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GLOBAL MOBILITY SERVICES

U.S. Taxation of Foreign Citizens

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U.S. Taxation of Foreign Citizens

The following information is not intended to be "written advice concerning one or more Federal tax matters" subject to the requirements of section 10.37(a)(2) of Treasury Department Circular 230.

The information contained herein is of a general nature and based on authorities that are subject to change. Applicability of the information to specific situations should be determined through consultation with your tax adviser.

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* * * *

If you are a citizen or national of a foreign country who lives or works in the United States, this booklet is designed to explain how U.S. tax law may apply to you. U.S. tax law is complex, with numerous rules and many exceptions. Being familiar with the rules that may apply to you, as a foreign citizen in the United States, will help you understand your responsibilities as a U.S. taxpayer.

Your tax situation may be especially challenging in the year that you move to or from the United States, and it is generally advisable to seek tax advice in both the U.S. and your home country before you move, if possible, thereby helping to prevent any tax surprises in either country.

United States tax law is continually changing. This booklet reflects U.S. income tax law as it applies to taxable years ending on or before December 31, 2014.

You may also be interested in our companion booklet, U.S. Taxation of Americans Abroad, which is available online at this **link** or from your local KPMG GMS professional. For further information, please contact your local KPMG office. Our U.S. offices are listed in Appendix E of this booklet.

KPMG LLP

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Chapter 1 – Determination of Resident or Nonresident Status

If you are not a citizen or national of the United States (in other words, an "alien" from the U.S. standpoint), the way the U.S. taxes your income depends on whether you are a resident or nonresident. A resident alien is taxed on worldwide income – all income from all sources – in much the same way as a U.S. citizen is taxed. A resident alien can generally claim the same deductions as a U.S. citizen. On the other hand, a nonresident alien is taxed only on U.S. source income, but can claim fewer deductions.

In the year that you arrive in or depart from the U.S., you could be considered a resident alien for part of the year, and a nonresident alien for the rest of the year. As a foreign citizen who has this dual status, you will be taxed on your worldwide income for the period that you are considered to be a resident alien, and on your U.S. source income for the period that you are considered to be a nonresident alien.

The United States has a self-assessing tax system, which means that you are responsible for preparing your own tax return and computing your own taxes. You will not receive any assessment from the federal tax authority (i.e., the Internal Revenue Service, or IRS), nor will you receive an acknowledgement from the IRS that your return has been received. Most states and some cities and counties also impose income taxes, which are separately administered and have their own filing requirements.

There are special rules for some employees of foreign governments and certain types of international organizations, for visiting students and teachers, as well as for residents of U.S. possessions (i.e., Puerto Rico, Guam, American Samoa, the Northern Marianas Islands, and the U.S. Virgin Islands). These special situations are beyond the scope of this publication.

Resident Alien and Nonresident Alien

As a foreign citizen, you are generally treated as a nonresident alien unless you meet one of the two tests to be considered a resident alien: the "lawful permanent resident test", or the "substantial presence test". These tests only apply to determining whether you are a resident for federal income tax purposes – in other contexts, for example for gift and estate tax, or for immigration, the term "resident" may be defined differently.

Lawful Permanent *Resident Test (the "Green Card" Test)*

You are considered to be a resident of the U.S. under the lawful permanent resident test if you are a "green card" holder (formally, having a green card is called having "lawful permanent resident" status). This test is based on having the legal authority to enter and remain in the United States, and applies regardless of your physical presence (or lack of it) in the United States. If you have a green card, you are considered to be a resident of the U.S. for tax purposes no matter where you live, until the green card is either revoked or officially abandoned under U.S. immigration law.

Substantial Presence Test

The second test that can be applied to determine whether you are a resident alien for federal tax purposes is called the substantial presence test, and unlike the lawful permanent resident test, the substantial presence test depends entirely on how much time you spend in the U.S., regardless of your status or intent. Under the substantial presence test, you will be considered a U.S. tax resident if:

- you are a foreign citizen or national who is present in the United States for at least 31 days during the current calendar year; and

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- the sum of the number of the days you are present in the U.S. in the current year, plus one-third of the days you were present in the U.S. in the prior year, plus one-sixth of the days you were present in the U.S. in the year before that, is at least 183 days.

Example

Hiro, a Japanese executive who is employed by a U.S. company, makes frequent long business trips to the U.S., but maintains a home in Japan, where his family remains. He does not have a green card. In 2015, Hiro is present in the U.S. for 130 days. He was present in the U.S. for 120 days in 2014, and 120 days in 2013.

Hiro is considered to be a resident of the U.S. in 2015 because he was present in the U.S. for at least 31 days in 2015, and his number of "equivalent days" in 2015 and the two preceding years was at least 183, calculated as follows:

Year	Actual Days	Equivalent Days
2015	130 x 1	130
2014	120 x 1/3	40
2013	120 x 1/6	20
Total		190

When doing this calculation, you must count a day if you are physically present in the United States at any time during that day – usually this will apply to days of arrival and departure. There are exceptions for people who are present in the U.S. for less than 24 hours in transit between two other countries, and for residents of Canada and Mexico who commute daily to employment in the United States. Also, you don't have to count days that you are unable to leave the U.S. due to a medical condition that arose while you were present in the United States.

Exceptions to the Substantial Presence Test

There are two main exceptions to the substantial presence test: the "exempt individual" exception and the "closer-connection-to-a-foreign-country" exception.

The "exempt individual exception" applies if you are a foreign citizen or national who is temporarily present in the United States with one type of the several types of special status that characterize you as an "exempt individual." Any day that you are an exempt individual is not counted when you are determining whether the substantial presence test applies to you.

- Teachers and trainees who hold a J or Q visa are considered exempt individuals in the current year, unless they have had exempt individual status as a teacher, trainee, or student for two years during the last six calendar years (under certain circumstances this can be extended to four of the past six years).
- Students who hold an F, J, M, or Q visa are considered exempt individuals in the current year, unless they have been present for more than five years as a student, teacher, or trainee. (Exempt individual status can be extended beyond five years if the student can satisfy the IRS that she has complied with the terms of her visa and does not intend to reside in the U.S. permanently.)

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- Foreign government-related individuals remain nonresidents of the U.S. for as long as they are present with that status.
- Professional athletes are considered exempt individuals on any day of presence that they are competing in a charitable sports event.

The second exception to the substantial presence test, the "closer-connection-to-a-foreign-country" exception, means that even if you meet the requirements of the substantial presence test you will not be considered a resident of the United States for federal income tax purposes if during the current year:

- you are present in the U.S. for less than 183 days; and
- you maintain a tax home in a foreign country; and
- you have a closer connection to that same foreign country.

To establish that your "tax home" is in a foreign country, in general you must be able to demonstrate that your principal place of business and/or your abode is in a foreign country. Whether you have a closer connection to a foreign country is determined by comparing your various connections to the United States with your connections to the foreign country. Both of these determinations ("tax home" and "closer connection") depend on factual matters, and, therefore, are subject to a degree of uncertainty. For that reason, it is advisable not to depend on this closer connection exception unless none of the other exceptions are available. Also, you cannot apply the closer connection exception if you hold a valid green card, have a green card application pending, or have started the process of applying for a green card.

Dual Status Aliens

It is possible to be considered a nonresident alien for part of the year, and a resident alien for the rest of the year. Usually, this "dual status" happens in the year that you arrive in or depart from the United States. The start and end dates of your resident alien status depend on whether you qualify as a U.S. resident under the lawful permanent resident test or the substantial presence test.

If you meet the lawful permanent resident test, you are considered to be a U.S. resident beginning on the first day during the calendar year that you are present in the United States as a lawful permanent resident (that is, with a valid green card). If the substantial presence test applies to you, your residency start date is generally the first day that you were physically present in the U.S., although there is an exception that allows you to have been present in the U.S. for a period of no more than 10 days in total without triggering the start of your resident status.

In the year of departure, your last day of resident status is the day that you terminate your green card status (if the lawful permanent resident test applied), or on your last day of physical presence in the United States (if the substantial presence test applied – 10 days of later presence may be allowed). Of course, it is possible that both tests could apply to the same person, in which case the residency termination date is the date on which the later of the two tests no longer applies. However, your resident status will not be considered to end until December 31, if you do not establish a closer connection to a foreign country, and make that country your tax home, before the end of the year.

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No-Lapse Rule

If you were considered to be a U.S. resident for any part of two tax years in a row, the "no-lapse rule" says that you will be considered to be a resident for the entire period. Usually this applies if you terminate your resident status during one year, but become a resident again in the following year – for tax purposes you will be treated as if you were a resident all along.

Treaty Rules

Your resident alien status may be overridden if you are also considered a tax resident of a country that has a tax treaty with the United States – or, your tax resident status in the other country may be overridden. This is referred to as applying a "treaty tie-breaker" provision. If one applies to you, you may be able to elect being taxed as a nonresident alien, even though you would be considered as a U.S. resident if there were no treaty. (See Chapter 6 for a discussion of tax treaty benefits.)

Immigration Laws and Visas

If you want to work or do business in the United States, you must consider U.S. immigration laws and should consult with a U.S. immigration attorney as appropriate. Immigration law is administered in the United States by the Department of Homeland Security (DHS), through its bureau, U.S. Citizenship and Immigration Services (USCIS); and outside the United States by the Department of State, through U.S. embassies and consulates.

Under U.S. immigration law, an individual is an alien if he or she is not a citizen or national of the United States (a national is a person who is not a citizen but who owes permanent allegiance to the United States). An alien is required to seek permission to enter the United States, whether or not he or she intends to remain in the United States temporarily, or permanently (in which case the person is considered to be an immigrant), and regardless of the purpose of the visit. If you intend to visit the United States, you should determine whether you are required to obtain a visa, and if so, should apply for one at a U.S. consular office. For a list of U.S. visa classifications, see the U.S. Department of State Web site at: http://travel.state.gov/content/visas/english/general/all-visa-categories.html.

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Chapter 2 – Taxation of Resident Aliens

As a resident alien of the United States, you are generally taxed on your worldwide income, including all compensation, regardless of where the services were performed, or who your employer is. Compensation that is taxable includes cash remuneration as well as the fair market value of property or services you receive.

If you change from U.S. resident status to nonresident status, or from nonresident to U.S. resident status, your U.S. tax year is divided into two separate periods, one of residence and one of non-residence. In general, as a dual-status foreign national, you will be taxed on worldwide income earned during the period of residence and only on U.S. source income during the period of non-residence.

In this chapter, we will cover how you will be taxed in the U.S. as a resident alien, which is, in general, the same way that U.S. citizens are taxed.

Gross Income

Gross income of a resident alien includes income from all sources, wherever earned or paid throughout the world. As a resident alien your gross income may include:

- Salaries;
- Other compensation for employment;
- Interest and dividend income;
- Capital gains and losses (subject to limitations);
- Income (less expenses) from any trade or business;
- Income (less expenses) from partnerships and rental properties;
- Alimony (not child support) received;
- Income from life insurance and endowment contracts;
- Annuities;
- Pensions;
- Income resulting from the cancellation of debt;
- Income from an interest in an estate or trust;
- Prizes and awards;
- Income from other miscellaneous sources, including reimbursed business expenses in excess of expenses reported to the employer.

Gross income does not include foreign source income received while you were a nonresident alien. (See Chapter 4.)

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The law allows exclusions for certain special items. These items include:

- Qualified moving expenses;
- Interest received on certain state and local debt obligations;
- Death benefits of life insurance contracts;
- Gifts and inheritances;
- Compensation for injuries or sickness;
- Amounts received under accident and health plans;
- Contributions by employers to qualified accident and health insurance plans;
- Meals and lodging, if they are furnished on the employer's business premises for the convenience of the employer;
- Qualified scholarships.

Compensation for Personal Services

In General

As mentioned above, resident aliens are taxed on their worldwide compensation regardless of where or for whom the services are performed. Compensation includes cash remuneration and the fair market value of property or services received. All compensation is taxable unless expressly excluded by law.

Compensation includes (but is not limited to):

- Salaries, bonuses, and commissions;
- Fringe benefits;
- Deferred compensation;
- Employer stock and other property;
- Stock option income;
- Pensions and other retirement income;
- Loans with below-market interest;
- Foreign service allowances;
- Cost-of-living allowances;
- Housing costs paid for by an employer;
- The value of the use of employer-provided housing;
- Reimbursements for U.S. or foreign taxes;
- School tuition for an employee's spouse and children;
- Home-leave allowances;

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- Use of a company car for personal purposes;
- The value of domestic services provided by an employer;
- Reimbursement of certain relocation expenses; and
- The value of employer-provided tax return preparation services.

Below, we focus on some of the above elements of compensation.

Deferred Compensation

"Deferred compensation" is compensation that is earned in one year but paid in a later year. Deferred compensation is not taxable until the compensation is received, if the employer meets certain conditions regarding how it is paid. However, an individual cannot avoid tax in the year the compensation is earned simply by asking to defer the payment of the compensation. Instead, the employer has to set up a special deferred compensation plan, and the employee's agreement with the employer to defer income must generally be made before the services are performed. For example, if a bonus will be earned in 2014 and payable after March 15, 2015, your agreement to defer all or a portion of the bonus to 2015 would generally have to be made in 2013. The rules are complex, and should be spelled out in the plan set up by your employer.

Significant tax penalties can apply if the payment of deferred income does not conform with IRS rules. These penalties may include a requirement that the individual pay tax on the deferred amount in the year it is earned rather than the year it is received, and an additional 20-percent tax may be assessed on the deferred income, which may be increased by interest. Making foreign-based deferred compensation arrangements conform with the IRS rules can be particularly complex, so non-U.S. deferred compensation should be carefully considered before payment.

Compensation you earn as a resident alien in the United States, but received after you become a nonresident alien, will generally be taxed at the regular U.S. graduated tax rates in the year received. However, if the deferred compensation was set aside in a broad-based pension plan of your home country while you were a U.S. resident alien, it is possible that a tax treaty may apply that allows for exemption from U.S. tax.

Employer Stock and Other Property

If you receive employer stock or other property as compensation, this generally is taxable when it is received. The amount of compensation is the excess of the fair market value (FMV) of the stock or other property over the amount you pay for it (if any). However, if the stock or property received is not freely transferrable, or it is subject to a "substantial risk of forfeiture," income will not be recognized until those restrictions are removed. Having a substantial risk of forfeiture occurs if your rights to full enjoyment of the property (for example, the right to sell the property) are conditioned on the future performance of substantial services. A typical example of such property would be restricted stock.

If you receive property that is not currently taxable as compensation because of such restrictions, you can choose to treat the property as compensation in the year received, in order to avoid tax on appreciation of the property. To do this, you must file a special statement with the IRS within 30 days after the transfer of property. No deduction is allowed if the property is subsequently forfeited.

