U.S. taxation of foreign citizens

Global Mobility Services

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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 publication 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 tax "surprises" in either country.

United States tax law is continually changing. This publication reflects U.S. income tax law as it applies to taxable years ending on or before December 31, 2018, and is current as of November 30, 2018, reflecting major tax legislation enacted late in 2017. Even more than usual, it is prudent to consult with your tax adviser before making major financial decisions.

You may also be interested in our companion publication, *U.S. Taxation of Americans Abroad*, which is available online on the KPMG Global Mobility Services Web page on http://www.kpmg.com at this link.

For further information, please contact your local KPMG International member firm's office. Our U.S. offices are listed in Appendix E of this booklet.

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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. If you are a "resident alien," you are taxed on worldwide income – all income from all sources – the same way a U.S. citizen is taxed. A resident alien can generally claim the same deductions as a U.S. citizen. On the other hand, if you are a "nonresident alien," you are taxed only on U.S.-source income, but you are allowed fewer deductions.

In the year that you arrive in or depart from the United States, 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, but only 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 (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 tax resident: the "lawful permanent resident test," or the "substantial presence test." These tests only apply when determining whether you are a resident for federal income tax purposes – in other contexts, for example for gift and estate tax, or for immigration, or even for state income tax, the term "resident" may be defined differently.

Lawful permanent resident test (the "green card" test)

You are considered to be a resident of the United States 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 whether you are physically present in the United States. If you have a green card, you are considered to be a resident of the United States 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 United States, 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

— the sum of the number of the days you are present in the United States 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 1
Hiro, a Japanese executive who is employed by a U.S. company, makes frequent long business trips to the United States, but maintains a home in Japan, where his family remains. He does not have a green card. In 2018, Hiro is present in the U.S. for 130 days. He was present in the U.S. for 120 days in 2017, and 120 days in 2016.

Hiro is considered to be a resident of the United States in 2018 because he was present in the U.S. for at least 31 days in 2018, and his number of equivalent days in 2016-2018 was at least 183, calculated as follows:

Year	Actual Days	Equivalent Days
2018	130 x 1	130
2017	120 x 1/3	40
2016	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 do not 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 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 show that she has complied with the terms of her visa and does not intend to reside in the United States permanently.)

— Foreign government-related individuals remain nonresidents of the United States for as long as they are present with that status.

— Professional athletes are considered exempt individuals on any day of presence 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, 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 United States, although there is an exception which 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, if you leave the United States but do not establish a closer connection to a foreign country and make that country your tax home before the end of the year, then your U.S. resident status will not be considered to end until December 31.

> ***Example 2***
> Roy is a U.S. resident under the substantial presence test. He leaves the United States on October 15 and establishes residency in France. He returns to the United States for a vacation for 14 days from November 16–30. Roy's residency termination date is November 30, his last day of presence in the United States.
>
> If Roy's vacation in November had only been seven days long, that period of presence would not be considered for determining his residency end date. In that case, Roy's residency end date would be October 15.

Comment:
If, instead of moving to France after leaving the U.S., Roy goes on a world cruise that does not end until the following year, his residency end date would be December 31, because he did not establish a closer connection to another country and make that country his tax home before the end of the year.

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 the entire time.

> ***Example 3***
> Lisa is a green card holder who relinquished her permanent resident status on February 28, 2017. She returns to her home country of New Zealand, where she establishes a closer connection and a tax home. On June 1, 2018, she re-enters the United States on an L-1 visa and remains for the rest of the year. Under the substantial presence test, Lisa was a U.S. resident in 2018. Lisa will be considered to be a U.S. resident for all of 2017 and 2018 due to the no-lapse rule, because she was a U.S. resident at the beginning of 2017 and at the end of 2018.

Treaty rules

If either the lawful permanent residence test or the substantial presence test applies to you, you may be able to claim that you are not a resident of the United States 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." In that case, you may be able to elect to be 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 should consult with a U.S. immigration attorney. 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; in general this status is limited to those born in American Samoa). 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.

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. Taxable compensation includes cash received 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 (a "dual-status" year). In that case, 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 United States 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 (if related to a divorce settlement concluded before January 1, 2019);

— 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.)

The law allows that some special items can be excluded from taxable income, including:

— 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 (beginning in 2018, only 50 percent of the value of such meals can be excluded);

— 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 the law provides a specific exclusion.

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;

— 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 you earn in one year but do not receive until 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, you cannot avoid tax in the year the compensation is earned simply by asking to defer the payment of the compensation. Instead, your employer has to set up a special deferred compensation plan, and the employee's agreement with you to defer income must generally be made before the services are performed. For example, if a bonus will be earned in 2018 and payable after March 15, 2019, then the bonus will be taxable in 2018, unless your agreement to defer the bonus to 2019 was made in 2017. 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 you pay tax on the deferred amount in the year it is earned rather than the year it is received. An additional 20-percent tax may also 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 pension plan of your home country while you were a U.S. resident alien, 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, it is generally taxable when received. The amount of taxable compensation is the excess of the fair market value ("FMV") of the stock or other property received over the amount you pay for it. However, if the property received is not freely transferrable, or is subject to a "substantial risk of forfeiture," income will not be recognized until those restrictions are removed. A substantial risk of forfeiture exists if any rights to the property (for example, the right to sell the property) are conditioned on the future performance of substantial services. A typical example this 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.

