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US nonresident tax guide for J-1 Employers

Federal tax withholding for J-1 Employees:

The IRS requires federal income tax withholding on all U.S. source payments to nonresident aliens. J-1 employees as well as individuals are taxed on their wages at graduated rates (10% to 37%). They may also have to pay state tax on their income, depending on varying factors set out at the state level.

W-4 Information for J-1 Employers:

It is important to note that nonresidents (with the exclusion of Indian students and trainees) are ineligible to use the standard deduction, and as a result are generally taxed from the first dollar at graduated rates. They will need to complete and label the W-4 form as NRA if they are indeed nonresidents for tax purposes. If they are deemed a resident for tax purposes, they can complete the W-4 form in a similar fashion to that of a resident for tax purposes.

What should an employer do if the employee does not yet have a SSN when they start their job?

It is important to first ensure that the person is eligible to work in the US and that he/she applies for an SSN as soon as possible. An employer can pay this person without a TIN, but they need a TIN in order to file any necessary end-of-year tax forms with the IRS.

Resident or Nonresident for Federal Tax Purposes:

Generally, most J-1 Interns/Trainees, Summer Work and Travel, Au Pairs, Camp Counsellors, Teachers and Researchers are considered nonresident for tax purposes for 2 out of the last 6 calendar years in the USA.

If they've been in the US for longer than 2 years for the last 6 years period, the **Substantial**

FICA Taxes:

J-1 nonresidents for tax purposes are generally exempt from paying FICA taxes (J-2 are not exempt). If the employee is a resident for tax purposes they will likely be subject to FICA taxes from their first day of employment of that tax year.

If FICA taxes have been withheld in error by an employer there are two routes that can be taken to refund the individual back the FICA taxes:

- The employer could refund back the FICA taxes and amend their quarter/annual tax return and issue a corrected W-2 if the original was already issued with the FICA taxes reported.
- If the employer refuses, the individual can file a FICA return via Form 843 & Form 8316

Tax treaties for nonresident employment:

There are over 66 tax treaties between countries all around the world and the US that may allow for reduced taxation on certain types of income. If there is a tax treaty available for personal services related income, then the Form 8233 would need to be completed and signed with tax treaty information by the employee and provided to the employer to sign within 5 days of signature. The employer can then mail/fax this form to the IRS to confirm application of the treaty benefit for the employee.

Who must file a tax return as a J-1 participant at the end of the tax year?

If a nonresident J participant is physically in the U.S. in J status anytime between January 1 - December 31 of the tax year, they are obligated to send at least one form, Form 8843, to the U.S. tax agency IRS (Internal Revenue Service), even if they had no income, as an exempt individual.

If a nonresident J participant earns any taxable US income over $0, they will need to file a federal tax return with the IRS by law. **Failure to file a Federal tax return will breach IRS regulations and may inhibit participants from returning to the US on any future visas.** Depending on the individual circumstances, they may also need to file a state tax return(s).

Tax Filing Deadline:

Resources for Nonresidents for tax purposes

Sprintax have a range of software's that can assist with nonresident tax compliance that can assist both the employer as well as the individual themselves.

Sprintax Returns is a resource available for nonresidents that provides online Federal and State tax preparation software for nonresidents in the U.S as well as Federal E-filing for nonresidents.

Sprintax Calculus is an online software for employers of foreign nationals to ensure tax compliance by using the software to understand tax residency, FICA exemption, tax treaty eligibility and to generate the tax forms such as the W-4, 8233, W-9 where applicable as well as being able to generate the 1042-S income document at year end.

Sprintax Forms is an open ended version of Sprintax Calculus where a foreign national can enter their details through the online tax questionnaire in order for the system to outline their tax resident, treaty eligibility, FICA exemption as well as generating the tax forms for them to be able to sign and provide to their employer.

Additional Sprintax Support?

24/7 Live Chat Help for users on the Sprintax website
Large FAQs section
User support email at hello@sprintax.com
Partnership emails at partners@sprintax.com

Sprintax Educational Tax Videos and Blog:

Anyone can access the **Sprintax YouTube account** where there are a number of educational videos on nonresident taxes to provide further clarity on the subject of using Sprintax and nonresident tax. There is also a **Sprintax Blog** which go through tax related topics.

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