PAYROLL SERVICES
Presents:
OVERVIEW OF RESIDENCY FOR TAX PURPOSES
Is Residency for tax purposes a choice?

NO

We do not get to choose residency for tax purposes
Objectives

- Understand the rules and regulations pertaining to residency for tax purposes
- Learn to determine tax residency for federal and state tax reporting
- Knowledge of required residency forms and the process
KEY CONCEPTS

- What is residency?
- Why determine residency?
- Who is residency determined for?
- When is residency determined?
- How is residency determined?
RESIDENCY DEFINITION

♦ The act or fact of dwelling in a place for some time
♦ The act or fact of living or regularly staying at or in some place for the discharge of a duty or the enjoyment of a benefit
HOW THE TERM RESIDENCY IS APPLIED AT UCLA

At UCLA, “Residency” is looked at in 3 different ways:

1. “Residency” for Tuition Purposes
   - Admissions, Registrars’ Office, Grad Div.

2. “Residency” for Immigration Purposes
   - Dashew Center, A/P, Graduate Division & Student Services

3. “Residency” for Tax Purposes
   - Payroll, Bruin Buy, BAR
UCLA has an ENORMOUS tax withholding obligation for both resident and nonresident payments.

Why determine residency for tax purposes?

Because the IRS, FTB*, and other state taxing authorities require tax withholding and reporting to be based on one’s residency for “tax purposes”.

All individuals have a year end tax filing obligation. At year end they may choose to file their return with a different residency as determined by UCLA to withhold taxes.

6/11/2009

* Franchise Tax Board – California tax authority
# Significance of determining residency for tax purposes

<table>
<thead>
<tr>
<th>Type of Withholding</th>
<th>Non Resident Alien for tax purposes</th>
<th>Resident Alien for tax purposes</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Federal Withholding</strong></td>
<td>NR withheld at a set rate: Single 1 or 0 and NRA built into tax table for N.R.</td>
<td>Resident taxed based on: W-4 allowances or appropriate IRS rules</td>
</tr>
<tr>
<td><strong>Exceptions from Federal Withholding</strong></td>
<td>NR could be exempt from Fed Taxes because of: 1. Tax Treaty eligibility 2. Foreign Sourced Income</td>
<td>Resident could exempt themselves out of Federal Taxes based on W-4</td>
</tr>
<tr>
<td><strong>CA State Withholding</strong></td>
<td>NRA taxed based on: DE 4 allowances or appropriate CA rules</td>
<td>Resident taxed based on: Form DE 4</td>
</tr>
<tr>
<td><strong>Out of State NR is Exempt</strong></td>
<td>Working and living out of state or country</td>
<td>Some states base on own state form and some based on federal form</td>
</tr>
<tr>
<td>Employment Taxes</td>
<td>Non Resident For Tax Purposes</td>
<td>Resident For Tax Purposes</td>
</tr>
<tr>
<td>------------------</td>
<td>---------------------------------------------------------------------------------------------</td>
<td>-------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td><strong>OASDI Withholding</strong></td>
<td>Taxed based on appointment (unless exempted by law) Rate: 6.2% of OASDI gross</td>
<td>Taxed based on appointment (unless exempted by law) Rate: 6.2% of OASDI gross</td>
</tr>
<tr>
<td><strong>Medicare Withholding</strong></td>
<td>Taxed based on appointment (unless exempted by law) Rate: 1.45% of Med. Gross</td>
<td>Taxed based on appointment (unless exempted by law) Rate: 1.45% of Med Gross</td>
</tr>
<tr>
<td><strong>Exemptions from Employment Tax</strong></td>
<td>Withheld as above unless: 1. Exempt by F1 &amp; J1 rules 2. Any other visa status may be exempted by student rules 3. Living and working outside the US</td>
<td>FICA exempt only by student exempt rules</td>
</tr>
</tbody>
</table>
Who must we determine residency for?

EVERYONE

who receives a taxable payment

U.S. Citizens, U.S. Lawful Permanent Residents, and Foreign Persons who are:

- Employees
- Non-employees
- Students
When do I do this?

Whenever a taxable payment is made!
What Government Authorities do we determine residency?

- **California taxing authority**
  Franchise Tax Board

- **Federal taxing authority**
  Internal Revenue Service

- **Other states taxing authority**
Significance of California Residency

Residency is significant because:

- Residents of California are taxed on **ALL** income, including income from sources outside California.

- Nonresidents of California employed by UCLA are taxed only on income earned in California.
Who are California Residents and Nonresidents?

A California resident is any individual who is:

- In California for more than a temporary or transitory purpose -OR-
- Has a home in California, but is outside of California for a temporary or transitory purpose.

A California nonresident is any individual who is:

- in California for a transitory period -OR-
- in California for a temporary period
Guidelines for Determining California Residency

You are a resident of the place where you have the closest connections:

- One should compare their ties to California with their ties elsewhere.
- It is the strength of these ties and not just the number that determines one's residency.
- The factors to consider when determining California Residency can be found in the “Guidelines for Determining Resident Status - 2008”

Refer to FTB Publication 1031
“Guidelines for Determining Resident Status”
www.ftb.ca.gov
Tax implications for CA Residency for Tax Purposes

Non-Resident of CA

Working IN CA  
Subject to CA Tax

Working and living OUTSIDE of CA  
NOT subject to CA Tax

Subject to other state taxes

Resident of CA

Working IN CA  
-OR-

Working and living OUTSIDE of CA  
Subject to CA Tax
### Withholding Exemption Certificate

**California Form 590**

**File this form with your withholding agent.**

*Vendor/Payer’s name*  
Vendor/Payer’s Social security number  
Vendor/Payer’s California corp. no.  
Vendor/Payer’s EIN  
Vendor/Payer’s address (number and street)  
Vendor/Payer’s city, state, zip code

**Withholding agent’s name**  
Vendor/Payer’s telephone number

**Note:** Failure to furnish your identification number will make this certificate void.

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I certify that for the reasons checked below, the entity or individual named on this form is exempt from the California income tax withholding requirement on payment(s) made to the entity or individual. Read the following carefully and check the box that applies to the vendor/payer:

**Individuals — Certification of Residency:**  
- I am a resident of California and I reside at the address shown above. If I become a nonresident at any time, I will promptly inform the withholding agent. See instructions for Form 590, General Information D, for the definition of a resident.