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. Employers often grant 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 regarding its price, when it can be exercised, and how many options can be exercised. Your employer will have structured the award so that the option qualifies for ISO treatment.

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 than the tax rate on compensation). 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).

A nonqualified stock option is 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 Alternative Minimum Tax 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.

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 income received under U.S. or foreign pension plans are generally taxable when received. 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-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, even if the pension is paid from a foreign plan.

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, pension plans in other countries.

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 the loan amount exceeds US$10,000. 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.

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. However, no deduction is allowed for business expenses relating to your employment that are not reimbursed.

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 must be temporarily away from your principal place of employment (known as your "tax home"). Also, your stay in the United States must have an expected duration of a year or less – and if your stay ends up exceeding one year, 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 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 in unusual work situations such as oil drilling rigs, or if a work location outside the United States is remote and there is no other suitable housing nearby (often referred to as "camp housing"). 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 US$103,900 for 2018 (US$105,900 for 2019). 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.

Capital gains and other gross income

A capital gain is the profit that results when you dispose of an asset – 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 (a maximum of 37 percent). However, capital gains from property that you owned for more than a year are taxed at a maximum rate of 20 percent. (For more information on taxing capital gains, see Appendix D.)

If you have capital losses, they can be deducted against capital gains. (However, losses on personal use property such as your home or your automobile are not deductible.) If capital losses exceed capital gains, only up to US$3,000 can be deducted against other income. The excess is *carried forward* to future years until it is used up.

Up to US$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 US$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 devotes 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. 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 if you "actively participate" in the management of rental properties, you can deduct up to US$25,000 of passive loss from such rental properties against ordinary income, such as your salary and investment income, if your adjusted gross income does not exceed US$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.)

If you rent your principal residence 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 rule applies 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 adjusted gross income. 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 US$5,500 (for 2018; US$6,000 for 2019). For taxpayers 50 years old and over, that amount is increased by US$1,000. 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, if the divorce settlement was concluded before January 1, 2019.

— Forfeited interest on early withdrawal of savings from time deposits.

— One-half of self-employment tax paid (this is the U.S. Social Security tax you may pay if you own 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 deduction 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 7.5 percent of AGI (in 2018; increased to 10 percent of AGI in 2019).

— State and local income taxes on income, real property, and personal property; 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. The deduction for all these taxes together is limited to no more than US$10,000.

— 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 US$750,000 (US$1 million for debt that was incurred before December 16, 2017) of acquisition debt (debt that was used to acquire, construct, or substantially improve the residence(s)). The dollar limitation amounts remain the same whether you are deducting mortgage interest on one home or two homes.

— Losses you incur due to federally-declared disasters, to the extent each loss exceeds US$100, and the total loss exceeds 10 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.

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.

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 seven tax rate brackets, ranging from 10 percent to 37 percent. Certain capital gain and dividend income is taxed at a maximum rate of 20 percent. See Appendix D for the 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 often results in a higher tax bill. (Note that if you and your spouse are legally married in your home country you will be treated as being married for U.S. federal tax purposes, so long as that marriage is recognized by any state of the United States.)

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 either you or your spouse was not a full-year U.S. citizen or resident, 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. This foreign tax credit ("FTC") 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.

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 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 exemption amounts). The FTC 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") applies to the net unearned income of U.S. residents. 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 US$250,000 for married taxpayers filing jointly, US$125,000 for married taxpayers filing separately, and US$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). 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 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 either spouse is a nonresident alien. In that case, income from employment, as well as trade or business income and partnership income, will not be treated as community property income.

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. citizens or residents 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 permanent 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 permanent 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 US$165,000 in 2018 or US$168,000 in 2019;

— Your net worth is US$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 excess of an exclusion amount (US$711,000 for 2018; US$725,000 for 2019) 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 (currently 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 to consider as well.

Chapter 3 - Taxation of nonresident aliens

Nonresident aliens, who are neither citizens nor residents of the United States, may still be liable for U.S. income tax. In this chapter, we discuss how the U.S. taxes nonresident aliens.

Gross income

As a nonresident alien you are 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: 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

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 property other than real estate, if you have a tax home in the United States (even if you are a nonresident alien);

— Income from the sale or exchange of property other than real estate, including inventory, through a U.S. office or fixed place of business of the seller;

— Alimony paid by U.S. residents (if related to a divorce settlement concluded before January 1, 2019); and

— U.S. Social Security benefits.

Certain investments and other passive income

As noted above, if you are a nonresident alien, your investment income and other passive income from U.S. sources is taxable at a flat rate, with no deductions allowed, unless it is connected to a U.S. trade or business. The 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 (if related to a divorce settlement concluded before January 1, 2019);

— 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 – 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;

— 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.

