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International Assignment Services
Taxation of International Assignees Country – United States

Human Resources Services

International Assignment Taxation Folio

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Introduction: International assignees working in the United States

This folio was prepared by PricewaterhouseCoopers to provide international assignees planning to work in the United States with a general background of the US tax law and other relevant issues. It reflects tax law and practice as of March 2011.

This folio traces a US assignment through seven steps. These steps address the specific issues individuals must address prior to arriving in the United States, during the US assignment and subsequent to the assignment. Familiarity with these issues should help to make any US assignment easier and more enjoyable.

This folio is not intended to be a comprehensive and exhaustive study of US tax law, but should be used as a guide to prepare for an assignment in the United States. Any decisions regarding an assignment 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 PricewaterhouseCoopers office.

PricewaterhouseCoopers[1] provides industry-focused assurance, tax and advisory services to build public trust and enhance value for its clients and their stakeholders. More than 161,000 people in 154 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.

PricewaterhouseCoopers has assembled a team of International Assignment Services (IAS) specialists from its worldwide network of offices to allow us to provide comprehensive service to executives as they move throughout the world.

The topics covered in this folio include:

1. Tax-effective remuneration strategies, including:
   - Dual or multiple employments;
   - Pre- and post-assignment planning;
   - Stock options and other tax-efficient benefits.
2. The optimization of social security costs and benefits;
3. Proper structuring of foreign assignment policies;
4. Pension issues;
5. Corporate tax implications.

[1] "PricewaterhouseCoopers" refers to the network of member firms of PricewaterhouseCoopers International Limited, each of which is a separate and independent legal entity.

This folio is part of a series of folios on international assignees working in various countries and provides an introductory guide to clients. Further advice can be sought from any of the IAS contacts listed at the end of the folio.

Last Updated: March 2011	
This document was not intended or written to be used, and it cannot be used, for the purpose of avoiding tax penalties that may be imposed on the taxpayer.	**Menu**

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 9-19.

2. The US federal government taxes foreign nationals who are considered resident aliens in basically 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 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 they make gifts of US-situs assets/US property or are considered US domiciled, if 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. Because state income taxes are generally deductible for federal income tax purposes, the net cost of paying state taxes is often only about two-thirds of the statutory state tax rate.

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. For 2010, the Social Security tax rate of 6.2 percent * is assessed on the first $106,800 of salary and there is no limit on salary that is assessed at the Medicare tax rate of 1.45 percent. A detailed tax computation is illustrated in Appendix B. An equal, matching tax is imposed on the individual's employer (see paragraphs 64-67). A comparable tax is imposed on individuals who are self-employed.

   * For 2011, a 1 year 2% decrease in the employee tax rate for social security was implemented and therefore, only 4.2 percent is assessed on the first $106,800 of salary.

The tax year

6. The United States tax year generally is the same as the calendar year, or January 1 through December 31.

Methods of calculating tax

7. US federal income taxes are calculated by aggregating all income less statutory exclusions and deductions, as further discussed in Step 2. 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 on certain other factors.

Husband and wife

8. Under the federal income tax law, it is often possible for a husband and wife to aggregate their income and deductions by filing a "joint" return. If one spouse has substantially less income than the other, a lower amount of tax usually results when compared with the otherwise applicable "married filing separate" rates. 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.

Determination of resident alien or nonresident alien status

9. Prior to embarking on an assignment to the United States, individuals 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. Thus an individual's status as either a resident or nonresident alien may change during the course of an assignment (possibly more than once), or even within the same calendar year.

Green card holders – resident aliens

10. In general, foreign nationals who hold US permanent residence immigrant visas (commonly referred to as "green cards") are automatically classified as resident aliens. Resident alien status is generally deemed to commence on the earlier of the first day in the US 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 US to live abroad indefinitely or permanently will generally continue to be classified and taxed as resident aliens until the green card is relinquished. Complex rules also apply to individuals who relinquish their green cards if they held the green card in at least eight of the 15 years prior to relinquishment. Professional tax advice should always be sought prior to obtaining or relinquishing a green card.

Residence status

11. In contrast with the tax rules for immigrant aliens, foreign nationals who hold nonimmigrant visas 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 15 are ignored.

Substantial Presence Test

12. 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

13. An example of the Substantial Presence Test follows. 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 US 30 days, and was present in the US 18 days the year before last.

Substantial Presence Test Calculation	Example 1	Example 2
Days in current year	170	169
Days in first preceding year x 1/3 (30 x 1/3)	10	10
Days in second preceding year x 1/6 (18 x 1/6)	3	3
Total Calculated Days	183	182

Because the total is at least 183, the individual would generally be considered a resident alien for 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 because under the Substantial Presence Test the total days in the US would add up to only 182.

Exceptions to the Substantial Presence Test

14. 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 US for the entire year. The term "tax home" generally relates to the location of an individual's primary 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. An individual who does not work will generally be deemed to have his or her tax home in the country of his or her regular place of abode. The applicable tax regulations require that eligible individuals file a statement with the IRS to claim this exception.

Exemptions from the Substantial Presence Test

15. 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 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;
  - For J-visa holders the period of exemption is the first two calendar years, or four years if all of the J-visa holder's salary is paid by a foreign employer;
- 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 on at least 75 percent of their workdays for the year.

Electing resident status

16. Resident alien status often results in lower US tax than does nonresident alien status, due to increased allowable deductions and lower tax rates for certain married taxpayers. Certain nonresident aliens may elect resident alien status if specific requirements are met. To qualify, the individual must be in the United States for at least 31 continuous days during the year covered by the election and be classified as a resident alien using the Substantial Presence Test (see above) in the subsequent calendar year (in addition to certain other requirements).

Dual status – first and last year

17. 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.