**Corporations:**  
- The above-named corporation has a permanent place of business in California at the address shown above or is qualified through the California Secretary of State to do business in California. The corporation will withhold on payments of California source income to nonresidents when required. If this corporation ceases to have a permanent place of business in California or ceases to be qualified to do business in California, I will promptly inform the withholding agent. See instructions for Form 590, General Information E, for the definition of permanent place of business.

**Limited Liability Companies (LLC):**  
- The above-named LLC has a permanent place of business in California at the address shown above or is registered with the California Secretary of State, and is subject to the laws of California. The LLC will file a California tax return and will withhold on foreign and domestic nonresident members when required. If the LLC ceases to do any of the above, I will promptly inform the withholding agent.

**Tax-Exempt Entities:**  
- The above-named entity is exempt from tax under California or federal law. The tax-exempt entity will withhold on payments of California source income to nonresidents when required. If this entity ceases to be exempt from tax, I will promptly inform the withholding agent.

**Insurance Companies, IRAs, or Qualified Pension/Profit Sharing Plans:**  
- The above-named entity is an insurance company, IRA, or a federally qualified pension or profit-sharing plan.

**California Irrevocable Trusts:**  
- At least one trustor of the above-named irrevocable trust is a California resident. The trust will file a California fiduciary tax return and will withhold on foreign and domestic nonresident beneficiaries when required. If the trustee becomes a nonresident at any time, I will promptly inform the withholding agent.

**Estates — Certification of Residency of Deceased Person:**  
- I am the executor of the above-named person’s estate. The decedent was a California resident at the time of death. The estate will file a California fiduciary tax return and will withhold on foreign and domestic nonresident beneficiaries when required.

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**CERTIFICATE:** Please complete and sign below.

Under penalties of perjury, I hereby certify that the information provided herein is to the best of my knowledge, true and correct. If conditions change, I will promptly inform the withholding agent.

Vendor/Payer’s name and title (type or print)  
Vendor/Payer’s signature  
Date

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**For Privacy Act Notice, get Form FTB 1121 (Individuals only):**  
59001109  
Form 590 (R-2001)

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**Payments made for:**

- Independent Personnel Services
- Fellowship / Scholarship
- Royalties

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6/11/2009
Payments made for:

- Employment (Wages)

Payroll Contact:
Jeremy Henmi X40834
Individuals from states other than California

- Residency for individuals who reside in other states is **only one** factor for considering tax withholding and reporting.

  Sourcing the payment must also be considered.

- The tax withholding and reporting obligations will be dictated by where the service is completed.

6/11/2009
Foreign Nationals and their California Residency

If you hold an active residence in a foreign country

- AND - Perform services in California
- OR - receive income from California sources

You may have a California income tax filing requirement even if you do not have a federal filing requirement.
Exercises

1. A professor who lives in New York comes to UCLA and teaches a course twice a year for 4 days each. Is this person a CA resident for tax purposes? Why or Why Not? Will he be taxed?

2. In Dec. 2007, you hire a nurse on an indefinite appointment. She rents an apartment in LA and maintains her home in Vancouver, Canada until she sells the house in April 2008. Is this person a CA resident for tax purposes? And if so, when?

3. You hire a student whose primary residence is in Arizona. After graduation, the student plans on returning to Arizona to work. Is this person a CA resident?
Exercises & Answers

1. A professor who lives in New York comes to UCLA and teaches a course twice a year for 4 days each. Is this person a CA resident for tax purposes? Why or Why Not? Will he be taxed?

Ask yourself:
• Is he a Resident or Non Resident?
• Where was the service performed?
• Was he here on a temporary or transitory period?
• Where are the closest and strongest connections?
• Does UCLA have a withholding requirement?
• What type of payment will the professor receive?

Answer:
• This professor is a Non Resident of California.

Why?
• The professor taught a course twice a year for 4 days at UCLA.
• The professor came to CA on a temporary basis (4 days.)
• He still maintained a residence and banking in NY. Strongest connections is in NY.
• UCLA has a withholding requirement because the services were performed in CA.
Exercises & Answers

2. In Dec. 2007, you hire a nurse for an indefinite appointment. She rents an apartment in LA and maintains her home in Vancouver, Canada until she sells the house in April 2008. Is this person a CA resident for tax purposes? And if so, when?

Ask yourself:

- Is she a Resident or Non Resident?
- Where was the service performed?
- Was she here on a temporary or transitory period?
- Where are the closest and strongest connections?
- Does UCLA have a withholding requirement?
- What type of payment will the Nurse receive?

Answer:

- This Nurse is a **Resident of California as of April 2008**.

WHY?

- The Nurse preformed her duties in CA.
- The Nurse came to CA on a temporary basis but in April 2008 when she decided to sell her home in Vancouver, she became a resident for tax purposes in CA.
- Strongest connections in Vancouver were severed when she sold her home and continued to work at UCLA.
- UCLA has a withholding requirement because the services were performed in CA.
- The Nurse will receive employment payments from Payroll Services and they are subject to the W-4 withholding the employee had chosen.
3. You hire a student whose primary residence is in Arizona. After graduation, the student plans on returning to Arizona to work. Is this person a CA resident?