The source of income is determined according to when it is earned, not when it is received. For example, if you receive a bonus in 2019 for services that you performed in the U.S. in 2018, that 2019 bonus will still be treated as U.S.-source business income, even if you do not enter the U.S. during 2019. 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, even if it was not used in a U.S. business in the year it is sold.

A special rule allows you to earn up to US$3,000 per year tax-free as compensation for services provided in the United States as a nonresident alien. 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 United States, 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.

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, which usually results in much lower tax on the rental income. 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

If you are a nonresident alien, you will be subject to U.S. tax if you sell U.S. business assets or U.S. real property interests (see next section). 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 have a tax home in the United States if your principal business is in the United States.)

If you have U.S.-source capital gains and losses that are not related to a U.S. trade or business, 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.

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 you own more than 5 percent of a class of traded shares.

If you sell a USRPI, the buyer is required to withhold 15 percent of the net proceeds on the disposition. In some situations, higher withholding is required; on the other hand, 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 US$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; and

— Contributions to U.S. charities.

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 that otherwise would have been permitted.

Taxable year

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

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).

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, FTCs 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.

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 until 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 deductions allowed only to residents.

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 United States with lawful permanent resident status. In most cases, 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 United States in that year. Your residency termination date generally will generally be your last day of presence in the U.S. 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 more detailed discussion of the residency starting and ending date rules, see Chapter 1.)

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 United States 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.

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 United States 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 U.S. as if they were days of presence in the U.S.)

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 United States 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 United States for the portion of the year that the election applies to, but you will also be allowed to claim any available FTCs 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. For all these reasons, making this election will often result in a lower tax liability.

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 arrives in the United States on October 15, 2018, and begins a three-year assignment working for a U.S. company. For the remainder of 2018, she is absent from the United States for 10 days (from December 20 through December 29). In the following year, 2019, she satisfies the substantial presence test, so is treated as a resident alien. She was not a resident alien in 2017. Juanita may make a first-year election to be taxed as a resident alien starting on October 15, 2018.

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 United States 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, which can result in a lower tax liability.

U.S. resident married to a 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 they make the election, as well as to all subsequent years that either of them 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 revoked by either spouse, and will end if either spouse dies or if the couple divorces. A person who has made this election in the past cannot make it again, even if married to a different spouse.

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

Part-year U.S. resident married to a U.S. 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 FTC 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).

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 these elections are beneficial.

Deductions

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).

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.

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, deciding whether to sell or rent out your home, and other matters that can have an impact on 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 US$250,000 of gain (or up to US$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 US$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 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 (i.e., 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. The exclusion is also allowed for the gain on a sale of a residence outside the United States.

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 US$208,333 (20 months/2 years x US$250,000). If the gain on Sanjay's home is less than US$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 US$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 US$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 US$195,000, not US$200,000, because the portion of the gain that relates to prior depreciation deductions (US$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 principal residence is called "nonqualified use," and gain attributable to periods of nonqualified use 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.

> ***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 2015 through 2017, when she rented it to someone else. She reoccupied the home a year before selling it in 2018. Mai's gain on sale of the home was US$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, US$50,000 (1 year rental/6 years ownership x US$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 – which may be expressed as USD, US$, or $ – 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 300,000 euros (EUR), 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.

Gain on the disposition of a foreign-currency denominated mortgage is considered to be a separate transaction from the sale of your home, and you cannot use the US$250,000 exclusion to offset gain on pay-off of a foreign mortgage. 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 (US$500,000 as opposed to US$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 are both full-year residents, so that the spouses can claim the exclusion in a joint return. On the other hand, if the spouses own the home jointly, but file separate returns, each will be entitled to an exclusion of US$250,000, resulting in the same amount of exclusion as if they filed jointly.

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, a U.K. assignee in the United States, purchased her home in England for 200,000 British pounds (GBP) 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 real property located in the U.S. and gains that are connected with a U.S. trade or business. In some cases, if you move to the United States in the last half of the year you will 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, if the gain is a type that would not be taxable to a nonresident alien. Similarly, if you enter into an installment sale while you are a nonresident, and the gain is not taxable to you as a nonresident, then 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.

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.

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 apply 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 place a limitation on the amount of compensation that 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***
> Mikhail 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. Mikhail'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 continues to keep a home. Under the U.S.-Russia tax treaty, Mikhail 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.

If you are a green card holder living in another country, you may be able to claim a treaty tie-breaker position to override your U.S. resident status. However, you should consider this decision carefully and discuss it with a U.S. immigration attorney, as claiming to be a nonresident alien under a treaty could affect your eligibility to maintain your 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 26 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;

— Payments or income items received by an individual that would otherwise be reportable, not exceeding US$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.

Chapter 7 - Payment of tax

United States 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. payers 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 US$1,000.

If tax withheld by your employer and other payers 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 amount of tax due with the tax return.

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 US$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.

Chapter 8 - Other taxes

Social Security tax and benefits

The United States 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 provide 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 US$200,000 (US$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 US$128,400 in 2018 and US$132,900 in 2019. Your employer is required to withhold your contribution to FICA and pay it to the government along with your income tax withholding.

