Global Mobility Services

Taxation of foreign nationals working in the United States (inbound)

People and Organisation

Taxation of foreign nationals working in the United States Folio

March 2019
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United States

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Additional Country Folios can be located via the following link:
Global Mobility Country Guides
Introduction: Foreign nationals working in the United States

Folios prepared by PricewaterhouseCoopers intend to provide foreign nationals planning to work in the United States with a general background of US tax laws and other relevant issues. It reflects tax law and practice as of March 2019, including changes made by the Tax Cuts and Jobs Act (TCJA), which was approved by Congress and signed into law on December 22, 2017.

This folio traces a US assignment through seven steps, which describe the specific issues individuals should address prior to arriving in the United States, during the US visit, and subsequent to the visit (if not a permanent transfer).

This folio is not intended to be a comprehensive and exhaustive study of US tax laws; rather, it should be used as a guide to prepare for a temporary or permanent transfer to work in the United States. Any decisions regarding tax planning should be made only after obtaining professional advice. This folio should provide the preliminary information necessary to define the issues relevant for each situation.

Further information can be obtained from any PwC office.

PwC provides industry-focused assurance, tax, and advisory services to build public trust and enhance value for its clients and their stakeholders. More than 250,000 people in 158 countries across our network share their thinking, experience and solutions to develop fresh perspectives and practical advice.

The growing need for companies to expand globally has greatly increased the necessity for companies to transfer personnel between countries. As both the cost of such transfers and the need to encourage the mobility of executives increase, timely global tax and social security planning become even more important.

PwC has assembled a team of Global Mobility Services (GMS) specialists from its worldwide network of offices and firms to provide comprehensive service to executives as they move throughout the world.

Among others, the following topics are not covered in this folio:

1. Planning tax-effective remuneration strategies, including dual or multiple employments, pre- and post-assignment planning, stock options and other potentially tax-efficient benefits;

2. Refining social security costs and benefits;

3. The proper structuring of US and non-US assignment policies;

4. Corporate tax implications.
Step 1: Understanding basic principles

1. As a general rule, all non-US citizens (i.e., foreign nationals) who live, work, or invest in the United States should be concerned that the US federal government will tax some or all of their income. The scope of US taxation for non-US citizens depends on each individual’s status as a ‘resident alien’ or ‘nonresident alien’ for US purposes, as discussed further in paragraphs 10-20.

2. The US federal government taxes foreign nationals who are considered resident aliens in broadly the same way that it taxes US citizens. In other words, a foreign national who is a US tax resident can generally expect to pay income tax in the United States on all worldwide taxable income whether or not the income is derived, earned or paid from the United States. Nonresident aliens are expected to pay income tax on only income that is ‘sourced’ in the United States or otherwise effectively connected with a US business. The Internal Revenue Service (IRS) administers all US federal income tax law.

3. A foreign national may potentially be subject to US federal estate tax should he or she die while owning US- situs assets/US property or while domiciled in the United States. Similarly, such individuals could be subject to US federal gift tax if 1) they make gifts of US-situs assets/US property, or 2) are considered US domiciled and they make gifts of property located anywhere in the world (see the discussion in Step 7).

4. In addition to the federal requirements, each state within the United States has different tax laws. Most of the 50 states impose some personal income tax, though few states impose income tax at rates which exceed 10 percent.

5. The United States also imposes Federal Social Security and Medicare (collectively known as ‘FICA’) taxes on remuneration paid to individuals working in the United States. In some cases, foreign nationals who work outside the United States are also subject to US FICA tax.

The Social Security tax rate of 6.2 percent is assessed on the first $132,900 of Social Security wages for 2019. There is no limit on compensation that is assessed at the Medicare tax rate of 1.45 percent. Also, there is an additional 0.9% Medicare tax on individual earned income of more than $200,000 ($250,000 for married couples filing jointly).

Various key rates and limits are illustrated in Appendix A. An equal, matching tax is imposed on the individual’s employer for FICA taxes, with the exception of the additional 0.9% (see paragraphs 59-62). A comparable tax is imposed on individuals who are self-employed (equal to the employee and employer portions, known as ‘self-employment tax’). Certain exceptions exist, for example nonresident aliens with unique visa types may be exempt as may individuals covered under foreign systems in countries with which the United States has a ‘totalization agreement’.

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6. A net investment income tax (NIIT), also known as the Unearned Income Medicare Contribution, applies at a rate of 3.8% to the net investment income of certain individuals, estates, and trusts that have MAGI** above defined statutory thresholds. These thresholds include $250,000 for married filing jointly, $125,000 for married filing separately, $200,000 for single and head of household, and $250,000 for a qualifying widower. Net investment income generally includes, but is not limited to, interest, dividends, capital gains, rental and royalty income, non-qualified annuities, and income from businesses that are passive activities to the taxpayer.

**For NIIT purposes, the term 'modified adjusted gross income' or MAGI means adjusted gross income increased by the excess of (i) the amount excluded from gross income under Code Section 911(a)(1), over (ii) the amount of any deductions (taken into account in computing adjusted gross income) or exclusions disallowed under Code Section 911(d)(6) with respect to the amounts described in (i).

7. The United States tax year for individual taxpayers generally is the same as the calendar year (January 1 through December 31).

Methods of calculating tax

8. US federal income taxes are calculated by aggregating all income less statutory exclusions and deductions, as further discussed in Step 2. Such taxes may be offset by various types of credits where available. Most states also calculate their personal tax liabilities on the same basis, often with rules that are substantially the same as the federal rules. Both federal and state income tax laws have various filing options based on marital status and certain other factors. Certain cities also impose an income tax.

Married couples

9. Under federal income tax law, it is often possible for a married couple to aggregate their income and deductions by filing a 'joint' return. A lower amount of tax usually results when compared with the otherwise applicable ‘married filing separate’ rates, limits, and deductions. Many states also have a joint return filing status for married couples, though often without a more favorable tax rate structure. For US federal estate and gift tax purposes, tax is imposed on each spouse's ownership in the asset that is transferred.
10. Prior to embarking on a temporary or permanent transfer to the United States, foreign nationals should become familiar with the criteria for classification as a resident or nonresident and the implications of this status for US income tax purposes. This designation will determine whether such individuals will be taxed on worldwide income (resident) or on only US source income and income effectively connected with a US trade or business (nonresident).

The US residency status of foreign nationals is generally determined based on a series of objective tests, one of which measures the amount of time the individual spends in the United States. There are, however, certain exceptions and elections that can (in certain circumstances) change the residency determination for an individual. Further, an individual’s status as either a resident or nonresident alien may change during the course of an assignment (possibly more than once), even within the same calendar year.

11. In general, foreign nationals who hold US permanent residence immigrant visas (commonly referred to as ‘green cards’) are automatically classified as resident aliens, with certain exceptions sometimes available under treaty. For those who do not meet the substantial presence test (discussed below), resident alien status is generally deemed to commence on the earlier of the first day in the United States after obtaining the green card or on January 1 of the year following the year the green card is obtained. Resident alien status generally continues until the green card is formally relinquished. Thus, individuals who hold green cards but leave the United States to live abroad indefinitely or permanently will generally continue to be classified and taxed as resident aliens at least until the green card is formally relinquished (expiration is not relevant for tax purposes).

Complex rules also apply to individuals who relinquish their green cards (or claim nonresident alien status via treaty) if they held the green card in at least eight of the 15 years prior to relinquishment/treaty claim as a nonresident. Professional tax advice should always be sought prior to obtaining or relinquishing a green card and prior to departing the United States for extended periods of time after obtaining a green card.

12. In contrast with the tax rules green card holders, foreign nationals who hold nonimmigrant visas (or no visa at all) may be classified as either resident aliens or nonresident aliens, based on their particular facts. Most nonimmigrant aliens determine their US tax status on the basis of the ‘Substantial Presence Test’ of US law, which counts the number of days the individual has spent in the United States during the current calendar year and the previous two calendar years. In the following discussion, any part-day is counted as a full day, and a day is counted whether the individual’s purpose in visiting the United States is business or pleasure. For purposes of the following discussion, special categories described in paragraph 16 are ignored.

13. As a general rule, an individual physically present in the United States for at least 183 days in the current year will be classified as a resident alien. However, individuals present in the United States for fewer than 183 days may still be resident aliens if they meet the ‘look-back’ rules of the Substantial Presence Test. Under these rules, an individual, present in the United States for at least 31...
days in the current year, will be considered a resident alien if the sum of the following equation equals or exceeds 183 days:

- number of days in the United States in the current year, plus
- one-third of the days in the United States in the first preceding calendar year, plus
- one-sixth of the days in the United States in the second preceding calendar year.

**Example of the Substantial Presence Test**

14. Assume an individual moves to the United States during the current year and his or her total US days for this year are 170. Assume that last year he or she was present in the United States 30 days, and was present in the US 18 days the year before last.

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<tr>
<th>Substantial Presence Test calculation</th>
<th>Example 1</th>
<th>Example 2</th>
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<tr>
<td>Days in current year</td>
<td>170</td>
<td>169</td>
</tr>
<tr>
<td>Days in first preceding year x 1/3 (30 x 1/3)</td>
<td>10</td>
<td>10</td>
</tr>
<tr>
<td>Days in second preceding year x 1/6 (18 x 1/6)</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>Total calculated days</td>
<td>183</td>
<td>182</td>
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Because the total is at least 183, the individual would generally be considered a resident alien for at least a portion of the current year.

However, if the number of days in the current year were only 169 (Example 2), the individual would not be considered a resident alien for the year under the Substantial Presence Test because the total days in the United States would add up to only 182.