Ask yourself:
- Is she a Resident or Non Resident?
- Where was the service performed?
- Was she here for a temporary or transitory period?
- Where are the closest and strongest connections?
- Does UCLA have a withholding requirement?
- What type of payment will the student receive?

Answer:
- This Student is a **Non Resident of California**.
- The Student has come to CA to earn a degree, with the intent to return to Arizona.
- The Student came to CA on a temporary basis. After the studies have ended she will go back to AZ.
- Strongest connection is in Arizona where her family is.
- UCLA has a withholding requirement because the services were performed in CA.
- The Student will receive employment payments from Payroll Services.

WHY?
Residency for Federal Tax Purposes
IRS RESIDENCY REGULATIONS

TAX LAW

- IRS Regulation Section 301.7701(b) defines federal residency for tax purposes.

- This section requires all withholding agents to make a determination about whether a payee is a resident or a non-resident for tax purposes.
<table>
<thead>
<tr>
<th>Statutes that are always residents for tax purposes</th>
<th>Statutes that are always non-residents for tax purposes</th>
</tr>
</thead>
<tbody>
<tr>
<td>U.S. Citizens</td>
<td>A foreign government-related individual (A1 &amp; A2)</td>
</tr>
<tr>
<td>U.S. Lawful Permanent Residents</td>
<td>A foreign national living and working outside the U.S.</td>
</tr>
<tr>
<td>Pending Permanent Residents</td>
<td></td>
</tr>
<tr>
<td>Refugee / Asylees</td>
<td></td>
</tr>
</tbody>
</table>
Resident or Nonresident for Federal Tax Purposes?

1) Green Card Test
2) Substantial Presence Test (SPT)
1) **Green Card Test**

A non-citizen will be treated as a resident for tax purposes if:

He/she is a Lawful Permanent Resident any one day during the taxable year.

He/she will have a Resident Alien Card (I-551) or I-551 stamp in their passport.

**Begin Date of Residency**

Date listed on the official Notice of US **lawful** permanent resident status

**End Date**

The last day of the calendar year in which the individual is no longer a lawful permanent resident
A few Basic IRS Rules

- IRS counts even 1 day of presence in the U.S. as the total year in determining exempt status.
  
  **Example**: Visitor A arrives in US on 3/2/08
  Visitor B arrives in US on 12/20/08
  Both must count 2008 as one of their exempt years.

- Must “substantially” comply with the requirements of the visa.

- F2 and J2 visa holders whose visa status’ derives from primary visa holder must apply the exempt rule for that visa.

- Always determine residency for the current year based on the visa status in that year.
2) What is the Substantial Presence Test (SPT)?

Count the Days

It is a method used by the IRS to count physical presence in the U.S. for all non-immigrants each year.
Substantial Presence Test (SPT)

Once the foreign national meets the SPT, they will become a resident for tax purposes for that tax year.

To meet the SPT a foreign national must have:

- 31 days of presence in the U.S. in the current year and a total of 183 days in US for a 3 year period. Factor the days as follows:
  - 100% for current year
  - 1/3 for 1st preceding year
  - 1/6 for 2nd preceding year
Count days of presence and calculate value


Determine residency for T.P. as follows:

<table>
<thead>
<tr>
<th>YEAR</th>
<th>DATE ENTERED</th>
<th>DATE DEPARTED</th>
<th>TOTAL DAYS OF U.S. PRESENCE</th>
<th>X RATIO</th>
<th>=DAYS TO COUNT (ADD TOTAL)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009 current yr</td>
<td>1/1/2009</td>
<td>6/30/2009</td>
<td>182</td>
<td>1</td>
<td>182</td>
</tr>
<tr>
<td>2008 previous yr</td>
<td>12/15/2008</td>
<td>12/31/2008</td>
<td>17</td>
<td>1/3</td>
<td>5.67</td>
</tr>
</tbody>
</table>

Note: at least 31 days in current year

Since 187.67 is greater than 183, the employee is a **resident** for tax purposes for 2009.

July 2nd is the magic date (Exceptions include Leap Year). If an individual has been present every day from 1/1 until 7/2 they will be a resident for tax purposes.
Days that are not counted when calculating the SPT

“EXEMPT YEARS”

- **F1/J1 Student** – the first 5 years of U.S. Presence. This is a one time life-time exemption.

- **J1 Exchange Visitor** – Any 2 years of presence within a 6 year look back period not counting current year.

During this exempt period, the individuals will be a nonresident for tax purposes.
Students With F, J, or M Visa

The first 5 calendar years from the 1st date of entry in the US on an F or J visa will be exempt from the Substantial Presence Test. This is a one time and lifetime exemption.
A F1/J1 student arrived in the U.S. for the 1st time with a F1/J1 Visa on 12/6/04. He plans to leave 6/30/09.

Is this student a resident for tax purposes for 2008? And what about 2009?

Where do I start?
Substantial Presence Test for F1/J1 STUDENTS:

Step 1: What rule should I apply?
* 5 Exempt years from 1st date of entry on an F or J student visa
* Life time look back

Step 2: What days should I count toward residency determination?
* Count any days that are not an exempt year.

<table>
<thead>
<tr>
<th>Year counting</th>
<th>Year counting</th>
<th>Time In the US?</th>
<th>In the U.S. on what Status?</th>
<th>Counted toward Exempt Year?</th>
</tr>
</thead>
<tbody>
<tr>
<td>12/6/2004</td>
<td>12/31/2004</td>
<td>26 days</td>
<td>Student Visa</td>
<td>1st Exempt Year</td>
</tr>
<tr>
<td>1/1/2005</td>
<td>12/31/2005</td>
<td>365 days</td>
<td>Student Visa</td>
<td>2nd Exempt Year</td>
</tr>
<tr>
<td>1/1/2006</td>
<td>12/31/2006</td>
<td>365 days</td>
<td>Student Visa</td>
<td>3rd Exempt Year</td>
</tr>
<tr>
<td>1/1/2007</td>
<td>12/31/2007</td>
<td>365 days</td>
<td>Student Visa</td>
<td>4th Exempt Year</td>
</tr>
<tr>
<td>1/1/2008</td>
<td>12/31/2008</td>
<td>365 days</td>
<td>Student Visa</td>
<td>5th Exempt Year</td>
</tr>
<tr>
<td>1/1/2009</td>
<td>6/30/2009</td>
<td>181 days</td>
<td>Student Visa</td>
<td>6th Year COUNTABLE</td>
</tr>
</tbody>
</table>

In this example, the student would be a non-resident for tax purposes for 2008 because 5 years of exempt status has not been exhausted.