Self-employment

If you are self-employed (i.e., you are an independent contractor), you 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 your income tax, and is paid in quarterly estimated tax payments (see Chapter 7). You do not have to pay SE tax if you are a nonresident alien. SE tax is due if your income from self-employment is more than US$400 for the year, which can include your share of income from partnerships, but generally does not include rental income unless you are 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 US$200,000 (US$250,000 of combined self-employment income for a married couple filing jointly). If you also receive wages that are subject to FICA, your FICA wages reduce the amount of SE income for the purpose of determining what rate applies.

> ***Example***
> Carlos has wages from his employer of US$100,000 in 2018, which are subject to FICA. In addition, he has self-employment income of US$40,000. Carlos will pay SE tax at a rate of 15.3 percent on self-employment income of US$28,400 (the 2018 FICA wage maximum of US$128,400 minus his employer-paid earnings), and SE tax at a rate of 2.9 percent on US$11,600 (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 ("SSTAs") 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 SSTA 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.

SSTAs also provide for totalized benefits, 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 US$15,000 per year (in both 2018 and 2019) free of tax for each separate person to whom you give gifts. If you are married, you and your spouse can 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 US$152,000 in 2018, and US$155,000 in 2019.

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 US$11,180,000 in 2018 or US$11,400,000 in 2019, 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 lifetime 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 should 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 US$15,000 per year (in both 2018 and 2019) are allowed for each person you give to, and non-taxable gifts to a non-citizen spouse of up to US$152,000 in 2018 and US$155,000 in 2019 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 US$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

If you are a resident of the United States you are required to report gifts that exceed US$100,000 received from any foreign individual or foreign estate. You must also report any amounts received from foreign corporations or foreign partnerships that are treated as gifts (rather than claiming as income), if exceeding US$16,076 in 2018 or US$16,388 in 2019. 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 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, so income that is exempt from federal tax due to a treaty may still be subject to state income tax. 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, which is 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.

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. income 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. However, if you receive wages subject to withholding, the return is generally due on April 15. You do not have to file Form 1040NR if:

1. your tax paid and withheld covers the tax on your income taxable in the United States, and you do not need to claim a refund; 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.

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 generally due on April 15. If you are living outside the United States on the due date, it is automatically extended to June 15.

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 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.

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 US$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. The report is due by April 15, although an automatic six-month extension is allowed.

— 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 5472, *Information Return of 25%-Foreign Owned U.S. Corporation or a Foreign Corporation Engaged in a U.S. Trade or Business* may have to be filed, together with Form 1120, in certain circumstances, by a foreign-owned entity that for U.S. income tax purposes is a "disregarded entity," meaning that its income is taxed as if directly owned by the owner of the entity.

— 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*.

Creation of or transfers to certain foreign trusts

If you are a U.S. citizen or resident and you create a foreign trust, or transfer property to a foreign trust, you 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. You may also be responsible for seeing that the trust files Form 3520-A, *Annual Information Return of Foreign Trust with a U.S. Owner*.

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 US$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.

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

— End of assignment planning 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 planning

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 – they can help clear the way for, amongst other things, convenient financial transactions in the United States, such as establishing lines of credit, credit cards, and insurance policies, and, generally, 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 handled, 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.)

Adjustment to the United States

Prior to departure from your home country, you should learn as much as possible about the United States and the city or town where you will work and live. Local magazines and guidebooks, government literature, and a plethora of helpful country and cultural resources are readily available in your local library or book-store or on the Internet. Work with local HR/global mobility and management members from your U.S.-host company to request introductions and meetings, even if informal in nature, at which you and your family are introduced to your peers. Your employer may even assign a fellow employee in your host office/location to serve as your local contact, mentor, or "point person" – he or she can be a source of helpful information and guidance for you.

Sometimes the everyday activities that you take for granted at home can become unfamiliar and cause confusion and lost time when you arrive in the United States. Asking for references to local resources – for example, doctors, telephone, utility, cable television and Internet providers, tipping guidelines, sales tax, local banks, retail shops, and so forth – can save time and prevent stress.

End of assignment planning

The best time to plan for the end of the assignment and the return to your home country is actually before your international assignment even begins; that is when you should discuss your performance goals for the assignment itself, as well as your next steps and career progression post-assignment. Because they recognize the value of international work assignments, more organizations are aligning their overarching talent management framework and talent development goals with international assignments.

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. These basic objectives should be written up in a development plan that clearly expresses the agreed-upon objectives and expected outcomes for you and the organization during and after the international assignment.

During the assignment, ongoing performance management processes with clearly established lines of communication between you and your performance managers and HR contacts in the home country and U.S.-host location are essential while on assignment. Moreover, an established, open communications framework along with clearly established roles and responsibilities between key stakeholders, can help to support your ongoing performance and contribute to your assignment's success.

