

2020 Tax Year	Case Study I	H-1B visa (was F1)
Client Information		
Taxpayer name	Maria DeLima	
Taxpayer SSN	xxx-xx-x101	
Taxpayer DOB	July 2, 1986	
Spouse name	Claudio DeLima	
Spouse SSN	None	
Spouse DOB	July 10, 1981	
Address	890 Berwyn Road, Berwyn Heights, MD 20784	
Living situation	Clients purchased home September 15, 2020	
Phone	xxx 555 0101 (T) cell, prefer evening calls	
Work phone	xxx-555-4343 (T)	
Email	Mdelima@mtw.edu	
Taxpayer occupation	Nurse	
Spouse occupation	Artist	
Dependent Information		
Dependent name	Lourdes DeLima	
Dependent SSN	None	
Dependent DOB	June 6, 2011	
Dependent relationship	daughter	
Visa Information		
Maria's passport	Costa Rica, X9876543	
Maria's U.S. visa	H-1b, # 123456, issued in San Jose, Costa Rica	
1st date in U.S. on H visa	October 4, 2020. Visa issued October 2, 2020	
Prior visa	F-1 visa, in U.S. Sept. 1, 2017–April 30, 2020	
Travel on H1 visa	Left U.S. 12/19/2020 for Costa Rica	
Returned to U.S.	01/03/2021	
Claudio's U.S. visa	H-2 visa Prior visas were B1/B2	
Lourdes' visa	H-2 Visa Prior visas were F-2	

Lourdes travelled with Maria on each trip. Also Claudio with Maria in December, 2020.

Employment

Maria DeLima is a nurse at Berwyn Hospital, in Prince George's County, MD. Maria's contract began October 15, 2020. It runs for two years and is renewable a year at a time for three additional years. From September 1, 2017 – April 30, 2020, Maria was completing specialized nursing studies at UMD while on an F-1 visa.

Claudio is a renowned artist. He travels frequently. He paints in Costa Rica and visits his gallery in France. He expects to spend fewer than 120 days in the U.S. each year. Luckily, Berwyn Hospital offers on-demand child care twenty-four hours a day.

Income

Claudio's statement from his Paris gallery shows income of Euros € 45000.00 from sales. He also has a Paris bank account with a balance of Euros € 8.000. The Treasury average yearly exchange rate chart shows the 2020 average euro rate as 0.877.

W-2 information for Maria

Payer: Berwyn Hospital, EIN 43-999999999

Box 1 \$ 39,560

Box 2 \$5,121.25

Box 3 \$ 39,560

Box 4 \$2,453

Box 5 \$ 39,560

Box 6 \$574

Box 15 MD state EIN 999999

Box 16 \$39,560

Box 17 \$0

Expenses

The DeLima's paid the following 2020 expenses:

Lodging

\$3,360*

Meals

\$2,520*

Mortgage interest

\$1,116

RE tax

\$900

MD ES

4th Q 12/30/20

\$1,400

*Prorated. Maria's share for period before house purchase

Note: Maria did not meet tax filing requirements in 2017, 2018, or 2019. She did file Form 8843.**Questions**

1. Is Maria a tax resident alien or a nonresident alien for 2020? Why?
2. What U.S. income tax form must she file?
3. Which filing status does she use?
4. May she deduct any personal exemption amount?
5. May she claim a standard deduction?
6. What income is taxable?
7. What expenses, deductions, or adjustments may she claim?
8. What will be different in 2021? What choices will she have then?