What about 2009?  
Resident or Non-resident. Why_____________________
Exchange Visitor with J1 Visa

Professors/Trainees/Researchers/Post Docs have 2 exempt years
   In which they are taxed as nonresidents for tax purposes

The determination of exempt years is any 2 years within a 6 year look back period (not including the current year presence)
**Non-student J-1 Example**

John Pierre Arrives in the U.S.:

<table>
<thead>
<tr>
<th>Event Description</th>
<th>Dates</th>
<th>Visa Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arrives at UCLA for a 2 year teaching appointment</td>
<td>Oct. 5, 2007 - Oct. 5, 2009</td>
<td>J1 Professor Status</td>
</tr>
<tr>
<td>Short visit to Disneyland</td>
<td>June 1 - June 15, 2004</td>
<td>B2 Tourist Status</td>
</tr>
<tr>
<td>He has been here before for 8 months</td>
<td>May 24, 2003 - December 24, 2003</td>
<td>F1 Student Status</td>
</tr>
</tbody>
</table>

What is his residency for tax purposes for 2008?
Substantial Presence Test for J1 SCHOLARS:

Step 1: What rule should I apply?
* 2 Exempt years of presence within a 6 year look back period not counting current year.

Step 2: What days should I count toward residency determination?
* Count all remaining years after the exempt years have been exhausted

<table>
<thead>
<tr>
<th>LOOK BACK TIME</th>
<th>In the US?</th>
<th>In the US on what Status?</th>
<th>Counted toward Exempt Year?</th>
</tr>
</thead>
<tbody>
<tr>
<td>2008 Test Year</td>
<td>Yes</td>
<td>J1 Professor</td>
<td>No - Year 3 is COUNTABLE (C)</td>
</tr>
<tr>
<td>2007 Year 6</td>
<td>Yes</td>
<td>J1 Professor</td>
<td>Yes - 2nd Exempt Year (E)</td>
</tr>
<tr>
<td>2006 Year 5</td>
<td>No</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2005 Year 4</td>
<td>No</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2004 Year 3</td>
<td>No</td>
<td>B2 Tourist</td>
<td>No - no need to look at tourist info.</td>
</tr>
<tr>
<td>2003 Year 2</td>
<td>Yes</td>
<td>F1 Student</td>
<td>Yes - 1st Exempt Year (E)</td>
</tr>
<tr>
<td>2002 Year 1</td>
<td>No</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Since the 2 exempt years have been exhausted, the days of presence in the U.S. for year 2008 must be counted. Count from 1/1/08 to 12/31/08 (366 days). John Pierre is a RESIDENT for tax purposes in 2008.

What are the tax implications?
This example illustrates how a J1 scholar whose presence in the United States spans many years. The tax residency can change frequently. For this example,

- E denotes the year in which the individual entered the US with an F1 or J1 visa and that year is exempt from the substantial presence test (SPT - see counting rule below).
- C denotes the year of presence in which the days were counted toward the SPT. This J1 scholar entered September 10, 2001 and left the US in November 2001. He returned to the US in March of 2005. He has been in the US since.

### SPT Counting Rule:

In determining residency for tax purpose for a J1 scholar, use the substantial presence test. Do not count days for which the scholar is an exempt individual. The term "exempt individual" refers to someone who is exempt from counting days of presence in the U.S.
**J1 Student:**
A student on a J1 visa is treated just like a F1 student visa holder and the students are exempt from the Substantial Presence Test for 5 years.

On their 6th year, if their intention is to stay 183 days or longer, then the student is considered a resident for tax purposes, and there is a residency code change.

**J1 Exchange Visitor:**
Those employees that have the J1 Exchange Visitor visa are exempt from the Substantial Presence Test for 2 years.

On the 3rd year, if the intention is to stay 183 days or longer then the employee becomes a resident for tax purposes, and there is a residency code change.
Residency Start Date

An Example with Scholar category:

Visitor 1st entered on 1/1/2007 with a J1 visa. He has been employed in U.S. since entry, and plans to stay until 8/30/09. Test year is 2009.

Begin date: While the employees passes SPT on 7/2/09, per IRS the beginning of residency for tax purpose would be 1/1/09.

<table>
<thead>
<tr>
<th>YEAR</th>
<th>IMMIGRATION) STATUS (S)</th>
<th>DATE ENTRY TO THE U.S.</th>
<th>ESTIMATED DATE OF DEPARTURE (EXIT DATE)</th>
<th>TOTAL DAYS OF U.S. PRESENCE</th>
<th>X RATIO</th>
<th>( \text{= DAYS TO COUNT TOWARD SPT TEST (ADD TOTAL)} )</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009 (year 3)</td>
<td>J1 SCHOLAR</td>
<td>1/1/2009</td>
<td>8/30/2009</td>
<td>243</td>
<td>X 1</td>
<td>243</td>
</tr>
<tr>
<td>2008 (year 2)</td>
<td>J1 SCHOLAR</td>
<td>1/1/2008</td>
<td>EXEMPT DAYS</td>
<td>365</td>
<td>X 1/3</td>
<td>EXEMPT YEAR</td>
</tr>
<tr>
<td>2007 (year 1)</td>
<td>J1 SCHOLAR</td>
<td>1/1/2007</td>
<td>EXEMPT DAYS</td>
<td>365</td>
<td>X 1/6</td>
<td>EXEMPT YEAR</td>
</tr>
<tr>
<td>2006</td>
<td></td>
<td></td>
<td></td>
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<td>2005</td>
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<td>2003</td>
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</tr>
<tr>
<td>6/11/2009</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>243</td>
</tr>
</tbody>
</table>