    The residency start date for an individual who was a nonresident alien in the previous year is generally the first day of presence in the United States in the current year. It may be possible to disregard up to 10 days of presence when determining the residency start date if, on those days, the individual had a closer connection with a foreign country. As the relevant rules can be complex, a PricewaterhouseCoopers IAS specialist should be consulted to assist with planning trips into and out of the United States.

    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. In determining this end date, up to 10 days of US presence may be excluded if certain requirements are met. In order for the "closer connection" exceptions to apply, the IRS requires that a statement be filed claiming the exception. Again, as the relevant rules can be complex, a PricewaterhouseCoopers IAS specialist should be consulted to assist with repatriation planning.

Joint election as resident alien for the entire year

18. Because the favorable joint return tax rates for a married couple are available only if both spouses are resident aliens for the entire year, the law permits certain married resident aliens to elect with their 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 an actual 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 a credit can usually be claimed for foreign taxes imposed on foreign income for the months prior to the move.

Tax treaty relief

19. The United States has income tax treaties with a number of foreign countries 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,

will generally be classified as a nonresident alien for purposes of US income tax law. The IRS requires that a form be filed in order to claim nonresident alien status as the result of a tax treaty.

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Step 2: Understanding the US tax system

General remarks

20. As noted earlier, 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 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 often lower than the tax on a nonresident alien with comparable income. This occurs because certain deductions can only be claimed by residents (i.e. not by nonresidents). Examples of these include, but are not limited to deductions for home mortgage interest expense and property taxes. In addition, personal exemptions for dependent family members, the often lower joint return tax rates for married US residents and, in certain circumstances, a credit for foreign income taxes may all serve to further reduce the US tax liability of a US resident alien. In contrast, nonresident aliens are generally taxed on only US source income or income effectively connected with a US trade or business, but usually may claim only one personal exemption. Additionally, nonresident aliens may not file a joint return with their spouse if married; thus, they do not get the benefit of the more beneficial joint rates.

21. US citizens and resident aliens are taxed at graduated rates varying from 10 percent to 35 percent for federal income tax purposes (2011 rates). These rates are applied to an individual's worldwide income, after reduction for all statutory exemptions and 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.

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

23. 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 unusual for a foreign national on US assignment to be classified as a nonresident alien, except in the first and final years of an assignment.

Resident aliens

The taxation of employment income

24. 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. 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. Therefore, it may be beneficial for compensation for non-US services performed before the foreign national becomes a resident alien to be paid prior to establishing US residency. The exception to this rule occurs if

deferring receipt of the compensation until after the foreign national becomes US resident has the effect of avoiding foreign tax at a higher rate than would be imposed in the United States. If a payment is subject to US and foreign tax, a foreign tax credit may generally be claimed on the US and/or foreign return to mitigate the effect of double taxation.

25. 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 deductible or excludible under the "away from home" rules described in paragraphs 52-58):

- The cost of rental 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 private school either in the United States or abroad;
- The payment of home-leave expenses for the assignee, for his or her spouse, or for other family members;
- The value of company cars 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, medical reimbursement plans and interest-free loans) should be examined carefully to determine that they are in compliance with US accounting rules and 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 PricewaterhouseCoopers IAS specialist **before** beginning their US assignment.

26. Although employer-provided housing and transportation is taxable, in some cases the value may be deductible (subject to certain limitations) or excludible if the employee is on a temporary US assignment of less than 12 months (see paragraphs 52-58). In addition, if the employee is required, as a condition of employment, to live in a home or an apartment that the company owns or leases in its own name, 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 strict and rarely ever apply.

Stock options

27. Foreign nationals who are granted stock options prior to their residency start date in the US may be subject to US tax at exercise on all or part of the realized income at such time. In most cases, when a foreign national who is a resident alien exercises an option to buy foreign 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 will be treated as foreign-source (to the extent allocable to services rendered in the foreign country). As a result, even though the full spread will be subject to tax in the US, a foreign tax credit may generally be claimed to reduce or eliminate the US tax (assuming foreign tax is paid on this income).

The stock purchased as a result of a stock-option exercise will generally have a US tax basis equal to its fair market value on the purchase (i.e., exercise) date. If the individual later sells the stock while still a resident alien, the capital gain or loss for US tax purposes will be determined with reference to the stock's value on the date of exercise.

28. To determine the extent to which the spread on a stock-option exercise represents services performed within the United States or abroad, the IRS generally looks at the period from the date the option was granted through the date the option is vested. For example, assume that an option was granted to an employee on January 1, 2005; that the employee moved from a foreign country to the United States on January 1, 2008; that the option vested on January 1, 2010; and that the employee exercised the option on January 1, 2011, while a resident alien. As a resident, the entire spread will be reportable on the US return. However, under the IRS's preferred method of allocation, 40 percent of the spread would be US source income (i.e., two years of US services out of the five-year total between grant and vest) and the 60-percent balance would be foreign

source income (though other methods of allocation may be available). The US tax on the foreign source piece may be offset by foreign tax credits, if any are available.

29. Individuals considering the exercise of stock options while on a US assignment should consult 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.

The 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 may often claim more liberal deductions for business expenses than an employee. It is also important to note that resident alien individuals may (subject to certain exceptions) be subject to "self-employment tax" in the US on self-employment income earned while resident in the US. 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 withheld from the pay of most US wage earners.

The taxation of investment income

31. Investment income received by a resident alien (e.g., interest, dividends, capital gains and rental income) is subject to full US tax, whether it is from US or foreign sources. However, the US tax on foreign source investment income may be reduced or eliminated by a foreign tax credit to the extent that foreign taxes are paid on such income. Because the relevant US foreign tax credit rules are extremely complex, professional advice should be sought. The fact that the income may receive advantageous tax treatment under foreign law is usually not relevant for US tax purposes. For example, interest earned on a bank account in the Channel Islands may escape UK taxation, but will be subject to US tax if the account holder is a US citizen or resident alien at the time earned.