Case Study I Solution – Maria DeLima

Answers

1. Maria is a nonresident alien for 2020. She does not have a green card. She did not meet the Substantial Presence Test (SPT). She did not spend 183 days in the U.S. on the H-1B visa. She was still eXempt from counting days in the U.S. as days of presence while on the F-1 visa.
2. She must file on Form 1040-NR because she is a nonresident alien. The filing form rules are mandatory.
3. Maria is married. Her filing status on 2020 Form 1040-NR is “Married filing separately (MFS)”, a change from :other married: used on 2019 Form 1040-NR,
4. No. A tax code change in TCJA suspended personal exemption deductions from income.
5. No. On Form 1040-NR, only a student or business apprentice from India may do so.
6. Maria’s U.S. source income is the only income taxable on her Form 1040-NR. There is only one taxpayer on a Form 1040-NR. Claudio’s income would never be relevant on her return. He does not have U.S. source income. If he did, he would file his own, separate, Form 1040-NR.
7. She has no deductible expenses. Mortgage interest and real estate taxes are not deducted on Schedule A. (Form 1040-NR). Her tax home is in the U.S. She has no away-from-home business expenses. She was in the U.S. for more than one year. She did not maintain two homes.
8. In 2021, she is likely to meet the substantial presence test (SPT) and file on Form 1040. Maria could choose MFS filing status, or potentially meet the requirements for Head of Household. Claudio will remain a non-resident alien as long as he does not meet the SPT. Lourdes might be a qualifying child. She might also meet the SPT. If she does not qualify for an SSN, an ITIN could be applied for with the tax return. Tax benefits related to Lourdes will depend upon the type of TIN (SSN or ITIN) and when it is received.

Possible history or return note Maria DeLima xxx-xx-x101

Maria DeLima filed Forms 8843 for herself and daughter Lourdes in 2017, 2018, and 2019.

She did not meet income tax filing requirements

In 2020 she made one quarterly estimated payment to MD for its 2020 tax return.

\$1,400 4th Q payment 12/30/20 is a deducted on 2020 Form 1040NR-EZ, Line 11

Completed Forms

See following pages.

Note that on Form 8843, Lines 1a and b can be awkward. Instructions state that they do not need to be completed if Form 8843 is submitted attached to Form 1040-NR and the taxpayer has provided the requested information there.

Form **1040-NR** Department of the Treasury—Internal Revenue Service (99) **2020** U.S. Nonresident Alien Income Tax Return OMB No. 1545-0074 IRS Use Only—Do not write or staple in this space.

Filing Status Single Married filing separately (MFS) (formerly Married) Qualifying widow(er) (QW)
 Check only one box. If you checked the QW box, enter the child's name if the qualifying person is a child but not your dependent ▶

Your first name and middle initial: **Maria** Last name: **DeLima** Your identifying number (see instructions): **x x x x x 1 0 1**
 Home address (number and street or rural route). If you have a P.O. box, see instructions. Apt. no.:
890 Berwyn Road
 City, town, or post office. If you have a foreign address, also complete spaces below. State: **MD** ZIP code: **20784**
 Foreign country name: Foreign province/state/county: Foreign postal code:

At any time during 2020, did you receive, sell, send, exchange, or otherwise acquire any financial interest in any virtual currency? Yes No

Dependents (see instructions):	(1) First name	Last name	(2) Dependent's identifying number	(3) Dependent's relationship to you	(4) <input checked="" type="checkbox"/> if qualifies for (see instr.):	
					Child tax credit	Credit for other dependents
If more than four dependents, see instructions and check here <input type="checkbox"/>					<input type="checkbox"/>	<input type="checkbox"/>
					<input type="checkbox"/>	<input type="checkbox"/>
					<input type="checkbox"/>	<input type="checkbox"/>
					<input type="checkbox"/>	<input type="checkbox"/>

Income Effectively Connected With U.S. Trade or Business	1a	Wages, salaries, tips, etc. Attach Form(s) W-2	1a	39,560
	b	Scholarship and fellowship grants. Attach Form(s) 1042-S or required statement. See instructions	1b	
	c	Total income exempt by a treaty from Schedule OI (Form 1040-NR), Item L, line 1(e)	1c	
	2a	Tax-exempt interest	2a	
	b	Taxable interest	2b	
	3a	Qualified dividends	3a	
	b	Ordinary dividends	3b	
	4a	IRA distributions	4a	
	b	Taxable amount	4b	
	5a	Pensions and annuities	5a	
	b	Taxable amount	5b	
	6	Reserved for future use	6	
	7	Capital gain or (loss). Attach Schedule D (Form 1040) if required. If not required, check here <input type="checkbox"/>	7	
	8	Other income from Schedule 1 (Form 1040), line 9	8	
	9	Add lines 1a, 1b, 2b, 3b, 4b, 5b, 7, and 8. This is your total effectively connected income	9	39,560
10	Adjustments to income:			
a	From Schedule 1 (Form 1040), line 22	10a		
b	Charitable contributions for certain residents of India. See instructions	10b		
c	Scholarship and fellowship grants excluded	10c		
d	Add lines 10a through 10c. These are your total adjustments to income	10d		
11	Subtract line 10d from line 9. This is your adjusted gross income	11	39,560	
12	Itemized deductions (from Schedule A (Form 1040-NR)) or, for certain residents of India, standard deduction. See instructions	12	1,400	
13a	Qualified business income deduction. Attach Form 8995 or Form 8995-A	13a		
b	Exemptions for estates and trusts only. See instructions	13b		
c	Add lines 13a and 13b	13c		
14	Add lines 12 and 13c	14	1,400	
15	Taxable income. Subtract line 14 from line 11. If zero or less, enter -0-	15	38,160	