6 YEAR LOOK BACK
Employee will have a presence in the US of 183 days or greater.

- **Resident 3rd Year (243 days)**
  - 3rd year of presence in the US.
  - Now subject to the SPT

- **Non Resident 2nd Year**
  - 2nd year of presence in the US

- **Non Resident 1st Year**
  - Entered the US for the very first time
All Other Visas

H1, O1, TN, B1, WB, etc......

Since there is no exempt rule, the SPT is applied immediately upon arrival in the U.S.
In some cases aliens are allowed to make elections which override the green card test and the substantial presence test, as follows:

- Nonresident spouse treated as resident
- Effect of tax treaties
- Dual Status

Overriding the tests are done at the time personal taxes are filed. UCLA is not mandated to change withholding of payments.

Upon presentation of an IRS determination letter, IRS mandates UCLA to treat individual as a nonresident alien.

 Closer connection to a foreign country
Who is a NONRESIDENT for Federal Tax Purposes?

- **Nonresident for tax purposes**: a person who is not a U.S. citizen and who does not meet either the “green card” or the “substantial presence” test.

- **F and J student visa holders** are considered nonresident for tax purposes during their first 5 years of presence in the U.S.

- **J professors and researchers** are considered nonresident for tax purposes during their first 2 years of presence in the U.S.

- **All other visa types** (H-1, TN, and O-1) visa holders are considered nonresident for tax purposes until they meet the “substantial presence test.”
Who is a RESIDENT for Federal Tax Purposes?

- A resident for tax purposes is a person who is a U.S. citizen or foreign national who meets either the “green card” or “substantial presence” test as described in IRS Publication 519, U.S. Tax Guide for Aliens.

- F and J student visa holders are considered residents after 5 calendar years of presence in the U.S. and have a presence of more than 183 days in the 6th year.

- J researchers and Professors are considered residents after 2 calendar years in the U.S. and have more than 183 days of presence in the 3rd year.

- All other visa types (H-1, TN, O-1) are considered residents once they meet the “substantial presence” (Days are counted immediately upon entry into the U.S.)
## Exercises

<table>
<thead>
<tr>
<th>1.) F1 changes to J1</th>
<th>Dates</th>
<th>Visa Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arrives in the U.S. to study</td>
<td>October 3, 2007</td>
<td>F1 Student status</td>
</tr>
<tr>
<td>Graduates from school and continues to Graduate school (he does not leave the U.S.)</td>
<td>July 1, 2009</td>
<td>F1 Student status then changed to J1 Research/Scholar status</td>
</tr>
<tr>
<td>Your department employs him</td>
<td>July 5, 2009 until Dec. 3, 2009</td>
<td>J1 Research/Scholar status</td>
</tr>
<tr>
<td>Departs from the U.S.</td>
<td>Dec. 31, 2009</td>
<td></td>
</tr>
<tr>
<td><strong>Is he a resident for tax purposes in 2009?</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>2.) F1 with Multiple Entries</th>
<th>Dates</th>
<th>Visa Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Visitor arrives in the U.S. as a Student with continued stay until 1990</td>
<td>Arrives 9/1/1987</td>
<td>F1 Student status</td>
</tr>
<tr>
<td></td>
<td>Departure 6/1/1990</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(Returns Home)</td>
<td></td>
</tr>
<tr>
<td>Re-Enters the U.S. in 2008 as a F1 student. Continued stay until 2009</td>
<td>Arrive 8/01/2008</td>
<td>F1 Student status</td>
</tr>
<tr>
<td></td>
<td>Departure 06/30/2009</td>
<td></td>
</tr>
<tr>
<td><strong>Is she a resident for tax purposes in 2009?</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
1. When there is a change in visa status, remember to apply the rules for the current status. In this example, apply the J1 scholar rules: 2 years of exemption determined by a look back period of 6 years. Test year is 2009.

<table>
<thead>
<tr>
<th>YEAR</th>
<th>IMMIGRATION STATUS (S)</th>
<th>DATE OF ENTRY TO THE U.S.</th>
<th>ESTIMATED DATE OF DEPARTURE (EXIT DATE)</th>
<th>TOTAL DAYS OF U.S. PRESENCE</th>
<th>X RATIO</th>
<th>= DAYS TO COUNT TOWARD SPT TEST (ADD TOTAL)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009</td>
<td>F1/J1</td>
<td>01-01-09</td>
<td>12-31-09</td>
<td>365</td>
<td>X 1</td>
<td>365</td>
</tr>
<tr>
<td>2008 (year 1)</td>
<td>F1</td>
<td>01-01-08</td>
<td>12-31-08</td>
<td>Days not counted</td>
<td>X 1/3</td>
<td>Exempt Year</td>
</tr>
<tr>
<td>2007 (year 2)</td>
<td>F1</td>
<td>10-03-07</td>
<td>12-31-07</td>
<td>Days not counted</td>
<td>X 1/6</td>
<td>Exempt Year</td>
</tr>
<tr>
<td>2006 (year 3)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Total days to count 365</td>
</tr>
<tr>
<td>2005 (year 4)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2004 (year 5)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2003 (year 6)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Since there are no remaining exempt years, the days of presence in the U.S. for year 2009 must be counted. Count from 1/1/09 to 12/31/09 = 365 > 183 days.

