

H-2A Workers and Income Taxes

❖ This is general info. Your tax liability will depend on your situation. If you have questions, talk with a qualified tax preparer.

Do I have to fill out a federal income tax return in the U.S.?

Yes, if you earned above the income limit in 2019.

What is the income limit?

It depends on whether you are a “resident of the U.S.” under tax laws. (See “Do I qualify as a U.S. resident,” below.) This also determines what form you must use to file your taxes.

If you qualify as a U.S. resident for 2019, you must fill out a tax return for 2019 if you earned more than:

- \$12,200 if you are single
- \$24,400 if you are married filing jointly (with your spouse)
- \$5 if you are married, filing separately
- \$24,000 if you are a qualifying widow or widower
- \$18,000 if you are head of household

Income limits are a little higher if you are age 65 or older.

If you qualify as a non-resident for 2019, you must fill out a tax return.

Do I qualify as a U.S. resident?

It depends. Add together your number of days present in the U.S. for the past three years.

of days you were in the U.S. last year (2019): _____

of days you were in the U.S. in 2018 (divided by 3): _____

of days you were in the U.S. in 2017 (divided by 6): _____

TOTAL: _____

If the total is at least 183 days, including at least 31 days in 2019: you may be a resident for the year 2019. Fill out the 1040 form to file your taxes.

If the total days add up to less than 183: you must file as a non-resident. Fill out the [1040NR form](#).

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- ❖ The first tax year you qualify as a U.S. resident, you may have to file a “dual-status return.” Ask your tax preparer about this.

 - ❖ If you do not qualify as a U.S. resident for the tax year (last year), but you qualify in the current year, you can choose to be treated as a U.S. resident for the tax year. This is the “First Year Choice.” You would attach a statement of first year choice to your return. Ask a qualified tax preparer about this.
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Can I claim my family in Mexico as my dependents to lower my taxes?

It depends. It can be complicated.

Generally, you can claim as dependents **close relatives related by blood or marriage**. These include your

- children
- brothers and sisters
- aunts and uncles
- nephews and nieces
- parents
- grandparents

Also:

- They must have lived with you for more than six months last year.
- You provided more than half their financial support.
- The relative’s income in 2019 must have been less than \$4,200.

- They must live in the U.S., Canada, or Mexico.
- You must be able to show a SSN or ITIN for them. (If the relative does not have an ITIN, you can apply for one. Fill out a [W-7](#) for the IRS.)

Can I claim the child tax credit for my children?

Only if one of these is true:

- The child lived here with you in the U.S. for at least half the year.
- The child is a U.S. citizen who lived in your home for more than six months during the year. This can be your home in the U.S. or in Mexico, if you are legally married and filing a joint tax return.

❖ If you claim this credit or dependents that you should not, you may have to pay a penalty of 20% of the credit, plus the amount wrongfully claimed, plus interest.

Can I get the Earned Income Credit (EIC)?

Maybe, if you have lived in the U.S. for at least six months of the tax year. There are income limits and other requirements. Talk to your tax preparer.

I made a mistake on the tax return. I already filed it. What should I do?

You can file an amended return. We call this a [1040X](#). This will fix the return.

If you do not do this, and you have claimed credits or deductions you do not have the right to, you may have to pay a penalty of 20% of the value of the credit, plus the amount wrongfully claimed, plus interest.

What if I get a letter from the IRS?

Do not ignore it. Call them at 1-800-829-1040.

❖ When you prepare your taxes, you must provide an address where you will definitely get any letters from the IRS.

Do I have to pay Social Security and Medicare taxes?

No. H2A workers do not pay these.

You may get a letter from the IRS asking for payment of Social Security taxes anyway. You should respond by explaining that you are exempt under [IRC §3121 \(b\) \(1\)](#).

What should I look for in a tax preparer?

A good tax preparer always signs and includes their preparer identification number on the taxes they prepare. It is against IRS rules for them to leave out their signature or number.

Reputable tax preparers will not:

- Ask you to sign blank tax forms.
- Promise large returns before doing your taxes.
- Advise you to add or “borrow” dependents you should not claim.
- Direct deposit your return to their own account.

❖ Never let the IRS direct-deposit your return into your preparer’s account.

No matter who prepared your tax return, only **you** are legally responsible for the info that appears in it.

This is very general info. Your tax liability will depend on your situation. If you have questions about how tax laws apply to you, talk with your qualified tax preparer. Any tax advice provided is not to be used, and cannot be used by any taxpayer, to avoid IRS penalties.

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