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Stock Options

A stock option is the right to purchase shares in a corporation at a price that is fixed when the option is issued. Your employer may have granted you stock options as compensation. The option agreement usually specifies the purchase price and time period during which you can exercise the option. How the exercise of a stock option is taxed depends on whether it is an "incentive stock option" or a "nonqualified option."

An incentive stock option (ISO) is an option that meets certain requirements, including the following:

- The option price must be at least the FMV of the stock at the time of the grant (or at least 110 percent of FMV if granted to a 10-percent, or greater, shareholder);
- No more than USD 100,000 (measured by value of the stock at grant date) can become eligible for exercise in a calendar year; and
- The option must not be exercisable more than 10 years after the date of grant (five years if granted to a 10-percent, or greater, shareholder).

You will not be taxed on the grant or exercise of an ISO, as long you hold the stock for at least two years from the date of the grant of the option, and one year from the date you exercise the option. If you meet these time requirements, you will be taxed when you sell the stock at the capital gains tax rates (which are typically lower). If you do not meet the time requirements (because you sell the stock too soon), the difference between the FMV of the stock at the time of exercise and the amount you paid at exercise is taxed as compensation (rather than capital gain). Although there is no regular income tax assessed at the time of grant or exercise of an ISO, the excess of the FMV of the stock at the date of exercise over the purchase price must be added back as an adjustment to taxable income for alternative minimum tax (AMT) purposes (discussed later in this chapter).

A nonqualified stock option is generally any option other than an ISO that is granted as compensation for services. In most cases, you will not be subject to tax on the grant of a nonqualified stock option. When you exercise a nonqualified stock option, you are taxed on the FMV of the stock received less its purchase price. (Unlike an ISO, the exercise of a nonqualified option does not give rise to an adjustment for AMT purposes.) The subsequent sale of the stock will result in a capital gain or loss. In determining gain or loss, the basis of the stock is the purchase price plus the compensation recognized at exercise.

If an option has a "readily ascertainable fair market value" at the time of grant, you will recognize income at the time of grant, instead of when you exercise the option. To have a readily ascertainable FMV, the option must be actively traded on an established securities market, or its value must be otherwise measurable with reasonable accuracy based on certain tests. It is uncommon for employee stock options to have a readily ascertainable value.

Other rules apply to stock acquired by the exercise of options under employee stock purchase plans.

Pension and Other Retirement Income

Pensions and other retirement allowances received under U.S. or foreign plans are generally taxable. If you did not contribute to the cost of the pension, the full amount received generally is taxable. If you did contribute, a portion of pension amounts received may be excluded from your gross income. The rules for determining the non-taxable portion can be complicated, especially if the distribution is from a non-

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U.S. plan. Special rules may also apply to pension and other retirement benefits received as a lump-sum distribution.

U.S. tax on foreign source pension benefits can be offset in whole or in part by foreign tax credits (discussed later in this chapter). Pension benefits are foreign source to the extent that they are attributable to services performed abroad. Income tax treaties may also affect the taxation of pension benefits. Many U.S. tax treaties provide that a resident of the United States may be taxed on pension benefits only by the United States.

Contributions to a qualified U.S. pension plan, and income accrued in such plans, generally are not taxable in the United States until distribution. However, foreign citizens on international assignment in the United States who continue to participate in a pension plan in their home country may be taxed on their employer's contributions (and the employee's contributions may not be deductible) while on assignment. However, certain income tax treaties may provide relief from U.S. taxation on contributions to, and the accrual of benefits in, foreign country pension plans.

Loans with Below-Market Interest

It is not uncommon for employers to provide loans to assignees to pay for certain assignment-related expenses. If such a loan is interest-free or has a below-market rate, the imputed interest (i.e., the difference between the market rate and the actual interest paid, if any) may be taxable as compensation income. If you have such income, you will also be treated as having paid the same amount of interest, but in most cases such interest expense will not be deductible. Loans subject to these rules include:

- Gift loans;
- Compensation-related loans between an employer and an employee in excess of USD 10,000;
- Corporation-shareholder loans in excess of USD 10,000; and
- Loans with tax avoidance as one of their principal purposes.

The imputed interest rules will not apply if you are a nonresident alien and you borrow from a foreign person or foreign entity. If you are a resident alien who borrows from a foreign person or entity, the imputed rules will not apply if the loan is not related to compensation and is not related to a U.S. trade or business.

Business-Related Deductions and Exclusions, Personal Deductions and Exclusions

In General

If you have business expenses that are reimbursed by your employer, you do not have to list them on your tax return. On the other hand, if you have business expenses relating to your employment that are not reimbursed, you may qualify to deduct them from your taxable income. However, only the expenses that exceed 2 percent of your adjusted gross income, after adding them to certain other expenses, can be deducted. (See Chapter 5.) These unreimbursed employee business expenses can be claimed on your tax return as miscellaneous itemized deductions.

Travel Expenses

If you are in the United States for a temporary assignment, you may not have to include reimbursements of travel and living expenses in your income (or those expenses may be partially deductible if they are not reimbursed). To take advantage of this exclusion for "temporarily-away-from-home" travel expenses, you

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must be temporarily away from your principal place of employment (known as your "tax home"). Also, your stay in the U.S. must have an expected duration of a year or less – and if your stay ends up exceeding one year anyway, the expense reimbursements become taxable after that point.

Careful planning by your employer, and record-keeping by you and your employer, are necessary to help ensure that you do not have to claim such reimbursements of travel and living expenses as income.

Example 1

Martine is sent from France to the United States, where she is expected to remain for six months. However, after four months her employer decides that she will need to remain in the U.S. for another year, meaning that her assignment will be a total of 16 months long. Reimbursements for Martine's transportation and living expenses are tax-free only for the first four months of the international assignment. When it becomes clear that the assignment will be longer than one year in total, the reimbursements become taxable income from that point forward.

Example 2

Assume the assignment discussed in Example 1 is originally scheduled to last 12 months, but due to various delays it in fact lasts 14 months. In this situation, the maximum deduction for away-from-home expenses would be limited to those expenses incurred during the first 12 months.

Also, regardless of how long you expect to be present in the United States, employer-provided housing does not create taxable income for you if the following conditions apply:

- the housing is on the employer's premises,
- the housing is provided for the convenience of the employer, and
- you are required to live there.

This situation is most likely to apply if the work location is remote and there is no other suitable housing nearby (often referred to as "camp housing"), or in unusual work situations such as oil drilling rigs. Under a similar rule, employer-provided meals do not create taxable income if they are served on the employer's premises for the employer's convenience.

Foreign Earned Income Exclusion

If you are a lawful permanent resident of the United States (i.e., a green card holder), you continue to be subject to U.S. tax even when you are living and working outside the United States. However, if your tax home is in a foreign country, and you are physically present in one or more foreign countries for at least 330 full days during any 12-month period, you may qualify to exclude some or all of your foreign compensation from taxable income. Compensation is considered foreign if it relates to services you provide outside the United States, regardless of where your employer is based or where the payment is made. The maximum amount that can be excluded is USD 99,200 for 2014 (USD 100,800 for 2015). In some cases that amount may be increased for a portion of your foreign housing expenses.

If you are a green card holder and want to claim this special exclusion for foreign earnings, you may want to talk to a U.S. immigration attorney to be sure that claiming the exclusion will not have an impact on your green card status.

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Capital Gains and Other Gross Income

A capital gain is the profit that results when you dispose of an asset where the amount realized upon the disposition exceeds the purchase price – these may be, for example, gains from the sale of investment assets, personal property, as well as certain business property. Capital gains from property that you owned for a year or less are taxed at ordinary tax rates (currently a maximum of 39.6 percent). However, capital gains from property that you owned for more than a year are taxed at a maximum rate of 20 percent. If you have capital losses, they can be deducted against capital gains. If capital losses exceed capital gains, only up to USD 3,000 can be deducted against other income. The excess is "carried forward" to future years until it is used up.

Up to USD 250,000 of gain on the sale or exchange of your principal residence can be excluded from income if certain requirements are met. (The limit is USD 500,000 for a married couple that files a joint return. See Sale of Principal Residence in Chapter 5.)

Passive Loss Limitations

If you have an investment in a business but do not materially participate in that business, your share of the income or loss from that business is referred to as "passive income" or "passive loss." (This is not the same thing as investment income.) "Material participation" generally means that the activity is your main business. In addition, income from any rental property that you own is considered to be "passive" regardless of how much you participate in the rental business, unless you meet the definition of a "real estate professional," meaning that either you or your spouse devote the majority of your professional services, and at least 750 hours per year, to real estate businesses. Businesses that yield passive income or loss are called "passive activities."

If you have passive losses, the general rule is that they can only be deducted against passive income – not against other income such as salary or investment income. (Likewise, tax credits from passive activities can only be claimed against tax on passive income.) If you have passive losses that cannot be deducted because you do not have enough passive income, the excess passive losses can be carried forward to be applied against passive income in future tax years. The loss that is carried forward becomes fully deductible in the year that you sell (or otherwise dispose of) the property that produced the loss.

A special rule says that passive loss from rental properties in which you actively participate gets special treatment. Up to USD 25,000 of loss from such rental properties is deductible against "ordinary income," such as your salary and investment income, if your adjusted gross income does not exceed USD 150,000. "Active participation" means that you own at least 10 percent of the property, and exercise managerial control over it – this might include approving new tenants, setting lease terms, or approving capital expenditures.

Rental of Former Residence

Many people who are on international assignment do not sell their residences in their home countries, but instead just rent them out while they are away. Rental income is taxable, but only after deductions are taken for related expenses such as mortgage interest, property taxes, insurance, and utilities. Deductions for depreciation are also allowed for the building and any furnishings and appliances included in the rental, but not for land. (U.S. law has specific rules for how to calculate depreciation deductions).

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If you rent your principal residence to others for less than 15 days during the year, you do not have to pay tax on the rent received (although, of course, you cannot claim the related deductions, either). On the other hand, if you rent the property to others but also use it for personal purposes during the year, you may not be able to deduct any net rental loss. ("Personal use" includes occupancy by yourself, as well as by friends and relatives unless they pay market-value rent.) This is the case if personal use of the property exceeds the greater of 14 days or 10 percent of the number of days the property is rented. Special rules are applied to split expenses such as mortgage interest, taxes, and utilities between personal and rental use.

Adjustments to Gross Income

When you are calculating your taxable income, you are allowed to claim certain personal expenses as deductions. The allowable deductions are separated into two groups, called "adjustments" and "itemized deductions." Throughout this publication you may see reference to "adjusted gross income" or AGI, because various limitations are based on the amount of your AGI. AGI is calculated as your gross income, reduced by allowable adjustments. Some common adjustments include:

- Trade or business expenses related to self-employment.
- Contributions to an Individual Retirement Account (IRA; a personal retirement savings plan) up to USD 5,500 in 2014 and 2015. For taxpayers 50 years old and over, those amounts are increased by USD 1,000 for both 2014 and 2015. Note that the deduction is not allowed if your AGI exceeds a certain level.
- Contributions to other special retirement savings plans (e.g., SEP, SIMPLE, and Keogh plans), within limitations, if you are self-employed.
- Alimony paid.
- Forfeited interest on early withdrawal of savings from time deposits.
- One-half of self-employment tax paid, if you pay this tax because you have your own business.
- The cost of your health insurance, if you are self-employed.
- Health Savings Account deductions.
- Qualified moving expenses that are not reimbursed by your employer.
- Qualified student loan interest.

Itemized Deductions

After computing AGI, you are allowed to claim either the "standard deduction," or certain non-business "itemized deductions." (Normally, you will claim whichever amount is higher.) The standard deduction is a flat amount that is based on your filing status, and is adjusted annually for inflation. The standard deductions amounts can be found in Appendix D.

Itemized deductions include, but are not limited to, the following:

- Medical expenses, including insulin and prescription drugs, and medical insurance premiums, to the extent that such expenses exceed 10 percent of AGI in 2014 and 2015 (or 7.5 percent if you or your spouse is age 65 at the end of the year).

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- State and local income taxes on income, real property, and personal property; foreign real property taxes; and foreign income taxes (unless you claim them as a foreign tax credit, which is more common). If you choose, you can deduct state and local general sales taxes instead of state and local income tax – for most taxpayers, this is only beneficial if they live in a state that does not have an income tax.
- Contributions you make to qualified U.S. charities (with limitations based on the amount of your AGI). Deductions can be taken for the amount of money given, or for the current value of property given.
- Interest you pay on home mortgages and certain other interest on debt secured by your principal or second residence. This deduction is limited to interest amounts paid on the first USD 1 million of "acquisition debt" (debt that was used to acquire, construct, or substantially improve the residence(s)) and up to USD 100,000 of "home equity indebtedness" (any debt secured by your principal or second residence that is not acquisition debt).
- Losses you incur due to theft or casualty (such as storm damage), to the extent each loss exceeds USD 100, and the total loss exceeds 10 percent of AGI.
- Certain miscellaneous deductions such as union dues, unreimbursed employee business expenses, casualty losses related to income-producing property (within limits), and tax return preparation fees to the extent that these deductions in total exceed 2 percent of AGI.
- Interest you pay on debt that is used to acquire property that earns investment income, but only to the extent of the total income earned from such property. Excess investment interest is carried forward to future years.

You may not be allowed the full amount of your itemized deductions and personal exemptions (discussed below) if your AGI exceeds a certain threshold – the more your income exceeds the threshold, the more of your deductions and exemptions may be disallowed (or "phased out"). The threshold amounts for 2014 are USD 305,050 for a married couple filing jointly, and USD 254,200 for a single taxpayer. (In 2015 the amounts will be USD 309,900 and USD 258,250 respectively.) Deductions for investment interest expense, medical expenses, and casualty losses are not subject to these phase-out rules.

Personal Exemptions

In addition to the deductions described above, each taxpayer is allowed a "personal exemption" of USD 3,950 for 2014 (USD 4,000 in 2015). You can also claim a personal exemption for your spouse if you file a joint return together, or if your spouse had no income that would be subject to tax in the United States. You can also claim a personal exemption for each of your qualified dependents. Exemptions for your spouse and dependents are allowed only if no one else can claim exemptions for them. Dependents other than your spouse, such as your children and parents, must also be citizens of the U.S., or residents of the U.S., Canada, or Mexico. You must provide more than half of the support for anyone you claim as a dependent, and a dependent must either be related to you, or be a member of your household.

Taxable Year

In general, the U.S. tax year is the calendar year, ending on December 31. You can use a fiscal year (i.e., a 12-month period that ends with a month other than December) if that fiscal year was your taxable year before you became subject to U.S. tax.