This visitor would be a resident for tax purposes.
2. Remember an F1 is only allowed 5 years of exemption in a life time. As a department, you need to insure the first date of entry is correct. In this example, residency is determined as follows:

<table>
<thead>
<tr>
<th>YEAR</th>
<th>IMMIGRATION STATUS(S)</th>
<th>DATE OF ENTRY TO THE U.S.</th>
<th>ESTIMATED DATE OF DEPARTURE (EXIT DATE)</th>
<th>TOTAL DAYS OF U.S. PRESENCE</th>
<th>X RATIO</th>
<th>= DAYS TO COUNT TOWARD SPT TEST (ADD TOTAL)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009</td>
<td>test year</td>
<td>01-01-09</td>
<td>06-30-09</td>
<td>180</td>
<td>X 1</td>
<td>180</td>
</tr>
<tr>
<td>2008</td>
<td>(year 5)</td>
<td>08-01-08</td>
<td>12-31-08</td>
<td>Days not counted</td>
<td>X 1/3</td>
<td>Exempt Year</td>
</tr>
<tr>
<td>2007</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>X 1/6</td>
<td></td>
</tr>
<tr>
<td>2006</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2005</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1990</td>
<td>(year 4)</td>
<td>F1</td>
<td>01-01-90</td>
<td>Days not counted</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1989</td>
<td>(year 3)</td>
<td>F1</td>
<td>01-01-89</td>
<td>Days not counted</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1988</td>
<td>(year 2)</td>
<td>F1</td>
<td>01-01-88</td>
<td>Days not counted</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1987</td>
<td>(year 1)</td>
<td>F1</td>
<td>09-01-87</td>
<td>Days not counted</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Since 5 exempt years are exhausted, count days of presence as follows:

2009 01/01/09 - 06/30/09 = \(180 \times 1 = 180\) days

*Total presence in the US is less than 183 days

**Employee would be a Nonresident for Tax Purposes.**
When do I determine residency?

Anyone who receives a taxable payment from UCLA

Whenever a taxable payment is made

HOW do I do this???
All *visa holders* must complete this form!

~Individual must provide visa documentation.

~Individual must estimate presence for the entire year for which the form is being filled out.

~Individual must remain in compliance with the terms and conditions of visa.

**GLACIER online residency determination is NOW mandatory!**

---

**UC W-8BEN form**

This information is required in accordance with the provisions of the Internal Revenue Code applicable to foreign individuals. The University will use this information to determine the appropriate Federal tax withholding applicable to any payments made to the University. In addition, if there is a change in your status during any calendar year, you must complete an updated form. The information you provide is confidential and will be used only to determine your current Federal tax status. The University is required to complete the form before completing this form.

If you are an employee and have a Form W-2, ISS2009, please follow all of the instructions on the form. We must receive any form you complete and submit an updated form if your employment status changes. If you are a resident alien, please submit your completed Form W-8BEN prior to your annual renewal notice from your employer.

Do not complete this form if you are a U.S. CITIZEN or LAWFUL PERMANENT RESIDENT of the United States. If you are an employee, your Employment Eligibility Verification Form I-9 shows that you are a non-immigrant permanent resident.

**SECTION A: IDENTIFICATION OF PERSON**

1. Name (Last, First, Initial)

2. Social Security Number or Federal Tax ID Number

3. Email address

4. Employee ID Number

5. Taxpayer Identification Number (TIN)

---

**SECTION B: HEALTH INFORMATION**

1. Name of Current Medical Doctor ( optional)

---

**SECTION C: IMMIGRATION STATUS INFORMATION**

1. Have you lived outside the U.S. during the current year?

   - Yes
   - No

---

**SECTION D: SUBSTANTIAL PRESENCE**

The substantial presence test must be met to determine whether an individual should be classified for tax purposes as a resident alien or as a nonresident alien. The substantial presence test is met if:

1. You were present in the U.S. for 183 days or more during any calendar year in which this form is completed. If you were present in the U.S. for any part of a calendar year, you are considered to have been present in the U.S. for the entire calendar year.

   - Complete Step 3, proceed to section G.

2. You were present in the U.S. for 183 days or more during any calendar year in which this form is completed. If you were present in the U.S. for any part of a calendar year, you are considered to have been present in the U.S. for the entire calendar year.

   - Complete Step 3, proceed to section G.

---

6/11/2009
GLACIER
Online Residency Determination

- Web Based Program
- Automatic calculation of residency

Located at www.online-tax.net
What is GLACIER?

- A nonresident alien tax compliance software system that features a secure server that is accessed via the internet.
- It can be accessed worldwide 24 hours a day after a record has been activated.
What Does GLACIER Do?

- Maintains data entered by the foreign national
- GLACIER determines
  - Residency for Tax Purposes
  - Tax Withholding Rates
  - Income Tax Treaty Eligibility
- Manages Paper Forms
  - Creates a Tax Summary with all relevant information
What Else Can GLACIER Do?

- Create electronic year end tax statements (1042s) for the foreign national
- Create the electronic year end file for the IRS
- When partnered with CINTAX, can complete tax returns for the foreign national
- Interface with UCLA systems to feed data directly into the appropriate system.
- Employment tax eligibility
GLACIER Record

- A GLACIER record needs to be setup for all foreign individuals who are receiving taxable payments/remuneration and are NOT:
  
  a.) US Citizens  
  b.) Lawful Permanent Residents  
  c.) Refugees/Asylees  
  d.) Those who are living and working outside the U.S.  
  (NEED “Foreign Sourced Income Statement” and UPAY 830)

- It's a good idea to communicate with your foreign national to expect an email from support@online-tax.net

  a.) Initial GLACIER Information Form should be completed with foreign national

- The signed and dated GLACIER: Tax Summary Report should be sent to the appropriate Central Office directly with supporting documents attached.
Do all Payments require a record?