**Exceptions to the Substantial Presence Test**

15. There are several important exceptions to the Substantial Presence Test. An individual who meets the look-back test but is present in the United States for less than 183 days during the current year may still qualify as a nonresident alien if he or she can establish a ‘closer connection’ to his or her home country. To meet this exception, the individual must have a tax home in a foreign country as well as having closer ties to that country than to the United States for the entire year.

The term ‘tax home’ generally relates to the location of an individual’s primary place of employment, while the term ‘closer connection’ looks to a number of factors, which includes where the individual maintains his or her principal residence and personal belongings and where his or her principal economic and personal connections lie. The applicable tax regulations require that eligible individuals file a statement with the IRS to claim this exception.

**Exempt days under the Substantial Presence Test**

16. For certain categories of nonimmigrant aliens, days of presence are exempt when calculating the Substantial Presence Test, either indefinitely or for a period of several years. These include (but are not limited to) the following individuals:

- Individuals on ‘F’ or ‘J’ visas (certain students, teachers or trainees):
  - The period of exemption for F-visa holders is generally the first five calendar years of US presence under the visa (though may extend beyond if certain requirements are met);
  - For J-visa holders the period of exemption is typically the first two calendar years, or four years if all of the J-visa holder’s salary was paid/borne by a foreign employer.
– Individuals on ‘M’ or ‘Q’ visas (certain nonacademic students and cultural exchange visitors);

– Employees of foreign governments and international organizations working in the United States;

– Certain individuals with medical problems that arise while in the United States and that prevent them from leaving the country, provided that they file timely statements with the IRS explaining their situation in full (together with a statement from their physician);

– Mexican and Canadian residents who commute to work in the United States provided they are present in the United States at least 75 percent of their workdays for the year.

Electing resident status

17. Resident alien status sometimes results in lower US tax than nonresident alien status, due (for example) to increased allowable deductions and credits and lower tax rates for certain married taxpayers.

Dual status - first and last year

18. Once an alien individual is classified as a resident alien for a taxable year (either on the basis of the Substantial Presence Test or by reason of an election), it must be determined when the residency period begins. During the period within the tax year but before establishing tax residency, an individual is considered a nonresident alien and taxed on only US source income and income effectively connected with a US trade or business. During the resident period, individuals are taxed on their worldwide income. If classified as a resident alien for part of the year and as a nonresident alien for the balance of the year, an individual's status is that of a ‘dual-status’ alien for the year.

In the year a resident alien moves out of the United States, similar rules apply. Generally, US residence terminates on the last day of the taxable year. However, an individual may terminate his or her US residency status on the last day of US presence if, after that date, he or she establishes a tax home in and a closer connection to another country for the remainder of the tax year. In determining this end date, up to 10 days of US presence may be excluded if certain requirements are met. In order for the ‘early residence termination’ exception to apply, the IRS requires that a statement be filed claiming the exception.

Again, as the relevant rules can be complex, a specialist should be consulted to assist with repatriation planning.

Joint election as resident for the entire year

19. Because the favorable joint return tax rates and limits for a married couple are available only if both spouses are resident aliens for the entire year, the law permits certain married nonresident and dual status aliens to elect with their US citizen or resident spouse to be taxed as resident aliens for the entire year. This is usually done during the couple's first year in the United States, provided that at least one of them is a US citizen or a resident alien on the last day of the year under one of the rules mentioned above.

An election to be taxed as a resident alien for the entire year is not available to single taxpayers. If the full-year residency election is made, all income for the year is taxable in the United States, though certain exclusions and/or a credit can usually be claimed for foreign taxes imposed on foreign income for the months prior to the move. Depending on circumstances, the election may automatically apply to future years until and unless revoked, or until both spouses are full year nonresident aliens of the United States.
**Tax treaty relief**

20. The United States has income tax treaties with a number of foreign countries primarily for the purpose of eliminating double taxation. If there is a tax treaty in effect between the United States and an individual’s home country, the provisions of the treaty may override the US resident alien rules. Under many of these treaties, for example, an individual classified as an income tax resident under the internal laws of both the United States and his or her home country, who can show that a ‘permanent home’ is available only in the home country (with certain other tests relevant if the individual has a permanent home available in one or both countries) may be classified as a nonresident alien for purposes of calculating US income tax if the taxpayer chooses to apply the treaty. The regulations require that a form be filed in order to claim nonresident alien status as the result of a tax treaty, and indicate that such status may not apply for purposes other than calculating income tax (for example, certain information reporting purposes).
Step 2: Understanding the US tax system

A. In general

21. Perhaps the most significant impact of taxation as a resident alien is that resident aliens are subject to US federal income tax on worldwide income in the same general manner as US citizens. Although generally a resident alien is taxable on worldwide income and a nonresident alien is taxable on only US source income and income effectively connected with a US trade or business, a resident alien’s US tax is sometimes lower than the tax on a nonresident alien with comparable income. This occurs in part because certain deductions can only be claimed by citizens and residents (i.e., not by nonresident aliens). Examples of these include, but are not limited to deductions for home mortgage interest expense and property taxes.

In addition, the often lower joint return tax rates for married US residents who file jointly and, in certain circumstances, a credit for foreign income taxes may all serve to further reduce the US tax liability.

In contrast, nonresident aliens are generally taxed on only US source income or income effectively connected with a US trade or business with limited deductions. Additionally, nonresident aliens may not file a joint return with their spouse if married (unless the election discussed earlier to be treated as a resident applies); thus, they do not get the benefit of the more beneficial joint rates and limitations.

22. US citizens and resident aliens are taxed at graduated rates varying from 10 percent to 37 percent for federal income tax purposes, plus the additional 3.8% NIIT tax on unearned income discussed earlier (see paragraph 6). These rates are applied to an individual's worldwide income, after reduction for all statutory deductions allowed to the taxpayer.

Depending upon filing status, US individual taxpayers are subject to four separate federal tax rate schedules. The filing statuses available include:

- single
- married filing a joint return
- married filing a separate return
- head of household.

23. In addition to the federal income tax, most states impose individual income taxes, as do a few local taxing authorities (cities and counties).

24. The discussion below examines the US taxation of various kinds of income a foreign national may have, assuming alternatively, that the individual is classified as a resident alien or as a nonresident alien. Note, however, that it is fairly unusual for a foreign national on a multi-year US assignment to be classified as a nonresident alien, except in the first and final years of an assignment.

B. Resident aliens

25. Wages, salaries, and all other employee compensation of a resident alien are subject to federal income tax, regardless of where the services are performed or where the employee is paid (with limited exceptions). Payments of
bonuses and other compensation for past services, even if those services were rendered wholly outside the United States when the employee was a nonresident alien, are subject to US tax if the payee is a resident alien on the date of receipt. If foreign income tax is incurred during the year, a foreign tax credit may be claimed on the US and/or foreign return to mitigate the effect of double taxation.

26. Payments by an employer to an employee to cover part or all of the following types of expenses generally are taxable for US purposes (although some of these expenses may be excludible under the ‘away-from-home’ rules described in paragraphs 52-53):

- the cost of rental housing or fair rental value of corporate housing in the United States (including reimbursement for the cost of utilities)
- the so-called ‘cost of living’ allowances (COLAs) or differentials
- the cost of sending children to school either in the United States or abroad
- the payment of home-leave expenses for the employee, his or her spouse, or other persons
- the fair rental value of company cars and reimbursement of other locally-provided transportation (including car leases) if used for personal purposes.

In addition to the above, noncash compensation and fringe benefits received in connection with employment (such as contributions or accruals to a company-sponsored foreign pension plan, stock-option exercises, deferred compensation arrangements, and interest-free loans) should be examined carefully to determine to what extent they are subject to US tax. We recommend that individuals participating in non-US deferred compensation and pension plans consult with a specialist before beginning their US assignment.

27. Although employer-provided housing and transportation is typically taxable, in some cases the value may be excludible if the employee is on a temporary US assignment intended to be 12 months or less (see paragraph 54.) In very rare circumstances, if the employee is restricted geographically to certain living locations as a condition of employment, the rental value may be nontaxable to the employee, no matter how long the US assignment lasts. It should be noted that the requirements for this exemption to apply are very strict.

Stock options

28. Foreign nationals who are granted stock options prior to first working or living in the United States may be subject to US tax at exercise on the realized income at such time. In most cases, when a foreign national who is a resident alien exercises an option to buy stock, the spread between the option price and the fair market value of the stock at the time of exercise is subject to US income tax. A portion of the spread may be treated as foreign-source (to the extent allocable to services rendered in a foreign country.) As a result, even though the full spread will be subject to tax in the United States, a foreign tax credit may generally be claimed to reduce or eliminate the US tax (assuming foreign tax is incurred.)

29. Individuals considering the exercise of stock options during or after a US assignment should also consider consulting with a tax advisor to ascertain whether the spread will be subject to tax in the home country and to optimize the timing of such exercise.
**Taxation of self-employment income**

30. Where an individual works for him/herself, that individual is generally deemed to have self-employment income. Self-employment income is taxed under US law in a manner similar to employment income. Thus, a self-employed resident alien is also taxed on worldwide income, including self-employment income earned abroad. However, a self-employed individual can claim deductions for business expenses. It is also important to note that alien individuals may (subject to certain exceptions) be subject to 'self-employment tax' in the United States on self-employment income received while resident in the United States. Self-employment tax is a social tax (Social Security and Medicare) for individuals who work for themselves. It is similar to the Social Security and Medicare taxes imposed on the pay of most US wage earners. The additional Medicare tax generally also applies to income from self-employment. Exceptions may apply, for example under totalization agreements.

