

Resident or Nonresident Alien Decision Chart

Determine residency status for federal income tax purposes.

step 1	Were you a lawful permanent resident of the United States (had a “green card”) at any time during the current tax year?	YES – RESIDENT Alien for U.S. tax purposes ^{1,2} NO – Go to Step 2
step 2	Were you physically present in the United States on at least 31 days during the current tax year? ³	YES – Go to Step 3 NO – NONRESIDENT Alien for U.S. tax purposes ⁵
step 3	Were you physically present in the United States on at least 183 days during the 3-year period consisting of the current tax year and the preceding 2 years, • counting all days of presence in the current tax year, • 1/3 of the days of presence in the first preceding year, and • 1/6 of the days of presence in the second preceding year? ³	YES – Go to Step 4 NO – NONRESIDENT Alien for U.S. tax purposes ^{4,5}
step 4	Were you physically present in the United States on at least 183 days during the current tax year? ³	YES – RESIDENT Alien for U.S. tax purposes ^{1,2} NO – Go to Step 5
step 5	Can you show that for the current tax year you have a tax home in a foreign country and have a closer connection to that country than to the United States? (*Out of Scope, Form 8840, Closer Connection Exception Statement for Aliens required)	YES* – NONRESIDENT Alien for U.S. tax purposes ⁵ NO – RESIDENT Alien for U.S. tax purposes ^{1,2}

Footnotes

¹ If this is your first year of residency, you may have a dual status for the year. See Dual Status Aliens in Pub 519, U.S. Tax Guide for Aliens. (Out of Scope)

² In some circumstances you may still be considered a nonresident alien and eligible for benefits under an income tax treaty between the U.S. and your country. Check the provision of the treaty carefully. (Out of Scope)

³ See Days of Presence in the United States in Publication 519 for days that do not count as days of presence in the U.S. (Exempt individuals such as **students, scholars, and others temporarily in the U.S. under an F, J, M, or Q visa’s** immigration status do not count their days of presence in the U.S. for specified periods of time.)

⁴ If you meet the substantial presence test for the following year, you may be able to choose treatment as a U.S. resident alien for part of the current tax year. See Substantial Presence Test under Resident Aliens and First Year Choice under Dual Status Aliens in Publication 519. (Out of Scope)

⁵ Nonresident students from Barbados, Hungary, and Jamaica, as well as trainees from Jamaica, may qualify for an election to be treated as a U.S. Resident for tax purposes under their tax treaty provisions with the U.S. A formal, signed, election statement must be attached to the Form 1040 (preparation of the statement is Out of Scope). (It continues until formally revoked.)