NO GLACIER RECORD IS REQUIRED FOR:
- Reimbursements of Travel Expenses
- Travel will accept the GLACIER: Tax Summary Report if the foreign national has already been setup with a a GLACIER record.
- Fellowship/Scholarship funds that fall under section IRS Code 117

GLACIER RECORD IS REQUIRED FOR:
- Wages for employment
- Wages for guest lecture
- Taxable Fellowship/Scholarship Awards (including Postdoc Benefits)
- Royalties
- Other payments not exempt by IRS Code
*Foreign Person (FP) for GLACIER purposes is not a:

- Naturalized U.S. Citizen
- Lawful Permanent Resident
- Refugee/Asylee
- Individuals living & working outside the U.S.
Centralized NRA Tax Process
Central Offices' Responsibility

**Employees (EDB)**
- Glacier generates email to FP
- FP enters information into Glacier
- Returns forms to PS
- PS reviews forms
- Contacts FP for any required changes
- PS compares Glacier information to EDB
- Makes changes to EDB tax codes when necessary
- Dept. informed of changes through PAN

**Independent Contractors (AP)**
- Glacier generates email to FP
- FP enters information into Glacier
- Returns forms to PS
- PS reviews forms
- Contacts FP for any required changes
- PS advises AP of proper tax codes

**SCHFELL Recip. (BAR)**
- Glacier generates email to FP
- FP enters information into Glacier
- Returns forms to GD or FA
- GD or FA reviews forms
- Contacts FP for any required changes
- GD or FA codes BAR system appropriately
- Approves award

**Through the year, PS receives reports from Glacier regarding expiration of visa status, tax treaty eligibility, and residency change dates. PS will review, contact FP when needed, and modify tax codes in EDB for changes.**

**AP Tax codes PO before processing.**

**Through the year, GD and FA receive reports from Glacier regarding expiration of visa status, tax treaty eligibility, and residency change dates. They will review, contact FP when needed, and modify tax codes in BAR for changes.**
Step 1: Set up Foreign National Record.

Begin the process by emailing central office a “Initial GLACIER Information Form”.

Initial GLACIER Information Form

**Department Instructions:** Complete this form, provide a copy to the foreign individual, and instruct the foreign individual to use this form when completing their tax status record in GLACIER, an Online Tax Compliance System used by UCLA. Fax a copy of this form to Payroll Services @ (310) 794-0751 (EXCEPTION: Scholarship/Fellowship Recipients – No Fax needed)

**Foreign Individual Instructions:** You will be receiving an email from support@online-tax.net with your Logon ID and Password to Glacier, an Online Tax Compliance System used by UCLA. Within 7 days of the receipt of the email, please log in to Glacier and provide UCLA with your tax information in order to have the proper amount of tax withheld from UCLA payments made to you. After completing your Glacier tax status record, print, review, sign, and date the required tax documents that Glacier creates. Then forward these documents along with any required attachments noted on Tax Summary, to the address indicated on the Tax Summary Report Instructions.

<table>
<thead>
<tr>
<th>NAME (Print Legibly)</th>
<th>Last</th>
<th>First</th>
<th>Initial</th>
</tr>
</thead>
<tbody>
<tr>
<td>EMAIL ADDRESS</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Departmental Contact</td>
<td>Email Address</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(IF UCLA Employee) Pay Period Frequency (Check one)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Biweekly</td>
<td>Monthly</td>
<td>Other</td>
<td>UID</td>
</tr>
</tbody>
</table>

**Relationship with UCLA** (Select as many Categories as applicable, but check only one Relationship Type per Category)

**Employee**
- Faculty/Staff/Student
- Postdoctoral Scholar
- TA/GSR
- Clinical Appointee

**Scholarship/Fellowship Recipient**
- UCLA Student
- Post Doctoral Scholar/Visiting Scholar
- All Others

**Independent Contractor**
- Guest Speaker
- Artist/Performer/Athlete
- Consultant/All Others

**Royalty Recipient**
- Royalty

**Non-Employee/Others**
- Prize or Award Recipient/All Others

**Income Type** (If applicable, select one choice per category)
- Wages/Salary/Bonus
- Other Income
- Scholarship/Fellowship: Award
- Scholarship/Fellowship: Taxable Post doc Benefits
- Scholarship/Fellowship: Other
- Guest Speaker Fee/Honorarium
- Consulting Fee/Artistic Performance Fee
- Other Non-Employee Service Payment
- Royalty
- Prize/Award/Rent Payment
- Other Payment
- No Payment
Step 2: **GLACIER EMAIL NOTIFICATION**

1. **From:** [support@online-tax.net](mailto:support@online-tax.net)
2. **Sent:** Thursday, August 14th, 2008 11:37 AM
3. **To:** yourforeignperson@mednet.ucla.edu
4. **Cc:** Michael Sattin
5. **Subject:** Payments from Regents of the University of California, Los Angeles (UCLA)

1 = From GLACIER
2 = Date Sent
3 = Foreign Nat’l or Department
4 = cc’ed to GLACIER Administrator
5 = Standard message from GLACIER
Dear Bear Bruin-Family,

We understand that you have recently or may soon receive payments from Regents of the University of California, Los Angeles (UCLA).

The Internal Revenue Service (IRS), the U.S. government tax authority, has issued strict regulations regarding the taxation and reporting of payments made to non-United States citizens. As a result, Regents of the University of California, Los Angeles (UCLA) may be required to withhold U.S. income tax and file reports with the IRS in connection with any payments made to you. Before Regents of the University of California, Los Angeles (UCLA) can make any payments to you, certain information and forms must be provided in order to make correct tax withholding and reporting decisions.