**Capital gains tax**

32. Property held longer than one year generally is eligible for the 15 percent maximum capital gains rate, 20 percent for certain higher income individuals, and zero percent for certain lower income individuals. There is also a 25 percent maximum tax rate applied to long-term capital gains attributable to certain depreciation claimed after May 6, 1997, and a 28 percent maximum rate on gains attributable to certain collectibles and small business stock.

33. Capital losses are generally deductible only against capital gains, but if capital losses exceed capital gains for the tax year, a maximum of $3,000 is available to offset other income ($1,500 for married filing separately) of a resident alien. Any unused capital losses may be carried forward indefinitely to be used in subsequent years, subject to limitations in such years.

34. Even if an asset is sold that was acquired before becoming a resident alien, the gain is calculated based on the asset's historic cost using the US dollar exchange rate on the date it was acquired.

For example, assume an asset was purchased in 2014 for 1,000 X currency (when 1 X currency was worth $1.25), and after the individual became a resident alien the asset was sold on May 1, 2019, for 10,000 X currency (on a date when X currency was worth $1.50). The taxpayer would be subject to US tax on the gain calculated in US dollars. The cost basis would be US $1,250 (at the 2014 exchange rate of one X currency equals $1.25), and the sales price would be $15,000 (using the May 1, 2019, exchange rate). Certain exceptions may apply.

35. If an individual holds assets with significant ‘built-in’ gains that are expected to be sold while a resident alien, he or she should consider taking action to ‘step up’ (increase) the US tax basis before becoming a resident alien.

**Sale of principal residence**

36. US tax may be charged if a resident alien sells a principal residence – regardless of where it is located. In general, under
US law, an exclusion of up to $250,000 ($500,000 if married filing a joint return) is available if the home has been owned and used as the taxpayer's principal residence for at least two of the five years prior to sale. The exclusion can generally be claimed once every two years. Gains not covered by the exclusion are subject to tax.

Special rules that apply where part of the gain is allocable to 'nonqualified use' may have unintended negative consequences for individuals with temporary absences from their home.

If a taxpayer has a period of nonqualified use, the portion of gain related to such period cannot be excluded, and is taxed as a capital gain.

Nonqualified use is any period after December 31, 2008, that the taxpayer does not occupy a residence as a principal residence. Exceptions to this general rule are as follows:

- during the five-year qualification period ending on the date of sale, any period after the last day such property is used as a principal residence is not treated as nonqualified use;
- any period (not to exceed an aggregate of 10 years) during which the taxpayer or the taxpayer's spouse is serving on qualified official extended duty is not treated as a nonqualified use;
- any period of temporary absence, not to exceed two years, due to change in place of employment, health conditions or unforeseen circumstances (as may be specified by the Secretary) is not treated as nonqualified use.

Although the nonqualified use provisions effectively target investment-driven residential real estate purchases and sales, it can have significant consequences for taxpayers who vacate their principal residence while temporarily away on an international assignment.

As noted above, the law contains a favorable exception to nonqualified use that allows for temporary absences of up to two years, and a further exception for periods of use following use by the taxpayer as a principal residence. However, if a taxpayer is absent for more than two years, and reoccupies the residence upon their return, the entire period of absence may be treated as nonqualified use.

Because a loan is treated separately from the underlying property, US tax will typically be charged on any gain realized on payment of principal on a foreign currency denominated mortgage. This is true even if gain on the underlying property is excluded or if sale of such property results in a loss. Therefore, professional advice should be sought before refinancing a foreign currency loan or disposing of or renting out a property with a non-US dollar mortgage, and it may be beneficial to do so prior to establishment of a US tax home or tax residency.

The opportunity exists for an individual to qualify for a partial exclusion if the 'two-of-five-year' test has not been met. The exception to nonqualified use for any period that follows the last use as a principal residence, is consistent with the favorable treatment allowed for individuals failing to meet the ownership and use tests because of a change in place of employment, health, or unforeseen circumstances. Therefore, as long as the individual does not reoccupy the home prior to sale, a full or partial exclusion may be claimed.

However, where a principal residence has been depreciated, typically as a result of the rental of the property, the exclusion does not apply to the extent of any depreciation allowable after May 6, 1997. Instead, the gain
attributable to such depreciation is taxed at a 25 percent rate as discussed above under the discussion of capital gains.

39. If a foreign home is rented out while an individual is on assignment in the United States, it may cease to qualify for exclusion of gain for US tax purposes if the ownership and usage tests or the exclusion every two years tests mentioned above are not met (as well as taking into consideration nonqualified use). In such a case, any gain upon sale while the individual is a US resident will be subject to US tax (though such tax may be offset by foreign tax credits if available).

In addition, if a principal residence in the United States is sold after terminating residency in the United States, the individual could be subject to US tax on the gain even if, on the sale date, he or she is a nonresident alien. However, the exclusion or a prorated exclusion may be available if the ownership and use tests are met. The sale of US real property by a nonresident alien may be subject to a withholding tax of 15 percent of the sales price. This is the case even if the withholding exceeds the tax on the gain and even if the property is sold at a loss. Professional advice should be sought prior to the sale of US real property by a nonresident alien in order to potentially avoid such a withholding requirement.

Rental of principal residence

40. If a foreign national chooses to rent out his or her principal residence abroad while a resident alien, he or she will be taxed on the rental income, but generally will be entitled to deduct interest on any home mortgage, property taxes, agents’ fees, the cost of maintenance and insurance, and other related expenses. In addition, while not an actual cash outlay, a deduction is permitted for depreciation on the home itself and on any furniture that is included in the rental. The result may be a tax loss, which may be deductible against salary and other income, subject to certain limitations. For a nonresident alien, the rental of a residence located outside of the United States would not generally be taxable in the United States, as it is not US source income or income effectively connected with a US trade or business.

Investments in foreign companies

41. Resident aliens who own stock in certain non-US corporations may be required to pay US income tax on their share of the undistributed profits of those companies. These rules may apply, for example, if a small group of US persons control a majority of the company stock, or if the company realizes a significant amount of passive income (such as dividends, interest and capital gains) or certain types of business income from dealing with either its shareholders or with other related companies. Because these rules are extremely complex, professional advice should be sought by individuals owning stock in any closely held foreign companies. These rules are known as the controlled foreign corporation (CFC, or Subpart F) rules.

42. Although stock may be owned in a foreign company that is not subject to the CFC rules, if the company has substantial passive assets or income the US resident owner could be subject to a special interest charge in addition to a US capital gains tax when the stock in the company is sold or redeemed (certain exceptions and separate rules may apply if elections are made). These rules are applied under the passive foreign investment company (PFIC) provisions of US law. Again, because these rules are extremely complex, professional advice should be sought by foreign national
individuals who own stock in non-US corporations.

43. Whether or not a foreign national is subject to the CFC or PFIC rules, if stock is owned in a foreign company he or she may need to file certain information returns with the IRS. If the individual acquires 10 percent or more of the stock of any foreign company, or if he or she becomes a resident alien while owning 10 percent or more of such stock, he or she is required to report the holding to the IRS on Form 5471. In addition, if a majority of the stock of a foreign company is controlled by a US resident, he or she is required to file annual statements about the company with the IRS on the same form. If stock is owned in a PFIC, annual statements are also required to be filed with the IRS.

**Foreign trusts**

44. Individuals who create or are the beneficiaries of a foreign trust should obtain advice on the US tax effects of the arrangement. US law contains provisions that are intended to discourage the use of certain foreign trusts by US citizens and residents.

If either a US resident or his or her spouse is a beneficiary of a trust that was created by him or her, or if certain kinds of powers are held over the trust, the taxpayer will be taxed on the trust's income currently under the US grantor trust rules. If a direct or indirect gift was made to someone who formed the trust for the taxpayer's benefit, he or she also will be taxed on the current income under the grantor trust rules. Even if the grantor trust rules do not apply to the taxpayer, if the trust makes any distributions to him or her out of current income, such distributions will be taxed to the individual, and any distributions out of prior years’ income will be taxed together with an annual interest charge. In addition, the distribution may be required to be reported to the IRS.

An individual who becomes a resident alien and who created a foreign trust within the five years prior to establishing US residency, or who creates a foreign trust while a resident alien, will be taxed on the trust’s current income (even though the trust is not otherwise a grantor trust under US law) to the extent that any US citizen or resident is a beneficiary of the trust.

**Foreign bank accounts and financial assets**

45. Although the United States has no foreign exchange controls, any ‘United States person’ who has a foreign financial account (or a signature of authority over such account) during the year may be required to file a
report electronically (FinCEN Report 114, Report of Foreign Bank and Financial Accounts, also known as FBAR) by April 15 of the following year. An automatic six-month extension is available with the extended due date being October 15.

The term 'United States person' includes citizens (including minor children) or residents of the United States. The form need not be filed if the value of all foreign financial accounts (including, but not limited to, bank and securities accounts) does not exceed $10,000 at any time during the year. The form is filed separately from the federal income tax return. Significant penalties may apply for failure to timely file the form. In addition, if cash (or other bearer instruments) equal to or in excess of $10,000 is brought into or sent out of the United States at any time in the year, it must be reported to the US Customs Service.

Individuals may also need to file Form 8938, Statement of Specified Foreign Financial Assets, in addition to the FBAR. The IRS promulgated this form in response to withholding rules and other enforcement measures under the Foreign Account Tax Compliance Act (FATCA). Individuals must report specified foreign financial assets (SFFAs) on Form 8938 if the person meets certain requirements and their interests in SFFAs exceed certain thresholds.

Individuals that must file Form 8938 include, for example, US citizens, as well as US residents for any part of the tax year. This includes those persons treated as a resident alien under the green card test or the Substantial Presence Tests. However, dual residents that file Form 1040NR are excluded from filing Form 8938. Filing thresholds depend upon the total value of the SFFAs held either during the tax year or at the end of the tax year and also whether the individual lives in or outside of the United States. They range from $50,000 to $600,000.