Capital gains tax

32. For sales, exchanges and conversions after May 5, 2003, property held longer than one year generally is eligible for the 15-percent maximum capital gains rate (5 percent if the individual is in the 10-percent or 15-percent tax bracket). There is also a 25-percent maximum tax rate applied to long-term capital gains attributable to certain depreciation claimed after May 6, 1997.

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). Any unused capital losses may be carried forward indefinitely to be used in subsequent years.

34. 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 1968 for 1,000 Swiss francs (when 1 Swiss franc was worth $.25), and after the individual became a resident alien the asset was sold on May 1, 2010, for 10,000 Swiss francs (on a date when the Swiss franc was worth $.9274). The taxpayer would be subject to US tax on the gain calculated in US dollars. The cost basis would be US $250 (at the 1968 exchange rate of one Swiss Franc equals $.25), and the sales price would be $9,274(using the May 1, 2010, exchange rate).

    For assets acquired by inheritance, the tax basis (cost) would generally be the market value of the asset on the date of the decedent's death, while gifted assets would have a basis equal to the donor's basis.

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. For example, while still a nonresident alien, the individual might consider selling the asset and then buying it back, provided that this did not result in foreign income tax.

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, for sales of principal residences after May 6, 1997, an exclusion of $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 a total of two of the five years prior to sale. The exclusion can generally be claimed once every two years. Unexcluded gains are subject to tax.

    The Housing Assistance Tax Act of 2008 enacted an amendment to Code Section 121, which specifically added Code Sec. 121(b)(4)[(5)], that may have unintended negative consequences for individuals with temporary absences from their home.

    The basic rules under Code Sec. 121 were not altered by the addition of Code Sec. 121(b)(4) [(5)]. The exclusion amounts, qualifying test, and reduced exclusion rules and qualifications, remain intact. Code Sec. 121(b)(4) [(5)] adds the concept of "nonqualified use." 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 enactment of Code Sec. 121(b)(4) [(5)] effectively targets 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 (to the extent the absence occurs after 2008).

    Generally, the typical international assignment is for a three-to-five-year period. Given this, many assignees will not meet the two-year temporary absence exception under the regulations. However, only absences after January 1, 2009, count for purposes of applying this two-year exception. Therefore, even though an individual may have been absent from their home for a period in excess of two years, if they repatriate prior to January 1, 2011, provided all other requirements under Code Sec. 121 have been met, they will meet the temporary absence exception, with none of their absence constituting nonqualified use.

    Because a loan is treated separately from the underlying property, US tax will be charged on any gain realized on refinancing or retirement of a foreign currency denominated mortgage. This is true even if gain on the underlying property is excluded. 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.

37. Under the new law, the opportunity therefore exists, as it did prior to the passage of Code Sec. 121(b)(4) [(5)], for an individual to qualify for a partial exclusion if the “two-of-five-year” test has not been met. The exception under Code Sec. 121(b)(4) [(5)], exempting from nonqualified use any period that follows the last use as a principal residence, is consistent with the favorable treatment allowed under Code Sec. 121 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 international assignee does not reoccupy the home prior to sale, a full or partial exclusion may be claimed.

38. 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 US, it may cease to qualify for exclusion of gain for US tax purposes if the ownership and usage 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.

    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 and provided the individual is not subject to the anti-expatriation rules (refer to paragraph 108). The sale of US real property by a nonresident alien may be subject to a withholding tax of 10 percent of the sales price, 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 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 on assignment in the US, as a resident alien he or she will be taxed on the rental income, but 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 US would not generally be taxable in the US, 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 if a small group of related persons control a majority of the company stock, and if the company realizes a significant amount of passive investment 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 and the foreign personal holding company (FPHC) rules.

42. Although stock may be owned in a foreign company that is not subject to the CFC or FPHC rules, if the company has substantial passive 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. The interest charge is intended to have the same effect as if US tax were paid in prior years before selling or redeeming the stock.

This interest charge may also be imposed after an individual has moved out of the United States and become a nonresident alien. These rules are applied under the so-called 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, FPHC 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 5 percent or more of the stock of any foreign company, or if he or she becomes a resident alien while owning 5 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 beneficiary 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 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 will also 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

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 with the US Treasury Department by June 30 of the following year. The term "United States person" has been expanded to include a citizen or resident of the United States, or a person in and doing business in 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.

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. Three categories of deductions allowed are: adjustments, which generally are allowed without regard to income level; personal exemptions (personal allowances) for the taxpayer, spouse and dependents; 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 are alimony payments, moving expenses not reimbursed by an employer, student loan interest payments, certain other education expenses and contributions to an individual retirement account (IRA).

48. An important 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 ($5,000 for 2011) by contributing to a regular IRA. To be eligible, the individual must have less than $110,000 of income in 2011 ($66,000 if single), or must not be a participant in a company-sponsored retirement plan that is tax-qualified and established under US law.

49. In addition, effective in 1998, 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. Resident aliens may also claim personal exemption deductions for themselves, their spouses and dependents, if the spouses and/or dependants are also resident aliens or US citizens. There are a few exceptions to the US residency requirements for dependents from Canada or Mexico. The deduction is equal to $3,700 per qualifying individual for 2011. Typically, for higher-income taxpayers, personal exemptions are reduced by 2 percent for every $2,500 of gross income (AGI) over an IRS stated limit. However, for 2011, the phase-out of personal exemptions does not apply. Therefore, for 2011, there are no limitations for the deductible amount of personal exemptions.

