



# Unique Filing Status and Exemption Situations



# About Unique Filing Status and Exemption Situations

- TaxSlayer: Basic Information section, Filing Status and Exemptions
- 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



The screenshot shows a web form titled "What's your filing status?". On the left, there are five radio button options: "Single", "Married Filing Joint", "Married Filing Separate", "Head of Household", and "Qualifying Widow(er) with Dependent Children". On the right, there is a section titled "Need help determining your filing status?" with a button labeled "Filing Status Wizard". At the bottom right, there are two buttons: "Cancel" and "Continue".



## Objectives – Unique Filing Status and Exemption Situations

- Determine alien status – resident or nonresident
- Determine who can claim the personal exemption for a nonresident alien spouse
- 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
- Exemption for nonresident alien spouse
- Dependency exemptions



# Key Terms

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

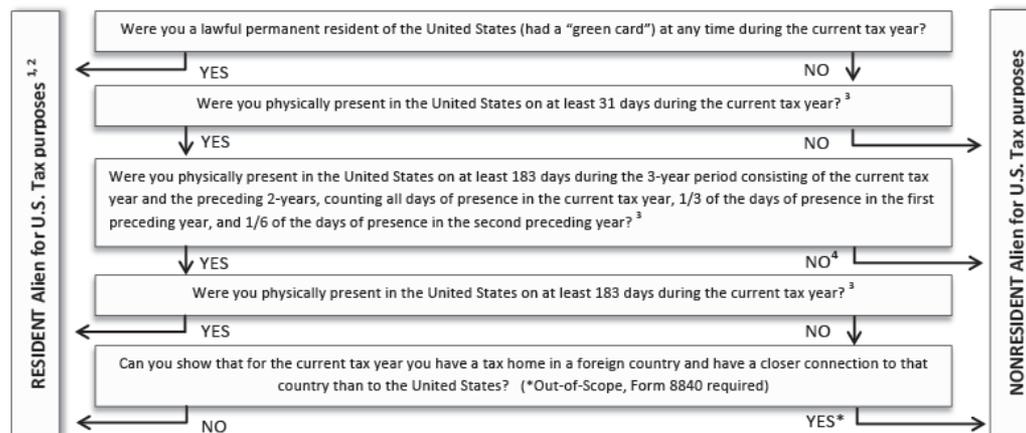
- Dependent
- Dual status alien
- Earned Income Credit (EIC)
- Exemptions (Personal or Dependency)
- Green card test
- Head of Household filing status
- Married Filing Jointly
- Married Filing Separately
- Nonresident alien
- Qualifying child
- Resident alien
- Substantial presence

# 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 Tree](#)
- Green card test
  - An individual with a green card is, for tax purposes, a resident alien

## Nonresident Alien or Resident Alien? - Decision Tree

Start here to determine your residency status for federal income tax purposes



- 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. (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 Pub 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 Pub. 519. (Out-of-Scope)

# 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

## Exemption for Nonresident Alien Spouse

- What are two ways a citizen or resident alien who is married to a nonresident alien can claim the personal exemption for their spouse?
  - Treat the spouse as resident alien on a joint return, or
  - Treat the spouse as a nonresident alien on a Head of Household or Married Filing Separately return.
- Taxpayers must declare in writing that they are choosing to treat a spouse as a resident alien on a joint return.

## Exemption for Nonresident Alien Spouse

There is an exception that allows taxpayers who live with their nonresident alien spouses to file as Head of Household. All of 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, Filing Status tab, to see if the citizen spouse qualifies to file as Head of Household.

# Dependency Exemptions

- The dependency tests for a 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 4012, Exemptions/Dependency tab, [Personal Exemptions Interview Tips](#)
  - [Pub 17](#), Chapter 3, Citizen or Resident Test
  - Interactive Tax Assistant: [Who Can I Claim as a Dependent?](#) and [How Much Can I Deduct for Each Exemption I Claim?](#)
- Special rules for children born overseas and adopted children



## 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
- The rules for claiming the personal exemption for a spouse who is a nonresident alien
- 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

- Select the problem from Publication 4491-W based on your certification course of study
- Complete the exercise