SFFAs include but are not limited to financial accounts maintained by a foreign financial institution. This could include a depositary account at a foreign bank or foreign mutual fund. SFFAs also include any interest in a foreign entity (e.g., capital or profits interest in a foreign partnership) as well as an interest in a foreign pension plan or foreign deferred compensation plan. The IRS promulgated regulations which provide greater detail on what constitutes a reportable SFFA. Some overlap exists between Form 8938 and FBAR reporting and thus individuals may need to report the same foreign account or financial asset on both forms.

Failure to file Form 8938 can result in significant penalties.

**Deductions allowed under US law**

46. In calculating taxable income for US purposes, gross income of a resident alien (whether it is from employment, self-employment, investments or other sources) is first reduced by allowable deductions. The two categories of deductions allowed are: Adjustments, which generally are allowed without regard to income level; and itemized deductions for specific purposes, which may be claimed if they are higher than the otherwise applicable standard deduction (which is a fixed dollar amount.)

**Adjustments**

47. Typical adjustments include alimony payments and qualified student loan interest payments, and certain other education expenses.

48. An additional deduction that may be allowable as an adjustment is a contribution to an IRA. An IRA is a private retirement fund that may be established by individuals who earn salary or self-employment income, and who meet certain tests. Those who qualify may deduct a
maximum annual amount ($6,000 for 2019, or $7,000 for those age 50 and over) by contributing to a regular IRA. To be eligible, income must fall below certain limits or the individual must not be a participant in a company-sponsored retirement plan that is tax-qualified and established under US law.

49. In addition, a nonworking spouse (or one with low income) may deduct a separate contribution to an IRA by effectively ‘borrowing’ his or her spouse’s compensation in order to qualify for the maximum contribution. The earnings of a regular IRA are tax-deferred until withdrawn.

**Personal exemptions**

50. The TCJA, signed into law on December 22, 2017, suspended the deductions for personal exemption for the 2018 tax year until after 2025 (unless Congress passes legislation.)

**Deductions**

51. Itemized deductions that are subtracted from adjusted gross income (AGI) in computing taxable income typically include investment and mortgage interest expense, charitable contributions, and qualifying medical expenses. The TCJA made changes to other common deductions, including limiting to an aggregate of $10,000 the deduction for state and local income tax, real property, and personal property taxes. Deductions are no longer allowed for foreign real property taxes beginning with the 2018 tax year through 2025.

If the total amount of itemized deductions is relatively low, the standard deduction may be claimed instead. This is a fixed dollar amount that typically ranges from $12,200 to $24,400 for 2019, based on the taxpayer’s filing status (see Appendix A). The standard deduction may not be claimed by a nonresident alien or by a dual-status individual (i.e., a foreign national who is a resident alien for only part of the year), except in limited circumstances where permitted via treaty. However, it may be claimed by a married couple making a full-year residency election (see paragraph 19).

52. Employer coverage (direct coverage or reimbursement) of certain ‘traveling’ expenses of employees under an accountable plan may be excluded from employee taxable compensation if certain requirements are met. The employer may choose to pay the employee a per diem allowance under an accountable plan that approximates the amount of the employee’s US living expenses, subject to certain requirements and limitations. These amounts would not normally appear on the employee’s Form W-2 and would not appear on his or her tax return.

53. The passage of the TCJA requires employers to report all taxable moving expense reimbursements paid directly to the employee or to third parties on behalf of the vendor on Form W-2 (with limited exceptions for military). The TCJA further suspended the deduction for qualifying moving expenses for moves occurring in 2018 through 2025.

It is important to note, however, that certain States have not conformed to the changes in US law and may continue to offer favorable tax treatment for moving expenses. Taxpayers should consult their tax advisors.

**Employee business expenses**

54. Some reimbursable business expenses are generally incurred during a US visit, such as travel costs while on business trips and for business lunches and dinners. In most cases, the employer payment or reimbursement of these costs under an accountable plan is nontaxable. However, if
expenses are reimbursed for certain personal-type expenses, such reimbursements are typically subject to US income taxes as well as to FICA.

Rates and filing status

55. Separate federal income tax rate schedules apply to single, married filing joint, married filing separate, and head of household status taxpayers, respectively. These schedules are illustrated in Appendix B. Dual-status aliens (those who are resident aliens for only part of the year) who are married must use the married filing separate tax rates. However, the generally more beneficial married filing joint rates are available if a full-year residency election is in effect for the taxable year (see paragraph 19). An individual with at least one dependent may qualify to use the head of household rates if married to a nonresident alien spouse.

Credit for foreign income taxes

56. A resident alien who has foreign source taxable income may claim a foreign tax credit against US tax, to the extent of foreign income taxes that have been paid or accrued for the year (subject to certain limitations). In general, foreign tax credits may be claimed if a first-year resident return election is made, because foreign income for the months preceding the move will often be subject to both US and foreign tax.

State and local taxes

57. Most states and some local taxing authorities (cities and counties) also impose an income tax. Many base their tax on the taxable income shown on an individual’s federal income tax return although some minor adjustments are usually made. Resident aliens who claim itemized deductions on their federal income tax returns may generally deduct state and local income taxes on the federal tax return for the year paid (subject to limitations.)

58. The fact that an individual may be classified as a resident alien for federal income tax purposes does not necessarily mean that he or she will be classified as a resident for state tax purposes (or vice-versa.) State definitions of tax residence are different from those applicable for federal purposes. Depending on the facts, a nonresident classification for state and city tax purposes may result in higher or lower state and city taxes.

Social Security taxes

59. Compensation paid to resident and nonresident aliens who work as employees in the United States are typically subject to US Social Security and Medicare tax (also called FICA for the Federal Insurance Contributions Act) on remuneration from employment unless exempt under a Social Security Totalization agreement (see paragraphs 60-63) or other exceptions (e.g., certain visa types). The same is true of compensation paid to a resident alien for services performed outside the United States for an American employer. Employees are subject to the FICA tax at the rate of 7.65 percent on the first $132,900 of earnings for 2019, plus an additional tax on earnings over the ceiling amount at the rate of 1.45 percent. The employer is obligated to pay an equal matching amount of FICA out of its own funds.

See paragraph 6 for a description of an additional Medicare tax imposed on FICA compensation above certain thresholds. Note however, that the NIIT described in paragraph 6 is not part of FICA.

The fact that an employer may not be resident or doing business in the United States (other than through the presence of its foreign national employee) does not relieve it from the obligation to withhold and to pay FICA along with other payroll requirements,
such as income tax withholding and reporting. Thus, foreign companies with no US office that pay employees working in the United States (even if in foreign currency and into a foreign bank account) are still technically required to establish a US payroll system and to pay, report, and withhold FICA. Employers may appoint a payroll agent for such purposes.

Certain exceptions to FICA may apply, for example under totalization agreements and for compensation paid to nonresident aliens holding student and trainee visas.

60. Foreign nationals working in the United States may be required to pay Social Security and Medicare tax on the same compensation to both the United States and to their home country. In response to this potential inequity, and to help individuals who work across borders during their careers qualify for benefits, the US government has entered into international Social Security Totalization agreements with a number of countries (for a complete list, see Appendix C). The aim of these agreements is to ensure that Social Security taxes are required to be paid to only one country on the same earnings, and also that coverage periods in both countries are taken into consideration in determining retirement benefit eligibility.

61. Under many existing Totalization agreements, employees transferred to work in the United States for a period of up to five years are permitted to pay Social Security tax to their home country only and thereby may generally avoid paying US FICA. Additionally, those who participate in FICA for less than the ‘normal’ minimum period required (i.e., 40 quarters) may nonetheless qualify for benefits as a result of such agreements.

62. Self-employed resident aliens are subject to the US self-employment tax at rates that are comparable to the combined FICA rate on employees and employers. These taxes may also be avoided under a Totalization agreement.

64. Nonresident aliens working in the United States on short-term assignments who are considered residents of foreign countries that have income tax treaties with the United States may also be entitled to an exemption from US tax on some or all of their remuneration allocable to US services. As each treaty has different requirements, professional advice should be sought prior to any US visit to determine whether treaty benefits can be claimed.

Even where compensation is exempt under an income tax treaty, certain payroll requirements apply and nonresident aliens must file US federal income tax returns. States may not recognize exemptions provided under treaty at the federal level.

C. Nonresident aliens

Taxation of employment income

63. Nonresident aliens are generally subject to US federal income tax on compensation only to the extent that it is for services rendered within the United States. This is true even in the case of an employee paid by a US company and in US dollars. The reason is because a nonresident alien is subject to US tax on income that is US sourced or effectively connected with a US trade or business, and compensation is US source income only if it is remuneration for services performed within the United States. This includes compensation from the exercise of stock options and other equity-based compensation.
Certain treaty exemptions may apply to self-employed foreign nationals who make business trips to the United States, such as professionals (lawyers, accountants and doctors), entertainers, athletes, and business consultants.

**Directors’ fees**

65. It is quite common for a nonresident alien to receive director fees for attending meetings of the board of directors of a US company (or even a foreign company). As a general rule, director fees are subject to US tax for meetings that occur in the United States, which must generally be withheld at source by the company and then reported on a nonresident alien US tax return (Form 1040NR). Treaties may provide exemption depending on circumstances.

**Students, trainees, and cultural exchange visitors**

66. Compensation paid to a nonresident alien working in the United States as a student, trainee, or cultural exchange visitor on an F, J, M, or Q visa may be exempt from US tax under a special provision of the 1961 Fulbright Act if all remuneration is paid/borne by a foreign employer.