For Disclosure, Privacy Act, and Paperwork Reduction Act Notice, see separate instructions. Cat. No. 11364D Form 1040-NR (2020)

**SCHEDULE A
(Form 1040-NR)**

Department of the Treasury
Internal Revenue Service (99)

Itemized Deductions

► Go to www.irs.gov/Form1040NR for instructions and the latest information.
► Attach to Form 1040-NR.

Caution: If you are claiming a net qualified disaster loss on Form 4684, see instructions for line 7.

OMB No. 1545-0074

2020
Attachment
Sequence No. **7A**

Name shown on Form 1040-NR

Your identifying number

Maria DeLima

XXX-XX-XXXX

Taxes You Paid	1a	State and local income taxes	1a	1,400	
	b	Enter the smaller of line 1a or \$10,000 (\$5,000 if you checked Married filing separately under <i>Filing Status</i> on page 1 of Form 1040-NR)	1b		1,400
Gifts to U.S. Charities	2	Gifts by cash or check. If you made any gift of \$250 or more, see instructions	2		
	3	Other than by cash or check. If you made any gift of \$250 or more, see instructions. Individuals must attach Form 8283 if line 3 is over \$500	3		
	4	Carryover from prior year	4		
	5	Add lines 2 through 4	5		
Casualty and Theft Losses	6	Casualty and theft loss(es) from a federally declared disaster (other than net qualified disaster losses). Attach Form 4684 and enter the amount from line 18 of that form. See instructions	6		
Other Itemized Deductions	7	Other—from list in instructions. List type and amount ► _____ _____ _____ _____ _____	7		
Total Itemized Deductions	8	Add the amounts in the far right column for lines 1b through 7. Also, enter this amount on Form 1040-NR, line 12	8		1,400

SCHEDULE OI (Form 1040-NR)

Department of the Treasury Internal Revenue Service (99)

Other Information

Go to www.irs.gov/Form1040NR for instructions and the latest information. Attach to Form 1040-NR. Answer all questions.

OMB No. 1545-0074

2020 Attachment Sequence No. 7C

Name shown on Form 1040-NR

Your identifying number

Maria DeLima

XXX-XX-XXXX

- A Of what country or countries were you a citizen or national during the tax year? Costa Rica
B In what country did you claim residence for tax purposes during the tax year? Costa Rica
C Have you ever applied to be a green card holder (lawful permanent resident) of the United States?
D Were you ever: 1. A U.S. citizen? 2. A green card holder (lawful permanent resident) of the United States?
E If you had a visa on the last day of the tax year, enter your visa type.
F Have you ever changed your visa type (nonimmigrant status) or U.S. immigration status?
G List all dates you entered and left the United States during 2020.

Note: If you are a resident of Canada or Mexico AND commute to work in the United States at frequent intervals, check the box for Canada or Mexico and skip to item H.

Table with 4 columns: Date entered United States mm/dd/yy, Date departed United States mm/dd/yy, Date entered United States mm/dd/yy, Date departed United States mm/dd/yy. Includes entries for 01-01-20, 10-04-20, 04-30-20, and 12-19-20.

- H Give number of days (including vacation, nonworkdays, and partial days) you were present in the United States during: 2018 0, 2019 0, and 2020 77
I Did you file a U.S. income tax return for any prior year?
J Are you filing a return for a trust?
K Did you receive total compensation of \$250,000 or more during the tax year?
L Income Exempt From Tax—If you are claiming exemption from income tax under a U.S. income tax treaty with a foreign country, complete (1) through (3) below.

