



An alien's period of residency in the United States must have an official starting date and ending date. The rules for determining these dates are as follows.

Residency Starting Date under the Green Card Test

If you meet the [green card test](#) at any time during a calendar year, but do not meet the substantial presence test for that year, your residency starting date is the first day in the calendar year on which you are present in the United States as a lawful permanent resident (the date on which the United States Citizenship and Immigration Services (USCIS) has officially approved your petition to become an Immigrant).

If you receive your green card abroad, then the residency starting date is your first day of physical presence in the United States after you receive your green card. Section 7701(b)(1)(A)(i) of the Internal Revenue Code allows you to be treated as a resident alien for the entire calendar year if you were a Lawful Permanent Resident of the United States at any time during the calendar year, if you have been present in the United States for at least one day during the calendar year.

If you were a U.S. resident during any part of the preceding calendar year and you are a U.S. resident for any part of the current year, you will be considered a U.S. resident at the beginning of the current year.

If you meet both the green card test and the substantial presence test in the same year, your residency starting date is the earlier of:

- The first day you are present in the United States during the year you pass the substantial presence test, or

- The first day you are present in the U.S. as a Lawful Permanent Resident (green card holder).

If, at the end of your tax year, you are married and one spouse is a U.S. citizen or a resident alien and the other is a nonresident alien, you can choose to treat the nonresident as a U.S. resident. This includes situations in which one of you is a nonresident alien at the beginning of the tax year, but a resident alien at the end of the year, and the other is a nonresident alien at the end of the year. Refer to [U.S. Citizens and Resident Aliens Abroad - Nonresident Alien Spouse](#).

Residency Starting Date under the Substantial Presence Test

If you meet the [substantial presence test](#) for a calendar year, your residency starting date is generally the first day you are present in the United States during that calendar year.

If you were a U.S. resident during any part of the preceding calendar year and you are a U.S. resident for any part of the current year, you will be considered a U.S. resident at the beginning of the current year.

If you meet both the green card test and the substantial presence test in the same year, your residency starting date is the earlier of:

- The first day you are present in the United States during the year you pass the substantial presence test, or

- The first day you are present in the U.S. as a Lawful Permanent Resident (green card holder).

Note: An "[exempt individual](#)" under the substantial presence test is not considered to be "present in the United States" during the exempt individual period for purposes of determining the residency starting date under the substantial presence test. This rule may result in situations in which the residency starting date for an "exempt individual" under the substantial presence test is later than when the "exempt individual" arrived in the United States. For an example of this situation, see Example 2 in [Alien Residency Examples](#).

If, at the end of your tax year, you are married and one spouse is a U.S. citizen or a resident alien and the other is a nonresident alien, you can choose to treat the nonresident as a U.S. resident. This includes situations in which one of you is a nonresident alien at the beginning of the tax year, but a resident alien at the end of the year, and the other is a nonresident alien at the end of the year. Refer to [U.S. Citizens and Resident Aliens Abroad - Nonresident Alien Spouse](#).

Also, for nonresident alien students in the U.S., refer to [Nonresident Alien Students and the Tax Home Concept](#).

Residency Starting Date under the First-Year Choice

If you do not meet either the green card test or the substantial presence test for the current year (for example, 2012) or the prior year (2011), and you did not choose to be treated as a U.S. resident for part of the prior year (2011), but you meet the substantial presence test in the following year (2013), you can choose to be treated as a U.S. resident for part of the current year (2012). To make this first-year choice, you must:

- Be present in the United States for at least 31 days in a row in the current year, and

- Be present in the United States for at least 75% of the number of days beginning with the first day of the 31-day period and ending with the last day of the current year. (For purposes of this 75% requirement, you can treat up to 5 days of absence from the United States as days of presence in the United States.)

When counting the days of presence in (1) and (2) above, do not count the days you were in the United States under any of the Days of Presence in the United States exceptions to the [substantial presence test](#).

Note: You do not have to be married to make this first-year choice.

If you make the first-year choice, your residency starting date for the current year is the first day of the earliest 31-day period (described in (1) above) that you use to qualify for the choice. You are then treated as a U.S. resident for the rest of the year.

If you are present for more than one 31-day period and you satisfy condition (2) above for each of those periods, your residency starting date is the first day of the first 31-day period. If you are present for more than one 31-day period but you satisfy condition (2) above only for a later 31-day period, your residency starting date is the first day of the later 31-day period.

Example 1. Juan DaSilva is a citizen of the Philippines. He came to the U.S. for the first time on November 1, 2012, and was here on 31 consecutive days (from November 1 through December 1, 2012). Juan returned to the Philippines on December 1 and came back to the United States on December 17, 2012. He stayed in the United States for the rest of the year. During 2013, Juan was a resident of the United States under the substantial presence test. Juan can make the first-year choice for 2012 because he was in the United States in 2012 for a period of 31 days in a row (November 1 through December 1) and for at least 75% of the days following (and including) the first day of his 31-day period (46 total days of presence in the United States divided by 61 days in the period from November 1 through December 31 equals 75.4%). If Juan makes the first-year choice, his residency starting date will be November 1, 2012.

You must attach a statement to Form 1040 to make the first-year choice for the current year. The statement must contain your name and address and specify the following.