Compensation paid to nonresident aliens holding such visas is typically not subject to FICA, even if employed by a US employer. As discussed at paragraph 16, presence in the United States by an F, J, M, and Q visa holder is typically exempt from the Substantial Presence Test, such that these individuals are typically considered nonresident aliens.
Foreign government and international organization employees

67. Non-US citizens who work as employees of a foreign government or of an international organization are generally exempt from US tax on their compensation. Compensation qualifying for exemption is not subject to federal payroll requirements (including FICA) and is not required to be reported on Form 1040 or 1040NR. Such individuals are likely to be taxed on other US source income, however, with certain exceptions.

Former US citizens and long-term permanent residents

68. Individuals who were previously US citizens or long-term permanent residents (green card holders) may be subject to special rules of taxation.

More detailed information on this tax is available in paragraphs 96-99.

Self-employed nonresident aliens (including partners)

69. A self-employed nonresident alien is generally only subject to federal income tax on compensation for self-employment services (including those performed as a partner in a partnership) for services rendered within the United States. Further, if part or all of income from capital invested in the business (as distinguished from services income), more complex rules are applied to determine US tax on the nonresident alien's share of income from the business (including partnership profits). Nonresident aliens are generally not subject to 'self-employment tax' (the US social tax imposed on non-employment compensation), even on income for services performed in the United States.
**Investment income**

70. Nonresident aliens are generally taxable only on US source investment income, with certain exceptions. US source investment income that is not effectively connected with a US trade or business is generally subject to US tax at a flat rate of 30 percent (without deductions), though a lower treaty rate may apply. In addition, certain types of interest income paid to nonresident aliens are exempt from US tax as the result of special US law provisions.

71. As a general rule, capital gains from the sale of assets are taxed to a nonresident alien only if they arise from the sale of US real property (such as the sale of a US home – refer to paragraphs 36-39) or stock in US real property holding companies. Capital gains from securities and from other assets owned by a nonresident alien may also be taxed if the nonresident alien is physically present in the United States for 183 days or more in the year and if the individual’s tax home is located in the United States.

However, because most alien individuals who spend 183 days or more in the United States will be classified as resident aliens under the Substantial Presence Test and will be taxable on their worldwide capital gains, this 183-day rule usually applies in only limited situations. As noted in paragraph 16 (Exempt days under the Substantial Presence Test), individuals who fall into this category include certain students, teachers, and trainees and employees of foreign governments and international organizations. If a nonresident alien is subject to US tax on a particular capital gain, the historical basis/exchange rate rule described in paragraph 34 typically applies.

**Deductions allowed under US law**

72. A nonresident alien may claim deductions for only certain limited types of expenses. These include state and local income taxes, certain business expenses for self-employed individuals, and contributions to an IRA. A nonresident alien may also deduct contributions to US charities (and certain foreign charities where permitted under treaty).

**Rates and filing status**

73. The same federal income tax rates apply to nonresident aliens as to resident aliens, except that certain types of US source income which is not connected to a US trade or business (e.g., dividends paid by US companies and taxable gains other than from US property) may be taxed at a 30 percent flat rate without deductions (although lower treaty rates may apply). A married nonresident alien must file using the married filing separate tax rates. The nonresident alien tax return is IRS Form 1040NR.

**State and local taxes**

74. Nonresident aliens may be subject to state and local income tax on their salaries and other business income, but the US source income that is typically subject to federal tax at the 30 percent gross tax rate (see above) may be exempt from state and local tax if considered nonresident for such purposes. Although an individual who is a nonresident alien for federal income tax purposes will often be classified as a nonresident for state income tax purposes as well, there may be situations where a nonresident alien could be classified as a resident under the laws of some states. We recommend that professional assistance be sought to determine the applicable state and local rules for all anticipated types of US income.

**Social Security and Medicare taxes (FICA)**

75. In general, a nonresident alien who works as an employee is subject to Social Security and Medicare tax (FICA) on compensation allocable to days worked within the United States.
States, regardless of who pays the employee’s salary and where it is paid. Even those employed and paid by a foreign company with no US office are typically subject to FICA, which often requires the employing entity to establish a US payroll system and to pay, report, and withhold FICA (as well as federal income tax) on the US workday portion of remuneration. The employer may appoint a payroll agent for these purposes. Remuneration for days worked in the United States may be exempt from FICA if the individual remains subject to foreign social security tax under the terms of a Totalization agreement, based on certain visa type (e.g., F, J, M, or Q), and other limited exceptions.

Self-employed nonresident aliens are typically exempt from US Social Security tax (i.e., self-employment tax), except in very limited instances where provided under a Totalization agreement.

Though rare, it is possible for certain nonresident aliens to be subject to FICA on non-US source compensation if covered under a US certificate of coverage under a Totalization agreement.
Step 3: What to do before you arrive in the United States

Individuals and employers sending people to the United States for work should seek the advice of US counsel on employment related matters like work permits, employment contracts, etc.

Compensation payments and residency dates

76. The extent to which compensation for prior services (rendered outside the United States) or future services (to be rendered within the United States) may be subject to US or home country income tax should be considered by any individual planning an assignment to the United States. With advanced planning, it may be possible to minimize or avoid US tax on certain types of compensation. For example, those who expect to receive a bonus for services performed abroad before moving to the United States and who arrange to receive it before becoming a resident alien will generally avoid US tax on this income.

Timing of resident alien tax status

77. As discussed in Step 1, the tax consequences of being classified as a resident or nonresident alien during a US assignment are quite different. Although many globally mobile employees who work in the United States are classified as resident aliens at some point during their US assignments, during the year of the move such individuals may be able to plan their affairs to obtain the status that minimizes US taxes. For example, those who expect to be classified as nonresident aliens for the year but want to qualify as resident aliens may be able to adjust their travel schedules to meet the tests for electing residency (see paragraph 17) or make elections with spouses (see paragraph 19).

Alternatively, those who expect to be classified as a resident alien for part or all of the year but wish to be nonresident for the entire year might plan to spend additional time outside the United States so as to fail the Substantial Presence Test.

Investment and personal assets

78. Based on the extent and complexity of a foreign national’s investments and personal assets, it may be wise to do advance planning to minimize any US and home country tax on income or gains from those assets. For example, those who expect to sell their principal residence in their home country after adopting a US tax home or becoming resident aliens, in the absence of advance planning, could be subject to US tax on the gain (see paragraphs 36-39) and/or the retirement of a loan denominated in foreign currency. Similarly, those who expect to sell investment assets at a gain after becoming resident aliens may wish to arrange to step up the US tax basis of those assets before becoming resident aliens (see paragraph 36).
It is also wise to take steps to minimize any exposure to US estate and gift taxes (see paragraphs 100-104.)

**Tax Identification Numbers**

79. Once a visa is obtained that permits a foreign national to work in the United States, he or she should apply to the US Social Security Administration for a US Social Security number if not done with the visa application process. The application is made on Form SS-5, and timing to obtain the number can vary. Foreign nationals working in the United States need Social Security numbers for US income tax purposes even if they are exempt from US Social Security tax. If the individual working in the United States or any of the individual’s accompanying family members are not entitled to a Social Security number, however, each may be advised to obtain an Individual Taxpayer Identification Number (ITIN) if needed for federal income tax purposes. For example, an ITIN may be required to claim a credit for US resident dependents who do not have Social Security numbers.

**Pension plan coverage**

80. If an individual working or residing in the United States maintains coverage with a private company-sponsored or foreign government-sponsored retirement plan, the individual should ascertain whether he or she will continue to accrue additional retirement benefits with respect to years of service in the United States. Such individuals should also check on the potential US income tax implications of maintaining this type of coverage, because in many cases the employee and employer’s contributions to the plan, as well as the individual’s share of the fund’s current investment income, will be subject to US tax (with certain exemptions available under treaty).

Because of very strict US rules regarding deferred compensation plans, including foreign pension plans, consultation with a professional is recommended prior to embarking on a US assignment to ensure that any potential compliance issues (including information reporting) are understood with respect to non-US deferred compensation or pension arrangements.

81. Foreign nationals working in the United States should also inquire whether they will be eligible to participate in any US tax-qualified retirement plans during their US visits and, if so, determine the US and home country tax aspects of this participation. For example, such employees may be asked if they wish to join the US company’s 401(k) plan, which would generally permit them to contribute up to $19,000 of salary for 2019 on a tax-deductible basis and to benefit from matching employer contributions and earnings on a tax-deferred basis. Tax and other issues can arise, particularly if the individual intends to withdraw his or her funds from the plan after moving back to his or her home country.

**Entrance interview**

82. Before moving to the United States, individuals should have both an exit interview with a tax professional in their home country and an entrance interview with a US tax professional. All US and home country tax issues relating to the individual’s income and assets should be covered in these interviews. Because such individuals could be classified as US resident aliens even before they move – for example if they spend more than 10 days in the United States prior to the formal move date (see paragraph 18) – the US interview should take place as early as possible.
Step 4: What to do when you arrive in the United States

Pre-departure considerations and US payroll withholding

83. Although the following recommendations ideally should be considered before moving to the United States, those steps that have not been adopted before the move should be taken immediately after the move. For example, every effort should be made to apply for a US Social Security number. As mentioned in paragraph 79, if any family member(s) is not entitled to a Social Security number but is required to file a return or needed for other purposes (e.g. child credit), each will need to get an ITIN (though generally these are applied for with the filing of the first tax return.)

An entrance interview with a US tax professional should take place as soon as possible (prior to the move, ideally) and, to the extent possible, the necessary tax planning regarding compensation and assets should be implemented. It may be possible, for instance, to limit days in the United States so as to qualify for nonresident alien status for the year of move to the United States.