Appendix A – Suggested pre-departure activities check-list

Action required:

1. Work with HR/Talent Management members and your performance manager(s) to formulate a list of performance objectives for the international assignment.
2. Consider health-related issues in each country. Factors that could affect your health include climate, altitude, presence of infectious diseases, sanitation, security issues, pollution, and more.
3. Have a complete medical examination, have required tests performed, and receive necessary inoculations a month before departure, or as recommended by your physician or other medical personnel.
4. Obtain medical and dental records for you and your family.
5. Investigate U.S. federal pet entry requirements and secure papers required to transport pet(s) to the host location.
6. Attend language courses, if necessary, and take advantage of cross-cultural training opportunities that may be offered by your employer.
7. Complete resource reading on the United States, your host state, and reading of company orientation material.
8. Research host location climate to determine suitable clothing during your assignment.
9. Secure and familiarize yourself and family members with samples of U.S. currency.
10. Review guidance for visitors regarding local customs and familiarize yourself with local practices.
11. Draw up, or update, a will. Have the will properly witnessed, with the original placed in a safe place or with a responsible person in your home country. Also, keep a copy in your possession. (Determine whether a will in the host location is advisable.)
12. Consider creating a medical directive. This includes a health-care power of attorney, which designates someone to make medical decisions for you if you are unable, and a living will, which lists your treatment preferences in case of terminal illness or permanent unconsciousness.
13. Make arrangements for a power-of-attorney to leave with a lawyer, relative, or friend so that you have someone who can act legally on your behalf while you are in the United States.
14. Choose a legal guardian for your 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/children back to your home country.
15. Draw up a "letter of instruction" to be followed in the event of death (with a copy for your lawyer, relative, or friend), including preferred funeral arrangements and names, addresses, and telephone

numbers of relatives and close friends to be notified. Note: this is not a legal document and does not substitute for a legal will.

16. Consider setting up a revocable living trust and placing your real estate assets in it, especially if you own property in more than one place. This mechanism can enable your survivors to by-pass probate and may offer other advantages.

17. Have any necessary adjustments made in life, medical disability, group health insurance policies, including the amount(s) and beneficiary(ies) of each policy. If needed, update beneficiaries on these policies, as well as on your retirement plans. Check whether your life insurance covers death in terrorist or "perils of war" incidents.

18. Notify home country credit card and charge accounts of your address change (and your intention to use the cards in the new location) or have them canceled.

19. Establish that automatic teller machine (ATM)/debit cards can be used internationally. Inquire about additional fees, if any, and international networks that will allow for money withdrawals for free at certain banks. If necessary, obtain new personal identification numbers (PIN).

20. 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.

21. Check procedures for absentee voting in the jurisdiction where you vote in elections to determine if any special registration or arrangement is required. Confirm address for absentee ballots.

22. Once departure date is known, inform home delivery services, utilities, etc.

23. Determine if you should obtain original or certified copies (translated) of your university diploma(s) and transcripts (record of grades). Certification can typically be done by bringing your original documents to the consulate. Your organization's immigration services provider can also provide further guidance.

24. Make arrangements for support obligations of family members remaining in the home country, where appropriate.

25. Scan important papers, including past tax returns, and save on CD, thumb-drive, or other portable storage device. 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.

26. Arrange for your sending office/organization to send pertinent publications and communications to you on a timely basis.

27. Receive tax counseling from an experienced international tax adviser with knowledge and experience of/in the United States.

28. Communicate with your receiving host country office contact(s) as to your anticipated date of arrival in the host country and your assignment starting date.

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. Separate passports for each family member and make photocopies of each passport (cover-to-cover).
3. Proof of citizenship.
4. Military service papers.
5. Visa and proper work authorization as directed by your organization and/or immigration counsel, as applicable.
6. Birth certificates.
7. Social security/Social insurance cards for each family member.
8. Marriage license.
9. Proof of termination of any previous marriage.
10. Children's school records.
11. Inventories of stored and shipped household effects.
12. Letters of reference and credit rating reports.
13. An international driver's license (although in some jurisdictions you may be required to take a local driving test within a certain period of your arrival).
14. Letter from current auto insurer referring to your driving record and insurance history.
15. Universally accepted credit/debit cards that can be transferred to a U.S. dollar-based account. Investigate fees that credit card companies charge for international transactions.
16. An account with a bank that has U.S. branches or an open transactional relationship with a U.S. bank. (Establish at least one joint checking account accessible to either spouse/partner. Confirm overdraft protection.)
17. Safe deposit box.
18. Copy of your most recent prescriptions for glasses, contact lenses, and medicines.
19. Spare pair of glasses/contact lenses.
20. Supply of prescription medicines adequate until local medical contacts can be established in your host location in the United States.

For many of the items noted in the above Suggested Pre-departure Activities Check-list, consultation with your financial planning agent, an attorney, and/or an immigration specialist is advised.

