



## ЭКОНОМИКА

УДК 336

### НЕРАВЕНСТВО В НАЛОГООБЛОЖЕНИИ ДОХОДОВ ФИЗИЧЕСКИХ ЛИЦ ДЛЯ НЕРЕЗИДЕНТОВ

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**Введение.** В статье анализируется налог на доходы физических лиц, не являющихся резидентами США. Проводится анализ между системой налогообложения доходов для резидентов и нерезидентов налогоплательщиков, в частности, налоговые ставки и налоговые вычеты. Подчеркивается, что существуют различные принципы квалификации расчета налога на доходы физических лиц для иностранцев-налогоплательщиков и резидентов, о наличии различных льгот для резидентов в разных странах. **Эмпирический анализ.** Проводится сравнительное исследование налогового законодательства для иностранцев-налогоплательщиков в странах ЕС, Канаде, развивающихся странах и США, показывается дифференциальное налогообложение доходов нерезидентов-иностранцев в разных странах. Целью данного исследования является анализ неравенства систем подоходного налога для резидентов и нерезидентов налогоплательщиков. **Результаты.** Показаны положительные и отрицательные эффекты особого налогового законодательства для иностранцев. Автор приходит к выводу, что различные ставки налога на доходы физических лиц для резидентов и нерезидентов может привести к «утечке мозгов» из страны, снижению государственных доходов в случае резкого различия ставок по налогу на доходы физических лиц для резидентов и нерезидентов страны.

**Ключевые слова:** налог на доходы физических лиц, налогообложение нерезидентов, налоговые вычеты, Россия.

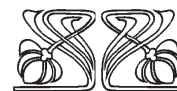
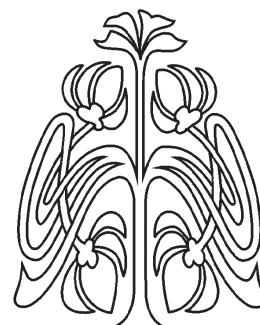
#### The Inequality of Income Taxation for Nonresident Taxpayers

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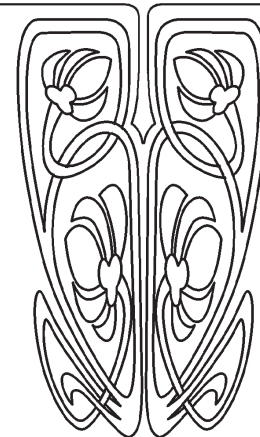
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**Introduction.** The paper provides analyses the difference between income taxation system for resident and nonresident taxpayer, in particular the inequality deduction and exemption. **Empirical analysis.** The paper emphasizes the different qualification principles for nonresident alien-taxpayer, the treaty benefits for different countries, and the standard deduction. It is a comparative investigation of tax regulations for nonresident aliens in EU countries, Canada, developing countries, and the United States, the experiences of differential income taxation of nonresident aliens in different countries. The objectives are the analyses of inequality of income tax system for resident and nonresident taxpayer, and different exemption, standard deduction. **Results.** The paper shows the positive and negative externalities of tax regulations for nonresident aliens and concludes that responses to tax rate, politic of government revenue, and treaty for different countries changes are far from fully understood and that there is much to be gained from continued research on this topic.

**Key words:** income tax of non-residents aliens, tax deductions, tax exemptions, Russia.



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## Introduction

Income comes from many sources and those sources are taxed differently. U.S. citizens – taxpayers have many opportunities for tax deductions, exclusions, and credits; some of those opportunities allow income to escape the tax base (that is, to go untaxed). If the deduction is larger, than the taxable income will be lower, and finally the taxable income tax liability will be smaller.

The Suits Index is often used in tax policy analysis to measure the degree of progressivity of a tax, or to analyze changes in progressivity under alternative tax regimes. Suppose we are interested in measuring the degree of overall progressivity exhibited by a tax or, more generally, by how much a tax departs from income proportionality. We may, for instance, wish to know whether the tax is inequality reducing, which of several taxes departs the most from proportionality, or how tax progressivity varies across time, societies, or fiscal reforms. The vertical-equity concept gauges the relationship between income and effective rates (tax paid divided by the relevant affluence measurement; the examples here use current income) [1].