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Rates and Filing Status

The United States has a graduated income tax rate structure, which means that as your income increases, so does your income tax rate. There are currently seven tax rate brackets: 10 percent, 15 percent, 25 percent, 28 percent, 33 percent, 35 percent, and 39.6 percent. Certain capital gain and dividend income is taxed at a maximum rate of 20 percent starting in 2013. See Appendix D for the 2014 and 2015 tax rate schedules.

As a U.S. resident, you figure your tax by first calculating your taxable income, which is gross income minus all allowable deductions and exemptions. The tax rate schedules are used to determine how much tax is due, which may be reduced by some tax credits. There are four tax rate schedules. Which one you use depends on your filing status:

- Married individuals (and certain surviving spouses) filing joint returns;
- Heads of households;
- Single individuals; and
- Married individuals filing separate returns.

It is important to determine what your filing status is, since the tax rate schedules are different for each status. If you are married, you must use either "married filing joint" (MFJ) or "married filing separate" (MFS) status. To file a joint return, you and your spouse must both be citizens or residents of the United States for the entire year. Otherwise, you must use the MFS status, which usually results in a higher tax bill. (Note that if you and your spouse are legally married in your home country, but are of the same sex, you will be treated as being married for U.S. federal tax purposes, but some U.S. states will treat you as being single.)

You can claim the "head of household" (HOH) status if you are unmarried and your home is the principal residence for a dependent who is related to you (such as your parent or child). A special exception allows you to claim HOH status if you are a married full-year U.S. resident, and your spouse is a U.S. nonresident for at least part of the year (but you cannot claim your spouse as the dependent who qualifies you as a head of household).

Residency Election by Married Taxpayers

If you are married but do not qualify to file a joint return because you and your spouse were not both full-year U.S. citizens or residents, it is possible to elect to be treated as if you were both full-year residents. This enables you to file with MFJ status, which may lower your tax burden. See Chapter 4 for a discussion of the special elections that make this possible.

Tax Credits

If you are subject to U.S. and foreign tax on foreign income that you received, you may be able to claim a credit to reduce your U.S. tax for the foreign tax paid on the foreign income. The credit is limited to the lesser of the foreign tax, or the U.S. tax on the foreign income, and certain other limitations apply as well. If the foreign income tax is higher than the U.S. tax on the income, the excess foreign tax can be carried back to the previous year, and if it cannot be claimed as a credit in that year, it can be carried forward for possible credit for 10 years.

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Various other credits can also be claimed against your U.S. income tax, including credits for each of your children, for child-care and disabled dependent-care expenses, for post-high school tuition expenses, for adoption expenses, and various other less common credits. Each of these credits is subject to limitations.

Alternative Minimum Tax

In addition to U.S. income tax, you may also be subject to alternative minimum tax (AMT). This special tax was put in place more than three decades ago so that taxpayers at high income levels pay at least a minimum amount of tax. The AMT tax rates are lower than the regular income tax rate schedules (the highest AMT rate is 28 percent), but fewer deductions are allowed when figuring the amount of income subject to AMT. You are also allowed a large exemption amount, which helps to ensure that lower-income taxpayers will not be subject to the AMT (see Appendix D for the 2014 and 2015 exemption amounts). The foreign tax credit and most other tax credits may be used to reduce the AMT.

After figuring both your regular tax and your AMT, your tax liability for the year is whichever of the two taxes is higher. In some cases, being subject to AMT will generate a special "minimum tax credit" which can be used to reduce your tax liability in a year when you are not subject to AMT.

Net Investment Income Tax

In addition to the regular income tax, an additional Net Investment Income Tax (NIIT) will apply to the net unearned income of certain resident taxpayers. Net unearned income is your investment income, plus other passive income such as rental income, reduced by directly-related expenses. The NIIT tax rate is 3.8 percent and applies to the lesser of your net unearned income, or the excess of your modified AGI income over a threshold amount. The threshold amount is USD 250,000 for married taxpayers filing jointly, USD 125,000 for married taxpayers filing separately, and USD 200,000 for all others. If you are on international assignment, you may find yourself liable for this tax if the extra taxable assignment-related allowances you receive increase your income to a level that exceeds the threshold amount.

Community Property

How income and property are owned by each spouse in a married couple depends on the laws of the country (or U.S. state) where they are domiciled (that is, the place that is their permanent home), and they should consult with an attorney as appropriate. In most jurisdictions, each spouse owns the wages that he or she earns, as well as income from property that is in his or her name. However, if your place of domicile has "community property" law, then you and your spouse will generally split much or all of your income equally between the two of you. This has little or no impact if you file a joint return together, but can make a big difference if you file separate returns.

Certain aspects of community property law are ignored if one or both of the spouses are nonresident aliens. In that case, community property income will be taxed as follows:

- Earned income is treated as the income of the spouse whose services produced the income, and all of it must be reported on that individual's separate return;
- Trade or business income is treated as income of the spouse carrying on the trade or business – if the trade or business is jointly operated, the income and deductions are split according to the spouses' shares of the income;

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- Partnership income is treated as the income of the partner;
- Income from the separate property of one spouse is treated as the income of the spouse owning the property as determined by the community property laws;
- All other community income is treated as the income of the spouse who has a vested interest in the income under the community property laws.

These rules apply whether domestic or foreign community property laws are in effect.

Imputed Income from Certain Foreign Corporations

If you own shares in a foreign corporation that meets the definition of a "controlled foreign corporation" (CFC), you may be required to include some of that corporation's income in your tax return even if it has not been distributed to you in the form of dividends. A foreign corporation is considered to be a CFC if more than 50 percent of its shares (measured by either voting power or value) are owned by U.S. persons (including resident aliens) who each own (directly or indirectly) at least 10 percent of the shares.

Special rules also apply if you own shares of a "passive foreign investment company" (PFIC). A foreign corporation is generally treated as a PFIC if at least 75 percent of its gross income consists of passive income or if at least 50 percent of its assets produce, or are held for the production of, passive income. Various foreign investment vehicles such as mutual funds are likely to be considered PFICs. If you sell stock in a PFIC, a special interest charge may apply in addition to the tax on any gain. Advance planning with the advice of a tax professional can help to prevent extra charges with respect to PFICs.

Investment in CFCs and PFICs must be reported annually. These reporting requirements are discussed in Chapter 9.

Expatriation

People who give up U.S. citizenship or who give up their green card (this is known as "expatriation") may be subject to a special exit tax. Green card holders are subject to the tax only if they are considered to be "long term permanent residents," which is the case if they have had green card status in eight years during the 15-year period ending in the year of expatriation. If you are a long-term resident but choose to be treated as a nonresident of the United States under a tax treaty, you will be treated as if you gave up your green card.

The exit tax applies if you give up your citizenship or green card (if you are a long-term resident), but only if you meet one of the following conditions:

- Your average annual U.S. net income tax liability over the five years before the year of expatriation is greater than USD 157,000 in 2014 or USD 160,000 in 2015;
- Your net worth is USD 2 million or more on the date of expatriation (this amount is not indexed for inflation); or
- You fail to certify that you have complied with U.S. tax laws for the five preceding tax years.

Narrow exceptions apply to certain U.S. citizens with dual nationality.

If you are subject to the exit tax, you are known as a "covered expatriate," and you are treated as if you have sold all your property at its FMV on the day before your date of expatriation. Any resulting gains in

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excess of an exclusion amount (USD 680,000 for 2014; USD 690,000 for 2015) are subject to income tax. For the purposes of calculating this "deemed gain" on property that you owned when you first became a U.S. resident, you are treated as if you acquired that property for its FMV on the date that you became a U.S. resident, if that amount is higher than the actual cost of acquisition.

Special rules apply to items of deferred compensation, certain tax-deferred accounts, and any interest in a nongrantor trust. An election is available to postpone payment of the exit tax on a given asset until that asset is actually sold, by posting adequate security and paying interest.

In addition, a U.S. citizen or resident who receives a gift or inherits property from a covered expatriate is subject to a transfer tax on the FMV of the property received at the highest U.S. gift or estate tax rate in effect (40 percent). The transfer tax does not apply if the property was included in a timely filed U.S. gift or estate tax return that was filed by the covered expatriate.

Due to the complexity of this area of the law, we recommend that you seek professional advice before revoking U.S. citizenship or surrendering your green card, to understand and plan for the potential tax implications. Immigration counsel should also be consulted as there are non-tax issues which ought to be considered as well.

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Chapter 3 – Taxation of Nonresident Aliens

If you are neither a citizen nor a resident of the United States, you may still be liable for U.S. income tax. In this chapter, we discuss how the U.S. taxes nonresident aliens.

Gross Income

Nonresident aliens are generally subject to U.S. tax on income from U.S. sources, with some exceptions. U.S. source income is divided into two categories:

- Investment and other passive income: certain U.S. source income that is not connected with a U.S. trade or business.
- Business income: income that is connected with a U.S. trade or business, including compensation for services performed in the United States.

These two categories are taxed in different ways. You are not allowed any deductions against investment and passive income, which is taxed at a flat rate of 30 percent (unless a treaty provides for a lower rate). Business income, including wages, is reduced by allowable deductions, and is taxed according to the regular graduated rate schedules that apply to U.S. citizens and resident aliens.

Income from a U.S. rental property is not treated as income from a U.S. trade or business unless a special election is made. If you do not make this election in your tax return, rent that you receive as a nonresident alien from a U.S. rental property will be taxed, with no deductions allowed, at the flat 30-percent rate (or, if applicable, the lower treaty rate).

Certain items are excluded from the gross income of all individuals. These exclusions are discussed in Chapter 2 covering the taxation of resident aliens.

Income from U.S. Sources

As a nonresident alien, you are subject to U.S. tax only on income from U.S. sources. Income treated as U.S. source generally includes the following:

- Interest paid by U.S. resident entities or individuals;
- Dividends paid by U.S. corporations (with exceptions);
- Compensation (including stock option income) for personal services performed in the United States, regardless of the location of the payor;
- Rents and royalties from property located or used in the United States;
- Gains from the disposition of U.S. real property;
- Income from the sale or exchange of personal property by an individual, including a nonresident alien, who has a tax home in the United States;
- Income from the sale or exchange of personal property, including inventory, through a U.S. office or fixed place of business of the seller, except for inventory sold for use outside the United States if a foreign office of the seller materially participates in the sale;

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- Alimony paid by U.S. residents; and
- U.S. Social Security benefits.

Certain Investments and Other Passive Income

When received by a nonresident alien, investment income and other passive income from U.S. sources is taxable at a flat rate, with no deductions allowed, if it is not connected to a U.S. trade or business. The flat tax rate is 30 percent unless reduced by a treaty. This category of income includes:

- Dividends;
- Certain interest, including original issue discount;
- Rents and royalties;
- Alimony;
- Certain capital gains; and
- 85 percent of U.S. Social Security benefits.

Certain investment income is exempt from the 30-percent tax, including:

- Interest received on deposits with banks and certain other financial institutions;
- Interest received on certain portfolio obligations issued after July 18, 1984 – portfolio interest does not include interest received on debt when the recipient is a 10-percent or more shareholder of the payor;
- Original-issue discount issued on a debt obligation that matures within 183 days of original issue; and
- Certain capital gains (discussed below).

Business Income

When received by a nonresident alien, income that is connected with a U.S. trade or business is taxed according to the graduated rate schedules, after deducting the appropriate expenses.

This income generally includes:

- Compensation for personal services performed in the United States;
- Profits from the operation of a business in the United States;
- Income from a partnership engaged in a U.S. trade or business;
- Income from real property operated as a business;
- Income from real property held for investment if an election is made to treat the income as business income;
- Income from the sale or disposition of U.S. real property interests;
- Income from the sale of certain business-related capital assets;

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- Interest, dividends, and other passive income, if it is derived from assets or activities of a U.S. trade or business; and
- Foreign source income in limited circumstances.

Deferral of income does not change its nature. For example, if you receive a bonus in 2015 for services that you performed in the U.S. in 2014, that 2015 bonus will still be treated as U.S. source business income, even if you do not enter the U.S. during 2015. Likewise, if you sell property in the current year that you used in a U.S. business in prior years, any gain on that property will be treated as U.S. business income.

A special exception allows a nonresident alien to earn up to USD 3,000 per year tax-free as compensation for services provided in the United States. To qualify for this exception, you must not be present in the U.S. for any reason for more than 90 days during the year, and your employer must not be engaged in a U.S. trade or business. Many treaties provide a similar rule that is more generous – in most treaties there is no dollar limitation on the amount that can be earned, and you can be present in the U.S. for up to 183 days. (In some treaties you are limited to 183 days of presence per tax year, while in others you are limited to 183 days in any 12-month period that begins or ends in the tax year, which is much more restrictive.) In most cases, this treaty exception is not available if your compensation is paid by a company doing business in the U.S., including if your foreign employer is reimbursed for your wages by a U.S. company.

If you are present in the United States as a student, teacher, trainee, or cultural exchange visitor, and you hold an F, J, or Q visa, your compensation paid by a foreign employer may be exempt from U.S. income tax. (See Chapter 1 for a description of F, J, and Q visas.) Time limits apply to this exemption.

As a nonresident alien, income from trading in investments such as shares, securities, or commodities in the United States for your own account is not considered to be U.S. business income, unless you are a dealer. This rule applies no matter how much trading activity you have, and applies regardless of whether you do the trading yourself or through a U.S. broker.

If you are a nonresident alien and have an office or place of business in the United States, certain foreign income attributable to your U.S. place of business may be taxable in the U.S., which is an exception to the general rule that only U.S. source income is taxable to you. These types of income include:

- Rents and royalties for the use of intangible property derived from the conduct of a licensing or similar business;
- Dividends, interest, or gains from stocks, bonds, or debt obligations derived in the active conduct of a banking, financing, or similar business with the United States; and
- Income from the sale of inventory property outside of the United States, unless the property is sold for use, consumption, or disposition outside of the United States and a foreign office of the taxpayer materially participates in the sale.

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Partnership Income

If you are a nonresident alien who is a partner in a partnership, you are taxable on your share of the partnership's income from a U.S. trade or business, whether the partnership itself is a U.S. or foreign partnership. The partnership is required to withhold U.S. tax on your share of the partnership's U.S. income.

Your share of partnership losses may not be deductible, as they may be characterized as passive activity losses, which are discussed in Chapter 2.

Real Property Income

Income from U.S. real property held for investment (such as rent) is treated as passive income when it is received by a nonresident alien, which means it is taxed generally at a flat 30-percent rate (unless a treaty provides for a lower rate), with no deductions allowed. However, you can make an election to treat the income as being from a U.S. trade or business, which allows you to claim related deductions, with the net income taxable at the graduated rate schedules. The election applies to all such income – you cannot choose to apply it property by property. Once you make the election, it applies in all subsequent years unless you revoke it, and once revoked, you cannot make the election again for five years, unless you receive the permission of the IRS.