For your convenience, Regents of the University of California, Los Angeles (UCLA) allows you to provide this information and complete the necessary forms via the Internet from any web-accessed computer using the GLACIER Online Tax Compliance System. You must access GLACIER and provide the requested information within 3 days of receiving this message. If you do not provide the requested information within 5 days, the maximum amount of U.S. tax will be withheld from any payments made to you.

To access GLACIER, please follow the instructions below (if you have any problems accessing GLACIER, please contact the GLACIER Support Center at support@online-tax.net):

Click on the following web link: http://www.online-tax.net
If the link does not automatically open, simply open your Internet Browser (preferably Internet Explorer) and enter the website address www.online-tax.net
Click on the GLACIER logo to enter the website.
Institution ID: ucla5-losca
Password: 241233
UserID:  You create your own personal User ID. Please use something very unique to just you. You may use any combination of at least 6 letters/numbers.

If you have any questions or need additional information about why you have been asked to use GLACIER, please contact me at: cmislang@finance.ucla.edu or 310-794-8718.

Thank you for your prompt attention to this matter.

Pilot Example
Regents of the University of California, Los Angeles (UCLA)
Step 3:

Foreign National will log into GLACIER with the logon information given to them in the GLACIER notification.

Logging onto GLACIER

Click on the GLACIER logo to enter the website.

At the login screen, enter your temporary access information from below; you will be required to select a new UserID and Password at the time of first access to GLACIER.

UserID: ZNYFLBUW
Password: 6C6PT7JC

If you have any questions or need additional information about why you have been asked to use GLACIER, please contact me.

Thank you and have a great day.
Step 4:

DOCUMENT PRINTING

GLACIER SUPPORTS THE FOLLOWING BROWSERS:

◆ Internet Explorer
◆ Firefox/Mozilla
◆ Apple Safari

GLACIER DOES NOT SUPPORT:

◆ Netscape (forms may not print correctly)

FOR PROBLEMS WITH BROWSER, CONTACT GLACIER ONLINE HELP AT:
(512)-495-9487

Javascript must be enabled to use GLACIER
Step 5: **GLACIER Documents:**

Will be sent directly to central offices for review

- TAX SUMMARY REPORT
- FORM W-4, UCW-4/DE 4 & UCW-4NR/DE 4
- FORM 8233
- Form W-8BEN
- TAX TREATY STATEMENT
- FORM W-7
- FORM W-9
- W-9 ATTACHMENT
The Tax Summary Report **replaces** the UCW8-Ben. All information entered into GLACIER is summarized on this report. Key information includes:

1. **Required Forms & Documents**
2. **Residency for Tax Purposes**
3. **Tax Treaty Eligibility**
4. **FICA Eligibility**
Tax Summary Report:
Required Forms and Required Document Copies

1. “Required Forms and Documents Copies Section”
   Along with the Tax Summary Statement, these are forms and documents that must accompany the GLACIER: Tax Summary Report and be submitted to the appropriate central office.

2. Certification Section must be signed and dated, or it will be returned to foreign national.
# Supporting Documentation for GLACIER

<table>
<thead>
<tr>
<th>Visa Type</th>
<th>Include: I-94, Visa Sticker/Stamp &amp; Supporting Document</th>
</tr>
</thead>
<tbody>
<tr>
<td>F1 Student Visa</td>
<td>SEVIS I-20</td>
</tr>
<tr>
<td>F1 Student on OPT</td>
<td>SEVIS I-20 &amp; 3&lt;sup&gt;rd&lt;/sup&gt; page stating OPT &amp; EAD</td>
</tr>
<tr>
<td>J1 Student</td>
<td>SEVIS DS-2019</td>
</tr>
<tr>
<td>J1 Exchange Visitor</td>
<td>SEVIS DS-2019</td>
</tr>
<tr>
<td>J2 Dependent of J1</td>
<td>SEVIS DS-2019, EAD Card</td>
</tr>
<tr>
<td>H1 Specialty Occupation</td>
<td>Notice of Action (I-797)</td>
</tr>
<tr>
<td>O1 Extraordinary Ability</td>
<td>Notice of Action (I-797)</td>
</tr>
<tr>
<td>TN Trade NAFTA</td>
<td>Front &amp; Back of I-94, Notice of Action</td>
</tr>
<tr>
<td>V1,2,3</td>
<td>I-94</td>
</tr>
<tr>
<td>B-1 / Wavier</td>
<td>I-94</td>
</tr>
</tbody>
</table>
Send Tax Forms as follows:

<table>
<thead>
<tr>
<th>Type of Payment</th>
<th>Office OF RECORD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fellowship/Scholarship payments for Grad students</td>
<td>Graduate Student Support</td>
</tr>
<tr>
<td></td>
<td>Ana Lebon (310) 825-1025</td>
</tr>
<tr>
<td></td>
<td>Sherman Chew (310) 825-1025</td>
</tr>
<tr>
<td></td>
<td>Michael Salazar (310) 794-0784</td>
</tr>
<tr>
<td>Scholarship payments for undergrad students</td>
<td>Financial Aid Office</td>
</tr>
<tr>
<td></td>
<td>Elizabeth Paniagua (310) 206-0444</td>
</tr>
<tr>
<td>Employment</td>
<td>Payroll Services</td>
</tr>
<tr>
<td></td>
<td>Heather Kira-Hoeke (310) 794-8730</td>
</tr>
<tr>
<td></td>
<td>Cicili Mislang (310) 794-8718</td>
</tr>
<tr>
<td></td>
<td>Michael Sattin (310) 794-5774</td>
</tr>
<tr>
<td>Employment &amp; Fellowship Postdoc Employees</td>
<td>Payroll Services</td>
</tr>
<tr>
<td></td>
<td>Heather Kira-Hoeke (310) 794-8730</td>
</tr>
<tr>
<td></td>
<td>Michael Salazar (310) 794-0784</td>
</tr>
</tbody>
</table>

6/11/2009