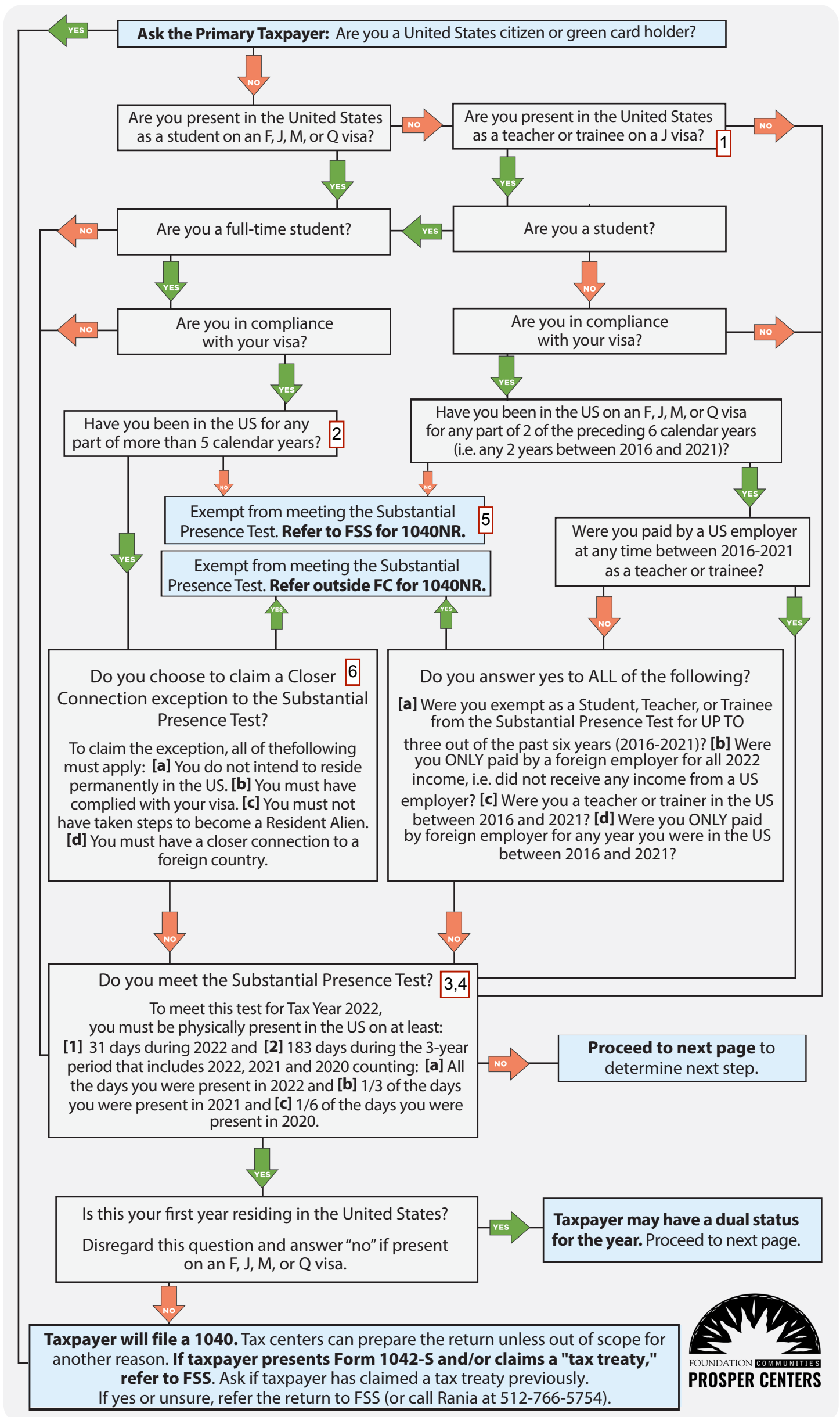


# FOREIGN STUDENT & SCHOLAR SCREENING TOOL FOR TAX YEAR 2022

Use this tool to determine whether the taxpayer will file Form 1040 or Form 1040NR and who can prepare the tax return. Note: in some cases, a taxpayer will file a Form 1040 but still be referred to the FSS team.



# FOREIGN STUDENT & SCHOLAR SCREENING TOOL FOR TAX YEAR 2022

## Substantial Presence Test Continued

If the taxpayer first enters the US in 2022 and meets the substantial presence test (and isn't on a F, J, M, or Q visa), then **FC will prepare the return in the tax centers.**

If the taxpayer first enters the US in 2022 and does not meet the substantial presence test (regardless of whether they are present on a F, J, M, or Q visa), **refer to FSS.**

If the taxpayer does not meet the substantial presence test, is not on an F, J, M, or Q visa, and did not first enter the US in 2022, **refer to FSS for follow-up.**

If the taxpayer is present on an **A or G visa**, **refer to FSS** (regardless of the substantial presence test).

## Other Scenarios

- 1 An au pair will most likely be present in the US on a J-1 visa** (classified as trainee with the same rules as a teacher). **Use the screening tool** to determine whether the taxpayer is a nonresident and should be referred to the FSS program. **If the au pair is a resident alien** for the tax year, report the income as indicated in the document "Household Employees without a W-2."
- 2 Previous years under student visa status with exempted days generally count toward the first five-year exemption period.** Ask the taxpayer if they have ever been in the U.S. on F, J, M, or Q visa status from 1985 to the present.
- 3 When counting days present for purposes of the SPT, you cannot include any days that were previously excluded because the taxpayer was present on an F, J, M, or Q visa.**  
Example: A taxpayer arrives in the US for the first time in August 2020 on a J-1 visa as a teacher and stays continuously through May 2022. The taxpayer will be exempt from counting days present in the US during 2020 and 2021 and will be a nonresident alien for those tax years. The taxpayer will then begin counting days for the SPT in 2022 but cannot count any days present in 2020 or 2021 because they were previously exempted from the SPT (due to the taxpayer's J-1 visa status). Therefore, the taxpayer does not meet the SPT for 2022 and is a nonresident. This tax return is out of scope.
- 4 If the taxpayer was present on an F, J, M, or Q visa for part of year and then switched to a H1B visa or another type that is not exempt from the SPT and they taxpayer did not meet the SPT for that year, the taxpayer is considered a nonresident alien for the whole year.** The tax return is still within scope because the taxpayer was present on an F, J, M, or Q visa part some part of the year.
- 5 Nonresident students from Barbados, Hungary, and Jamaica, as well as trainees from Jamaica,** may qualify for an election to be treated as U.S. residents for tax purposes under their tax treaty provisions with the U.S. A formal, signed, election statement must be attached to Form 1040. The election continues until formally revoked. FC can prepare the tax return, but it is out of scope to complete the statement for the taxpayer.
- 6 Closer Connection to Home (Out of Scope)**  
Taxpayers present on an F, J, M, or Q visa who would otherwise be subject to the Substantial Presence Test but want to claim a closer connection to a foreign country for purposes of filing a 1040-NR. **Generally, students or scholars do not meet this test because they are considered to be in a trade or business in the U.S., thus establishing a closer connection to the United States.** It is most likely that a taxpayer present on an F, J, M, or Q visa who wants to claim such an exception will specifically articulate that. These taxpayers should be referred to a paid tax preparer.