Chapter 2 contains a discussion of limitations on the deduction of losses from passive activities, including rental activities.

Sale or Exchange of Capital Assets

As mentioned above, if you are a nonresident alien, you will be subject to U.S. tax if you sell or exchange U.S. business assets or U.S. real property interests. Capital gain on foreign business assets and foreign real property is exempt from tax for nonresident aliens. Gain on the sale of other types of property (such as investments) generally is not taxed in the United States if you are a nonresident alien, you do not have a tax home in the U.S., and you are present in the U.S. for less than 183 days during the tax year. (In general, you will be considered to have a tax home in the United States if your principal business is in the United States.)

As discussed in Chapter 1, in most cases a foreign citizen who is present in the United States for 183 days or more during the taxable year will be a resident alien, not a nonresident. The limited exceptions to this rules are for certain foreign citizens who are allowed to be present in the United States for longer periods as nonresident aliens, including certain diplomats, employees of international organizations (e.g., the United Nations), teachers, trainers, students, and professional athletes. If the nonresident is present in the United States for 183 days or more during the year, the excess of U.S. source gains over U.S. source losses is taxed at the 30-percent rate or, if applicable, the lower treaty rate. All gains and losses from U.S. sources are taken into account for this purpose. Losses in excess of gains are not allowed to be deducted against other income.

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Sale or Exchange of U.S. Real Property Interests

If you are a nonresident alien, you are subject to tax on the gain from the sale or disposition of a U.S. real property interest (USRPI), which is treated like income connected with a U.S. business, even if you have never been in the United States. A USRPI is:

- any ownership interest in real property located in the United States or the U.S. Virgin Islands; or
- any ownership interest (other than an interest held solely as a creditor) in any U.S. corporation, unless you can establish that the corporation was not a "U.S. real property holding corporation" at any time during the preceding five-year period (or, if shorter, the period during which you owned an interest in the corporation).

Generally, a U.S. corporation will be considered a U.S. real property holding corporation if the FMV of its USRPIs equals or exceeds 50 percent of the sum of the FMV of its worldwide real property assets and any other assets used in its trade or business. However, a U.S. corporation will not be treated as a USRPI if its shares are traded on an established securities market, unless the individual owns more than 5 percent of a class of traded shares. A number of narrower exceptions to the definition of USRPI also exist.

If an individual sells a USRPI, the buyer (or other recipient of the property) is required to withhold 10 percent of the amount realized (net proceeds) on the disposition. For distributions by foreign corporations, withholding is required at a 35-percent rate on the amount of the gain (rather than on proceeds). Similarly, higher withholding is required on dispositions of USRPIs by domestic partnerships, estates, and trusts to the extent that gain is allocable to a foreign partner or beneficiary. However, no withholding is required in a few special situations, including if you dispose of your personal residence, which was acquired for use as your personal residence (as opposed to converting it from some other use), if the proceeds do not exceed USD 300,000.

Deductions and Personal Exemptions

As a nonresident alien, you are allowed to claim only those deductions that are related to your U.S. business income, with three exceptions. The following items can be deducted against U.S. business income even if they are not related to that income:

- Certain casualty or theft losses related to property located in the United States;
- Contributions to U.S. charities; and
- Personal exemptions (discussed in Chapter 2).

Note that if you do not file your tax return with the IRS before a specific deadline (generally within 16 months of the original due date of the return), you may not be allowed to claim the deductions to which you otherwise would have been entitled.

Taxable Year

In most cases, as a nonresident alien you are required to use the calendar year as your taxable year.

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Rates and Filing Status

As mentioned above, nonresident aliens are not allowed to claim deductions against passive income, but business-related expenses may be claimed against business income (however, there are limitations on such deductions for employees). Business income is taxed at the same rates that apply to U.S. citizens and residents, except that nonresident aliens who are married must use the married filing separate status, rather than the married filing joint status, unless they make a special election to be treated as U.S. residents. (See Chapter 4, "Taxation of Dual-Status Aliens.") The U.S. individual income tax rates for 2014 and 2015 are set forth in Appendix D.

On the other hand, nonresident aliens are taxed on U.S. source non-business income at a flat 30-percent rate or the lower treaty rate, if applicable. The tax is imposed on the gross amounts of income subject to tax, and deductions cannot be taken against this income. For treaty withholding tax rates, see IRS Publication 901, U.S. Tax Treaties.

Tax Credits

Nonresident aliens are generally entitled to the same credits against income tax as U.S. citizens and residents (see Chapter 2). However, foreign tax credits are allowed only if the foreign tax is related to foreign source income that comes from a U.S. trade or business, which is unusual.

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Chapter 4 – Taxation of Dual-Status Aliens

In a year when you transition from being a nonresident alien to a U.S. resident, or vice versa, you are referred to as a "dual-status alien." Usually this will be in your year of arrival or departure. In the year of arrival, you will normally be taxed as a nonresident for a portion of the year, and a resident for the rest of the year, but in some situations you may be taxed as a nonresident for the entire arrival year. Likewise, in the year of departure, you will normally be taxed as being a resident up through your departure date, followed by a period of nonresidency; but in some special cases you may be taxed as a U.S. resident for your entire year of departure.

It is important to determine what your first or last day of U.S. residence is, because that is the day that you transition from being taxed only on U.S. source income to being taxed on worldwide income. As we have noted, U.S. residents are entitled to claim more deductions against income than are nonresidents, so determining the residency start date is essential to knowing when you can start claiming the extra deductions as a resident.

If you are a U.S. resident because you are a green card holder (i.e., a lawful permanent resident), then your residency start date is the first day that you are present in the U.S. with lawful permanent resident status. Your residency termination date will be the day that your lawful permanent resident status is officially terminated.

Similarly, in the year that you become a U.S. resident under the substantial presence test, your residency start date is the first day that you were present in the U.S. in that year. Your residency termination date generally will be your last day of presence in the U.S. in the year that you establish resident status in another country. In some situations, up to 10 days of presence in the U.S. can be ignored in determining the residency start or end date. (For a further discussion of the residency starting and ending dates, see Chapter 1.)

Note that if you become a U.S. resident, but you had terminated U.S. residency in the prior year, then you will be retroactively treated as if you had never terminated U.S. residency, but had instead been a U.S. resident for the entire period.

In general, income is taxable when you receive it (not when it is earned or accrued). So, in a year when you have dual status, if you receive income during your resident period, it will be taxable in the U.S. even if it is foreign source and was earned during your nonresident period.

In some cases, you will be treated as having "constructively received" income even if you have not actually received it. For example, if you are entitled to receive a check while you are a resident of the United States, but choose to wait until after you terminate U.S. resident status to receive the check, you will be treated as if you had received it while you were a resident.

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First-Year Residency Election

In some cases, you will be treated as a full-year nonresident alien in your year of arrival in the United States, because you do not meet the requirements of the substantial presence test to be treated as a resident. If so, you may be able to elect to be treated as a part-year U.S. resident, if you meet certain requirements, as follows:

- You were not a resident of the United States during the preceding year.
- You meet the requirement of the substantial presence test for residency in the following calendar year.
- You are present in the U.S. for at least 31 consecutive days during the year in which you make the election.
- Beginning on the first day of that period of 31 consecutive days, you are present in the U.S. for the rest of the year at least 75 percent of the time. (For the purposes of the 75-percent test, you are allowed to treat up to five days of absence from the United States as if they were days of presence in the United States.)

If you meet all the above conditions and you make this first-year election, you will be treated as a U.S. resident for the portion of the year that begins with the first day of presence in the U.S. that is counted in the 31-day and 75-percent tests. Only whole days of U.S. presence are counted, and you may not count days that you are treated as an "exempt individual" (such as certain teachers, trainees, and students – see the discussion in Chapter 1). Making this election requires you to treat foreign source income as taxable in the U.S. for the portion of the year that the election applies to, but you will also be allowed to claim any available foreign tax credits against the U.S. tax on that foreign income. In addition, the election allows you to claim the spousal exemption (if you are married) and itemized deductions that are allowed for U.S. residents.

You make this first-year residency election by attaching a statement to the tax return for the year that the election applies to, but you cannot file that return to make the election until you have actually become a U.S. resident under the substantial presence test in the following year. You can also make the election on behalf of your nonresident dependent children, which will enable you to claim dependent exemptions for them. However, once you have made the election, you cannot revoke it without permission from the IRS.

Example

Juanita is a foreign national. She vacations in the United States from January 1 through January 31, 2014. She returns to the U.S. on October 15, 2014, and begins a three-year assignment working for a U.S. company. For the remainder of 2014, she is absent from the United States for 10 days (from December 20 through December 29). She satisfies the substantial presence test as a resident alien for 2015. She was not a resident alien in 2013. Juanita may make a first-year election to be taxed as a resident alien starting on October 15, 2014. The January presence is not included since the 75-percent test is not satisfied for the period beginning January 1.

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Full-Year Residency Election

As mentioned in Chapter 2, a married couple can file a joint tax return only if both spouses were either citizens or residents of the U.S. for the entire tax year. Two elections are available to married individuals who do not meet the requirements to file jointly, enabling them to be treated as full-year U.S. residents and therefore file a joint return.

Resident Married to Nonresident

If a nonresident alien is married to someone who is either a U.S. citizen or resident on the last day of the year, the two may elect to both be treated as full-year residents. This election applies to the year you make the election, as well as to all subsequent years that either you or your spouse is either a U.S. citizen or resident. It does not apply in any year that neither is a U.S. citizen or resident at any time during the year.

You and your spouse make the election by attaching a signed statement to your joint tax return in the year that the election first applies (in some cases the election can be made by amending the return of a prior year). The election can be terminated in any of the following ways:

- Revocation by either spouse;
- Death of either spouse;
- Legal separation or divorce; or
- Inadequate record-keeping (as determined by the IRS).

Once terminated for any of these reasons, neither you nor your spouse may make the election again.

Since the effect of the election is to make both spouses full-year residents of the United States, both of you will be considered full-year residents of the U.S. in any year in which either of you is a resident for any part of the year (including the year of departure to another country).

Part-Year Resident Married to Resident

If you are a nonresident alien at the beginning of the year, and a resident alien at the end of the year, and your spouse is a U.S. citizen or resident at the end of the year, then you can make a full-year election that is similar to the one described above, except that it applies only to the year in which you make the election. Neither spouse is allowed to make another election of this type in any later year.

Note that if both you and your spouse are nonresident aliens at the end of the year, it is still possible to make one of these two elections, if one or both of you is eligible to also make the first-year residency election described above.

Effects of the Full-Year Residency Elections

Making either of the full-year residency elections causes both you and your spouse to be subject to U.S. tax on worldwide income, including income you received before arrival in the United States. In many cases this is beneficial because the lower rate schedule for joint filers is applicable. The foreign tax credit can offset the U.S. tax on foreign source income, subject to the foreign tax credit limitation rules. Also, only full-year residents can claim the standard deduction (discussed in Chapter 2).

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It is important to carefully consider the potential effects of making either of these elections. They are generally beneficial if the lower tax rate schedules and additional deductions available offset the impact of having to claim additional income as taxable in the United States. Your date of arrival and the tax rate in your home country may have an impact on whether the election is beneficial.

Moving Expenses

If your employer reimburses you for moving expenses, or pays them on your behalf, the reimbursement(s) may not be included in your taxable income. Such reimbursements are excludible if they are for "qualified moving expenses" that are related to an employment-related move.

Also, moving expense reimbursements are only excludible if the following two conditions apply:

- Your new job location is at least 50 miles farther from your old residence than your old residence was from your former place of employment.
- You are a full-time employee at the new location for at least 39 weeks during the 12-month period following the move, unless you are transferred, involuntarily terminated, become disabled, or die. If you are self-employed, you must work full time at the new location for at least 39 weeks during the first 12 months and a total of at least 78 weeks during the first 24 months following the move.

The definition of qualified moving expenses does not include:

- Meal expenses;
- Expenses incurred while searching for a new home after obtaining employment;
- The costs of selling one's old residence (or settling a lease) or purchasing (or acquiring a lease on) a new home;
- Temporary lodging at the new location after obtaining employment;
- Any part of the purchase price of a new home;
- Automobile registration;
- Driver's license;
- Expenses of obtaining or breaking a lease;
- Home improvements to help sell the house;
- Loss on the sale of the house;
- Losses from disposing of memberships in clubs;
- Mortgage penalties;
- Real estate taxes;
- Refitting of carpets and draperies;
- Security deposits (including any given up due to the move); or
- Storage charges except those incurred in-transit and for foreign moves.

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If you have qualified moving expenses that are not reimbursed by your employer, you can claim a deduction for those expenses.

If you are a nonresident alien at the time that you incur moving expenses, generally a deduction for those moving expenses is allowed only on a move to the United States – not on a move from the U.S. to a foreign country.

Deductions and Personal Exemptions

As explained above, in a year you have dual status, you may claim itemized deductions against your income in both the resident and nonresident periods, but for the nonresident period, the deductions are limited to those that are related to the production of income, certain charitable contributions, and certain casualty and theft losses. Dual-status aliens may not use the standard deduction that other taxpayers may generally elect in lieu of itemizing deductions (see Chapter 2). As a dual-status alien you are entitled to personal exemptions for yourself, your spouse, and your dependents in computing taxable income for part of the year that you are a resident.

Tax Rates and Filing Status

If you are a dual-status alien who is not married, you must use the tax rate schedule for single taxpayers. Head of household status is not available.

If you are a married dual-status alien, you must use the tax rate schedule for married taxpayers filing separately, unless you and your spouse elect to be taxed as if you were full-year residents, as discussed above.

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Chapter 5 – Planning for a Transfer

There are many things to consider when you are assigned to work in the United States. Planning in advance can help you to avoid problems, and can help save time, money, and effort for both you and your employer. Consulting with a tax adviser can help determine the timing of the assignment (arrival in and departure from the United States), timing of receipt of income, timing of the payment of deductible expenses, arrangements for your home (rental, sale, etc.), and certain other matters that can impact the management and costs of your assignment to the United States.

Timing the Transfer

As discussed in Chapter 4, only citizens or full-year residents of the United States can benefit from the lower tax rates that apply to married couples that file a joint tax return. In the year of arrival, it may be possible for the couple to elect to be treated as full-year residents, so that they can file jointly. Whether this will be advantageous to you depends on your personal situation and should be discussed with your tax adviser. Planning the timing of your arrival can help to make the most of this election. Likewise, in the year that you end your U.S. residency, planning the timing of your departure can have an impact on your U.S. tax bill in that year – and may depend on elections that were (or were not) made in the year of arrival.

Even if you are not married, when your U.S. residency begins and ends can be important. If your employer has flexibility regarding the dates of your assignment, it can be a good idea to include a tax adviser in the discussions.