However, almost all income tax systems allow for some amount of income to be earned without tax (an exemption amount) to avoid collecting tax from very low income units. Also, most income tax systems provide for higher marginal tax rates at higher income. These effects combine to make income taxes generally progressive, and therefore have a positive Suits index.

For a progressive tax – Federal Income individual tax, where higher income tax units pay a greater fraction of their income as tax, the Suits index is positive (0.362709). In most western European countries and the United States, advocates of progressive taxation tend to be found among the majority of economists and social scientists, many of whom believe that completely proportional taxation is not a possibility. In the U.S., an overwhelming majority of economists (81%) support progressive taxation. In reality this progressive taxation is only for Resident taxpayers in USA. Absolutely different situation with progressive taxation, negative rate of income tax, and possible deduction are for nonresident alien-taxpayers. There is flat income tax rate – 30% for non-resident aliens. The nonresident aliens don't allow using many deduction and exemptions as for U.S. Citizens. But we can see another situation in Europe and Canada. These countries have special tax politics to attract nonresident's labor and capital.

## Empirical analysis

### *Logic and Intuition*

The optimal taxation requires equality of marginal excess burdens across revenue sources. In order to close the model, it is necessary to specify how the average tax rate in the economy changes when the government raises the marginal rate. Browning [2] calculates changes in excess burdens for taxpayers in different income classes and sums to get the aggregate change in excess burden. His approach is equivalent for proportional or regressive tax systems to finding the marginal excess burden for an aggregate household whose tax rate is a weighted average of the marginal rates for each income class, with weights equal to class income shares. Stuart [3] analyzed the income, payroll, and indirect taxes as well as the tax effect of income-indexed transfers and found that all these elements are included since all of these can be avoided if labor is shifted from taxed to untaxed uses. He found that redistribution of tax revenue to taxpayers induces an income effect that increases the tendency for labor to leave the taxed sector when tax rates rise. This makes tax revenue increase less rapidly than would be the case if public spending were directed toward government consumption. A striking implication by Stuart is that the relevant marginal excess burden for national defense is likely to be lower than the marginal excess burden for a redistributive social program.

But the scientists didn't analyze the different marginal excess burden for resident and non-resident taxpayers in USA, Europe, Canada, and developing countries. In my opinion, the marginal excess burden for nonresident taxpayers more than for resident taxpayers in USA.

There are two reasons of importance to analyze the marginal excess burden for nonresident taxpayers. The first, there is the importance for USA to attract rich people (as foreign capital) and best specialists («brain drain») from different countries. The people respond to income taxation in many ways. European countries have the income tax competition to attract rich people from different countries as taxpayers. Seth H. Giertz [4] found that estimated the Elasticity of Taxable Income (ETIs) is larger for higher-income groups. People with higher incomes generally have more opportunities to respond to tax changes. They generally rely less on wage and salary income and have more control over the timing and source of their income than do other groups. According to Piketty and Saez [5], the share of income reported by the top 10 percent of filers rose by more than one-third from, 32.9 percent in 1979 to 41.4 percent in 1988, but two-



thirds of that increase went to the top 1 percent of taxpayers. The share of income reported by the top one-half of one percent more than doubled, the share reported by the top one-tenth of one percent nearly tripled, and the share reported by the top one-hundredth of one percent more than quadrupled. Because people with the highest income pay a disproportionate share of taxes – the top 1 percent pay approximately one third of all federal income taxes – their behavior is especially important. Second, the different marginal excess burden for resident and nonresident taxpayers in USA is the reason of inequality of income tax system. In this research paper are analyzed this inequality of income tax system, in particular, for aliens with low-income. For this category of taxpayers are very important the deductions and exemptions. Real behavior involves nonresident aliens changing their consumption or the amount they work, moving away from country with high level of taxation, taxed goods or activities toward those that are untaxed or more lightly taxed. This

inequality of income tax system provoke bypassing the tax system both illegally (by evasion) and legally (by avoidance). In the case of evasion, income is concealed or at least is not reported to the tax authorities. Higher tax rates generally increase the benefits from evasion and avoidance. In this case, there are the most part of illegal workers are nonresident aliens.

