4.irs.gov/irfof/lang/en/irfofgetstatus.jsp>) to track your refund or send an electronic inquiry to the IRS. You can also call the Taxpayer Advocate at 615-250-5000 or tax free at 1-877-777-4778.