Timing of Receipt of Income

In general, income is taxable when an individual receives it, not when it is earned or accrued. This means that it may be advantageous for you to receive income earned outside the United States before you become a U.S. resident. However, it is also necessary to consider how the amount will be taxed in your home country, and whether the U.S. has a tax treaty with your home country that might help to mitigate tax in the year of transition. In some cases it may actually be better to defer receipt of income until after you become a resident of the United States. Similar planning may lower the combined tax bill on bonuses and other such income in the year that you terminate U.S. residency.

Timing of Payment of Deductible Expenses

Resident aliens are allowed more tax deductions than nonresident aliens. For that reason, you may want to wait to make payments of certain types of expenses, such as mortgage interest, until after you become a U.S. resident, if possible, particularly if the expenses do not provide a tax benefit in your home country.

Sale of Principal Residence

If you sell your home, the gain may be subject to capital gains tax. However, there is a special rule that allows you to exclude up to USD 250,000 of gain (or up to USD 500,000 for a married couple filing jointly) if you sell your principal residence. This exclusion is available whether you are a U.S. resident or a nonresident alien, and whether the residence is located inside or outside the United States. If you plan to sell your home in another country in connection with your move to the U.S., you should determine whether the sale will qualify for this USD 250,000 exclusion. If not, it may be worth considering the potential advantages of completing the sale before you become a U.S. resident. This will depend on

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whether the capital gains tax in your home country is higher or lower than the U.S. tax rate on capital gains, which is generally 15 percent. Note that, although gain on the sale of your home is taxable, a loss on the sale of your home is not deductible.

To qualify for the exclusion, there are two requirements:

1. You must have owned and used (occupied) the home as your principal residence for at least two years of the five years prior to the sale or exchange (the two years do not have to be in one consecutive period); and
2. During the two-year period ending on the date of the sale, you have not excluded gain from the sale of another home.

In some cases, you may be allowed the exclusion even if you are a nonresident alien, which is important if you own a home in the United States. In such a situation, you should consider selling the home within three years of vacating it, so that you will still meet the two-out-of-five-year residency test described above.

There are exceptions that may allow you to claim the exclusion even if you do not meet one of the "two-year tests" described above. For example, you may qualify for the exclusion if the primary reason that you sold your home was due to a change of place of employment, health, or because of other unforeseen circumstances. Meeting one of these criteria qualifies you for a prorated maximum exclusion.

Example 1

Sanjay, who is not married, has owned and occupied his home for 20 months. Sanjay sells the home due to a job transfer. Sanjay's maximum exclusion will be USD 208,333 (20 months/2 years x USD 250,000). If the gain on Sanjay's home is less than USD 208,333, the gain can be fully excluded.

Note that if you have rented your home to someone else for some period of time, the portion of the gain that is attributable to allowable depreciation deductions cannot be offset by the exclusion.

Example 2

Maryanne, who is single, has owned and occupied her home for 30 months, and then rented the home to someone else for 12 months. Then she sells the home. During the rental period, Maryanne claimed depreciation deductions of USD 5,000 (which will increase her gain by that amount when she sells the home). Maryanne's gain on the sale of the home is USD 200,000. Because she owned and occupied the home for at least two years during the past five years, Maryanne qualifies to claim the exclusion. However, her exclusion will be USD 195,000, not USD 200,000, because a portion of the gain that relates to prior depreciation deductions (USD 5,000) cannot be excluded.

Reduced Exclusion for Rental Period

If you rent out your home while on an international assignment of longer than two years, and later reoccupy it as your principal residence before selling it, the amount of gain that can be offset by the exclusion described above may be reduced. Any use of your home other than as your primary residence is called "nonqualified use," and gain attributable to periods of nonqualified use after January 1, 2009, cannot be excluded. Note that if the home is located in your home country, this rule will only apply to you if you are still a U.S. resident when you sell the home.

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Example 3

Mai, who is not married, has owned her home for six years. During that time she occupied it as her primary residence, except for a period of three years in 2011 through 2013, when she rented it to someone else. She reoccupied the home a year before selling it. Mai's gain on sale of the home was USD 300,000. The exclusion cannot be applied to the portion of the gain that relates to the rental period in excess of two years. Therefore, USD 50,000 (1 year rental/6 years ownership x USD 300,000) will be taxable.

The interaction of these rules can become quite complicated. If you own your home and are considering whether to sell it or rent it during your assignment to the United States, it is recommended that you discuss the matter with your tax adviser.

Retirement of Foreign-Currency Denominated Debt

When you sell your home, it is likely that you will also pay off the mortgage and any other related debt. It comes as a surprise to many taxpayers that paying off debt denominated in a currency other than the U.S. dollar may result in taxable gain. This is because you are characterized as having received the money at the exchange rate that prevailed at the time it was borrowed, whereas you paid it off at the exchange rate that applied at the date of pay-off.

Example 4

Marcus sells his home in Germany. At the time of sale, the home was mortgaged for EUR 300,000, which is paid off on the date of sale. At the date of sale the exchange rate was EUR 1.00 = USD 1.15. At the time that Marcus borrowed the money, the exchange rate was EUR 1.00 = USD 1.30. For U.S. tax purposes, Marcus is characterized as having borrowed USD 390,000 (300,000 x 1.30), which he was permitted to settle for only USD 345,000 (EUR 300,000 x 1.15). Because he was able to settle the debt for less than the original dollar amount, he has taxable gain in the United States of USD 45,000.

The exclusion can be used against gain on the sale of a home outside the United States. However, if you have gain on the disposition of your foreign-currency denominated mortgage, that is considered to be a separate transaction, and you cannot use the exclusion to offset that gain. Also, if you have a loss on the sale of your home, you cannot use that loss against any gain on the foreign currency mortgage.

Comment:

A married couple that files a joint return is entitled to a larger exclusion (USD 500,000 as opposed to USD 250,000 for separate filers). For that reason, if the home is owned by only one of the spouses, more of the gain will be excludible if the home is sold while the couple is full-year resident, so that the spouses can claim the exclusion in a joint return. On the other hand, if both spouses own the home jointly, but file separate returns, each will be entitled to an exclusion of USD 250,000, resulting in the same amount of exclusion as if they filed jointly.

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Sale of Other Capital Assets

When you sell property, the gain or loss is figured by subtracting the original cost from the sale proceeds (other adjustments may apply if you subsequently improved the property, or if it was depreciable business property). If property was acquired before you became a U.S. resident, you must still use the original cost, which effectively means that you will be taxed on appreciation of the asset that happened before you became a resident. Also, you must translate the original cost into U.S. dollars at the exchange rate that applied when you acquired the property, while the sales proceeds must be translated at the exchange rate that applied when you received the proceeds. This can result in a gain or loss that is different than it would be when stated in the original currency.

Example 5

Susan purchased her home in England for GBP 200,000 when the exchange rate was GBP 1.00 = USD 2.00. She sold the home a few years later for GBP 250,000, when the exchange rate was GBP 1.00 = USD 1.50. For U.K. tax purposes, Susan has a gain of GBP 50,000. However, for U.S. tax purposes, she is seen as having acquired the home for USD 400,000 (GBP 200,000 x 2.00) and having sold it for USD 375,000 (GBP 250,000 x 1.50), resulting in a loss of USD 25,000.

If you are a nonresident alien and are present in the United States for less than 183 days during the year, you will not be subject to U.S. tax on capital gains, except for gains on the sale of USRPIs (generally, real property located in the U.S.; see Chapter 3) or gains that are connected with a U.S. trade or business. In some cases, you may move to the United States in the last half of the year and not be considered a resident alien until the following year (see Chapter 3). In such a situation, you might also have broken residence in your home country, which could mean that gain on certain capital assets might not be taxed in either country. If you are considering selling any property that could result in large gains, be sure to discuss the timing of the sale as it interacts with your residency start date with your tax adviser.

Note also that a special rule applies to installment sales, where you receive the proceeds over a period of time rather than in a lump sum. If you make an installment sale while you are a resident alien, but receive some of the proceeds after becoming a nonresident alien, the portion of the gain that relates to the proceeds you receive as a nonresident may not be taxed in the United States, as long as the asset being sold is not a USRPI or connected with a U.S. trade or business. Also, if you enter into an installment sale while you are a nonresident, you will not be taxed on any installment sale proceeds you receive after becoming a U.S. tax resident.

Foreign Corporations

If you are a resident alien who owns shares of a foreign corporation, you may be required to pay tax on a portion of the corporation’s income even if it has not been distributed to you. (See Chapter 2 for a discussion of controlled foreign corporations and passive foreign investment companies.) You may also have to file special information statements with your annual tax return regarding your investment in these types of corporations (see Chapter 9). If you have investments in foreign corporations, it may be a good idea to consult with a tax adviser regarding whether it would be worthwhile to dispose of the investments before becoming a U.S. resident.

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Exercise of Stock Options

If you receive stock options as part of your compensation, it may be beneficial to exercise them before becoming a resident of the United States, if possible. When you exercise as a resident, you are taxed on the difference between the amount you pay for the stock and the value of the stock at the date of exercise, which means that you will be taxed in the U.S. on pre-arrival appreciation. A special election is available which can help lower the U.S. tax on equity compensation like restricted stock, but advance planning is necessary. (For a more detailed discussion, see Chapter 2.)

Deduction for Travel Expenses

If you are in the United States on business for a limited period of time, your employer-paid meals, lodging, and travel expenses may be excluded from income (or if they are not reimbursed, the expenses may be deductible, subject to limitations).

The general rule is that employer reimbursements of expenses are taxable, which is why, if you are on long-term assignment, employer-provided housing and travel are included in your taxable compensation. But if you meet the definition of "temporarily away from home," these reimbursements are exempt from tax. There are two key conditions that must be met in order to be considered to be temporarily away from home:

1. You must maintain a "tax home" in your home location – that is to say, your principal place of business and your permanent abode remain in your home location while you are working in the host location.
2. Your assignment to the host location must be expected to be no more than one year in duration – and in fact must not exceed one year.

If you are temporarily away from home, then employer reimbursements of travel expenses, meals, and lodging can be excluded from compensation if they are made under an "accountable plan." This means that you must account for your actual expenses to your employer, as opposed to being given a general allowance that you can spend as you wish (although per diems can meet the terms of an accountable plan if they are structured correctly).

The benefits of this exclusion can be significant, so it is important to be sure that its requirements are met. Pre-assignment planning is key so that the accountable plan is properly administered, and the length of your assignment meets the requirements.

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Chapter 6 – Tax Treaty Benefits

If you are a nonresident alien and your home country has an income tax treaty with the United States, you may qualify for certain special tax benefits. In most cases, the treaty will be with the country of which you are currently a resident, but in some special situations it is possible to instead look to the treaty with the country of which you are a citizen. Many treaties provide that income such as interest and dividends will be taxed at a lower rate than the 30-percent rate that would otherwise apply to payments of U.S. source income to a nonresident alien. For treaty withholding tax rates, see IRS Publication 901, U.S. Tax Treaties.

Income from Employment

Most U.S. tax treaties provide that if an individual is a resident of a treaty country and is working temporarily in the United States, he or she will not be subject to U.S. tax on the income earned in the United States, if two conditions are met:

1. The individual is present in the United States for no more than 183 days. (A few treaties use a different number of days.) In some treaties, the 183 days are counted during the tax year. In other treaties the 183 days are counted during any 12-month period that begins or ends during the tax year, which is a much more restrictive rule.
2. The individual is rendering services for a non-U.S. employer, and his or her compensation is not paid or borne by a U.S. person, or by a U.S. branch of the foreign employer.

Some treaties also specify that only compensation less than a certain amount can be excluded.

Other types of income received by nonresident aliens that may be exempt under income tax treaties are:

- remuneration of professors and teachers who teach in the United States for a limited period of time;
- amounts received from abroad for the maintenance, education, and training of foreign students and business apprentices who are in the United States for study or experience;
- wages, salaries, and pensions received by an alien from employment with a foreign government while in the United States.

Each of these provisions may have special conditions that vary from treaty to treaty.

Determination of Residence

If you are treated as a resident of both the United States and another country, it may be possible to rely on a treaty to determine which of the two countries can tax you as a resident. Most U.S. income tax treaties contain a residence "tie breaker" provision that overrides the domestic rules for residency determination. The test will generally be based on such factors as the location of a permanent home or the location of the individual's economic and personal relations.

Example

Vladimir is a resident of Russia who vacations in the United States for two weeks, February 1 to 14. On June 1 of the same year he returns to the United States to begin a three-year employment assignment. Vladimir's residency start date in the U.S. is February 1, his first day of presence in the U.S. (see discussion in Chapter 2), yet he remains a resident of Russia until May 31, where he

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continues to keep a home. Under the U.S.-Russia tax treaty, Vladimir can "break the tie" and claim June 1 as his U.S. residency start date, since up to that point his permanent home was in Russia.

Green card holders living in another country may be able to claim a treaty tie-breaker position to override their U.S. resident status. However, this decision should be considered carefully and discussed with a U.S. immigration attorney, as claiming to be a nonresident alien under a treaty could affect their eligibility to maintain their green card status.

Also, green card holders who claim that they are residents of another country under a treaty may be considered to have expatriated, and may be subject to the special exit tax that applies to long-term permanent residents who give up their green card status (see Chapter 2).

Other Issues

If you are a resident alien and have foreign income, you may be able to use a U.S. tax treaty to mitigate the foreign income tax on that foreign income in the same manner that a U.S. citizen would. As a resident alien, you normally will not be able to rely on a treaty to mitigate U.S. taxes, because most U.S. treaties contain a clause that permits the United States to tax its citizens and residents as if the treaty did not exist.

Income tax treaties generally do not cover other sorts of tax such as social security, wealth taxes, and inheritance and gift taxes. Also, U.S. states are not required to follow treaties, and many do not. This means that income that is not taxed at the U.S. federal level by reason of a treaty may still be subject to state income tax. You are not required to use a treaty – if your tax liability is lower if the treaty is not followed, that is permissible.

Social Security

Although income tax treaties do not address social security taxes, the United States has entered into "social security totalization agreements" with 25 countries (see Appendix C). The purpose of these agreements is to prevent double social security tax, and to provide retirement and other benefits based on the combined work time of eligible workers in both the United States and the other country. (See the section on social security taxes in Chapter 8.)

Disclosure of Treaty Positions

If you claim a treaty position to overrule or modify U.S. tax law, you must disclose that you did so in your tax return, by attaching Form 8833, Treaty-Based Return Position Disclosure. If you are not otherwise required to file a U.S. tax return, you can file Form 8833 separately. If you do not comply with these disclosure rules, you may lose the right to claim the treaty position, and substantial penalties can also be imposed.