*The difference between income tax for resident and nonresident taxpayers in the USA*

In terms of tax revenue, it is important to account for gains and losses throughout the income tax system for resident and nonresident taxpayers. First, the tax rates are different for resident and nonresident taxpayers. Tax rate for nonresident taxpayers is 30%. This rate didn't change when income of taxpayer changes.

Income tax rate of residents calculates from taxable income [1]. For example, the tax rate for Single resident taxpayer (U.S. Citizen) in 2014 (IRS, 2014) (table 1).

Table 1

**Single Taxpayers tax rate**

If Taxable Income Is:	The Tax Is:
Not over \$9,075	10% of the taxable income
Over \$9,075 but not over \$36,900	\$907.50 plus 15% of the excess over \$9,075
Over \$36,900 but not over \$89,350	\$5,081.25 plus 25% of the excess over \$36,900
Over \$89,350 but not over \$186,350	\$18,193.75 plus 28% of the excess over \$89,350
Over \$186,350 but not over \$405,100	\$45,353.75 plus 33% of the excess over \$186,350
Over \$405,100 but not over \$406,750	\$117,541.25 plus 35% of the excess over \$405,100
Over \$406,750	\$118,118.75 plus 39.6% of the excess over \$406,750

**Married Filing Jointly tax rate**

If Taxable Income Is:	The Tax Is:
Not over \$18,150	10% of the taxable income
Over \$18,150 but not over \$73,800	\$1,815 plus 15% of the excess over \$18,150
Over \$73,800 but not over \$148,850	\$10,162.50 plus 25% of the excess over \$73,800
Over \$148,850 but not over \$226,850	\$28,925 plus 28% of the excess over \$148,850
Over \$226,850 but not over \$405,100	\$50,765 plus 33% of the excess over \$226,850
Over \$405,100 but not over \$457,600	\$109,587.50 plus 35% of the excess over \$405,100
Over \$457,600	\$1127,962.50 plus 39.6% of the excess over \$457,600

Second, there are big difference in deduction and exemption for resident and nonresident taxpayers. There are a lot of exemptions and tricky items that are different for different countries of origin, and they are subject to change every year. It calculates the standard deduction by looking at the average amounts

for itemized deductions that taxpayers have claimed in previous years. The following table shows standard deductions for 2013 for each tax filing status for resident taxpayers (U.S. Citizens) (IRS, 2014). If resident taxpayers qualify as either blind or over age, or both, the standard deduction is larger (table 2).



Table 2

**Standard deductions for resident taxpayers in USA (2013)**

Deductions	Standard	Blind/Elderly
Single	6,100	1,500
Head of Household	8,950	1,500
Married	12,200	1,200
Standard Deduction for Dependents	\$1,000	\$1,000
Personal Exemption:	\$3,900	\$3,900

Source: IRS Pub. 505

If the taxpayer claim an exemption for a spouse who is either blind or over age 65, the amount of your standard deduction is larger. Various adjustments and deductions, including the standard deduction and personal exemptions, all lower the taxable income. Taxable income is almost always less than the total income. Individuals can use the tax rate schedules in a number of ways to help plan their finances. You can use these tax rates to figure out how much tax you will pay on extra income you earn. For a taxpayer in the 25% tax bracket, extra income will be taxed at that rate until the taxpayer reaches the next tax bracket. Alternatively, taxpayer can use these tax rates to figure out how much tax the taxpayer will save by increasing the deductions. For a taxpayer in the 28% tax bracket will save 28 cents in federal tax for every dollar spent on a tax-deductible expense, such as mortgage interest or charity. There were the exemptions and deduction for resident taxpayers.

But the non-resident alien taxpayers cannot claim anyone as a dependent if he/she is not from Canada, Mexico, Korea or India. The most part of non-resident aliens couldn't claim spouse and children. If the student or grantee is a resident of Canada, Mexico, Japan, or South Korea, or a U.S. national, the individual is generally entitled to the same additional personal exemptions as a U.S. citizen. The exemptions are prorated on a basis of \$6.97 per day for each allowable exemption in 2012. The additional exemptions for residents of Japan and South Korea must be prorated based on their gross income effectively connected with a U.S. trade or business. The student or grantee who qualifies under Article 21(2) of the United States-India Income Tax Treaty can enter the standard deduction if he or she does not claim away-from-home expenses or other itemized deductions.