- That you are making the first-year choice for the current year.
- That you were not a U.S. resident in the prior year.
- That you are a U.S. resident under the substantial presence test in the following year.
- The number of days of presence in the U.S. during the following year.
- The date or dates of your 31-day period of presence and the period of continuous presence in the U.S. during the current year.
- The date or dates of absence from the U.S. during the current year (that you are treating as days of presence under the first-year choice).

You cannot file Form 1040 or the statement until you meet the substantial presence test in the following year. If you have not met the test for the following year as of April 15 of that year, you can request an extension of time for filing your Form 1040 until a reasonable period after you have met that test. To request an extension to file until October 15 of the following year, use Form 4868, Application for Automatic Extension of Time to File U.S. Individual Income Tax Return.

Once you make the first-year choice, you may not revoke it without the approval of the Internal Revenue Service.

Note: If you do not follow the procedures discussed here for making the first-year choice, you will be treated as a nonresident alien for all of 2012. However, this does not apply if you can show by clear and convincing evidence that you took reasonable actions to become aware of the filing procedures and significant steps to comply with the procedures.

Residency Starting Date under the Terms of a Tax Treaty

In general, your residency starting date under the terms of a Tax Treaty is the date on which you first satisfy the definition of a resident under the terms of the Tax Treaty. As a general rule, each treaty looks first to the domestic tax law of each country to define residency for that country. If dual residency in two countries results, then most treaties contain "tie-breaker" rules to determine to which country residency pertains.

Residency during the Next Year

If you are a U.S. resident during any part of the following year and you are a resident during any part of the current year, you will be taxed as a resident through the end of the current year. This applies whether you have a [closer connection to a foreign country](#) during the current year, whether you are a U.S. resident under the substantial presence test, or whether you are a U.S. resident under the green card test.

Residency Ending Date under the Green Card Test

Your last day of presence in the United States on which you are considered to be a lawful permanent resident of the United States is the residency ending date under the immigration laws of the United States.

However, green-card holders who reside outside the United States are still considered to be resident aliens of the United States for tax purposes, unless such persons: (1) voluntarily turn in their green cards to USCIS and renounce their U.S. immigrant status; (2) have their immigrant status administratively revoked by USCIS; or (3) have their immigrant status judicially revoked by a United States federal court.

CAUTION! A Lawful Permanent Resident (green card holder) for at least 8 of the last 15 years who ceases to be a U.S. lawful permanent resident may be subject to special reporting requirements and tax provisions. Refer to [Expatriation Tax](#).

Residency Ending Date under the Substantial Presence Test

In general, if you meet the substantial presence test, your residency ending date is your last day of presence in the United States followed by a period during which:

- You are not present in the United States,
- You have a closer connection to a foreign country than to the United States, and
- You are not a resident of the United States during the calendar year following that of your last day of presence in the United States.
 - Under the general rule, the residency ending date is December 31 of the calendar year in which you left the United States.
 - However, an exception is allowed for a residency ending date earlier than December 31 in the alien's last calendar year in the United States. Under this exception the alien's residency ending date shall be the last day during the calendar year that the individual is physically present in the United States if, for the remainder of the calendar year:
 - the individual's [tax home](#) is in a foreign country (cf. Rev. Rul. 93-86); and
 - he or she maintains a closer connection to that foreign country than to the United States (cf. Treas. Reg. § 301.7701(b)-2(d)).

Note: An "[exempt individual](#)" is not considered to be "present in the United States" during the exempt individual period for purposes of determining the residency ending date under the substantial presence test. This rule may result in situations in which a person who was once a resident under the substantial presence test and who later becomes an "exempt individual," can become a nonresident alien once more without ever having left the United States. For an example of this situation, see Example 6 in [Alien Residency Examples](#).

Statement Required to Establish Your Residency Termination Date

You must file a statement with the IRS to establish your residency termination date. You must sign and date this statement and include a declaration made under penalties of perjury.

- The statement must be attached to your income tax return. If you are not required to file an income tax return, send the statement to the Department of the Treasury, Internal Revenue Service, Austin, Texas 73301-0215, on or before the due date for filing your income tax return.
- The statement must contain the following information (as applicable):
 - Your name, address, U.S. taxpayer identification number (if any), and U.S. visa type and number (if any).
 - Your passport number and the name of the country that issued your passport.
 - The tax year for which the statement applies.
 - The last day that you were present in the United States during the year.
 - Sufficient facts to establish you have maintained your tax home in and that you have a closer connection to a foreign country following your last day of presence in the United States during the year or following the abandonment or rescission of your status as a lawful permanent resident during the year.
 - The date that your status as a lawful permanent resident was abandoned or rescinded.
 - Sufficient facts (including copies of relevant documents) to establish that your status as a lawful permanent resident has been abandoned or rescinded.

If you can exclude days under the de minimis presence rule (refer to Publication 519), include the dates of the days you are excluding and sufficient facts to establish that you have maintained your tax home in, and that you have a closer connection to, a foreign country during the period you are excluding.

Note: If you do not file the required statement, you cannot claim that you have a closer connection to a foreign country or countries. This does not apply if you can show by clear and convincing evidence that you took reasonable actions to become aware of the requirements for filing the statement and significant steps to comply with those requirements.

For additional information regarding residency beginning and ending dates refer to [Publication 519, U.S. Tax Guide for Aliens](#).