

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

Tax Year 2008

**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 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)

Note: a U.S. citizen child may be claimed as a dependent and is therefore eligible for an exemption.

[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.

For the tax year 2008, this translates to the following dollar amounts:

- a. An Indian student may take an exemption of **\$3500** for 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 \$5450.**  
(Married students who are Tax Non-residents 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).

**Note: The amount allowed for exemptions and standard deduction changes each year. This information will be available on Page 2 of the current 1040 (Resident) Form which can be seen on the IRS website at [www.irs.gov](http://www.irs.gov).**

Note: See IRS Publication 901, Page 21 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 also suggest that Non-resident **students** from India write "**NRA-INDIA**" in large letters somewhere on your W-4. **You do not need to file a Form 8233.**

**IMPORANT: 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 Page 1 IRS Publication 901 (Page 16 in June 2007 version or Page 17 in April 2008 version) for information about tax treaty provisions for scholars.**