Deductions

51. The most common itemized deductions are home mortgage interest, property taxes, state and local income taxes, charitable contributions and unreimbursed employee business expenses. Typically, itemized deductions (i.e., deductions other than adjustments and personal exemptions) are subject to a reduction equal to 3 percent of the taxpayer's adjusted gross income in excess of an amount ($166,800 ($83,400 for married filing separately) for 2009), subject to a maximum reduction of 80 percent of the total deductions. However, for 2011, the overall limitation on itemized deductions does not apply. Therefore, for 2011, there are no limitations for the reduction of itemized deductions.Note that certain types of itemized deductions, including unreimbursed employee business expenses, are only deductible to the extent they exceed 2 percent of the taxpayer's adjusted gross income. Similar restrictions apply to other, less common types of deductions.

    If the total amount of itemized deductions is relatively low, the standard deduction may be claimed instead. This is a fixed dollar amount that ranges from $5,800 to $11,600 for 2011, based on the taxpayer's filing status (Appendix B). 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). However, it may be claimed by a married couple making a full-year residency election (see paragraph 18).

Away-from-home deduction for US living expenses

52. An important deduction that may be permitted is a deduction for the cost of some or all of US living expenses if it can be shown that the taxpayer is temporarily away from his or her tax home. The concept of "tax home" is different from the concept of "resident alien." Thus, an individual may be classified as a resident alien in the US, but still retain a tax home outside the US, or vice versa.

53. If, prior to moving to the United States, a taxpayer was living and working in a foreign country and expected to return to that country within one year, he or she will usually be considered to have retained a tax home there and will be permitted to deduct qualifying US living expenses. However, those who plan to stay in the United States for more than 12 months will usually be deemed to have a US tax home and thus generally will not be allowed to deduct US living costs for any part of the US assignment, even if the total length of the assignment is ultimately 12 months or less.

54. If the requirements necessary to deduct away-from-home expenses are met, the following expenses may be deductible: rental cost of a house or apartment in the United States (or hotel costs if the individual stays in a hotel while away from home), including certain utility costs; meals; laundry expenses; and expenses of commuting between the individual's US living quarters and the location of his or her US employer, including public transportation and a portion of automobile expenses.

    Married individuals are only permitted to deduct living expenses for themselves. The living expenses for a spouse and dependents are not deductible.

55. Individuals who incur the expenses themselves may generally deduct them as an itemized deduction on their federal income tax returns. A portion may be nondeductible in this situation because of certain rules that limit the deduction of the expenses to the portion that exceeds 2 percent of adjusted gross income (i.e., income after adjustments but before other deductions). If an individual's employer reimburses him or her directly and treats the payments as reimbursed business expenses, the reimbursement is not required to be reported on the employee's US wage statement (IRS Form W-2). If the employer does report reimbursements on the employee's Form W-2, they would be deducted as an itemized deduction on the individual's return, subject to possible limitation. Alternatively, the employer may choose to pay the employee a per diem allowance that approximates the amount of the employee's US living expenses, which may exceed them in some cases. The allowance would not normally appear on the employee's Form W-2 and would not appear on his or her tax return.

56. If an employer reimburses an employee directly for living expenses and the reimbursement does not appear on his or her Form W-2, it should be noted that a potential penalty could be imposed if the IRS successfully challenges the claim that the reimbursement is nontaxable. If the IRS finds that there is not a reasonable basis for excluding the reimbursement, a penalty equal to 20 percent of the resulting increase in the individual's US tax could be imposed. This penalty is levied in addition to tax plus interest on the reimbursement.

57. Employers are not required to report qualified moving expenses, whether paid directly to third parties on behalf of employees or reimbursed.

58. The extent to which moving expenses incurred moving to the United States are deductible for US tax purposes depends on whether the taxpayer is eligible to deduct US living expenses under the tax home rules described above. If the taxpayer's tax home remains in his or her home country, the costs of moving the individual and limited personal effects to the United States generally are deductible (or nontaxable if reimbursed directly by the employer), as away-from-home expenses **rather than** as qualified moving expenses. The costs of moving such individual's spouse and children to the United States will **not** be deductible. Therefore, an employer's reimbursement of these costs is fully taxable to the employee (this is one of the few costs in qualifying for the tax home rules).

    However, individuals who shift their tax homes to the US will not be eligible to deduct US living expenses. Instead, they may be entitled to deduct not only their own moving expenses, but also those of their spouses and children. This includes the cost of traveling and shipping household goods to the United States. In general, an individual will be eligible to deduct moving expenses if he or she is employed full time in the new work location during at least 39 weeks in the 12-month period following the move.

Employee business expenses

59. Some reimbursable business expenses are generally incurred during a US assignment, such as travel costs while on business trips and for business lunches and dinners. In most cases, the reimbursement of these costs is nontaxable. However, if expenses are reimbursed directly by the employer for certain personal-type expenses, it is possible that those reimbursements could be subject to US income taxes as well as to US Social Security tax.

Rates and filing status

60. 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 A. 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 18).

Credit for foreign income taxes

61. 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 joint return election is made, because foreign income for the months preceding the move will be subject to both US and foreign tax.

State and local taxes

62. 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.

63. 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. State definitions of tax residence usually are different from those applicable for federal purposes. Based on the facts, a nonresident classification for state and city tax purposes may result in lower state and city taxes.

Social Security taxes

64. Resident aliens who work as employees in the United States are subject to US Social Security and Medicare tax (also called FICA for the Federal Insurance Contributions Act) on remuneration from employment unless they are exempt under a Social Security Totalization agreement (see paragraphs 65-67). Employees are subject to the FICA tax at the rate of 7.65 percent on the first $106,800 of earnings for 2010 *, plus an additional tax on earnings over $106,800 at the rate of 1.45 percent. The employer is obligated to pay an equal matching amount of FICA out of its own funds.

    * For 2011, a 1 year 2% decrease in the employee tax rate for social security was implemented and therefore, only 5.65 percent is assessed on the first $106,800 of salary.