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			
Any Relevant Contracts			
Set of Last Instructions			
Retirement Agreements			
Pension or Profit Sharing Plans			
Birth Certificates			
Marriage Licenses			
Divorce and Settlement Papers			
Notes Receivable			
Employment Contracts			
Income Tax Returns (Last 3 Years)			

	Identification number (where applicable)	Location	Date
Military Discharge and Documents			
Recurring Bills/Statements			
Credit/Debit Cards/Other Cards			
Frequent Flyer Program(s)			
Personal Computer Log-on Name/Password			
Personal e-mail Account and Password			
Driver's License			
Passport(s)			

For many of the items noted in the above Suggested Vital Documents Check-list, consultation with your financial planning agent, an attorney, and/or an immigration specialist is advised. (The above check-list should be secured (i.e., encrypted, password-protected) and safely stored.)

* * * * *

My Attorney:

Name: ________________________________

Address: ________________________________

Phone Number: ________________________________

My Personal/Family Physician:

Name: ________________________________

Address: ________________________________

Phone Number: ________________________________

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

Name: ________________________________

Relationship to me: ________________________________

Address: ________________________________

Phone Number: ________________________________

Appendix C - United States tax agreements

List of U.S. tax treaty countries

Information as of November 30, 2018.

For treaty withholding tax rates, see IRS Publication 901, *U.S. Tax Treaties.* Pending ratification are new treaties with Chile and Vietnam, updated treaties with Hungary and Poland, and protocols to amend the current treaties with Japan, Luxembourg, and Switzerland.

Armenia*	**Iceland**	**Poland**
Australia	**India**	**Portugal**
Austria	**Indonesia**	**Romania**
Azerbaijan*	**Ireland**	**Russia**
Bangladesh	**Israel**	**Slovak Republic**
Barbados	**Italy**	**Slovenia**
Belarus*	**Jamaica**	**South Africa**
Belgium	**Japan**	**South Korea**
Bulgaria	**Kazakhstan**	**Spain**
Canada	**Kyrgyzstan***	**Sri Lanka**
China, People's Republic of	**Latvia**	**Sweden**
Cyprus	**Lithuania**	**Switzerland**
Czech Republic	**Luxembourg**	**Tajikistan***
Denmark	**Malta**	**Thailand**
Egypt	**Mexico**	**Trinidad and Tobago**
Estonia	**Moldova***	**Tunisia**
Finland	**Morocco**	**Turkey**
France	**Netherlands**	**Turkmenistan***
Georgia*	**New Zealand**	**Ukraine**
Germany	**Norway**	**United Kingdom**
Greece	**Pakistan**	**Uzbekistan***
Hungary	**Philippines**	**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 November 30, 2018. For text and description of each agreement, see the U.S. Social Security Administration International Programs Web site. Agreements with Iceland and Slovenia have been signed but have not yet entered into force.

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

*Agreement with Slovenia will enter into effect on February 1, 2019.

Appendix D - U.S. individual income tax figures 2018 & 2019

2018 tax tables

Married individuals filing joint returns and surviving spouses	
If taxable income is:	**The tax is:**
Not over $19,050	10% of the taxable income
Over $19,050 but not over $77,400	$1,905 plus 12% of excess over $19,050
Over $77,400 but not over $165,000	$8,907 plus 22% of the excess over $77,400
Over $165,000 but not over $315,000	$28,179 plus 24% of the excess over $165,000
Over $315,000 but not over $400,000	$64,179 plus 32% of the excess over $315,000
Over $400,000 but not over $600,000	$91,379 plus 35% of the excess over $400,000
Over $600,000	$161,379 plus 37% of the excess over $600,000
Heads of households	
Not over $13,600	10% of the taxable income
Over $13,600 but not over $51,800	$1,360 plus 12% of excess over $13,600
Over $51,800 but not over $82,500	$5,944 plus 22% of the excess over $51,800
Over $82,500 but not over $157,500	$12,698 plus 24% of the excess over $82,500
Over $157,500 but not over $200,000	$30,698 plus 32% of the excess over $157,500
Over $200,000 but not over $500,000	$44,298 plus 35% of the excess over $200,000
Over $500,000	$149,298 plus 37% of the excess over $500,000
Unmarried individuals (other than Surviving Spouse and Heads of Households)	
Not over $9,525	10% of the taxable income
Over $9,525 but not over $38,700	$952.50 plus 12% of the excess over $9,525
Over $38,700 but not over $82,500	$4,453.50 plus 22% of the excess over $38,700
Over $82,500 but not over $157,500	$14,089.50 plus 24% of the excess over $82,500
Over $157,500 but not over $200,000	$32,089.50 plus 32% of the excess over $157,500
Over $200,000 but not over $500,000	$45,689.50 plus 35% of the excess over $200,000
Over $500,000	$150,689.50 plus 37% of the excess over $500,000

Married individuals filing separate returns	
Not over $9,525	10% of the taxable income
Over $9,525 but not over $38,700	$952.50 plus 12% of the excess over $9,525
Over $38,700 but not over $82,500	$4,453.50 plus 22% of the excess over $38,700
Over $82,500 but not over $157,500	$14,089.50 plus 24% of the excess over $82,500
Over $157,500 but not over $200,000	$32,089.50 plus 32% of the excess over $157,500
Over $200,000 but not over $300,000	$45,689.50 plus 35% of the excess over $200,000
Over $300,000	$80,689.50 plus 37% of the excess over $300,000

