

DETERMINING YOUR TAX RESIDENCY STATUS

This document is intended to assist international students and scholars by:

- A. Providing general guidelines for international students and scholars on determining their U.S. tax residency status.
- B. Explaining how tax residency is determined for those individuals who have NOT changed visa status during the tax year (January 1 to December 31)
- C. Providing guidance to those individuals who have changed visa status during the tax year (January 1 to December 31) and providing contacts for other assistance.

This document is meant to be a general guide in determining your U. S. tax residency status. It highlights the areas which are most applicable to Lehigh University students and scholars. For more information see IRS Publication 519 U.S. Tax Guide for Aliens, contact the IRS or discuss with your tax advisor. Please note that U. S. tax residency is not the same as residency for immigration purposes.

A. [General Guidelines](#)

[Tax Residency-Students](#)

In general, you are a non-resident for tax purposes in a calendar year if you have been present in the United States for the purpose of studying with a F, J, M or Q visa no more than any part of the last five calendar years. For example, you are a non-resident for tax purposes for calendar year 2019 if you entered the United States after December 31, 2015 and have been present for the purposes of studying since then only on an F, J, M or Q visa.

[Tax Residency-Scholars \(includes those who are present in the U.S. to research or teach\)](#)

In general, you are a non-resident for tax purposes in a calendar year if you have been present in the United States for the purpose of teaching or research with a J or Q visa for no more than any part of two of the last six calendar years. For example, you are a non-resident for tax purposes in calendar year 2019 if you entered the United States anytime after December 31, 2017 for the purpose of teaching or research and have been present since then only on an J or Q visa.

B. [How is Tax Residency Determined – The Details](#)

If you are not a U.S. citizen, you are considered a non-resident alien for tax purposes unless you meet either the: 1) “Green Card” Test; or 2) the Substantial Presence Test (SPT).

1. “Green Card” Test – you are a lawful permanent resident alien for tax purposes if at any time during the calendar year, the U.S. Citizenship and Immigration Services (USCIS) issues you an alien registration card also known as a “green card”. You will continue to be a resident alien for tax purposes as long as this status has not been taken away by a final judicial order.
2. Substantial Presence Test (SPT) (Counting days of presence) – If you cannot pass the Green Card Test, you must evaluate the days you are present in the United States each tax year to determine your tax status (i.e., non-resident or resident). In order to determine if you meet SPT, you must count days of presence in the U.S.

Note: Certain exemptions to counting days apply to qualified students and scholars who are in the United States. For students on a F, J, M or Q visa, you are exempt from counting days for five calendar years. Similarly, for scholars on a J or Q visa, you are exempt from counting days until you have been in the U.S. two out of the last six consecutive calendar years. If you were in the U.S. for any part of a calendar year, that year counts as a year for purposes of determining your exemption period. For more information consult IRS Publication 519.

Under SPT, you are a resident for tax purposes if you were physically present in the United States on at least:

- a. 31 days during the current tax year (January to December) **and**
- b. 183 days during the three year period (current tax year plus the two immediate prior tax years); the days are counted as follows:
 - i. all days in the current tax year, plus
 - ii. 1/3 of all the days in the first year before the current tax year, plus
 - iii. 1/6 of all the days in the second year before the current tax year

For example, if you were in the United States during the following times:
 January 1 – January 30, 2017, January 1 – January 30, 2018, July 15, 2019 – December 31, 2019

To determine if you meet the SPT for tax year 2019, you count the days as follows:

Number of days present in tax year 2019 =	170
Number of days present in tax year 2018 = 1/3 of 30 =	10
Number of days present in tax year 2017 = 1/6 of 30 =	<u>5</u>
	185

Since must count 185 days during the three year period, you pass the SPT and are considered a resident alien for tax purposes for calendar year 2019.

If you meet the green card test during the tax year but do not meet the substantial presence test for that year, your residency start date is the first day in the tax year on which you were present in the United States as a lawful permanent resident. If you meet the SPT during the tax year, your residency start date is the first day during the tax year that you were present in the United States. So, if you pass SPT on July 1 and you were present in the U.S. on January 1, then your residency start date is January 1. If you meet both the green card test and the SPT for the tax year, your residency start date is the earlier of the first day on which you were present in the United States as a lawful permanent resident or the first day of the tax year you were present in the United States.

Even though you have passed the Substantial Presence Test, you can still be considered a non-resident alien for tax purposes if you maintain a tax home in a foreign country during the tax year, can show that you have a closer connection to a foreign country, and have been in the United States for at least 183 days during the current tax year (see IRS Publication 519).

C. Frequently Asked Questions

1. I have changed my visa status during the tax year, how do I find out my tax residency status?

Complete the International Tax Information form (see International Forms and Other Information on the Payroll section of the Controller's Office website), sign and send to the Payroll Office. They will notify you of your proper tax residency status for the current calendar year.

2. Who can I contact for additional information regarding tax residency status?

Contact the Office of International Students & Scholars (X84859), the Payroll Office (X82900), the IRS or your tax advisor.