An Indian student may take a standard deduction equal to the amount allowable on Form 1040 and may be able to claim the personal exemptions for a nonworking spouse and U.S.-born children. The standard deduction for single taxpayers in 2008

was \$5,450. The standard deduction is \$6,100 for single persons and \$12,250 for married persons in 2013.

The tax treaty with Canada differs from all other tax treaties. It exempts all non-resident earned income if it is under \$10,000 a tax year, but taxes all sum if it is over \$10,000.

The definition of qualified education expenses is expanded for students in these areas. In addition to tuition and fees required for enrollment or attendance at an eligible educational institution, qualified education expenses for students in Midwestern disaster areas include the following.

1. Books, supplies, and equipment required for enrollment or attendance at an eligible educational institution.

2. For a special needs student, expenses that are necessary for that person's enrollment or attendance at an eligible educational institution.

3. For a student who is at least a half-time student, the reasonable costs of room and board, but only to the extent that the costs are not more than the greater of the following two amounts:

a) The allowance for room and board, as determined by the eligible educational institution, that was included in the cost of attendance (for federal financial aid purposes) for a particular academic period and living arrangement of the student;

b) The actual amount charged if the student is residing in housing owned or operated by the eligible educational institution. If the modified adjusted gross income (MAGI) is not more than \$65,000 (\$130,000 if you are married filing jointly), the maximum tuition and fees deduction is \$4,000. If MAGI is larger than \$65,000 (\$130,000), but is not more than \$80,000 (\$160,000 if you are married filing jointly), the maximum deduction is \$2,000. No tuition and fees deduction is allowed if your MAGI is larger than \$80,000 (\$160,000).

The nonresident alien for any part of the year couldn't claim this deduction. Only the students from China have special exemption. The U.S tax treaty with China declares that a scholar is exempt



from tax on earned income for 3 years. The students from China have an exemption of up \$5,000 per year for income earned while they are studying or training.

The nonresident taxpayers must withhold tax at the rate of 14% on amounts received from U.S. sources by an alien present in the United States on an *F*, *J*, *M*, or *Q* visa that are related to the scholarship but are not for tuition and related expenses. The nonresident taxpayers must withhold at the 14% rate on additional amounts such as room, board, or incidental expenses received under the scholarship.

If the person receiving the scholarship or fellowship grant is not a candidate for a degree, and is present in the United States on an *F*, *J*, *M*, or *Q* visa, you must withhold tax at the rate of 14% on the total amount of the grant that is from U.S. sources if the following requirements are met:

1. The grant must be for study, training, or research at an educational organization in the United States, and

2. The grant must be made by:

- 1) A tax-exempt organization operated for charitable, religious, educational, etc. purposes,

- 2) A foreign government,

- 3) A federal, state, or local government agency, or

- 4) An international organization or multinational educational or cultural organization created or continued by the Mutual Educational and Cultural Exchange Act of 1961 (known as the Fulbright-Hays Act).

If the grant does not meet both (1) and (2) above, you must withhold at a 30% rate on the amount of the grant that is from U.S. sources.

#### *Income Taxation of non-resident aliens in Germany, Canada and Russia*

The Federal Central Tax Office in Germany has a special procedure for exempting foreign taxpayers from certain taxes deducted at source or exempting the German contracting party from the obligation to deduct them in accordance with the German Income Tax Act (EStG) and the applicable double taxation agreement (DBA). Income tax is deducted at source from certain types of income, listed in § 50a, paragraph 4 EStG.

Examples: 1) Income from the exploitation of rights (copyright, royalties, patents, etc); 2) Income from artistic performances or participation in sport in Germany.

The party liable for payment must deduct the tax for the account of the creditor with restricted tax liability (tax debtor) and pay it to tax office responsible for the latter. Following party is

obliged to issue the creditor of the payments with restricted liability for tax with a certificate of pay and tax deducted on demand (§ 50a, paragraph 5, sentence 7 EStG). Only the tax office responsible for the party liable for payment is authorized to decide whether tax is to be deducted from and paid on certain types of income under § 50a, paragraph 4 EStG.

Should a double taxation agreement (DBA) stipulate that income liable for tax deduction at source should remain untaxed or be taxable at a lower rate, an application may be made for full or partial exemption from tax deducted at source under § 50d EStG.