2019 tax tables

Married individuals filing joint returns and surviving spouses	
If taxable income is:	**The tax is:**
Not over $19,400	10% of the taxable income
Over $19,400 but not over $78,950	$1,940 plus 12% of excess over $19,400
Over $78,950 but not over $168,400	$9,086 plus 22% of the excess over $78,950
Over $168,400 but not over $321,450	$28,765 plus 24% of the excess over $168,400
Over $321,450 but not over $408,200	$65,497 plus 32% of the excess over $321,450
Over $408,200 but not over $612,350	$93,257 plus 35% of the excess over $408,200
Over $612,350	$164,709.50 plus 37% of the excess over $612,350

Heads of households	
Not over $13,850	10% of the taxable income
Over $13,850 but not over $52,850	$1,385 plus 12% of excess over $13,850
Over $52,850 but not over $84,200	$6,065 plus 22% of the excess over $52,850
Over $84,200 but not over $160,700	$12,962 plus 24% of the excess over $84,200
Over $160,700 but not over $204,100	$31,322 plus 32% of the excess over $160,700
Over $204,100 but not over $510,300	$45,210 plus 35% of the excess over $204,100
Over $510,300	$152,380 plus 37% of the excess over $510,300

Unmarried individuals (other than surviving spouse and heads of households)	
Not over $9,700	10% of the taxable income
Over $9,700 but not over $39,475	$970 plus 12% of the excess over $9,700
Over $39,475 but not over $84,200	$4,543 plus 22% of the excess over $39,475
Over $84,200 but not over $160,725	$14,382.50 plus 24% of the excess over $84,200
Over $160,725 but not over $204,100	$32,748.50 plus 32% of the excess over $160,725
Over $204,100 but not over $510,300	$46,628.50 plus 35% of the excess over $204,100
Over $510,300	$153,798.50 plus 37% of the excess over $510,300

Married individuals filing separate returns	
Not over $9,700	10% of the taxable income
Over $9,700 but not over $39,475	$970 plus 12% of the excess over $9,700
Over $39,475 but not over $84,200	$4,543 plus 22% of the excess over $39,475
Over $84,200 but not over $160,725	$14,382.50 plus 24% of the excess over $84,200
Over $160,725 but not over $204,100	$32,748.50 plus 32% of the excess over $160,725
Over $204,100 but not over $306,175	$46,628.50 plus 35% of the excess over $204,100
Over $306,175	$82,354.75 plus 37% of the excess over $306,175

Capital gains tax rates

A special capital gain tax rate applies only to assets that you have owned for more than one year (called "long-term capital gains"). Gains on assets that you have owned for one year or less ("short-term capital gains") are taxed at your normal marginal tax rate. The long-term capital gain tax rates apply at the following levels of taxable income:

2018:	Single	Married Filing Joint	Married Filing Separate	Head of Household
0%	$0–$38,600	$0–$77,200	$0–$38,600	$0–$51,700
15%	$38,601–$425,800	$77,201–$479,000	$38,601–$239,500	$51,701–$452,400
20%	$425,801 or more	$479,001 or more	$239,501 or more	$452,401 or more

2019:	Single	Married Filing Joint	Married Filing Separate	Head of Household
0%	$0–$39,375	$0–$78,750	$0–$39,375	$0–$52,750
15%	$39,376–$434,550	$78,751–$488,850	$39,376–$244,425	$52,751–$461,700
20%	$434,551 or more	$488,851 or more	$244,426 or more	$461,701 or more

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 include dividends received from U.S. corporations and certain qualifying foreign corporations.

Standard deduction

	2018	2019
Single	$12,000	$12,200
Married filing joint return and surviving spouse	$24,000	$24,400
Married filing separate return	$12,000	$12,200
Head of household	$18,000	$18,350

If you can be claimed as a dependent on another person's return, your standard deduction cannot exceed the greater of $1,050 (in 2018; $1,100 in 2019) or your earned income plus $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 $1,300 for both 2018 and 2019. For a single taxpayer or head of household, the additional standard deduction is $1,650 for both 2018 and 2019. If you are both 65 or older *and* blind, the additional standard deduction amount is doubled.

Alternative Minimum Tax

AMT exemption amounts

	2018	2019
Single or head of household	$70,300	$71,700
Married filing joint return and surviving spouse	$109,400	$111,700
Married filing separate return	$54,700	$55,850

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 as shown below.

AMT exemption phase-out thresholds

	2018	2019
Single or head of household	$500,000	$510,300
Married filing joint return and surviving spouse	$1,000,000	$1,020,600
Married filing separate return	$500,000	$510,300

Minimum filing requirements

Taxpayers under age 65 are required to file a U.S. income tax return if their gross income, disregarding the foreign earned income and housing costs exclusions, exceeds the amounts shown in the tables below.

Type of return filed	2018	2019
Joint Return	$24,000	$24,400
Head of Household	$18,000	$18,350
Single	$12,000	$12,200
Married Filing Separate	$1	$1

These amounts are increased for taxpayers who are age 65 or older, and for taxpayers who are legally blind.