    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. Thus, foreign companies with no US office that pay employees working in the US in foreign currency and into a foreign bank account are still **technically** required to establish a US payroll system and to pay and withhold FICA.

65. Foreign nationals working in the United States may be required to pay social security tax on the same salary to both the United States and to their home country. In response to this potential inequity, 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 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.

66. 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. Because of the high social security tax rates in most European countries, as compared with the US, it may be beneficial to opt out of the home country social security system and instead pay US FICA tax during a US assignment. As an example, this is often beneficial for foreign nationals from Sweden, Switzerland and the United Kingdom. In order to effectively opt out of home country social security, the individual's assignment must either be structured to last for more than five years or to make the individual a local hire in the United States.

67. 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.

Nonresident aliens

The taxation of employment income

68. 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.

Exemptions under income tax treaties

69. Nonresident aliens working in the US 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 country has different requirements, professional advice should be sought prior to any US assignment to determine whether treaty benefits can be claimed.

Directors' fees

70. It is quite common for a nonresident alien to receive directors' fees for attending meetings of the board of directors of a US company. As a general rule, the directors' fees are subject to US tax, which must be withheld at source by the US company and then reported on a nonresident alien US tax return, which the director files at the end of the year. Tax-planning opportunities may be available under a number of US tax treaties to avoid US tax, although the director is generally required to file a statement with the IRS reporting the treaty exemption.

    Conversely, there may be an opportunity to avoid home country tax on directors' fees by paying US tax at the generally lower US rates and claiming an exemption from home country tax under any of a number of US tax treaties or domestic rules under foreign law. Similar exemptions may apply to other self-employed foreign nationals who make business trips to the United States, such as professionals (lawyers, accountants and doctors), entertainers, athletes and business consultants.

Students or trainees

71. A nonresident alien working in the United States as a student or trainee on an F or J visa may be exempt from US tax under a special provision of the 1961 Fulbright Act if all remuneration is paid by a non-US employer. Such individuals may also be exempt from FICA.

Foreign government and international organization employees

72. Non-US citizens who work as employees of a foreign government or of an international organization are almost always classified as nonresident aliens even though they live and work in the United States. Additionally, they are generally exempt from US tax on their compensation. They are likely to be taxed on US source investment income, however, including gains from the sale of a principal residence that do not qualify for exclusion.

Former US citizens and long-term permanent residents

73. Nonresident aliens who were previously US citizens or long-term permanent residents (green card holders) may be subject to special rules of taxation if they are deemed to have expatriated to avoid US tax. A long-term permanent resident (for this purpose) is generally defined as an individual who was a lawful permanent resident (Green Card Holder) in at least 8 taxable years during the period of 15 taxable years ending in the year in which the permanent residence status is terminated. A long-term permanent resident will generally be deemed to have expatriated to avoid tax if (s)he meets one of three subjective tests.

    - If the average annual net income tax of the individual, for the period of 5 taxable years ending in the year of expatriation exceeds certain thresholds ($147,000 for 2011);
    - If the net worth of the individual as of the date of expatriation exceeds certain thresholds ($2 million in 2011);
    - If the individual fails to certify, under penalty of perjury, that (s)he has met US income tax reporting requirements for the 5 preceding taxable years.

    Under regulations enacted as part of the Heroes Earnings Assistance and Relief Tax Act on June 17, 2008, a US citizen who relinquishes his/her citizenship, or a long-term resident who terminates permanent residence status would be subject to a "mark-to-market" tax if the individual met one of the three objective tests listed above. The mark-to-market tax effectively would subject these individuals to tax on the net unrealized gains on their worldwide property as if such property were sold for the fair market value on the day before the expatriation date. More detailed information on this tax is available in paragraph 109.

Stock options

74. Foreign nationals who hold stock options from a foreign employer and who exercise them at a point where they are nonresident aliens will generally be taxable on the spread only to the extent that it represents compensation for services rendered within the United States (e.g., US workdays/business trips). Where the individual is resident of a country which has a bilateral treaty with the US, that portion of the spread may even be exempt from tax, if facts and circumstances support.

The taxation of self-employment income

75. A nonresident alien is generally only subject to federal income tax on self-employment income for services rendered within the United States. If part or all of the self-employment income is 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. Nonresident aliens are generally not subject to self-employment tax, even on income for services performed in the United States.

The taxation of investment income

76. Nonresident aliens are generally exempt from US tax on most or all non-US source investment income, and taxable only on certain kinds of US source income. Dividends from US corporations are 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.

77. 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 property (such as the sale of a US home – refer to paragraph 36) 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 gain is US source. Capital gains from securities and other assets are generally considered to be US source if, at the time of sale, 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 15, 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 rule described in paragraph 34 is applied.

Deductions allowed under US law

78. A nonresident alien may claim deductions for only certain limited types of expenses. These include expenses relating to the earning of US source salary or self-employment income, such as state and local income taxes on such income, certain business expenses and contributions to an IRA. A nonresident alien may also deduct contributions to US charities and certain types of casualty losses. Only one personal exemption deduction may be claimed in most cases.

79. The deduction for US living expenses may be claimed by a nonresident alien whose tax home is outside the United States, in the same manner as a resident alien (see paragraphs 52-57). Similarly, the tax exemption for housing that is provided as a condition of employment may be available in appropriate situations. A nonresident alien whose tax home shifts to the United States may claim a deduction for moving expenses for his or her spouse and children (subject to certain limitations in the law), in accordance with the general rules described in paragraph 58.

Rates and filing status

80. 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 employment (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 (though, again, lower treaty rates may apply). A married nonresident alien must file using the married separate tax rates. The nonresident alien tax return is IRS Form 1040NR.

