



First-Year Choice



If you do not meet either the green card test or the substantial presence test for 2012 or 2013 and you did not choose to be treated as a resident for part of 2012, but you meet the substantial presence test for 2014, you can choose to be treated as a U.S. resident for part of 2013. To make this choice, you must:

Be present in the United States for at least 31 days in a row in 2013, 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 2013. 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 exceptions discussed earlier under *Days of Presence in the United States*.

If you make the first-year choice, your residency starting date for 2013 is the first day of the earliest 31-day period (described in (1) above) that you use to qualify for the choice. You are 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.

Note.

You do not have to be married to make this choice.

Statement required to make the first-year choice for 2013. You must attach a statement to Form 1040 to make the first-year choice for 2013. The statement must contain your name and address and specify the following.

That you are making the first-year choice for 2013.

That you were not a resident in 2012.

That you are a resident under the substantial presence test in 2014.

The number of days of presence in the United States during 2014.

The date or dates of your 31-day period of presence and the period of continuous presence in the United States during 2013.

The date or dates of absence from the United States during 2013 that you are treating as days of presence.

You cannot file Form 1040 or the statement until you meet the substantial presence test for 2014. If you have not met the test for 2014 as of April 15, 2014, you can request an extension of time for filing your 2013 Form 1040 until a reasonable period after you have met that test. To request an extension to file until October 15, 2014, use Form 4868, Application for Automatic Extension of Time To File U.S. Individual Income Tax Return. You can file the paper form or use one of the electronic filing options explained in the Form 4868 instructions. You should pay with this extension the amount of tax you expect to owe for 2013 figured as if you were a nonresident alien the entire year. You can use Form 1040NR or Form 1040NR-EZ to figure the tax. Enter the tax on Form 4868. If you do not pay the tax due, you will be charged interest on any tax not paid by the regular due date of your return, and you may be charged a penalty on the late payment.

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

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 2013. 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.