Table with 4 columns: (a) Country, (b) Tax treaty article, (c) Number of months claimed in prior tax years, (d) Amount of exempt income in current tax year.

- (e) Total. Enter this amount on Form 1040-NR, line 1c. Do not enter it on line 1a or line 1b
2. Were you subject to tax in a foreign country on any of the income shown in 1(d) above?
3. Are you claiming treaty benefits pursuant to a Competent Authority determination?
M Check the applicable box if:
1. This is the first year you are making an election to treat income from real property located in the United States as effectively connected with a U.S. trade or business under section 871(d).
2. You have made an election in a previous year that has not been revoked, to treat income from real property located in the United States as effectively connected with a U.S. trade or business under section 871(d).

For Paperwork Reduction Act Notice, see the Instructions for Form 1040-NR.

Cat. No. 72756T

Schedule OI (Form 1040-NR) 2020

Form **8843**

Statement for Exempt Individuals and Individuals With a Medical Condition
For use by alien individuals only.

OMB No. 1545-0074

2020

Attachment Sequence No. **102**

Department of the Treasury
Internal Revenue Service

▶ Go to www.irs.gov/Form8843 for the latest information.

For the year January 1 — December 31, 2020, or other tax year beginning _____, 20____, and ending _____, 20____.

Your first name and initial Maria		Last name DeLima	Your U.S. taxpayer identification number, if any XXX-XX-XXXX
Fill in your addresses only if you are filing this form by itself and not with your tax return	Address in country of residence		Address in the United States

Part I General Information

- 1a** Type of U.S. visa (for example, F, J, M, Q, etc.) and date you entered the United States ▶ **F1 9-01-2017**
- b** Current nonimmigrant status. If your status has changed, also enter date of change and previous status. See instructions.
H-1B 10-02-2020 was F1
- 2** Of what country or countries were you a citizen during the tax year? **Costa Rica**
- 3a** What country or countries issued you a passport? **Costa Rica**
- b** Enter your passport number(s) ▶ **X9876543**
- 4a** Enter the actual number of days you were present in the United States during:
2020 **198** 2019 **365** 2018 **238**
- b** Enter the number of days in 2020 you claim you can exclude for purposes of the substantial presence test ▶ **121**

Part II Teachers and Trainees

- 5** For teachers, enter the name, address, and telephone number of the academic institution where you taught in 2020 ▶ _____
- 6** For trainees, enter the name, address, and telephone number of the director of the academic or other specialized program you participated in during 2020 ▶ _____
- 7** Enter the type of U.S. visa (J or Q) you held during: ▶ 2014 _____ 2015 _____
2016 _____ 2017 _____ 2018 _____ 2019 _____. If the type of visa you held during any of these years changed, attach a statement showing the new visa type and the date it was acquired.
- 8** Were you present in the United States as a teacher, trainee, or student for any part of 2 of the 6 prior calendar years (2014 through 2019)? **Yes** **No**
If you checked the "Yes" box on line 8, you cannot exclude days of presence as a teacher or trainee unless you meet the *Exception* explained in the instructions.

Part III Students

- 9** Enter the name, address, and telephone number of the academic institution you attended during 2020 ▶ **University of Maryland enter address enter phone number**
- 10** Enter the name, address, and telephone number of the director of the academic or other specialized program you participated in during 2020 ▶ **Dr X Y Z, Director of Nursing, enter office address enter office phone**
- 11** Enter the type of U.S. visa (F, J, M, or Q) you held during: ▶ 2014 _____ 2015 _____
2016 _____ 2017 **F** 2018 **F** 2019 **F** . If the type of visa you held during any of these years changed, attach a statement showing the new visa type and the date it was acquired.
- 12** Were you present in the United States as a teacher, trainee, or student for any part of more than 5 calendar years? **Yes** **No**
If you checked the "Yes" box on line 12, you must provide sufficient facts on an attached statement to establish that you do not intend to reside permanently in the United States.
- 13** During 2020, did you apply for, or take other affirmative steps to apply for, lawful permanent resident status in the United States or have an application pending to change your status to that of a lawful permanent resident of the United States? **Yes** **No**
- 14** If you checked the "Yes" box on line 13, explain ▶ _____