



COLORADO

Department of Revenue

Taxation Division

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GIL 24-001

February 27, 2024

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Via Electronic Mail: XXXXXXXXXXXX

Re: Residency of foreign students, interns, and trainees in Colorado on F-1, M-1, or J-1 visas

Dear XXXXXXXXXXXX:

You submitted a request for a general information letter regarding residency of foreign students in Colorado on F-1 and M-1 student visas and J-1 visas for interns and trainees. The Colorado Department of Revenue (“Department”) issues general information letters and private letter rulings. A general information letter provides a general overview of the relevant tax issues but is not binding on the Department. A private letter ruling provides a specific determination for a specific set of facts, is binding on the Department, and requires payment of a fee. For more information about general information letters and private letter rulings, please see 1 CCR 201-1, Rule 24-35-103.5.

Issue

Residency of foreign students, interns, and trainees in Colorado on a nonimmigrant F-1, M-1, or J-1 visa.

Discussion

For Colorado income tax purposes, an individual is a Colorado resident if they meet either of two criteria.¹ Any individual who is domiciled in Colorado is a Colorado resident. Additionally, any individual who satisfies the six-month rule is a Colorado resident. Under the six-month rule, any individual who maintains a permanent place of abode in Colorado and spends, in aggregate, more than six months of the tax year in the state is a Colorado resident, but only while they maintain the permanent place of abode. For example, if a nondomiciliary individual maintains a permanent place of abode in Colorado from April 1st through the end of the year and spends, in aggregate, more than six months of the tax year in the state, they are a part-year Colorado resident from April 1st through the end of the year, but not for the first three months of the year before they maintained a permanent place of abode in Colorado.

¹ Section 39-22-103(8)(a), C.R.S., and paragraph (1) of 1 CCR 201-2, Rule 39-22-103(8)(a).

Any individual in the United States on a temporary visa is not domiciled in Colorado for income tax purposes.² F-1, M-1, and J-1 visas are issued only to nonresident aliens, are temporary, and require the visa holder to depart the United States at the expiration of the authorized period of admission or extension of stay.³ Consequently, any foreign students, interns, or trainees in Colorado on a nonimmigrant F-1, M-1, or J-1 visa is not domiciled in Colorado. However, they may be a resident under the six-month rule.

A foreign student, intern, or trainee temporarily in Colorado on an F-1, M-1, or J-1 visa is not a resident under the six-month rule unless they maintain a permanent place of abode in Colorado.⁴ Various types of housing commonly occupied by nondomiciliary students, interns, and trainees while attending college within the state are not permanent places of abode. A student dormitory does not constitute a permanent place of abode if it does not provide all the facilities ordinarily found in a place of abode, such as facilities for cooking, bathing, etc.⁵ Any hotel rooms occupied by attending students, interns, or trainees similarly are not considered permanent places of abode if they lack these ordinary facilities.⁶ Additionally, any housing provided by a college to a foreign student, intern, or trainee on an F-1, M-1, or J-1 visa, whether on-campus or off-campus, for their temporary use is not a permanent place of abode for the student, intern, or trainee.⁷

However, if a foreign student, intern, or trainee obtains housing that is not incident to their enrollment in a course of study or participation in an approved program, it generally will be considered a permanent place of abode for the student, intern, or trainee.⁸ For example, if a foreign student purchased residential real property for their own use, it would be a permanent place of abode for the student.

Miscellaneous

This letter represents the good-faith opinion of Department personnel who are knowledgeable on state taxes issues. However, the Department does not make a specific determination on any of the issues raised and the Department is not bound by this general information letter.

Thank you for your request.

Sincerely,

Office of Tax Policy
Colorado Department of Revenue

² Paragraph (2)(f) of 1 CCR 201-2, Rule 39-22-103(8)(a).

³ 8 CFR § 214.1(a)(2); 8 U.S.C. § 1101(a)(15)(F)(i), (J), and (M)(i); and 8 CFR § 214.1(a)(3)(ii). See also paragraph (2)(e) of 1 CCR 201-2, Rule 39-22-103(8)(a).

⁴ 1 CCR 201-2, Rule 39-22-103(8)(a), paragraph (3)(b)(iv).

⁵ See paragraph (4)(i)(iv) of 1 CCR 201-2, Rule 39-22-103(8)(a).

⁶ Paragraph (4)(i)(iv) of 1 CCR 201-2, Rule 39-22-103(8)(a).

⁷ See paragraph (4)(i)(vi) of 1 CCR 201-2, Rule 39-22-103(8)(a). An apartment provided by an employer to a nondomiciliary employee for use while on a temporary assignment does not constitute a permanent place of abode. Similarly, housing provided by a college to a foreign student, intern, or trainee on an F-1, M-1, or J-1 visa for temporary use while attending the college does not constitute a permanent place of abode.

⁸ See paragraph (4)(i)(vi) of 1 CCR 201-2, Rule 39-22-103(8)(a). If the employee pays for an apartment while on a temporary work assignment in Colorado and remains in Colorado when not working, the employee's apartment is a permanent place of abode. Similarly, if a foreign student, intern, or trainee secures their own housing, apart from their enrollment in an academic program, that housing is a permanent place of abode.