State and local taxes

81. 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 subject to federal tax at only the 30-percent gross tax rate (see above) may be exempt from state and local tax in many states. Although an individual who is a nonresident alien for federal income tax purposes usually will 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)

82. In general, a nonresident alien who works as an employee is subject to US Social Security and Medicare tax (FICA) on salary allocable to days worked within the United 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 subject to FICA, which often requires the employing entity to establish a US payroll system and to pay and withhold FICA on the US workday portion of remuneration. However, remuneration for days worked in the US may be exempt from FICA if the individual remains subject to social security tax under the laws of his/her home country and that country has a totalization agreement with the United States.

    Self-employed nonresident aliens will often be exempt from US Social Security tax (i.e., self-employment tax) under a special exemption in the US Social Security tax rules, whether or not a totalization agreement would otherwise apply to their situation.

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Step 3: What to do before you arrive in the United States

Work permits

83. Individuals who plan to move to the United States for temporary assignments must apply for and obtain from the US Citizenship and Immigration Services (USCIS) (formerly known as the US Immigration and Naturalization Service (INS)) visas that permit them to work in the United States. Typically, the visa will be a nonimmigrant visa, such as an E, H or L visa. Those who plan to remain on a non-US payroll and work for a relatively short time period in the United States (i.e., several weeks) may be able to obtain a B-1 visa (business visitor visa). The type of visa will depend on the nature of the proposed function in the United States and the proposed duration of the stay. A visa that permits an individual to work in the United States for several years may take several months to obtain. Because the USCIS rules are extremely complex, professional advice from an immigration attorney should be sought well in advance of any intended move to the United States.

84. A nonimmigrant visa is usually limited to a fixed number of years. An immigrant visa, for permanent residence (a green card), allows individuals to remain indefinitely in the United States even if they change employment or cease to work at all. Obtaining a green card is more complex than obtaining a nonimmigrant visa, the process usually takes much longer and the tax implications of having one are complex. Thus, advice should be sought prior to making application for permanent residence to make sure that you understand all of the benefits and obligations involved.

Employment contracts

85. It is not essential under US tax laws for individuals working in the United States to have employment contracts with their "sending" employers or their "host" employers. However, there may be US or home country tax advantages to having an employment agreement that contains certain provisions. For example, if the tax exemption for employer-provided housing is available (see paragraph 26), the employment agreement should require the individual to live in the company-provided housing and to meet other relevant requirements.

86. Whether or not an individual has or expects to have a binding employment contract with his or her employer, before beginning a US assignment he or she should ensure that all elements of the compensation package have been agreed upon. A foreign national's compensation package may include some or all of the following items, and will specify the extent to which the employer will reimburse the employee for any taxes that might be imposed on particular items:

    - Housing allowance;
    - Cost of living allowance (COLA);
    - School fees (tuition) for dependent children;
    - Overseas premiums;
    - Home leave allowances for family members;
    - Company car;
    - Moving expense reimbursement and "settling-in" allowance;
    - Home maintenance expenses incurred in renting a residence in the home country;
    - Tax equalization reimbursements;
    - Fringe benefits, including insurance plans (medical, life and disability), pension plan coverage, stock options and deferred compensation.

Time of payment of salary or bonuses for prior services

87. The extent to which salary or bonuses 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 US. 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.

Resident alien tax status

88. 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 most assignees who work in the US are classified as resident aliens during their US assignment after the year that they move into the United States, 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 16). 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

89. 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 36-40) 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 35). It is also wise to take steps to minimize any exposure to US estate and gift taxes (see paragraphs 110-121).

Social Security tax issues

90. An individual coming from a country which has a Social Security "Totalization" agreement with the United States should consider whether it is preferable to pay home country social security tax rather than the US Social Security tax and Medicare tax (see paragraph 66). Those who wish to stay in their home country social security system should take steps to retain their home country coverage prior to moving to the United States. Conversely, those who would rather pay into the US system must make sure that their employment relationship and assignment letters support this position, but the decision should only be made in light of all related consequences.

91. Once a visa is obtained from the USCIS 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. The application is made on Form SS-5, and obtaining the number can take up to two months. Foreign nationals working in the US need US Social Security numbers for US income tax purposes even if they are exempt from US Social Security tax. If any of the individual's accompanying family members are not entitled to a Social Security number, each is still generally required to obtain an Individual Taxpayer Identification Number (ITIN). For example, an individual's spouse will need an ITIN if the couple elects to file a joint US tax return and any children require ITINs to be claimed as dependents on a tax return.

Pension plan coverage

92. If the foreign company that is sending an individual to the United States maintains a private company-sponsored or foreign government-sponsored retirement plan in which the individual participates, the employee 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 current contributions to the plan, as well as the individual's share of the fund's current investment income, will be subject to US tax. Because of very strict US rules regarding deferred compensation plans, including foreign pension plans, we recommend that you consult with a PricewaterhouseCoopers IAS professional prior to taking your US assignment to ensure that you resolve any potential compliance issues with respect to your non-US deferred compensation or pension arrangement.

93. Foreign nationals working in the US should also inquire whether they will be eligible to participate in any US tax-qualified retirement plans during their US assignments 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 permit them to contribute up to $16,500 of salary (2011 limit) on a tax-deductible basis and to benefit from matching employer contributions. Tax 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

94. Before moving to the United States, assignees 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 assignee'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 US prior to the assignment (see paragraph 17) – the US interview should take place before the assignee exceeds this 10-day period.

Additional matters

95. Prior to a move to the US, assignees should obtain information about the following:

    A. **US bank account** – Begin the process of obtaining a US bank account (checking account) before moving to the United States. Many banks will require a US Social Security number before an account can be opened, but because a Social Security number may not be obtained until the assignee has remained in the United States for a few months, a substantial delay could occur. The assignee may wish to consult with a bank in his or her home country that has a retail branch in the United States if such a delay is anticipated.