Under a national German regulation, the party liable for payment may correct the declaration of tax deduction under § 50a EStG (§164, paragraph 2 of the German Tax Code), if the Federal Central Tax Office (BZSt) has issued an exemption certificate under § 50, paragraph 2 EStG, the validity of which covers payments for which tax has already been deducted at source and paid. In this way, the tax office can refund tax deductible at source on the payments in question to the party liable for payment. This particularly affects cases in which payments have been made in the period between submission of the application for exemption and issue of the exemption certificate, and for which tax deducted had to be paid to the tax office because the exemption certificate had not been submitted. To avoid double refunds, the original certificate of pay and tax deducted issued by the party liable for payment (§ 50a, paragraph 5, sentence 7 EStG), which forms the basis for the refund by the Federal Central Tax Office, must be submitted to the tax office. In such cases, the Federal Central Tax Office will refund the tax deducted on application by the creditor, for reasons of practicability. Should an exemption certificate be granted for a period for which tax has already been deducted and paid, there will be an option on refunding the tax deducted.

Payments of interest and license fees accumulating in a Member State of the European Union are exempt from any taxation whatsoever in this «Member State of origin», whether deducted at source or in the course of assessment, if the recipient of the payments is a business in another Member State or has premises in a Member State other than that of the parent on which it depends. Tax exemption is based upon Council Directive 2003/49/EC of 3 June 2003 on a common system of taxation applicable to interest and royalty payments made between associated companies of different Member States.



The Canadian's non-resident for tax purposes is:

- normally, customarily, or routinely live in another country and are not considered a;
- resident of Canada; or
- do not have residential ties in Canada; and
- taxpayers live outside Canada throughout the tax year; or
- taxpayers stay in Canada for less than 183 days in the tax year.

Under Canada's tax system, the liability for income tax and the entitlement to certain social benefits in Canada is based on residency status in Canada for income tax purposes. Generally, the taxpayer become a resident of Canada for income tax purposes when the taxpayer have significant residential ties in Canada. Residential ties may include a home in Canada, a spouse or common-law partner and dependants who move to Canada to live with you, personal property such as a car or furniture, and social ties in Canada. The Canadian Revenue Agency prefers to attract taxpayers as residents and have more income tax. Canada has tax conventions or agreements – commonly known as tax treaties – with many countries. A tax treaty is designed to avoid double taxation for people who would otherwise pay tax on the same income in two countries. Tax rate is 15–29%.

The flat income tax rate for resident – 13%, for nonresident aliens – 30% in Russia from 2005 to 2014 is. The nonresident aliens have not deduction and exemption. Mikhail Zadornov, the chairman of the Parliament's budget committee, complains that Russia's tax system is an anachronism, demanding too much from the corporate sector while virtually ignoring the flourishing banking and financial services industries – and only lightly taxing individuals.

### Results

The problem is a significant inequality of income tax system for resident and nonresident taxpayer in USA. The marginal excess burden for nonresident taxpayers is more than for resident taxpayers in USA. There are two reason of importance to analyze the marginal excess burden

for nonresident taxpayers. The first, there is the importance for USA to attract rich people (as foreign capital) and best specialists («brain drain») from different countries.

Second, the different marginal excess burden for resident and nonresident taxpayers in USA is the reason of inequality of income tax system. There is negative rate of income tax for most part of resident's taxpayer in USA. The flat tax rate for nonresident alien is stable – 30%. The effective federal income tax is not negative (for most nonresident aliens around 22–27%). The resident taxpayers can claim many deduction and exemption. The non-resident alien taxpayers cannot claim anyone as a dependent if he/she is not from Canada, Mexico, Korea or India. The most part of non-resident aliens couldn't claim spouse and children. Real behavior involves nonresident aliens changing their consumption or the amount they work, moving away from country with high level of taxation, taxed goods or activities toward those that are untaxed or more lightly taxed. But, in order to achieve a given objective (whether a revenue goal, social goal, solving the problem of inequality of income tax system an improvement in the system's efficiency, or altering the distribution of the tax burden), it may be preferable to consider not simply changing tax rates (given the expected response), but to alter both the rates and deduction and exemption for nonresident taxpayers.

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