Certain treaty positions are specifically exempted from the reporting requirements. These include the following:

- A reduced rate of withholding tax is determined under a treaty on interest, dividends, rent, royalties, or other fixed or determinable annual or periodic income ordinarily subject to the 30-percent rate;
- A treaty reduces or modifies the taxation of income derived from employment, pensions, annuities, social security and other public pensions, or income derived by artists, athletes, students, trainees, or teachers;

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- Payments or income items received by an individual that would otherwise be reportable, not exceeding USD 10,000 (except in the case of residency being determined under the treaty, which must be disclosed in all cases);
- A social security totalization agreement reduces or modifies the taxation of income derived by the taxpayer; or
- The income of an individual is "re-sourced" under a treaty provision relating to elimination of double taxation.

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Chapter 7 – Payment of Tax

U.S. income tax must be paid over the course of the year either through withholding from wages, or by making estimated tax payments (installment payments). For U.S. citizens or residents who are employed, their employers are required to withhold U.S. income taxes from wages, no matter where in the world they are employed. For nonresident aliens who are employed, their employers are required to withhold income tax on compensation for services they provide in the United States. U.S. payors of other types of income such as interest and dividends must withhold tax on amounts paid to nonresident aliens, at a rate of 30 percent, unless a treaty lowers the rate.

Withholding of Taxes

Unless an exception applies, the employer must withhold federal income tax from employee compensation, and pay the amount withheld to the government. You (the employee) then claim the withheld tax as a credit against your annual liability when you file your tax return. Your employer must provide you with a special report, called Form W-2, Wage and Tax Statement, by January 31 of the following year, to inform you of the amount of tax withheld, as well as the amount of taxable compensation that was paid to you (and other reportable items).

Employers are also required to withhold other types of tax, including social security tax and state and local income tax.

If you are a nonresident alien who had tax withheld on non-employment income, the payer is required to report it to you by March 15, on Form 1042-S, *Foreign Person's U.S. Source Income Subject to* Withholding.

Estimated Tax

You are required to pay your income tax over the course of the year. To avoid penalty, the amount paid must be at least 90 percent of the current year's tax liability, or, if lower, 100 percent of the prior year liability (110 percent if your AGI exceeded a certain amount). If you do not meet these requirements, then a penalty for under-payment of tax will apply, unless the amount due with your tax return is less than USD 1,000.

If tax withheld by your employer and other payors will not be sufficient, you can make quarterly payments of "estimated tax" directly to the IRS. These payments are due on April 15, June 15, September 15, and January 15 of the following year. (If you are a nonresident alien who has no wages that are taxable in the United States, you can skip the April 15 payment, but the June 15 payment must be 50 percent of the amount due for the entire year.)

Penalties and Interest

If you do not pay 100 percent of the tax due by the original due date for your tax return (generally April 15), interest will be charged on the unpaid amount, at a rate that is set by the IRS. Getting an extension of time to file your return does not prevent this interest charge. (In addition, interest is charged if you owe back taxes because of an amended return or an IRS assessment.)

Significant penalties may be imposed for failure to file a tax return or to pay tax on time. Most of these penalties are based on the balance of tax due with the tax return.

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If you do not pay income tax when it is due, you will be subject to a late payment penalty of one-half of 1 percent of the tax shown as due on your tax return for each month (or part of a month) it remains unpaid, up to a maximum of 25 percent of the unpaid amount.

If you fail to file an income tax return, you are likely to be subject to a penalty of 5 percent of the tax due but not paid for each month (or part of a month) that the return is late. The penalty cannot exceed 25 percent of the tax due and is decreased by the penalty for failure to pay tax (described above) for any month in which both penalties apply. If the tax return is filed more than 60 days after the due date, including extensions, the minimum penalty is USD 135 or the amount of any tax owed, whichever is smaller.

These penalties may be waived if you can show that the failure to file the return or pay the tax on time was due to reasonable cause and not willful neglect. See Chapter 9 for a discussion of return due dates and filing requirements.

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Chapter 8 – Other Taxes

Social Security Tax and Benefits

The U.S. social security system provides old age and disability benefits to workers, benefits to dependents and survivors of retired and disabled workers, and medical benefits to the elderly. Separately, unemployment insurance is provided by the states to compensate workers for loss of income during periods of unemployment. Another distinct benefit is workers' compensation programs that provide payments for employment-related injuries or death and are generally funded through insurance maintained by employers.

You do not have to be a U.S. citizen or resident to receive social security retirement, survivor, or dependency benefits. However, if you are a nonresident alien, payments will be suspended when you have been outside the United States for six consecutive months, unless the relationship that entitles you to benefits lasted at least five years.

The U.S. social security tax, often called "FICA" (for Federal Insurance Contribution Act), is paid by both employers and employees. FICA tax is based on wages and other compensation for employment, as well as income from self-employment. You are subject to the tax if you are a U.S. citizen or resident with a U.S. employer, no matter where in the world you work. If you are a nonresident alien, you are subject to the tax if you are providing services within the United States, even if you are working for a foreign employer. However, if you are working in the United States on an F, J, M, or Q visa, your compensation associated with the visa is exempt from FICA.

The FICA tax consists of two parts, Old-Age, Survivors and Disability Insurance (OASDI) and Medicare, both being imposed on the employer and the employee. The Medicare tax rate is 1.45 percent for both the employer and the employee, with no limit on the amount of compensation that is subject to the tax. An additional Medicare tax of 0.9 percent is due from the employee (but not the employer) on compensation in excess of USD 200,000 (USD 250,000 of combined compensation for a married couple filing jointly). The OASDI tax rate is 6.2 percent for both the employer and the employee. The OASDI tax is imposed on wages up to a maximum amount of USD 117,000 in 2014 and USD 118,500 in 2015. Your employer is required to withhold your contribution to FICA and pay it to the government along with your income tax withholding.

Self-Employment

Self-employed individuals (i.e., an independent contractor) are required to pay both the employer and employee portions of the social security tax, which is known as self-employment tax or SE tax. This tax is paid along with the individual's income tax, and is paid in quarterly estimated tax payments (see Chapter 7). Individuals do not have to pay SE tax if they are nonresident aliens. SE tax is due if an individual's income from self-employment is more than USD 400 for the year, which can include his or her share of income from partnerships, but generally does not include rental income unless the individual is a real estate professional.

The SE tax rate is 15.3 percent. This rate is imposed on earnings up to the FICA wage maximum described above. Self-employment income in excess of the maximum is subject to SE tax at a rate of 2.9 percent. An additional SE tax of 0.9 percent is due on self-employment income in excess of USD 200,000 (USD 250,000 of combined self-employment income for a married couple filing jointly). If an individual

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also receives wages that are subject to FICA, his or her FICA wages reduce the amount of SE income for the purpose of determining whether the higher rate applies.

Example

Carlos has wages from his employer of USD 100,000 in 2014, which are subject to FICA. In addition, he has self-employment income of USD 20,000. Carlos will pay SE tax at a rate of 15.3 percent on self-employment income of USD 17,000 (the 2014 FICA wage maximum of USD 117,000 minus his employer-paid earnings), and SE tax at a rate of 2.9 percent on USD 3,000 (the rest of his self-employment income).

When you figure your taxable income for income tax purposes, you are allowed to claim a deduction for the one-half of the SE tax paid at the 15.3- and 2.9-percent rates (this corresponds to the "employer portion" of FICA), but none of the additional 0.9-percent SE tax.

Double Taxation by Home and Host Countries

If you are sent by your employer to work temporarily in another country, your compensation may be subject to social security taxation in both countries. The United States has entered into social security totalization agreements with a number of countries in order to eliminate double taxation and to provide integrated benefit coverage (see Appendix C for a list of countries that share these agreements with the United States). If your employer sends you from one of these countries to work in the United States, the general rule is that you will be subject to social security tax only in the United States. However, the totalization agreement may provide that you can remain covered by your home country social security system instead, for a limited period of time (generally, five years). If you qualify for this exception, your employer should request a special statement (called a Certificate of Coverage) from the social security authorities in your home country.

Social security totalization agreements also provide for totalized coverage, meaning that in some circumstances you may qualify for a partial retirement benefit under the host country social security system – to qualify for this benefit in the United States it would be necessary for you to have contributed to the U.S. social security system during six calendar quarters.

Estate and Gift Taxation

If you give someone a large gift, or if you leave property to someone when you die, the value of those transfers of property may be subject to the U.S. gift and estate tax, a tax that is payable by you as the person who gives the property, rather than by the person who receives it. In addition, some U.S. states also impose an estate or inheritance tax.

U.S. Citizens and U.S.-Domiciled Foreign Citizens

For U.S. citizens or individuals domiciled in the United States, the gift and estate taxes are coordinated in one unified system. "Domicile" is different from residency; you are considered to be domiciled in the United States if you reside in the United States and intend to remain there indefinitely. You may also be domiciled in the United States if you are a nonresident alien but intend to return to the United States and consider it to be your permanent home. If you have a green card, you will probably be considered to be domiciled in the United States.

As a U.S. citizen or domiciliary, you are allowed to give up to USD 14,000 per year in 2014 and 2015 free of tax for each separate person to whom you give gifts. If you are married, you and your spouse can

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together give double those amounts to each person you give gifts, if you and your spouse are both either U.S. citizens or domiciled in the United States. In that case you and your spouse are considered to have split the gift evenly. You are also allowed unlimited gifts to your spouse, if your spouse is a U.S. citizen. Otherwise, you are allowed to make gifts to your spouse of up to USD 145,000 per year in 2014, and USD 147,000 in 2015.

If you make any gifts in excess of these annual limits, the excess is defined as "taxable gifts," which you must track and report on an annual gift tax return. When your cumulative taxable gifts exceed a lifetime maximum of USD 5,340,000 in 2014 or USD 5,430,000 in 2015, the excess is subject to gift tax at a maximum rate of 40 percent.

At death, the estate tax may apply. The taxable value of your estate (i.e., the property you leave) is the value of all your property at the date of your death, reduced by liabilities, transfers to your spouse who is a U.S. citizen, and bequests to U.S. charitable organizations. Your taxable estate is then reduced by any portion of the USD 5,340,000/5,430,000 exclusion that has not already been claimed against taxable gifts, and the remainder is taxed at a maximum rate of 40 percent.

As mentioned above, any property you leave to your spouse is not subject to the estate tax if your spouse is a U.S. citizen (or becomes one soon after you die). Generally, no deduction is allowed for property that is left to a spouse who is not a U.S. citizen. Careful estate planning can help to mitigate this. If you are concerned about the taxation of your estate, you are advised to consult with a professional who specializes in this area.

Non-Domiciled Foreign Citizens

Individuals who are not citizens and are not domiciled in the United States (a "non-domiciled foreign citizen" or NDFC) are only subject to gift and estate tax on tangible property that is located within the United States. Intangible property like stocks and bonds are generally not taxable when given by a NDFC. If you are a NDFC but your spouse is a U.S. citizen, you can transfer an unlimited amount of assets to your spouse without gift or estate tax. Non-taxable gifts of up to USD 14,000 per year in 2014 and 2015 are allowed for each person you give to, and non-taxable gifts to a non-citizen spouse of up to USD 145,000 in 2014 and USD 147,000 in 2015 are allowed. All gifts in excess of these amounts are subject to gift tax at a maximum rate of 40 percent. The lifetime exclusion described above does not apply to NDFCs.

Upon death, the taxable estate of a NDFC includes tangible property located within the United States, as well as intangible U.S. property such as shares of U.S. corporations. As a NDFC, the value of your taxable estate in excess of USD 60,000 is taxed at a maximum rate of 40 percent. The United States has special estate tax treaties with certain countries (for a list, see Appendix C); if you are domiciled in one of those countries, a greater portion of your estate may be exempt from estate tax.

Foreign Trust/Gift Reporting Requirements

Residents of the United States are required to report gifts that exceed USD 100,000 received from any foreign individual or foreign estate. They must report any amounts received from foreign corporations or foreign partnerships that are treated as gifts (rather than claiming as income), if exceeding USD 15,538 in 2014 or USD 15,601 in 2015. If you are the beneficiary or settlor of a foreign trust, you must also report certain information about the trust. These reports are made on Form 3520, Annual Return to Report Transactions With Foreign Trusts and Receipt of Certain Foreign Gifts. Because the requirements are

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complex, it is suggested that you seek professional advice if you are thinking of creating a trust, or if trusts already exist and you are considering a move to the United States.

State and Local Taxes

Forty-one states, many local jurisdictions, and the District of Columbia impose tax on employment income – in many cases these taxes apply even if you are not a resident there. It is important to remember that states' laws for determining residence are not always the same as for federal tax purposes, and taxable income may be calculated differently as well. Many states do not honor U.S. tax treaties and are not required to do so. Most states tax the value of real property that you own in that state and some states may also tax the value of your automobile. A few states have a wealth tax, based on the value of your investments, and many have an estate tax. Most states charge a sales tax. Planning for an assignment in the United States should always take into account the state and local taxes that may apply.

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Chapter 9 – Filing and Reporting Requirements

If you are subject to tax in the United States, you must comply with various filing and reporting requirements in order to avoid potential penalties and interest. These include rules regarding tax return completion, late filing, under-payment of taxes, and reporting of non-U.S. financial accounts and other assets.

U.S. Individual Income Tax Return

Whether you are a resident alien or a nonresident alien, if you are subject to U.S. tax you will probably have to file a tax return. Virtually all U.S. citizens and residents must use the calendar year as their tax year, and the due dates stated below are for calendar-year taxpayers. Even if no U.S. tax return is required to be filed, you may need to file a statement to:

- exclude days under the substantial presence test as an exempt individual (i.e., teacher, trainee, student, professional athlete);
- exclude days under the substantial presence test as an individual with a medical condition;
- disregard a period of de minimis presence of 10 or fewer days for purposes of your residency starting or termination date;
- claim a closer connection to a foreign country;
- claim a residency termination date; or
- determine residency under a tie-breaker provision in a treaty.

Nonresident Aliens

If you are a nonresident alien who is subject to U.S. income tax, you must file your income tax return on Form 1040NR, U.S. Nonresident Alien Income Tax Return, by June 15 (or, if you are a fiscal-year taxpayer, on the 15th day of the sixth month following the close of your taxable year). However, if you receive wages subject to withholding, your return is due on April 15 (for fiscal year taxpayers, the 15th day of the fourth month following the close of your taxable year). You do not have to file Form 1040NR if:

1. Your only U.S. trade or business was the performance of personal services, and
   a. wages for services you performed in the United States were less than the personal exemption amount (USD 3,950 in 2014; USD 4,000 in 2015), and
   b. there is no other need to file a return to claim a refund of taxes withheld on other income, to pay additional tax due, or to claim income exempt or partly exempt by treaty; or
2. You are a nonresident alien student, teacher, or trainee who was temporarily present in the United States under an F, J, M, or Q visa, and you have no income that is subject to U.S. taxation.

