

Date: February 3, 2020

To: Apex PROaupair's US Based Professional Au Pairs

From: Tim Johnson, CPA
JLK Rosenberger, LLP

Re: Basic US Tax Treatment of Au Pairs

The below information is meant to be general in nature regarding the US income tax requirements of au pairs working in the US. It will not cover every unique situation and as such, we urge you to discuss your personal situation with a Certified Public Accountant or other tax advisor. Please note that Apex PROaupair is not licensed to provide official tax advice (nor are the staff, including Area Directors).

General Tax Guidelines for Au Pairs

- It is important to understand that 2019 tax rules have changed based upon the Tax Cuts and Jobs Act. 2019 is the second year of these changes but misperceptions persist. The biggest change is that there is no longer a federal exemption for nonresident aliens meaning that every dollar earned by a nonresident alien is subject to federal income tax.
- The weekly stipend that you receive is taxable in the US. The stipend is taxable because the US Department of Labor has determined that the stipend constitutes wages due to the employee-employer relationship that exists between the au pair and their host family.
- Generally, an au pair will be considered a nonresident alien for tax purposes. However, if you were previously in the US as a student, teacher, trainee, or research with F, J, M, or Q nonimmigrant status, you may be considered to be a resident alien. This is important due to the Social Security and Medicare requirements on au pair wages.
- In most instances, you can utilize Form 1040 NR-EZ to report your earnings. The form is fairly simple and self-explanatory. There are tax preparation services that can also assist you in filing your income tax return.
- Apex PROaupair has secured a \$10 discount code for using SprinTax which specializes in non-resident tax filing.
See here: https://www.sprintax.com/uni-lp.html?utm_ref=proaupair-lp
The discount code is: **SpTx2019AUP301F10**. I highly encourage you to utilize SprinTax for easier preparation.
- You must submit your completed tax return for the previous calendar year (along with payment for any taxes owed) by Tax Day, April 15th. We recommend filing early in case you have questions and need to consult a tax advisor.
- If you need more time to file, you can file an extension using Form 7004 with the IRS by April 15, 2020. This will provide you until October 15, 2020 to file. However, if you owe any tax, you would be assessed interest and penalties- the more tax you owe, the more interest and penalties you owe since they are calculated based upon the tax owed.

- If you earn income in the U.S. during more than one calendar year, you must file a separate tax return for each year that you earned income in the U.S.
- You must file a U.S. tax return for the prior calendar year, even if you have already returned to your home country.
- Although each situation is different and unique to you, as a general rule, you should set aside around 10% to 15% of the au pair income you make in the U.S. to cover federal taxes owed. The actual amount you need to pay will vary based on a number of factors.
- In addition to paying federal income tax, some au pairs may be required to pay state income tax, depending on the state they live(d) in. Check the state's tax revenue website for details.
- For tax purposes, an au pair is not considered to be a student.
- If an au pair does not file a tax return to report his/her earnings to the IRS, and pay any taxes owed on those earnings, he/she could be fined and/or denied a visa to return to the U.S. in the future (even on a tourist visa).
- You may also need to file Form 8843 to indicate that you are not a US resident because you are exempt from the substantial presence test. This would generally be the case if you were in the US for more than 31 days during 2019 AND more than 183 days during 2019, 2018, and 2016 whereby you count only 1/3rd of the days during 2017 and 1/6th of the days in 2017. Essentially, if you were in the US for more than 6 months during 2019, you will need to file Form 8843. You will attach Form 8843 to your Form 1040 NR-EZ.

Resources:

- IRS Commentary on Au Pairs: www.irs.gov/Individuals/International-Taxpayers/Au-Pairs
- Form 1040NR-EZ: <https://www.irs.gov/pub/irs-pdf/f1040nre.pdf>
- Form 1040NR-EZ Instructions: www.irs.gov/pub/irs-pdf/i1040nre.pdf
- Form 1040NR: www.irs.gov/pub/irs-pdf/f1040nr.pdf
- Form 1040NR Instructions: www.irs.gov/pub/irs-pdf/i1040nr.pdf
- Form 8843 & Instructions: <https://www.irs.gov/pub/irs-pdf/f8843.pdf>

Step-by-Step Guide to Filing Your Taxes

Remember, Apex PROaupair is not licensed to provide official tax advice (nor are any of our staff, including Area Directors). Everyone's tax situation is different and therefore this information may or may not be applicable to your personal situation. The following is only intended to be a guideline for filing your taxes. Please check with a tax advisor for further advice and assistance especially if you have any itemized deductions such as state tax payments or charitable donations since the below does not contemplate those potential deductions.

Step 1: **Get a Social Security Number.** If you haven't already, follow the steps in your Au Pair Handbook to get a social security number as soon as possible.

Step 2: **Calculate how much money (wages/taxable income) you earned during the previous calendar year,** using the *Stipend Record Form* located at the end of this document. For example, if you worked and received a stipend payment of \$277 per week for 25 weeks, your income was $\$277 \times 25 = \underline{\$6,925}$ (stipend/payment rates vary).

Step 3: Fill out form 1040 NR-EZ and mail to the IRS, along with payment for any taxes owed.

- A) Enter your name, ID number, and address along with checking the box for "Single nonresident alien"
- B) Enter the amount of your earnings on lines 3, 7, 10, and 14 of Form 1040NR-EZ.
- C) Find your tax amount by going to the instructions for Form 1040NR-EZ (starting on pg 22 of the instructions) and finding the amount of tax that corresponds to your taxable income on line 14 and enter this amount on lines 15, 17, and 22. Since you likely have no withholding or estimated tax payments, you will owe to the IRS the amount of tax calculated on your earnings (line 15)
- D) Answer the questions on page 2 of the Form 1040NR-EZ.
- E) Sign and date your income tax filing (bottom of page 1) and mail with payment.

Taxes can be paid via personal check or money order in U.S. Dollars. The address for filing with the IRS a 1040NR-EZ along with Form 8843, if necessary, with payment due is:

Internal Revenue Service
PO Box 1303
Charlotte, NC 28201-1303
USA

If you return to your home country before the tax filing is due, you may either submit your taxes before you leave the US or you can file them when you return home by filling out the 1040 NR-EZ and submitting it (along with your payment) to the address above. Generally, you are not able to submit your tax return until late January following the calendar year that you received income, so it is quite possible you will need to file your taxes from your home country.

Definitions

- Calendar Year:** January 1 – December 31
- Form 1040 NR-EZ:** The non-resident tax form that au pairs should fill out to report wages earned in the U.S. during each calendar year.
- IRS:** Internal Revenue Service – the government bureau responsible for collecting taxes in the U.S.
- Taxable Income:** Money (stipend payments) paid to the au pair by his/her host family, which the au pair is required to report by filing a tax return.
- Tax Day:** The day in April (usually April 15th) when U.S. taxes are due for the previous year. For example, Tax Day for 2019 filings is April 15, 2020.
- Tax Return:** A form that you fill out to send to the IRS, with information about income earned and payment for any taxes owed. Au pairs generally will fill out tax return Form 1040 NR-EZ.
- Wages:** Money (stipend payments) paid to the au pair by his/her host family, which the au pair is required to report by filing a tax return, and paying any income taxes due.

For more information, consult a tax advisor, or visit the IRS website at www.irs.gov

