

# Unique Filing Situations



# About Unique Filing Situations

- TaxSlayer: Starting a Return and Filing Status tab, Entering Basic Information
- Additional resources listed in L&LT “References” tab
- Review all tips and cautions
- Read all examples and sample interviews
- We will review answers to each exercise in the lesson

**What's your filing status?**

- Single
- Married Filing Joint
- Married Filing Separate
- Head of Household
- Qualifying Widow(er) with Dependent Children
- Nonresident Alien

Use the Filing Status Interview Tips to determine the correct filing status.

Need help determining your filing status?

**FILING STATUS WIZARD**

**Note:** Most nonresident aliens and dual status aliens have different filing requirements and may have to file Form 1040NR or Form 1040NR-EZ. In this case, the return is Out of Scope. Refer the taxpayer to a site with Foreign Student certification. Resident aliens generally are taxed the same as U.S. citizens.

The screenshot shows a form titled "What's your filing status?" with six radio button options. A callout box at the top right says "Use the Filing Status Interview Tips to determine the correct filing status." A button labeled "FILING STATUS WIZARD" is positioned to the right of the options. A note at the bottom right explains that nonresident and dual status aliens have different requirements and may file Form 1040NR or 1040NR-EZ, and that resident aliens are taxed like U.S. citizens. An arrow points from the note to the "Nonresident Alien" option.

## Objectives – Unique Filing Situations

- Determine alien status – resident or nonresident
- Apply the support and citizen or resident tests to determine whether an individual can be claimed as a dependent
- Apply special rules for Head of Household status when the spouse is a nonresident alien
- Time Required: 15 minutes

# Topics



- Determining alien status
- Dependents

# Key Terms

Definitions are always available in the L&LT online Glossary.

- Dependent
- Dual status alien
- Earned Income Credit (EIC)
- Green card test
- Head of Household filing status
- Married Filing Jointly
- Married Filing Separately
- Nonresident alien
- Qualifying child
- Resident alien
- Substantial presence

# Determining Alien Status

- Questions on the L&LT landing page – check your understanding of resident and nonresident alien status
- Nonresident aliens taxed differently from resident aliens
- See Pub 4012, Resident/NR Aliens tab, [Nonresident Alien or Resident Alien Decision Chart](#)
- Green card test
  - An individual with a green card is, for tax purposes, a resident alien

| Resident or Nonresident Alien Decision Chart                |  |   |
|---|--|---|
| Determine residency status for federal income tax purposes. |  |   |
| step<br><b>1</b>  | 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 <sup>1,2</sup><br>NO – Go to Step 2  |
| step<br><b>2</b>  | Were you physically present in the United States on at least 31 days during the current tax year? <sup>3</sup>   | YES – Go to Step 3<br>NO – NONRESIDENT Alien for U.S. tax purposes <sup>5</sup>   |
| step<br><b>3</b>  | 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,<br>• counting all days of presence in the current tax year,<br>• 1/3 of the days of presence in the first preceding year, and<br>• 1/6 of the days of presence in the second preceding year? <sup>3</sup> | YES – Go to Step 4<br>NO – NONRESIDENT Alien for U.S. tax purposes <sup>4,5</sup>                                       |
| step<br><b>4</b>  | Were you physically present in the United States on at least 183 days during the current tax year? <sup>3</sup>  | YES – RESIDENT Alien for U.S. tax purposes <sup>1,2</sup><br>NO – Go to Step 5  |
| step<br><b>5</b>  | 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 <sup>5</sup><br>NO – RESIDENT Alien for U.S. tax purposes <sup>1,2</sup> |

# Determining Alien Status

Substantial presence test – physically present in the U.S. at least:

- 31 days during the current year, and
- 183 days during the 3-year period that includes the current year and the two years immediately before, counting:
  - All days in current year
  - 1/3 of days in previous year
  - 1/6 of days in second year before current year