If you meet certain requirements, you may be able to use simplified Form 1040NR-EZ rather than the regular Form 1040NR. The instructions to that Form 1040NR-EZ – which can be found on the IRS Web site at http://www.irs.gov/Forms-&-Pubs – contain the list of criteria for those allowed to use the simplified form.

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If you cannot file your tax return by the due date, you can get an automatic six-month extension by filing Form 4868, Application for Automatic Extension of Time to File U.S. Individual Income Tax Return, with the IRS by the original due date of the return. Note that this extension is only an extension of time to file the return, not of time to pay your tax. To avoid paying interest and possibly penalties, you should pay the amount of tax you expect to be due with your return when you file the extension. (For more information on penalties, see Chapter 7.)

Resident Aliens

Residents of the United States use the same tax return form as citizens, Form 1040, U.S. Individual Income Tax Return, which is due on April 15. If you are living outside the United States on April 15, the due date is automatically extended to June 15. If you meet certain conditions, you may be able to use a simplified version of the tax return, either Form 1040A or Form 1040EZ. The instructions to the forms explain who can use these simplified forms. The instructions can be found on the IRS Web site at http://www.irs.gov/Forms-&-Pubs.

If you cannot file your tax return by the due date, you can get an automatic extension to October 15 by filing Form 4868 with the IRS by the original due date of the return. Note this is only an extension of time to file the return, not an extension of time to pay your tax. To avoid paying interest and possibly penalties, you should pay the amount of tax you expect to be due with your return when you file the extension. (For more information on penalties, see Chapter 7.) If you are living outside the United States and need more time after October 15, you can send a letter to the IRS explaining why you need more time. The IRS may grant an additional extension to December 15.

Dual-Status Taxpayers

Nonresident aliens who become U.S. residents during the year, or vice versa, are "dual-status taxpayers." As such they must file a Form 1040 for the resident portion of the year, and a Form 1040NR for the nonresident portion of the year. These should be attached to one another with the form for the last portion of the year on top (for example, if the individual becomes a resident during the year, the Form 1040 will be on top with the Form 1040NR attached behind it). The filing deadline also corresponds to the individual's status at the end of the year.

As a foreign person, you must file your tax return within a certain amount of time, or you may lose your right to claim deductions. If you have rental income, you must file your return by the deadline to claim rental deductions. Even if your return is filed after the deadline, there is a "last-chance" deadline that is generally 16 months after the original due date of the return. If you have not filed a tax return by that time, you may lose the right to claim any deductions at all, and the IRS may compute the tax on your gross income.

Taxpayer Identification Number

Anyone who files a U.S. tax return is required to provide his or her tax identification number on the return. A taxpayer identification number may also be needed for the spouse of a U.S. citizen or resident who elects to file a joint tax return, or if a person is claimed as a spouse or dependent in the taxpayer's tax return.

If you have the right to work or reside permanently in the United States, you are qualified to obtain a Social Security Number (SSN) by filing Form SS-5, Application for Social Security Card, with the U.S. Social Security Administration. If you are not eligible to receive a SSN, you may apply to the IRS for an

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"Individual Taxpayer Identification Number" (ITIN). An ITIN is issued only for use on your tax return – it does not change your employment or immigration status in the United States. You can apply for an ITIN by completing Form W-7, Application for IRS Individual Taxpayer Identification Number, and attaching it with the required documentation to the tax return for the first year for which the number is required. Original or certified copies of documentation substantiating the information provided on Form W-7 (e.g., passport, birth certificate, driver's license, identity card, or U.S. visa) must be included with the form. Original documents will be returned after processing. The documentation requirements may be different if your ITIN application is prepared by a "certifying acceptance agent" such as an accounting firm.

Information Returns

Various information returns are required to disclose relationships and transactions with certain foreign entities. Significant penalties can be imposed in some cases for failure to comply. Some of the required information returns are noted below.

- FinCEN Form 114, Report of Foreign Bank and Financial Accounts. This form, commonly known as the FBAR, must be filed by U.S. citizens, residents, and persons in and doing business in the United States who have a financial interest in or signature authority over a foreign bank, securities, or other financial accounts, both business and personal, that exceed USD 10,000 in aggregate value at any time during the calendar year. Form 114 must be filed electronically at http://bsaefiling.fincen.treas.gov/main.html.
- Form 8938, Statement of Specified Foreign Financial Assets, must be filed by U.S. citizens and residents, including dual-status taxpayers, whose foreign financial assets exceed in value certain thresholds that vary depending on marital status and whether the taxpayer lives in the United States or abroad. Foreign financial assets include (but are not limited to) bank accounts, investments, and pensions. This form is required in addition to the FBAR mentioned above.
- Form 5471, Information Return of U.S. Persons with Respect to Certain Foreign Corporations may have to be filed, in certain circumstances, by U.S. resident aliens who own 10 percent or more of the stock of a foreign corporation or who acquire or dispose of stock in the corporation. For this purpose, an individual is considered to own the stock owned by certain related persons. Moreover, certain officers and directors of foreign corporations may have to file Form 5471. In certain cases, balance sheets of the foreign corporation and lists of transactions between the foreign company and the U.S. resident alien may be required.
- Form 5713, International Boycott Report, must be filed by U.S. citizens or residents who, directly or indirectly, have operations in certain countries that participate in an international boycott.
- Form 8621, Return by a Shareholder of a Passive Foreign Investment Company or Qualified Electing Fund, must be filed by U.S. residents who own, directly or indirectly, stock in a passive foreign investment company.

Foreign Partnerships

Certain foreign partnerships with U.S. partners or U.S. operations must file U.S. partnership returns. Failure to file can result in the disallowance of losses and credits to the U.S. partners of the partnership, including resident aliens. In addition, U.S. partners in foreign partnerships may be required to file Form 8865, Return of U.S. Persons with Respect to Certain Foreign Partnerships.

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Creation of or Transfers to Certain Foreign Trusts

U.S. citizens or residents who create a foreign trust, or transfer property to a foreign trust, are required to file an information return, Form 3520, Annual Return to Report Transactions with Foreign Trusts and Receipt of Certain Foreign Gifts, within 90 days of the creation or transfer. Failure to file may result in civil penalties unless reasonable cause can be established.

Currency Restrictions and Reporting

The United States imposes no restrictions on bringing money into or out of the country. However, if you transport or receive more than USD 10,000 of cash or monetary instruments into or out of the United States, you must report it within 15 days. "Transportation" includes physically carrying currency as well as mailing, shipping, or causing currency to be carried, mailed, or shipped. The report is made on FinCEN Form 105, Report of International Transportation of Currency or Monetary Instruments, which must be filed in accordance with the instructions on the form.

An exception to the filing requirements applies to funds transferred through normal banking procedures if no physical transportation of currency or monetary instruments is involved.

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Chapter 10 – Planning for a Transfer to the United States

When you transfer to the United States, there are many things to be considered which can help your transfer be successful and rewarding. An organized approach can smooth your transition, reduce surprises, and help you achieve your objectives (as well as your employer's objectives) for the assignment.

Issues to consider before your departure include:

- Compensation;
- Pre-departure activities;
- Vital documents;
- Adjustment to working and living in the United States; and
- Repatriation (moving back to your home country).

The following is a brief overview of each of the above points. Check-lists are included in Appendix A and Appendix B to help you and your employer plan a successful transfer.

Compensation

If your employer has an international assignment policy that discusses compensation, be sure that you understand how it applies to you before the assignment begins. Details relating to compensation can include base salary, incentive compensation, equity compensation, and assignment allowances. Many international assignment policies may describe various allowances and other benefits that affect your total compensation. A variety of things can significantly alter the actual value of compensation: differing costs of living between locations; different health, medical, retirement, and life insurance benefits; different education costs for children; relocation costs; and different tax obligations. Understanding what your compensation is, what you are entitled to, and how tax will impact your pay before your assignment begins will be very helpful in terms of avoiding any confusion and addressing questions once you are 'at work' in the United States.

Pre-departure Activities

Pre-departure activities outlined in the check-lists in Appendix A can help prepare you and your family for leaving home and for your stay in the United States. Appendix A includes a helpful list of ideas and considerations that many assignees into the United States may wish to address and understand before arriving to begin your assignment. Among other things, these activities can help clear the way for convenient financial transactions in the United States, such as establishing lines of credit, credit cards, and insurance policies, and can help you acclimate to your new position and life-style.

Vital Documents

An important part of pre-departure activities is the preparation of vital documents, such as visas, wills, powers of attorney, and property deeds. This can be helpful so your concerns regarding legal status at home and in the United States are properly allayed, including the status of your possessions, guardians for your children in cases of emergencies, and many other vital matters. While this preparation can be difficult, it may help protect you if unexpected circumstances arise. (See Appendix B.)

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Adjustment to the United States

Prior to departure from your home country, you may find it helpful to obtain information on the U.S. company, as well as the city where you will work and live. Local magazines and guidebooks, government materials, and Web sites may be useful. Your employer in the United States may prepare orientations and meetings to help you when you arrive. Some employers may assign a local contact or "coach" or "mentor" to serve as a source of helpful information and guidance for you.

Once in the United States, everyday activities you were used to at home can suddenly seem unfamiliar and can cause disorientation and lost time in your first few days in your host location. Asking for references to local resources can save time and prevent stress – for example, doctors, bus, commuter line matters e.g., routes, stops and times, insurance providers, dry cleaners, newspaper delivery, telephone, utility, cable television and Internet providers, tipping guidelines, sales tax, local banks, retail shops, and so forth.

Depending on your employer's assignment policy, your organization may also provide comprehensive assistance through third-party destination services providers to further assist you and accompanying family members in your adjustment to the United States.

Repatriation

The best time to plan for your return to your home country is before your assignment to the United States begins; that is when you should discuss the goals not just for the assignment itself but, from a career perspective, also for when the assignment is over. Being sure that you and your employer understand each other's objectives is an important element of success and satisfaction, and should help in the repatriation process and other career considerations. These basic objectives could include the expected contribution that you will make to your department and the company beyond the U.S. assignment.

During the assignment, lines of communication between you and the home company should remain open with respect to (1) larger corporate issues, and (2) your personal and professional development in areas that could prove valuable to the home company. It may be useful for you to record and provide periodic updates vis-à-vis the home company, so that, where appropriate, revisions to objectives and goals can be made.

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Appendix A – Suggested Pre-departure Activities Check-list

Action required:

1. Develop a list of objectives for the international assignment and validate them with your manager.
2. Have a complete medical examination and receive recommended or required inoculations a month before departure.
3. Obtain required tests/inoculations and papers required to transport pet(s) to the United States.
4. Obtain medical and dental records for you and your family.
5. Attend language courses, if necessary.
6. Complete resource reading on the U.S. and reading of company orientation material.
7. Investigate host location climate to determine suitable clothing to bring or purchase.
8. Familiarize yourself and family members with U.S. currency and exchange money so you have some U.S. currency when you arrive.
9. Review U.S. customs guidance and begin preparation.
10. Draw up, or update, a will. (Determine whether a will in the host location is advisable.)
11. Make arrangements for a power-of-attorney.
12. Choose a legal guardian for children, and complete the necessary formalities. In the case of your and your spouse's unexpected deaths, the legal guardian may be the only person permitted to take your child (or children, if more than one) back to your home country.
13. Have any necessary adjustments made in insurance policies.
14. Notify local credit card and charge accounts of address change or have them canceled.
15. Notify local post office of mailing address change and provide six to eight weeks' notice of change of address for journals/periodicals to which you are subscribed.
16. Once departure date is known, inform home delivery services, utilities, etc.
17. Obtain original or certified copies (translated) of your university diploma(s) and transcripts (record of grades). Certification can be done by bringing your original documents to any U.S. consulate. These documents will be required if you plan to attend a U.S. university.
18. Make arrangements for support obligations of family members remaining in the home country.
19. Record vital documents on a check-list (see Appendix B). Give a copy of the check-list of vital documents to a home country relative or friend, and place a copy in your safe deposit box or other safe-keeping place with originals or copies of the documents.
20. Receive tax counseling from an experienced international tax adviser with U.S. knowledge and experience. Your employer may assist you with this if they offer this service to employees.
21. Communicate with your receiving office as to your exact date of arrival in the United States and your employment starting date.
22. Travel with a contact list of individuals in the U.S. who are assisting you with your transfer.
23. Determine if your cell (mobile) phone is compatible with U.S. cellular/mobile networks.

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Secure the following:

1. Keep with your passport (and your family's passports) a written record of all immunizations and vaccinations with dates and physicians' signatures. School and local health authorities often require this information.
2. Obtain separate passports for each family member.
3. U.S. visa (obtained at a U.S. embassy or consulate), as applicable.
4. Birth certificates.
5. Marriage license.
6. Children's school records.
7. Letters of reference and a credit rating report.
8. An international driver's license is recommended.
9. Letter from current auto insurer referring to driving record and insurance history.
10. Universally-accepted credit cards that can be transferred to a dollar-based account.
11. Travelers checks (in home country and U.S. currency).
12. Critical financial records, including tax returns for prior three years.
13. An account in a bank that has U.S. branches or an open transactional relationship with a U.S. bank. Many banks offer programs specific to expatriates.
14. Safe deposit box.
15. Copy of your most recent prescriptions for glasses, contact lenses, and medicines.
16. Spare pair of glasses/contact lenses.
17. Adequate supply of prescription medicines until local medical contacts and insurance coverage can be established in your U.S. location.
18. Photocopies of all the documents in this list and store them in a separate location if any original documents become misplaced.

For many of the items noted in the above check-lists, consultation with a financial planning agent, attorney, or immigration specialist is advised.

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Appendix B – Suggested Vital Documents Check-list

	Identification Number (Where Applicable)	Location	Date
Your Will			
Spouse's Will			
Guardianship Agreements			
Trust Agreements			
Mortgages			
Property Deeds			
Car Titles			
Stock Certificates			
Stock Purchase Agreements			
Bonds			
Checking Account			
Savings Account			
Other Financial/Brokerage Account			
Life Insurance Policies			
Other Insurance Policies			
Contracts			
Set of Decedent Instructions			
Retirement Agreements			
Pension or Profit Sharing Plans			
Birth Certificates			
Marriage Licenses			
Divorce and Settlement Papers			
Employment Contracts			
Assignment Letter			
Income Tax Returns (Last 3 Years)			
Military Discharge and Documents			
Recurring Bills/Statements			
Credit Cards/Other Cards			
Frequent Flyer Program(s)			
Personal Computer Log-on Name/Password			
Personal e-mail Account and Password			
Driver's License			
Passport(s)			

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For many of the items noted in the above check-list, consultation with a financial planning agent, attorney, or immigration specialist is advised.

