Medical University of South Carolina  
US Tax Residency Rules

There are several steps to be taken to determine if an individual is a resident alien or non-resident alien for tax purposes. A resident alien for tax purposes means that an individual meets the substantial presence test or green card test, according to the IRS. Non-resident aliens do not qualify for exemption from withholdings on Form W-4, unless they hold a valid visa and a tax treaty exists between their home country and the U.S.

To meet the green card test, an individual must be granted the privilege to permanently reside in the US by the US Citizenship and Immigration Services. The US Citizenship and Immigration Services issues the individual a green card (Form I-551), which serves as proof of resident alien status. A resident loses this status if it is terminated by a US federal court or the US Citizenship and Immigration Services or if the individual voluntarily renounces his or her immigrant status.

To meet the substantial presence test, an individual must be physically present in the US for 31 days during the current year AND be physically present in the US for 183 days over a three year period that includes the current year. The 183 days is calculated by adding 1/6 of the days an individual was present in the initial year of residence, 1/3 of the days one was present in the second year, and all the days one was present in the current year. Furthermore, individuals cannot include the days he or she was considered an “exempt individual,” when determining substantial presence. An “exempt individual” is separate from being exempt from withholdings as mentioned above. For the substantial presence test, an “exempt individual” is any person that is:

- Considered to be a foreign government-related individual
- A teacher or trainee under “J” or “M” visa
- A student under “F”, “J”, “M”, or “Q” visa
- A professional athlete competing in a charitable sports event

If an individual does not meet the green card or substantial presence test, they are deemed to be a non-resident alien for tax purposes. See link to “Non-Resident Alien Taxes” on the Tax Compliance Office webpage.

Related Links:

Green Card Test

Substantial Presence Test

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Medical University of South Carolina  
Tax Compliance Office  
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