    B. **Customs rules** – Review the US customs rules regarding the importation of personal effects into the United States.

    C. **Medical insurance** – Because the United States does not have a national health system, take steps to ensure that the individual and his or her family have adequate medical insurance for the duration of the US assignment.

    D. **Driver's licenses** – Ascertain whether the state where the assignee will live requires all members of the family who drive to obtain new automobile driver's licenses. If so, driver's license applications should be filed as soon as they have moved to the United States. Additionally, an international driver's license should be considered prior to arriving in the US.

    E. **Wills** – Consult with an advisor to determine whether the assignee should prepare a US or foreign will covering US or foreign assets.

F. **Insurance policies** – Review all home country insurance policies (home, auto, accident, life, medical, disability and others) to determine whether changes are advisable and whether new US policies should be obtained.

G. **US credit card** – Consider obtaining a US credit card. If the assignee does not have a credit history in the United States, the financial institution issuing the credit card may require him or her to have a US guarantor, such as the US employer.

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This document was not intended or written to be used, and it cannot be used, for the purpose of avoiding tax penalties that may be imposed on the taxpayer.	**Menu**

Step 4: What to do when you arrive in the United States

US payroll withholding

96. 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 expedite obtaining a work visa from the USCIS and, as soon as it is obtained, to apply for a US Social Security number. As mentioned in paragraph 91, if any family member(s) is not entitled to a Social Security number, 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 and, to the extent possible, the necessary tax planning regarding compensation and assets should be implemented.

97. As soon as the assignee goes onto a US payroll system, the following payroll matters should be attended to:

    1. **IRS Form W-4** – Every assignee working in the US should complete Form W-4 and give it to his or her employer so that appropriate tax rates, additional income, deductions and credits will be reflected in the individual's wage withholding. A US tax consultant can assist in completing this form.

    2. **Possible nonresident state tax status –** If it appears that the assignee may file as a nonresident for state and local tax purposes and that he or she will make business trips outside the state, the assignee should arrange to reduce state and local wage reporting and withholding tax accordingly.

    3. **Nonresident alien status –** If the assignee expects to be classified as a nonresident alien for the year for federal income tax purposes and if he or she expects to make business trips outside the United States, the assignee should arrange with his or her employer's payroll department to reduce federal income tax withholding and reporting.

Estimated tax payments

98. 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 due on the salary and withholding is generally technically required. In addition, a foreign national who is classified as a resident alien may have outside 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:

    1. 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 required US tax payment due on the foreign-paid salary.
    2. Alternatively, estimated tax payments may be required to be made on a quarterly basis, based on the assignee's income for the calendar quarter that it is taxable but not subject to wage withholding. The due dates for estimated tax payments are April 15, 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.

    Taxpayers who make estimated tax payments on wages rather than have taxes withheld as required should be aware that such alternative methods may cause the employee and/or employer to be subject to penalties.

Step 5: What to do at the end of the year

Tax return

99. A US federal income tax return must be filed for the year if the assignee's gross income subject to US tax is at least $3,700 for the year (2011 amount; the threshold may be higher for those who are resident aliens for the entire year). 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. Extending the time to file does not extend the time to pay the tax due.

100. Nonresident aliens and dual-status aliens must file with the IRS in Austin, Texas. Resident aliens living in the United States are generally required to file at the IRS Center for the region in which they live.

Payment of income taxes

101. If, by April 15, the assignee has not paid in enough tax for the prior year through wage withholding 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. If tax was withheld from the individual's remuneration from employment, his or her employer should provide the assignee with a Form W-2 to be attached to his or her tax return as evidence of the withheld tax. When the return is filed, if too much tax has been paid in, the taxpayer will be entitled to a refund of the excess.

102. Individuals who have not paid enough tax (through wage withholding 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. These may include a 5 percent per month late filing penalty (not to exceed 25 percent), and a 0.5 percent per month late payment penalty (also not to exceed 25 percent). An additional penalty of 20 percent may be imposed in the case of negligence or if a return is filed that takes an overly aggressive position on a particular issue. A fraud penalty of up to 75 percent may be imposed in extreme cases. Most penalties and interest are imposed as a percentage of the tax due.

103. Individuals who are resident aliens for part or all of the year may also be required to file certain information returns regarding foreign corporations in which they own 5 percent or more of the stock; 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, Form TD F 90-22.1 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.

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Step 6: What to do when you leave the United States

Residency status for the year

104. As soon as an assignee 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 many cases, an assignee will be a resident alien for the portion of the year preceding a move from the US, and a nonresident alien for the remainder of the year (though full-year residency is also generally available). 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 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, an assignee may wish to either prolong resident alien status or ensure that it is terminated after moving from the United States.

105. Issues that may be affected depending upon an assignee's US resident or nonresident alien status for the year include the following:

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

    2. **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) provided he or she is not subject to the anti-expatriation rules (refer to paragraph 108). However, even if the individual may qualify for the exclusion, he or she may still be subject to a 10-percent withholding tax on the gross sales price at the time of sale. A US federal income tax return would then need to be filed to claim a refund for part or all of the 10-percent tax.

    3. **Pre-assignment bonus –** A pre-assignment bonus for work to be done in the foreign country after a move will be subject to US tax if it is paid to the individual while he or she is a US resident alien. This may be advantageous if the US tax rates are lower than the relevant foreign tax rates and if the bonus is protected from foreign tax by treaty or otherwise.

    4. **Investment income –** Investment income earned outside the United States, including foreign 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, assignees 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 US.