84. When a foreign national employee arrives in the United States, the following payroll matters should be attended to:

- IRS Form W-4 or Form 8233. Every employee working in the US should generally complete Form W-4 and give it to his or her employer so that appropriate tax rates, sources of income, deductions and credits will be reflected in the individual's wage withholding. A US tax consultant can assist in completing these forms. Those expecting to qualify as nonresident aliens should indicate such status on Form W-4. Employees expecting US source compensation to qualify for exemption from US income tax under an income tax treaty should provide Form 8233 to the employer.

- Possible nonresident state tax status. If it appears that the employee may file as a nonresident for state and local tax purposes and that he or she will make business trips outside the state, the employee should notify the employer to arrange to reduce state and local wage reporting and withholding tax accordingly. Separate state-equivalent Forms W-4 may apply.

Estimated tax payments

85. Many foreign nationals on US assignment receive part or all of their salary from a foreign company that does not establish a US payroll system. As mentioned above, regardless of where pay is delivered, US tax is typically due on the salary and withholding is generally required. In addition, a foreign national may have outside personal, business, or investment income (from sources either in the United States or in a foreign country) that is subject to tax. Two ways
that such US tax on these types of income may be paid are:

- If any part of the remuneration is paid through a US payroll system, an adjustment may be requested on Form W-4 to withhold additional tax to cover the estimated excess US tax due.

- Alternatively, estimated tax payments may be required to be made on a quarterly basis, based on the individual’s income for the calendar quarter that it is taxable but not subject to withholding. The due dates for estimated tax payments are typically April 15, June 15, September 15, and January 15. For nonresident aliens without wages subject to withholding, however, installments are due in three payments due June 15, September 15, and January 15. Penalties may be imposed for failure to make estimated tax payments by the due dates. Because the estimated tax rules can be complex, a US tax consultant should be consulted on how to comply with the rules.

Failure to withhold may result in penalties for the employer.
Step 5:
What to do at the end of the year

Tax return
86. A US federal income tax return must generally be filed for the year only if the individual has taxable income. Certain nonresident alien individuals are required to file returns regardless of the level of income or loss (typically including those with US workdays and including partners in most US partnerships). Resident aliens file Form 1040 and nonresident aliens file Form 1040NR. Dual-status aliens file a combined 1040/1040NR return in accordance with IRS instructions.

Both forms are generally due on April 15. Most states also have an April 15 due date. An automatic extension to file the federal return until October 15 may be obtained if the taxpayer specifically requests it by the original due date. Extending the time to file does not extend the time to pay the tax due.

87. Nonresident aliens and dual-status aliens must generally file with the IRS in Austin, Texas or Charlotte, North Carolina. Resident aliens living in the United States are generally required to file at the IRS Center for the region in which they live if not e-filing.

Payment of income taxes
88. If, by April 15, the individual has not paid in enough tax for the prior year through wage withholding, overpayments applied from the prior year, and estimated tax payments in order to cover the total federal tax liability for the current year, the balance of tax is due no later than April 15. When the return is filed, if too much tax has been paid in, the taxpayer will typically be entitled to a refund of the excess.

89. Individuals who have not paid enough tax (through wage withholding, prior year overpayments applied and/or estimated tax payments) prior to April 15 to cover their tax liability for the year may be subject to penalties for underpayment of estimated tax. If tax is owed for the year and it is not paid by April 15, more severe penalties as well as a statutory interest charge may apply.

90. Individuals who are resident aliens for part or all of the year may also be required to file certain information returns, for example those regarding foreign corporations in which they own 10 percent or more of the stock; interests in foreign financial assets; receipt of large gifts from foreign persons, investments that they may own in a passive foreign investment company (PFIC); and any transfers that they may have made to a foreign trust in the past.

If, during the year in which an individual is in the United States, (s)he has an interest in one or more foreign financial accounts (including but not limited to bank and securities accounts) whose total value is $10,000 or more during the year, FinCEN Form 114 may be required to be filed with the US Treasury to provide information about those accounts (see paragraph 45). The form is filed separately from the federal income tax return. Penalties
may be imposed for failure to file (or timely file) these forms.

91. A resident alien who, during the current tax year, receives either: (i) more than $100,000 from a nonresident alien or a foreign estate (including foreign persons related to that nonresident alien individual or foreign estate) that he/she treats as a gift or bequest; or (ii) more than $16,388 in 2019 from foreign corporations or foreign partnerships (including foreign persons related to such foreign corporations or foreign partnerships) that he/she treats as a gift must report receipt of such gift or bequest to the IRS on Form 3520. (See paragraphs 100 through 104).
Step 6: What to do when you leave the United States

Residency status for the year

92. As soon as an individual knows that he or she will be leaving the United States, his or her probable resident alien status for the year and likely foreign country tax status should be carefully examined so that informed departure decisions can be made. In general, an individual considered resident for any portion of a calendar year who is a nonresident alien in the following year will have a residency termination date of 12/31 of the current year. In many cases, an individual will also qualify to file as a resident alien for the portion of the year preceding a move from the United States, and a nonresident alien for the remainder of the year (if certain requirements are met). However, trips back to the United States that exceed 10 days in total or the failure to establish a tax home in, and a closer connection to, another country for the remainder of the year after the move may cause resident alien status to continue during part or all of the remainder of the year. Based on the particular facts, foreign national individuals may wish to either prolong resident alien status or ensure that it is terminated after moving from the United States. Even where a taxpayer may qualify as a US resident under domestic law for all or part of a year, nonresident alien status may be available for purposes of calculating the income tax under the provisions of an income tax treaty.

93. Issues that may be affected depending upon an individual’s US resident or nonresident alien status for the year include the following:

- Joint return filing status and rates. If an individual is a nonresident alien for part of the year and is married, the married filing separate filing status, tax rates, and limits must be used instead of the more favorable joint return rates (see Appendix). If residency is not broken prior to year-end, married couples may file a full-year income tax return on a joint basis.

- Sale of home. A nonresident alien can generally exclude the gain from the sale of a principal residence from US taxation if ownership and use tests are met (refer to paragraphs 36-39.) However, even if the individual may qualify for the exclusion, he or she may still be subject to a 15 percent withholding tax on the gross sales price at the time of sale (though steps are available to limit or avoid such withholding). A US federal income tax return would then need to be filed to claim a refund for part or all of the 15 percent tax (if applicable).

- Investment income. Investment income earned outside the United States, including foreign source capital gains, will be taxable if realized while the taxpayer is a resident alien. Generally, non-US source investment income is
exempt from US tax if realized while the individual is a nonresident alien. To the extent possible, foreign nationals may want to realize losses while they are resident aliens, but accelerate or defer the recognition of gains to periods when they are nonresident aliens and have a tax home outside of the United States.

**Reporting departure from the United States**

94. Foreign nationals leaving the United States may be asked to provide documentation that they have met or will meet all federal tax requirements. This is done by obtaining a tax clearance document (known as a ‘sailing permit’ or ‘departure permit’) from the IRS. In the year a foreign national moves out of the United States, Form 1040C, U.S. Departing Alien Income Tax Return, or Form 2063, U.S. Departing Alien Income Tax Statement and Annual Certificate of Compliance, may be required. It is important to note that neither Form 1040C nor Form 2063 are the final income tax return for the year. An actual tax return for the same year must still be filed after the end of the year, usually by April 15 of the following year.

**Exit interview**

95. As soon as a foreign national knows that he or she will be moving out of the United States, he or she should arrange for an exit interview with a US tax professional so that the taxpayer will be aware of any tax-saving opportunities and of any possible tax ‘traps’ (e.g., on the sale of a US home.) Foreign nationals should also arrange for an entrance interview with a tax professional in the country to which they are moving.

**Anti-expatriation rules**

96. Under Code Section 877A rules, a US citizen who relinquishes his/her citizenship, or a long-term resident who terminates permanent residence status or claims foreign residence status or claims foreign residence under a treaty may be subject to certain consequences if the individual meets any of three objective tests.

**Individuals subject to the expatriation provisions**

97. An individual is a long-term resident if he/she was a lawful permanent resident in at least eight out of the fifteen taxable years ending with the year in which permanent residency termination occurs (though years in which foreign residency is claimed under treaty the entire year are excluded). Expatriation tax consequences apply to those who relinquish US citizenship and any long-term resident who relinquishes a green card or claims foreign residence under an income tax treaty if the individual:

- has an average annual net income tax liability for the five preceding years ending before the date of expatriation that exceeds $168,000 for 2019 adjusted annually for inflation;
- has a net worth of $2 million or more on the date of expatriation; or
- fails to certify under penalties of perjury that he or she has complied with all US federal tax obligations for the preceding five years or fails to submit such evidence of compliance as may be required.

Certain exceptions apply to individuals born with dual citizenship and those who relinquish US citizenship prior to age 18 1/2 (provided certain requirements are met.)

Expatriating long-term residents and citizens who do not meet any of the three tests or who qualify for an exception must still file Form
8854 to notify the IRS of the expatriation.

**Date of expatriation**

98. Code Section 877A sets forth rules for establishing the date of expatriation. In the most common cases, this will be the date the individual swears or affirms their oath of renunciation of US citizenship in front of a consular officer, or files Form I-407 terminating permanent residence status. Long-term residents would also be treated as expatriating when utilizing residency ‘tie-breaker’ provisions of income tax treaties to be treated as US nonresident aliens despite their continued permanent residency status.

