Are you an exempt individual? – Decision Tree

If you are temporarily present in the United States on an F, J, M, or Q visa, use this chart to determine if you are an exempt individual for the **Substantial Presence Test (SPT)**.

**Student**

F, J, M, or Q Visa

Are you a full-time student?

No  Yes

Are you in substantial compliance with your visa?

No  Yes

Have you been in the U.S. for any part of more than 5 calendar years?

Yes  No

Do you choose to claim a Closer Connection exception to the Substantial Presence Test?

No  Yes

In order to claim the exception, all the following must apply:
A. You do not intend to reside permanently in the US
B. You must have complied with your Visa.
C. You must not have taken steps to become a Resident Alien.
D. You must have a closer connection to a foreign country.

* You must apply the Substantial Presence Test

**Teacher or Trainee**

J Visa

Are you a student?

Yes  No

Are you in substantial compliance with your visa?

Yes  No

Have you been in the U.S. for any part of 2 of the preceding 6 calendar years?

No  Yes

You are an exempt individual for the Substantial Presence Test

Were you exempt as a teacher, trainee, or student for any part of 3 (or fewer) of the 6 preceding years, AND Did a foreign employer pay all your compensation during the tax year in question, AND Were you present in the U.S. as a teacher or trainee in any of the preceding 6 years, AND Did a foreign employer pay all your compensation during each of the preceding 6 years you were present in the U.S. as a teacher or trainee?

Yes  No

*Substantial Presence Test (SPT)* - You will be considered a U.S. resident for tax purposes if you meet the substantial presence test for calendar year 2022. To meet this test, you must be physically present in the United States on at least:

1. 31 days during 2022 and
2. 183 days during the 3-year period that includes 2022, 2021, and 2020, counting:
   a. all the days you were present in 2022 and
   b. 1/3 of the days you were present in 2021, and
   c. 1/6 of the days you were present in 2020.

**NOTE:** If additional days of presence due to COVID-19 travel restrictions cause the taxpayer to become a “resident” using the physical presence test rules, see possible exceptions allowed in Revenue Procedure 2020-20.