

Unique Treaty Provisions

India Treaty Article 21(2)

An Indian **student** may take a **standard deduction** equal to the amount allowable on Form 1040 and may be able to claim the personal exemptions for a nonworking spouse and U.S. born-children. However, benefits will be limited to certain credits, as the allowable exemption deduction is currently -0- until 2025.

Treaty benefits for a **scholar** from India are very different from those for a **student**. The **scholar** benefit for income code 19 is lost retroactively if the visit exceeds 2 years.

Generally, the standard deduction for Single taxpayers and Married Filing Separately taxpayers in 2020 is \$12,400.

Nonresident aliens can't file a joint return. Even though a student from India may be able to take an exemption for a nonworking spouse, this is not considered a joint return. Thus, the standard deduction for married filing separately must be used. In determining their tax liability, they must use the tax tables or tax rate schedules for married filing separately.

China Treaty Articles 19, 20(c)

Almost all U.S. tax treaties are limited to a specific number of years and may not be available for U.S. residents for tax purposes. An exception is the U.S.- China Treaty. Its provisions are not limited by year restrictions.

A/so: This treaty is not applicable to Chinese citizens who are residents of Hong Kong, Macao, or Taiwan.

The U.S. treaty with China provides that a scholar is exempt from tax on earned income for 3 years. After 2 years, a scholar will become a resident alien for tax purposes but is still entitled to 1 more year of tax benefits under the treaty. The treaty also provides that students have an exemption of up to \$5,000 per year for income earned while they are studying or training. In most cases, the student will become a resident for federal tax purposes in their sixth calendar year. Students from China can continue to claim the treaty benefits on their resident alien tax return (if they still meet the definition of a student).

Canada Treaty Article 15

The students and scholars are permitted to use Article 15 of the tax treaty, which applies to dependent personal services.

The tax treaty with Canada is different from most other tax treaties because it (1) exempts all earned income if the nonresident earned not more than \$10,000 in the tax year, but (2) taxes all income if the nonresident earned more than \$10,000. This treaty benefit is lost if the nonresident becomes a resident for tax purposes.