**Consequences of expatriation**

99. *Mark-to-market tax imposed.* The mark-to-market tax portion of these rules effectively subjects these individuals to tax on the net unrealized gains on their worldwide property as if such property were sold for fair market value on the day before the expatriation date, to the extent such gains exceed an exemption amount. Gain from the deemed sale is taken into account at that time without regard to other tax code provisions; any loss from the deemed sale generally would be taken into account to the extent otherwise provided in the code. The value of property held when an individual first became a US resident will be taken into account for purposes of determining the gain, unless the individual makes an irrevocable election for basis to be calculated under general US tax principles. The deemed sale rule generally applies to all property interests held by the individual on the date of expatriation. Any net gain on the deemed sale is recognized to the extent it exceeds $725,000 for the 2019 tax year.

*Deemed distributions, vesting.* Special rules apply in the case of certain deferred compensation items, specified tax deferred accounts, and interests in nongrantor trusts. These items are not subject to the mark-to-market tax nor the exemption amount, but are typically considered deemed distributed with certain exceptions. For ‘ineligible deferred compensation items,’ an amount equal to the present value of the covered expatriate’s accrued benefit is treated as having been received by the covered expatriate on the day before the expatriation date as a distribution under the plan and must be included on the covered expatriate’s Form 1040. Similar rules apply for specified tax deferred accounts (e.g., IRAs) and certain trusts.

Alternately, Code Section 877A(d)(1)(A) does not require recognition of income at expatriation but instead mandates generally that the payor of an ‘eligible deferred compensation item’ deduct and withhold a tax equal to 30 percent of any taxable payment to a covered expatriate with respect to such item.

Form W-8CE should be provided to payors of items not subject to the mark to market tax (e.g., deferred compensation items, specified deferred tax accounts and foreign trusts) within 30 days of expatriation.

*Recipients of gifts and bequests from covered expatriates.* A further implication of expatriation is that US citizen or resident recipients of gifts or bequests (whether US or foreign property) from a ‘covered expatriate’ are typically subject to tax at the highest estate or gift tax rate in effect in the year of such transfer.

The Code Section 877A provisions are complex, with planning opportunities available. The advice of a US tax professional should be sought before holding the green card in any part of eight tax years or, if later, before renouncing a green card, moving out of the United States, or determining whether to claim nonresidency under an income tax treaty.
Step 7: Other matters requiring consideration

Estate and gift taxes

100. The United States imposes a federal estate tax on the fair market value of assets that an individual owns at death. In addition, a federal gift tax is imposed on most lifetime gifts, to prevent individuals from avoiding US estate tax by giving away their assets prior to death. The federal tax rates are graduated and reach 40 percent for 2019. In addition, certain states impose death taxes, although the rates are lower than the federal rates.

101. Just as the federal income tax rules distinguish between resident aliens and nonresident aliens, the estate and gift tax rules distinguish between resident noncitizens and nonresident noncitizens. The income tax definitions of resident alien and nonresident alien are not relevant in determining who is resident or nonresident for estate and gift tax purposes. Instead, the determination is based on where the foreign national is domiciled. Because the term ‘domicile’ is extremely subjective, it is often difficult to know whether a particular individual is resident or not for estate and gift tax purposes. Nevertheless, certain general rules appear to be followed by the IRS and by the courts. Individuals who have applied for or obtained green cards (i.e., US permanent-residence immigration visas) are often presumed to be domiciled in the United States.

102. Foreign nationals who are domiciled in the United States are subject to federal estate and gift tax on their worldwide assets in excess of an exemption amount ($11,400,000 of lifetime taxable gifts and bequests for 2019). Note that assets bequeathed to an individual's US citizen spouse are exempt from estate and gift tax.

103. Non-US citizens who are not US-domiciled are subject to US federal estate and gift tax only on the transfer of US-situs assets, which include US real property, personal property located within the United States, stock in US companies (for estate tax only), debt obligations of US persons (subject to certain exceptions) and certain other assets.

104. Foreign nationals should also be aware that if they receive large gifts from any non-US persons while classified as resident aliens, they may be required to report the gifts to the IRS. Although in most cases the person making the gift will not be subject to US gift tax or other US taxes as a result of making the gift, gifts from non-US persons in excess of certain thresholds must be reported to the IRS.

The United States federal estate and gift tax rules are complex with many aspects beyond the scope of this folio. An estate and gift tax specialist should be consulted to assist with estate and gift tax planning.
**Miscellaneous US taxes**

105. In addition to federal and state income, estate and gift taxes, miscellaneous taxes are imposed, including those imposed by states and municipalities. These include (for example) sales and excise taxes on retail purchases, and real and personal property taxes.

**Sales taxes**

106. Sales and ‘use’ taxes are imposed by many states as well as by various municipalities and counties in the United States. Each jurisdiction has its own tax rate and rules regarding which purchases are taxable and which are nontaxable.

**Excise taxes**

107. Both federal and state excise taxes are imposed on a variety of items, such as alcohol, cigarettes, auto fuel, and certain luxury items.

**Real property taxes**

108. Property taxes are imposed in most states on the owner of both commercial and residential real property, based on the value of the property. The tax is usually imposed at the municipality or county level, and the tax rates vary widely depending on the fiscal needs of the taxing jurisdiction. Personal property taxes are also imposed in a number of states, but usually only on automobiles. A few states impose intangible property taxes on investment assets.
Appendix A:
Individual key US federal rates and limits

The following is a high-level summary of some key individual tax rates and applicable limits for 2019. For purposes of this document, the reference to ‘$’ means US dollars. Further:

- MFJ means married filing jointly
- MFS means married filing separately
- HOH means head of household.

This compilation is intended to serve as a handy reference guide for companies with globally mobile workforces. The list is not exhaustive and does not contain all the changes made by the 2017 US tax reform legislation (the TCJA) enacted December 22, 2017. It is important to note that most individual tax changes under the TCJA that are relevant for the 2019 tax year are scheduled to sunset after 2025.

Note that many states that conformed to federal law for 2017 did not conform (in whole or in part) to changes made by the TCJA for the 2018 year and may not for 2019.

Specific tax levies and income tax withholding

<table>
<thead>
<tr>
<th>FICA taxes</th>
<th>2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>Social security (SS) wage base</td>
<td>$132,900</td>
</tr>
<tr>
<td>SS maximum – 6.2%</td>
<td>$8,239.80</td>
</tr>
<tr>
<td>Medicare – 1.45%*</td>
<td>No ceiling</td>
</tr>
</tbody>
</table>

*See below, under ‘Additional Medicare tax’, for details on an increase in the Medicare tax that applies to wages and other compensation only in excess of an applicable threshold amount.
### Additional Medicare tax (2019)
A 0.9% tax is imposed on individual wages and other compensation in excess of the following threshold amounts:

<table>
<thead>
<tr>
<th>Status</th>
<th>Threshold Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single</td>
<td>$200,000</td>
</tr>
<tr>
<td>MFJ</td>
<td>$250,000</td>
</tr>
<tr>
<td>MFS</td>
<td>$125,000</td>
</tr>
<tr>
<td>HOH</td>
<td>$200,000</td>
</tr>
</tbody>
</table>

### Tax on net investment income (2019)
A 3.8% tax is imposed on the lesser of net investment income or the excess of modified adjusted gross income over the following threshold amounts:

<table>
<thead>
<tr>
<th>Status</th>
<th>Threshold Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single</td>
<td>$200,000</td>
</tr>
<tr>
<td>MFJ</td>
<td>$250,000</td>
</tr>
<tr>
<td>MFS</td>
<td>$125,000</td>
</tr>
<tr>
<td>HOH</td>
<td>$200,000</td>
</tr>
</tbody>
</table>

### Supplemental withholding flat rates (2019)

<table>
<thead>
<tr>
<th>Category</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Supplemental wages up to $1,000,000</td>
<td>22%</td>
</tr>
<tr>
<td>Supplemental wages greater than $1,000,000</td>
<td>37%</td>
</tr>
</tbody>
</table>

*In lieu of regular tax withholding rates and available only if certain requirements are met.

### Calculating individual taxable income

#### Personal exemptions (PE)

<table>
<thead>
<tr>
<th>2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
</tr>
</tbody>
</table>

*The personal exemption was eliminated for tax years after 2017.

#### Standard deduction

<table>
<thead>
<tr>
<th>2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single: $12,200</td>
</tr>
<tr>
<td>MFJ: $24,400</td>
</tr>
<tr>
<td>MFS: $12,200</td>
</tr>
<tr>
<td>HOH: $18,350</td>
</tr>
</tbody>
</table>

*The TCJA eliminated the PE and put in place larger standard deductions and child tax credits for tax years after 2017.

#### Itemized deductions

**Deduction for state and local taxes not accrued in a trade or business, or on property held for the production of income (this includes income, sales, real estate, and property taxes – foreign real property taxes are not deductible):**

May not exceed $10,000, MFS $5,000

**AGI threshold that unreimbursed medical and dental expense deductions must reach before a deduction is permitted for all taxpayers:**

10%

**Deduction for mortgage interest only for qualified indebtedness up to certain amounts:**

$1M (limited to $750,000 for 'new debt')
*The TCJA makes various other changes to itemized deductions. For example, the overall reduction in itemized (not standard) deductions by 3% of AGI in excess of certain amounts has been repealed. Other changes were made to items including, for example, state and local taxes, employee business expenses, tax preparation fees, other 2% miscellaneous items, alimony, and moving expenses. For more information, please see prior Global Mobility Insight (December 27, 2017).

