GUIDE

Form 1040-NR basics for non-resident aliens

Form 1040-NR is the US income tax return for people who aren't US citizens or residents. You file it if you ran a US business or worked in the US, if tax on your other US income wasn't fully withheld, or to claim a refund or treaty benefit. It's due April 15 with US wages, June 15 without.

QUICK FACTS

- **Who.** Non-resident aliens with US income
- **Due.** April 15 with US wages, June 15 without
- **Business income.** Taxed at normal rates, after deductions
- **Passive income.** 30% of the gross, unless a treaty lowers it
- **ID number.** A Social Security number or an ITIN

Are you a non-resident alien for tax?

For US tax, you're a resident if you have a green card or meet the substantial presence test. Everyone else is a non-resident alien. Tax residency is separate from your visa, so check it year by year.

You meet the substantial presence test if you were in the US at least 31 days this year and at least 183 days over three years, counting every day this year, one-third of last year's days and one-sixth of the year before. So 120 days a year for three years adds up to 120 + 40 + 20 = 180, and you stay a non-resident. At 122 days a year, it's 183 and you're a resident.

Some days don't count. Students on F, J, M or Q visas are exempt individuals for up to five calendar years, and teachers and trainees on J or Q visas for two of every six. They file Form 8843 to exclude those days. If you're under 183 days this year and have a closer connection to another country, Form 8840 can keep you non-resident. A tax treaty can also settle the question for people who look resident in both countries.

When do you have to file?

- You were engaged in a trade or business in the US during the year, including working here as an employee
- You had other US income and not enough tax was withheld from it

General information, not tax advice for your situation.

- You want a refund of tax that was over-withheld
- You're claiming a treaty benefit or a deduction, which only counts on a filed return
- You sold US real estate

If your only US income was passive, like dividends, and the right amount of tax was withheld at source, you usually don't need to file.

How is your US income taxed?

TYPE OF INCOME	EXAMPLES	HOW IT'S TAXED
Effectively connected	Wages for work done in the US, profit from a US business, partnership income from a US business	Graduated rates, the same as US residents, after allowed deductions
Passive (FDAP)	Dividends, royalties, most rents, some interest	A flat 30% of the gross amount, or a lower treaty rate
US bank interest	Savings and deposit accounts	Generally not taxed for non-resident aliens
Capital gains on stocks	Selling US shares	Generally not taxed, unless you were in the US 183 days or more that year
US real estate	Rental property, a sale	Rent is 30% of gross unless you elect net taxation. Sales face FIRPTA withholding

The election matters a lot for landlords. At 30% of gross rent, a $24,000-a-year rental owes $7,200 even if repairs, interest and depreciation wiped out the profit. Electing to treat the rent as business income lets you deduct those costs and pay tax only on the net. You give the property manager Form W-8ECI so they stop withholding 30%.

What can't you claim on a 1040-NR?

- **No standard deduction**, with an exception for students and business apprentices from India under the treaty
- **Limited itemized deductions**, mainly state and local income tax, gifts to US charities and certain disaster losses
- **No joint return**, unless you're married to a US citizen or resident and you both choose to be taxed as residents
- **Fewer credits**, so things like the earned income credit are off the table

When is Form 1040-NR due?

YOUR SITUATION	DUE FOR TAX YEAR 2026
You had US wages subject to withholding	April 15, 2027
No US wages subject to withholding	June 15, 2027
Either, with a Form 4868 extension	October 15, 2027

An extension gives you more time to file, not to pay. Students and others who only need Form 8843 file it by the same date, by mail.

Do you need a state return too?

Often. States tax income earned or property held there, so a California rental or a New York job usually means a non-resident state return as well. A handful of states, like Florida and Washington, have no personal income tax on wages.

Do you need an ITIN?

You need a taxpayer ID on the return. If you can't get a Social Security number, that means an ITIN, applied for on Form W-7 with the return. We can verify your passport so you don't have to mail it. See ITIN applications.

Common questions

Can I file Form 1040-NR

No. Non-resident aliens file as single or married filing separately. If your spouse is a US citizen or resident, you can both choose to be treated as residents and file a joint Form 1040 instead.

I own a US LLC by myself. Is 1040-NR

It depends on whether the LLC does business in the US. Most foreign-owned single-member LLCs also file Form 5472 with a pro forma 1120 every year, even with no income. See our Form 5472 guide.

Can Form 1040-NR

Yes, in most cases. The IRS accepts e-filed 1040-NR returns, and we e-file it. Returns with a new ITIN application go by mail with Form W-7.

Filing from outside the US?

ITINs, expat returns, non-resident returns and Form 5472. Book a free 30-minute call at eminenttax.com/contact or call (972) 347-4590.

eminenttax.com