An individual who meets these requirement is, for tax purposes, a resident alien

# Nonresident Alien Spouse

- A U.S. citizen or resident alien who is married to a nonresident alien spouse who does not meet either the green card or substantial presence test generally has three filing status options:
  - The taxpayer may choose to file as Married Filing Separately
  - The couple may choose to file as Married Filing Jointly
- Taxpayers must declare in writing that they are choosing to treat a nonresident alien spouse as a resident alien on a joint return.
- The taxpayer may qualify for Head of Household under the regular rules for a married person who is “considered unmarried” even while living with the nonresident alien spouse



## Nonresident Alien Spouse (continued)

There is an exception that allows taxpayers who live with their nonresident alien spouses to file as Head of Household. All the following requirements must be met:

- The taxpayer is a U.S. citizen or resident alien for the entire year and meets all the "considered unmarried" rules for Head of Household except for living with a nonresident alien spouse.
- The nonresident alien spouse chooses not to file a joint return.
- The taxpayer must have a *qualifying person* to be eligible for this filing status. The spouse **is not** a qualifying person for head of household purposes.
- Follow the interview tips in Pub 4012, Starting a Return and Filing Status tab, to see if the citizen spouse qualifies to file as Head of Household.

# Dependents

- The tests for dependents and qualifying relative or qualifying child apply in the same way to citizens or resident aliens
- There may be unique issues with the support test and the citizen/resident test. Refer to:
  - [Pub 17](#), Chapter 3, Citizen or Resident Test
  - Interactive Tax Assistant: [Whom May I Claim as a Dependent?](#)
  - Special rules for children born overseas and adopted children

The screenshot shows the IRS website's Interactive Tax Assistant (ITA) interface. At the top, the IRS logo is on the left, and a search bar is on the right. Below the logo are links for 'Help', 'News', and 'Language'. To the right of these are buttons for 'Charities & Nonprofits' and 'Tax Pros'. A navigation bar contains tabs for 'File', 'Pay', 'Refunds', 'Credits & Deductions', and 'Forms & Instructions'. The main content area has a breadcrumb trail: 'Home > Help > Interactive Tax Assistant > Whom May I Claim as a Dependent?'. The title 'Whom May I Claim as a Dependent?' is prominently displayed. On the right side of the page, there are links for 'English' and 'ITA Home'. On the left, a sidebar lists 'Interactive Tax Assistant' (highlighted), 'Tools', 'Report Phishing', 'Fraud/Scams', 'Notices and Letters', 'Appeals', and 'Frequently Asked Questions'. The main text area contains the following information:

This interview will help you determine whom you may claim as a dependent.

**Information You'll Need**

- Marital status, relationship to the dependent, and the amount of support provided.
- Basic income information such as your adjusted gross income.
- If no person supplied more than half of the potential dependent's support, the terms of any multiple support agreement you may have.

The tool is designed for taxpayers that were U.S. citizens or resident aliens for the entire tax year for which they're inquiring. If married, the spouse must also have been a U.S. citizen or resident alien for the entire tax year. For information regarding nonresidents or dual-status aliens, please see [International Taxpayers](#).

## Out of Scope for this Lesson:

- Taxpayers with F, J, M, or Q visas, unless there is a volunteer and quality reviewer at your site with Foreign Student certification
- Nonresident aliens who do not meet the green card or substantial presence test and are not married to a U.S. citizen or resident alien
- Individuals having a dual status for the tax year

# Summary

This lesson explained:

- How to determine whether an individual is a resident or nonresident alien for tax purposes
- How to apply the support and citizen or resident tests to determine whether an individual can be claimed as a dependent
- Special rules for nonresident aliens who wish to claim Head of Household filing status

# Practice

- It is recommended to go to the Practice Lab and access the latest TaxSlayer tutorial for this lesson. The TaxSlayer tutorials can be found by going to the Practice Lab and clicking on the link for TaxSlayer IRS training.
- Publication 4012, Starting a Return and Filing Status and Dependents tabs, includes how to enter filing status and dependents in TaxSlayer.