<table>
<thead>
<tr>
<th>Standard mileage rates</th>
<th>2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>Business</td>
<td>$0.58</td>
</tr>
<tr>
<td>Charitable</td>
<td>$0.14</td>
</tr>
<tr>
<td>Medical and moving</td>
<td>$0.20</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Section 911</th>
<th>2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>Annual exclusion</td>
<td>$105,900</td>
</tr>
<tr>
<td>Base housing amount</td>
<td>$16,944</td>
</tr>
<tr>
<td>Standard qualified housing expense limit*</td>
<td>$31,770</td>
</tr>
</tbody>
</table>

*Adjustments to the limitation are provided for certain countries with high housing costs. See Notice 2019-24. See also Notice 2018-57 for 2019 foreign earned income exclusion amount.

<table>
<thead>
<tr>
<th>Expatriation</th>
<th>2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>Five-year average annual net income tax in excess of the following amount:</td>
<td>$168,000</td>
</tr>
<tr>
<td>Amount of net gain from mark-to-market tax regime includible in gross income of covered expatriate is reduced by (but not below zero):</td>
<td>$725,000</td>
</tr>
</tbody>
</table>

### Calculating individual income tax due

<table>
<thead>
<tr>
<th>Alternative minimum tax</th>
<th>2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alternative minimum tax (AMT) exemption amounts (subject to phase-out described in the table below):</td>
<td>$71,700</td>
</tr>
<tr>
<td>$111,700</td>
<td></td>
</tr>
<tr>
<td>$55,850</td>
<td></td>
</tr>
<tr>
<td>$71,700</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Alternative minimum tax phase-out</th>
<th>2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>The phase-out of the AMT exemption amount begins when the alternative minimum taxable income exceeds the following amounts:</td>
<td>$510,300</td>
</tr>
<tr>
<td>$1,020,600</td>
<td></td>
</tr>
<tr>
<td>$510,300</td>
<td></td>
</tr>
<tr>
<td>$510,300</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Capital gains tax</th>
<th>2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>Long term:</td>
<td>15%/20%</td>
</tr>
<tr>
<td>Lower-income taxpayers:</td>
<td>0%</td>
</tr>
<tr>
<td>Short term:</td>
<td>Ordinary rates</td>
</tr>
</tbody>
</table>
After 2017, the TCJA generally retains the 2017 maximum rates on net capital gains; however, certain so-called 'breakpoints' for determining what tax rate is used are indexed differently.

For 2019, the 20% long term capital gains tax rate applies when the lesser of adjusted net capital gain or taxable income is at least $488,850 (MFJ), $434,550 (single), $244,425 (MFS), and $461,700 (HOH).

### Qualified dividends

<table>
<thead>
<tr>
<th>Qualified dividends</th>
<th>2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>Qualified dividend rate:</td>
<td>15%/20%</td>
</tr>
<tr>
<td>Lower-income taxpayers:</td>
<td>0%</td>
</tr>
<tr>
<td>Nonqualified dividends:</td>
<td>Ordinary rates</td>
</tr>
</tbody>
</table>

*After 2017, the TCJA generally retains the 2017 maximum rates on qualified dividends; however, certain so-called 'breakpoints' for determining what tax rate is used are indexed differently.

Qualified dividend income generally is taxed at the same rates and thresholds that apply to net capital gain (see above.)

### Child tax credit

<table>
<thead>
<tr>
<th>Child tax credit</th>
<th>2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>Child tax credit (per child)*</td>
<td>$2,000 ($1,400 refundable)</td>
</tr>
<tr>
<td></td>
<td>$500 nonrefundable credit for dependents other than qualifying children and for qualifying children without social security numbers</td>
</tr>
</tbody>
</table>

*After 2017, the qualifying child must have a social security number by the due date of the taxpayer’s return in order to claim the credit (except for $500 nonrefundable credit, whereby dependent must have an individual taxpayer identification number (ITIN)). The credit is subject to phase-out for individuals with income over certain threshold amounts. Phase-out limitations are increased after 2017 and apply when taxpayers have modified adjusted gross income in excess of $400,000 for married filing jointly, and $200,000 for all others.

### Other

#### Gift tax limits

<table>
<thead>
<tr>
<th>Gift tax limits</th>
<th>2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>Annual exclusion from total amount of taxable gifts*:</td>
<td>$15,000</td>
</tr>
<tr>
<td>Annual exclusion for gifts to non-US citizen spouses*:</td>
<td>$155,000</td>
</tr>
</tbody>
</table>

*This amount is per donor and per donee and refers to gifts that are not future interests in property.
## Appendix B: Individual US federal income tax rates

### Married filing jointly and surviving spouses

#### 2019

<table>
<thead>
<tr>
<th>Over</th>
<th>Not over</th>
<th>Tax</th>
<th>% on excess</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>19,400</td>
<td>0</td>
<td>10%</td>
</tr>
<tr>
<td>19,400</td>
<td>78,950</td>
<td>1,940</td>
<td>12%</td>
</tr>
<tr>
<td>78,950</td>
<td>168,400</td>
<td>9,086</td>
<td>22%</td>
</tr>
<tr>
<td>168,400</td>
<td>321,450</td>
<td>28,765</td>
<td>24%</td>
</tr>
<tr>
<td>321,450</td>
<td>408,200</td>
<td>65,497</td>
<td>32%</td>
</tr>
<tr>
<td>408,200</td>
<td>612,350</td>
<td>93,257</td>
<td>35%</td>
</tr>
<tr>
<td>612,350</td>
<td></td>
<td>164,709.50</td>
<td>37%</td>
</tr>
</tbody>
</table>

### Single

#### 2019

<table>
<thead>
<tr>
<th>Over</th>
<th>Not over</th>
<th>Tax</th>
<th>% on excess</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>9,700</td>
<td>0</td>
<td>10%</td>
</tr>
<tr>
<td>9,700</td>
<td>39,475</td>
<td>970</td>
<td>12%</td>
</tr>
<tr>
<td>39,475</td>
<td>84,200</td>
<td>4,543</td>
<td>22%</td>
</tr>
<tr>
<td>84,200</td>
<td>160,725</td>
<td>14,382.50</td>
<td>24%</td>
</tr>
<tr>
<td>160,725</td>
<td>204,100</td>
<td>32,748.50</td>
<td>32%</td>
</tr>
<tr>
<td>204,100</td>
<td>510,300</td>
<td>46,628.50</td>
<td>35%</td>
</tr>
<tr>
<td>510,300</td>
<td></td>
<td>153,798.50</td>
<td>37%</td>
</tr>
</tbody>
</table>
Married filing separately

2019

<table>
<thead>
<tr>
<th>Over</th>
<th>Not over</th>
<th>Tax</th>
<th>% on excess</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>9,700</td>
<td>0</td>
<td>10%</td>
</tr>
<tr>
<td>9,700</td>
<td>39,475</td>
<td>970</td>
<td>12%</td>
</tr>
<tr>
<td>39,475</td>
<td>84,200</td>
<td>4,543</td>
<td>22%</td>
</tr>
<tr>
<td>84,200</td>
<td>160,725</td>
<td>14,382.50</td>
<td>24%</td>
</tr>
<tr>
<td>160,725</td>
<td>204,100</td>
<td>32,748.50</td>
<td>32%</td>
</tr>
<tr>
<td>204,100</td>
<td>306,175</td>
<td>46,628.50</td>
<td>35%</td>
</tr>
<tr>
<td>306,175</td>
<td></td>
<td>82,354.75</td>
<td>37%</td>
</tr>
</tbody>
</table>

Head of household

2019

<table>
<thead>
<tr>
<th>Over</th>
<th>Not over</th>
<th>Tax</th>
<th>% on excess</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>13,850</td>
<td>0</td>
<td>10%</td>
</tr>
<tr>
<td>13,850</td>
<td>52,850</td>
<td>1,385</td>
<td>12%</td>
</tr>
<tr>
<td>52,850</td>
<td>84,200</td>
<td>6,065</td>
<td>22%</td>
</tr>
<tr>
<td>84,200</td>
<td>160,700</td>
<td>12,962</td>
<td>24%</td>
</tr>
<tr>
<td>160,700</td>
<td>204,100</td>
<td>31,322</td>
<td>32%</td>
</tr>
<tr>
<td>204,100</td>
<td>510,300</td>
<td>45,210</td>
<td>35%</td>
</tr>
<tr>
<td>510,300</td>
<td></td>
<td>152,380</td>
<td>37%</td>
</tr>
</tbody>
</table>

*2019 rate tables are provided by Rev. Proc. 2018-57.
## Appendix C: Totalization agreements

Countries with which the United States currently has totalization agreements:

<table>
<thead>
<tr>
<th>Country</th>
<th>Country</th>
<th>Country</th>
</tr>
</thead>
<tbody>
<tr>
<td>Australia</td>
<td>Germany</td>
<td>Poland</td>
</tr>
<tr>
<td>Austria</td>
<td>Greece</td>
<td>Portugal</td>
</tr>
<tr>
<td>Belgium</td>
<td>Hungary</td>
<td>Slovak Republic</td>
</tr>
<tr>
<td>Brazil</td>
<td>Iceland (as of 3/1/2019)</td>
<td>Slovenia (as of 2/1/2019)</td>
</tr>
<tr>
<td>Canada</td>
<td>Ireland</td>
<td>South Korea</td>
</tr>
<tr>
<td>Chile</td>
<td>Italy</td>
<td>Spain</td>
</tr>
<tr>
<td>Czech Republic</td>
<td>Japan</td>
<td>Sweden</td>
</tr>
<tr>
<td>Denmark</td>
<td>Luxembourg</td>
<td>Switzerland</td>
</tr>
<tr>
<td>Finland</td>
<td>Netherlands</td>
<td>United Kingdom</td>
</tr>
<tr>
<td>France</td>
<td>Norway</td>
<td>Uruguay</td>
</tr>
</tbody>
</table>
Appendix D: US contacts and offices

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