Children and other dependents are required to file a U.S. income tax return if their gross income exceeds the following amounts:

	2018	2019
If taxpayer has only unearned income (interest, dividends, etc.)	$1,050	$1,100
Earned income plus $350 in 2018 and 2019, up to a maximum of…	$1,050	$1,100

Social Security and self-employment tax wage base amount

	2018	2019
Old Age, Survivors, and Disability Insurance maximum wage base	$128,400	$132,900

Appendix E - List of KPMG offices in the United States with a GMS practice

Atlanta KPMG LLP 303 Peachtree Street NE, Suite 2000 Atlanta, GA 30308-3210 Tel. +1 (404) 222-3000 Fax +1 (404) 222-3050	**Columbus** KPMG LLP 191 West Nationwide Boulevard, Suite 500 Columbus, OH 43215-2568 Tel. +1 (614) 249-2300 Fax +1 (614) 249-2348
Billings KPMG LLP 175 N. 27th Street, Suite 1002 Billings, MT 59101-2048 Tel. +1 (406) 252-3831 Fax +1 (406) 245-9738	**Dallas** KPMG LLP 2323 Ross Avenue, Suite 1400 Dallas, TX 75201-6585 Tel. +1 (214) 840-2000 Fax +1 (214) 840-2297
Boston KPMG LLP Two Financial Center 60 South Street, Suite 100 Boston, MA 02111-7600 Tel. +1 (617) 988-1000 Fax +1 (617) 507-8321	**Denver** KPMG LLP 1225 17th Street, Suite 800 Denver, CO 80202-5598 Tel. +1 (303) 296-2323 Fax +1 (303) 295-8829
Charlotte KPMG LLP 550 S. Tryon Street, Suite 3200 Charlotte, NC 28202-4214 Tel. +1 (704) 335-5300 Fax +1 (704) 335-5377	**Detroit** KPMG LLP 150 West Jefferson, Suite 1200 Detroit, MI 48226-4429 Tel. +1 (313) 230-3000 Fax +1 (313) 230-3001
Chicago KPMG LLP Aon Center 200 E. Randolph Drive, Suite 5500 Chicago, IL 60601-6436 Tel. +1 (312) 665-1000 Fax +1 (312) 665-6000	**Fort Lauderdale/Miami** KPMG LLP Las Olas Centre 450 E Las Olas Boulevard, Suite 750 Fort Lauderdale, FL 33301-4219 Tel. +1 (954) 524-6000 Fax +1 (954) 462-4765

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Houston KPMG LLP 811 Main Street, Suite 4500 Houston, TX 77002-6100 Tel. +1 (713) 319-2000 Fax +1 (713) 319-2807	**Philadelphia** KPMG LLP 1601 Market Street Philadelphia, PA 19103-2499 Tel. +1 (267) 256-7000 Fax +1 (267) 256-7200
Kansas City KPMG LLP 1000 Walnut Street, Suite 1000 Kansas City, MO 64106-2162 Tel. +1 (816) 802-5200 Fax +1 (816) 817-1960	**Phoenix/Tempe** KPMG LLP 60 E Rio Salado, Suite 800 Tempe, AZ 85281-9102 Tel. +1 (480) 459-3500 Fax +1 (480) 459-3550
Los Angeles KPMG LLP 550 South Hope Street, Suite 1500 Los Angeles, CA 90071-2629 Tel. +1 (213) 972-4000 Fax +1 (213) 622-1217	**Portland** KPMG LLP 1300 SW Fifth Avenue, Suite 3800 Portland, OR 97201-5621 Tel. +1 (503) 221-6500 Fax +1 (503) 820-6565
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	**San Francisco** KPMG LLP 55 Second Street, Suite 1400 San Francisco, CA 94105-4557 Tel. +1 (415) 963-5100 Fax +1 (415) 358-5746
New York City KPMG LLP 560 Lexington Avenue New York, NY 10022-6823 Tel. +1 (212) 758-9700 Fax +1 (212) 758-9819	**San Juan** KPMG LLP 250 Munoz Rivera Avenue Suite 1100 San Juan, PR 00918 Tel. +1 (787) 756-6020 Fax +1 (787) 754-6175
Northern Virginia KPMG LLP 1676 International Drive, Suite 1200 McLean, VA 22102-4838 Tel. +1 (703) 286-8000 Fax +1 (703) 286-8010	**Santa Clara (Silicon Valley)** KPMG LLP Mission Towers 1 3975 Freedom Circle Drive, Suite 100 Santa Clara, CA 95054-1258 Tel. +1 (408) 367-5764 Fax +1 (408) 877-3034

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Short Hills KPMG LLP 51 John F Kennedy Parkway Short Hills, NJ 07078-2704 Tel. +1 (973) 467-9650 Fax +1 (973) 561-1815	**Washington National Tax** KPMG LLP 1801 K Street NW Washington, DC 20006-1301 Tel. +1 (202) 533-3000 Fax +1 (202) 533-8500
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