Attorney:

Name: ______________________________

Address: ______________________________

Phone Number: ______________________________

Personal/Family Physician:

Name: ______________________________

Address: ______________________________

Phone Number: ______________________________

Relative/Other Individual in Home Country (to contact in case of emergency):

Name: ______________________________

Address: ______________________________

Phone Number: ______________________________

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Appendix C – United States Tax and Social Security Agreements

List of U.S. Tax Treaty Countries

Information as of December 31, 2014.

For treaty withholding tax rates, see IRS Publication 901, U.S. Tax Treaties.

Armenia*
Australia
Austria
Azerbaijan*
Bangladesh
Barbados
Belarus*
Belgium
Bulgaria
Canada
China, People's Republic of
Cyprus
Czech Republic
Denmark
Egypt
Estonia
Finland
France
Georgia*
Germany
Greece
Hungary
Iceland
India
Indonesia
Ireland
Israel
Italy
Jamaica
Japan
Kazakhstan
Kyrgyzstan*
Latvia
Lithuania
Luxembourg
Malta
Mexico
Moldova*
Morocco
Netherlands
New Zealand
Norway
Pakistan
Philippines
Poland
Portugal
Romania
Russia
Slovak Republic
Slovenia
South Africa
South Korea
Spain
Sri Lanka
Sweden
Switzerland
Tajikistan*
Thailand
Trinidad and Tobago
Tunisia
Turkey
Turkmenistan*
Ukraine
United Kingdom
Uzbekistan*
Venezuela

* Former republic of the U.S.S.R. and member of the Commonwealth of Independent States, covered by the U.S.-U.S.S.R. income tax treaty signed June 20, 1973.

List of U.S. Social Security Totalization Agreement Countries

Information as of December 31, 2014. For text and description of each agreement, see U.S. Social Security Administration International Programs Web site.

Australia
Austria
Belgium
Canada
Chile
Czech Republic
Denmark
Finland
France
Germany
Greece
Ireland
Italy
Japan
Luxembourg
Netherlands
Norway
Poland
Portugal
Slovak Republic
South Korea
Spain
Sweden
Switzerland
United Kingdom

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List of U.S. Estate & Gift Tax Treaties

Information as of December 31, 2014.

Australia
Austria
Belgium
Canada
Denmark
Finland
France
Germany
Greece
Ireland
Italy
Japan
Netherlands
Norway
South Africa
Sweden
Switzerland
United Kingdom

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Appendix D – U.S. Individual Income Tax Figures 2014 & 2015

2014 Tax Tables

Married Individuals Filing Joint Returns and Surviving Spouses	
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	$127,962.50 plus 39.6% of the excess over $457,600
Heads of Households	
Not Over $12,950	10% of the taxable income
Over $12,950 but not over $49,400	$1,295 plus 15% of the excess over $12,950
Over $49,400 but not over $127,550	$6,762.50 plus 25% of the excess over $49,400
Over $127,550 but not over $206,600	$26,300 plus 28% of the excess over $127,550
Over $206,600 but not over $405,100	$48,434 plus 33% of the excess over $206,600
Over $405,100 but not over $432,200	$113,939 plus 35% of the excess over $405,100
Over $432,200	$123,424 plus 39.6% of the excess over $432,200
Unmarried Individuals (other than Surviving Spouse and Heads of Households)	
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 Individuals Filing Separate Returns	
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 $74,425	$5,081.25 plus 25% of the excess over $36,900
Over $74,425 but not over $113,425	$14,462.50 plus 28% of the excess over $74,425
Over $113,425 but not over $202,550	$25,382.50 plus 33% of the excess over $113,425
Over $202,550 but not over $228,800	$54,793.75 plus 35% of the excess over $202,550
Over $228,800	$63,981.25 plus 39.6% of the excess over $228,800

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2015 Tax Tables

Married Individuals Filing Joint Returns and Surviving Spouses	
If taxable income is:	**The tax is:**
Not Over $18,450	10% of the taxable income
Over $18,450 but not over $74,900	$1,845 plus 15% of excess over $18,450
Over $74,900 but not over $151,200	$10,312.50 plus 25% of the excess over $74,900
Over $151,200 but not over $230,450	$29,387.50 plus 28% of the excess over $151,200
Over $230,450 but not over $411,500	$51,577.50 plus 33% of the excess over $230,450
Over $411,500 but not over $464,850	$111,324 plus 35% of the excess over $411,500
Over $464,850	$129,996.50 plus 39.6% of the excess over $464,850
Heads of Households	
Not Over $13,150	10% of the taxable income
Over $13,150 but not over $50,200	$1,315 plus 15% of excess over $13,150
Over $50,200 but not over $129,600	$6,872.50 plus 25% of the excess over $50,200
Over $129,600 but not over $209,850	$26,722.50 plus 28% of the excess over $129,600
Over $209,850 but not over $411,500	$49,192.50 plus 33% of the excess over $209,850
Over $411,500 but not over $439,000	$115,737 plus 35% of the excess over $411,500
Over $439,000	$125,362 plus 39.6% of the excess over $439,000
Unmarried Individuals (other than Surviving Spouse and Heads of Households)	
Not over $9,225	10% of the taxable income
Over $9,225 but not over $37,450	$922.50 plus 15% of the excess over $9,225
Over $37,450 but not over $90,750	$5,156.25 plus 25% of the excess over $37,450
Over $90,750 but not over $189,300	$18,481.25 plus 28% of the excess over $90,750
Over $189,300 but not over $411,500	$46,075.25 plus 33% of the excess over $189,300
Over $411,500 but not over $413,200	$119,401.25 plus 35% of the excess over $411,500
Over $413,200	$119,996.25 plus 39.6% of the excess over $413,200
Married Individuals Filing Separate Returns	
Not Over $9,225	10% of the taxable income
Over $9,225 but not over $37,450	$922.50 plus 15% of the excess over $9,225
Over $37,450 but not over $75,600	$5,156.25 plus 25% of the excess over $37,450
Over $75,600 but not over $115,225	$14,693.75 plus 28% of the excess over $75,600
Over $115,225 but not over $205,750	$25,788.75 plus 33% of the excess over $115,225
Over $205,750 but not over $232,425	$55,622 plus 35% of the excess over $205,750
Over $232,425	$64,989.25 plus 39.6% of the excess over $232,425

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Standard Deduction

	2014	2015
Single	$6,200	$6,300
Married filing joint return and surviving spouse	$12,400	$12,600
Married filing separate return	$6,200	$6,300
Head of household	$9,150	$9,250

If you can be claimed as a dependent on another person's return, your standard deduction for 2014 cannot exceed the greater of USD 1,000 or your earned income plus USD 350, and your standard deduction for 2015 cannot exceed the greater of USD 1,050 or your earned income plus USD 350.

If you are age 65 or over, or if you are blind, you are entitled to an additional standard deduction. The additional standard deduction amount for married taxpayers and surviving spouses is USD 1,200 for 2014 and USD 1,250 for 2015. For a single taxpayer or head of household, the additional standard deduction is USD 1,550 for 2014 and USD 1,550 for 2015. If you are both 65 or older and blind, the additional standard deduction amount is doubled.

Personal Exemptions

	2014	2015
Personal and dependent exemption amount	$3,950	$4,000

Alternative Minimum Tax Exemptions

AMT Exemption Amounts

	2014	2015
Single or head of household	$52,800	$53,600
Married filing joint return and surviving spouse	$82,100	$83,400
Married filing separate return	$41,050	$41,700

The AMT exemption is reduced by 25 percent of the amount by which your alternative minimum taxable income exceeds a certain amount. These threshold amounts are shown below.

AMT Exemption Phase-Out Thresholds

	2014	2015
Single or head of household	$117,300	$119,200
Married filing joint return and surviving spouse	$156,500	$158,900
Married filing separate return	$78,250	$79,450

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Social Security and Self-Employment Tax Wage Base Amount

	2014	2015
Old Age, Survivors, and Disability Insurance maximum wage base	$117,000	$118,500

Capital Gains and Qualified Dividends Tax Rates

Assets Held Not More than One Year (Short-Term Capital Gain) – The special capital gain tax rate applies only to assets that you have owned for more than one year. Gains on assets that you have owned for one year or less are taxed at your normal marginal tax rate, with a maximum of 39.6 percent.

Assets Held More than One Year (Long-Term Capital Gain) – Gains on assets held for more than one year (called long-term capital gains) are generally taxed at a rate of 15 percent. However, if you are in the lowest marginal income tax brackets (10- or 15-percent), your long-term capital gains are taxed at zero percent. If you are in the highest (39.6 percent) income tax bracket, your long-term capital gain tax rate is 20 percent.

Depreciation Recapture – If you own real property (such as a building) that is used as business or rental property, you are entitled to take depreciation deductions for that property (however, no depreciation deduction is allowed for land). When you sell that property, the amount of the gain is increased by the depreciation that was taken (or that you were allowed to take, even if you did not claim it). The portion of the gain that is related to depreciation is referred to as depreciation recapture and is taxed at 25 percent.

Qualified Dividends – Qualified dividends are taxed at the same rate as long-term capital gains. In general, qualified dividends are most dividends on U.S. stock, and most dividends on foreign stock paid from countries that have a tax treaty with the United States.

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Appendix E – List of KPMG Offices in the United States with a GMS Practice

Atlanta
KPMG LLP
Suite 2000
303 Peachtree NE
Atlanta GA 30308-3210
Tel. +1 (404) 222-3000
Fax. +1 (404) 222-3050

Billings
KPMG LLP
Suite 1002
175 N. 27th Street
Billings MT 59101
Tel. +1 (406) 252-3831
Fax. +1 (406) 245-9738

Boston
KPMG LLP
Two Financial Center
60 South Street
Boston MA 02111
Tel. +1 (617) 988-1000
Fax. +1 (617) 507-8321

Charlotte
KPMG LLP
Suite 3200
550 S. Tryon Street
Charlotte NC 28202-4214
Tel. +1 (704) 335-5300
Fax. +1 (704) 335-5377

Chicago
KPMG LLP
Aon Center
Suite 5500
200 E. Randolph Drive
Chicago IL 60601-6436
Tel. +1 (312) 665-1000
Fax. +1 (312) 665-6000

Cincinnati
KPMG LLP
Suite 3400
Cincinnati OH 45202
Tel. +1 (513) 421-6430
Fax. +1 (513) 763-2690

Columbus
KPMG LLP
Suite 500
191 West Nationwide Boulevard
Columbus OH 43215-2568
Tel. +1 (614) 249-2300
Fax. +1 (614) 249-2348

Dallas
KPMG LLP
Suite 3100
717 North Harwood Street
Dallas TX 75201-6585
Tel. +1 (214) 840-2000
Fax. +1 (214) 840-2297

Denver
KPMG LLP
Suite 800
1225 17th Street
Denver CO 80202-5598
Tel. +1 (303) 296-2323
Fax. +1 (303) 295-8829

Detroit
KPMG LLP
Suite 1200
150 West Jefferson
Detroit MI 48226-4429
Tel. +1 (313) 230-3000
Fax. +1 (313) 230-3001

Fort Lauderdale/Miami
KPMG LLP
Las Olas Centre
Suite 750
400 E Las Olas Boulevard
Fort Lauderdale FL 33301-4219
Tel. +1 (954) 524-6000
Fax. +1 (954) 462-4765

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Houston
KPMG LLP
Suite 4500
811 Main Street
Houston TX 77002
Tel. +1 (713) 319-2000
Fax. +1 (713) 319-2041

Kansas City
KPMG LLP
Suite 1000
1000 Walnut Street
Kansas City MO 64106-2162
Tel. +1 (816) 802-5200
Fax. +1 (816) 817-1960

Los Angeles
KPMG LLP
Suite 1500
550 South Hope Street
Los Angeles CA 90071-2629
Tel. +1 (213) 972-4000
Fax. +1 (213) 622-1217

Minneapolis
KPMG LLP
4200 Wells Fargo Center
90 South Seventh Street
Minneapolis MN 55402-3903
Tel. +1 (612) 305-5000
Fax. +1 (612) 305-5100

New York City
KPMG LLP
345 Park Avenue
New York NY 10154-0102
Tel. +1 (212) 758-9700
Fax. +1 (212) 758-9819

Northern Virginia
KPMG LLP
Suite 1200
1676 International Drive
McLean VA 22102
Tel. +1 (703) 286-8000
Fax. +1 (703) 286-8010

Orange County
KPMG LLP
Suite 700
20 Pacifica
Irvine CA 92618-3391
Tel. +1 (949) 885-5400
Fax. +1 (949) 885-5410

Philadelphia
KPMG LLP
1601 Market Street
Philadelphia PA 19103-2499
Tel. +1 (267) 256-7000
Fax. +1 (267) 256-7200

Phoenix/Tempe
KPMG LLP
Suite 800
60 E Rio Salado
Tempe AZ 85281-9102
Tel. +1 (480) 459-3500
Fax. +1 (480) 459-3550

Portland
KPMG LLP
Suite 3800
1300 SW Fifth Avenue
Portland OR 97201
Tel. +1 (503) 221-6500
Fax. +1 (503) 820-6565

Richmond
KPMG LLP
Suite 2000
1021 E Cary Street
Richmond VA 23219-4023
Tel. +1 (804) 782-4200
Fax. +1 (804) 782-4300

San Diego
KPMG LLP
Suite 600
4747 Executive Drive
San Diego CA 92121
Tel. +1 (858) 750-7100
Fax. +1 (858) 750-7101

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San Francisco
KPMG LLP
Suite 1400
55 Second Street
San Francisco CA 94105
Tel. +1 (415) 963-5100
Fax. +1 (415) 963-8100

Santa Clara (Silicon Valley)
KPMG LLP
Mission Towers 1
Suite 100
3975 Freedom Circle Drive
Santa Clara CA 95054
Tel. +1 (408) 367-5764
Fax. +1 (408) 877-3034

Seattle
KPMG LLP
Suite 2900
1918 Eighth Avenue
Seattle WA 98101
Tel. +1 (206) 913-4000
Fax. +1 (206) 913-4444

Short Hills
KPMG LLP
51 John F Kennedy Parkway
Short Hills NJ 07078
Tel. +1 (973) 467-9650
Fax. +1 (973) 467-7930

Stamford
KPMG LLP
Stamford Square
3001 Summer Street
Stamford CT 06905-4317
Tel. +1 (203) 356-9800
Fax. +1 (203) 352-2002

Washington National Tax
KPMG LLP
1801 K Street NW
Washington DC 20006
Tel. +1 (202) 533-3000
Fax. +1 (202) 533-3126

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