Reporting departure from the United States

106. In the year a foreign national moves out of the United States, US law technically requires him or her to file a provisional federal income tax return, Form 1040C, for the current year up to the date of such move out of the United States. The completed Form 1040C should be presented to the IRS district office, and all federal income tax up to that date should be paid. It is important to note that Form 1040C is not 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. Employers may also guarantee payment of an employee's taxes via Form 2063 (also known as a "sailing permit").

Exit interview

107. 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

Expatriations before June 17, 2008

108. Long-term US residents who formally relinquish their green cards (or claim US nonresidency under a treaty) could be subject to certain US penalty taxes. Under rules that took effect in 1996, if an individual held a green card in eight of the prior 15 years and if the individual gave up the green card (or claimed US nonresidence under a treaty), for the following 10-year period the individual's US tax might have been calculated under a special set of rules. For individuals in this situation who have US source income at any time during the following 10-year period (for example, certain interest or capital gain income), the income may be taxed at regular US graduated tax rates as if the individual were still a US resident. Individuals in this situation would also be required to file detailed information about their financial situations with the IRS for the tax year in which they moved out of the United States. Late in 2004, Congress passed the American Jobs Creation Act of 2004, under which the rules applicable to these individuals was revised. Specifically, the revised rules provided specifics on how relinquishment of a green card was to take place and increased penalties for noncompliance with disclosure requirements. These provisions were effective for expatriations after June 3, 2004 but before June 17, 2008.

Expatriations after June 17, 2008

109. On June 17, 2008, the Heroes Earnings Assistance and Relief Tax Act replaced the expatriation rules previously found under Internal Revenue Code §877 with new Internal Revenue Code §877A. Under the new §877A rules, a US citizen who relinquishes his/her citizenship, or a long-term resident who terminates permanent residence status would be subject to a "mark-to-market" tax if the individual met one of three objective tests. The mark-to-market tax effectively would subject these individuals to tax on the net unrealized gains on their worldwide property as if such property were sold for the fair market value on the day before the expatriation date. Section 877A is effective for expatriations occurring on or after June 17, 2008 and the details of the new law are outlined as follows:

Individuals Subject to the Exit Tax: The exit tax provisions of §877A apply to certain US citizens who relinquish their citizenship and long-term residents who terminate their permanent residence status (known as "expatriation"). 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 the residency termination occurs. The mark-to-market tax would apply to any US citizen who relinquishes citizenship and any long-term resident who terminates US residency if the individual:

1. Has an average annual net income tax liability for the five preceding years ending before the date of expatriation that exceeds $147,000 (2011 amount, adjusted annually for inflation);

2. Has a net worth of $2 million or more on the date of expatriation; or

3. 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 the Secretary may require.

Certain exceptions apply to individuals born with dual citizenship and those who relinquish US citizenship prior to age 18½ (provided certain requirements are met).

Date of Expatriation: §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 in front of a consular officer and witnesses 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 permanent residency status.

Mark-to-Market Tax Imposed: Section 877A subjects expatriating individuals to tax on the net unrealized gain on their world wide property as if such property were sold for fair market value on the day before the expatriation date. 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 would generally 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.

Deemed Sale of Property upon Expatriation: The deemed sale rule generally applies to all property interests held by the individual on the date of expatriation. Special rules apply in the case of certain deferred compensation items, specified tax deferred accounts, and interests in nongrantor trusts.

Any net gain on the deemed sale is recognized to the extent it exceeds $600,000 ($1.2 million in the case of married individuals filing a joint return, both of whom relinquish citizenship or terminate residency). The $600,000 amount is increased by a cost of living adjustment factor for calendar years after 2008 ($636,000 for 2011).

As the expatriation rules are rather complex, these rules should be discussed with a US tax professional prior to any green card relinquishment and prior to any move out of the United States.

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Step 7: Other matters requiring consideration

Property and gift taxes

110. 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 the property tax by giving away their assets prior to death. The federal tax rates are graduated and reach 35 percent (2011 rate). In addition, many states impose death taxes, although the rates are lower than the federal rates.

111. 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.

112. 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. For those who have nonimmigrant visas and have not applied for green cards, and who have been living in the United States for less than five years, it is likely (although not necessarily certain) that they are not US-domiciled. However, for those who have been living in the United States on a nonimmigrant visa for more than five years, there is a greater risk that they will be considered US-domiciled.

113. Individuals who are domiciled in the US are subject to federal estate and gift tax on their worldwide assets (usually including life insurance proceeds), at rates of up to 35 percent (2011 rate). An exemption is allowed in 2011for the first $5,000,000 of assets that are transferred by gift or bequest. Additionally, assets bequeathed to an individual's spouse are exempt from estate and gift tax until the spouse's death if such spouse is a US citizen.

114. Individuals who are not US-domiciled are subject to US federal estate and gift tax on only US-situs assets, which include US real property, personal property located within the United States, stock in US companies, debt obligations of US persons (subject to exemptions for bank accounts and most publicly traded notes and bonds) and certain other assets. The same tax rates apply, except that only the first $60,000 of assets is exempt from tax. If, at death, the individual remains domiciled in certain countries that have an estate and gift tax treaty with the United States, the $60,000 exemption level may be higher, based on the particular facts.

    If an individual remains domiciled in one of certain other countries with newer estate and gift tax treaties, the $60,000 exemption level may not be increased, but his or her US estate and gift tax may be limited to US-based property and certain US-based business assets.

115. The newer treaties contain a rule that provides that if an individual becomes US-domiciled but remains subject to estate and gift tax in his or her home country, the individual's potential US property and gift tax will be imposed only on US property and business assets until a window period has elapsed (usually between five and 10 years).

116. As a practical matter, assignees should be aware that no matter what country they are from and what their US visa status is, if they purchase US real property (for example, a US home), they will be subject to potential US estate tax should they die unexpectedly while still owning the property. Such individuals who are not US-domiciled who own other US investments, such as stocks and bonds, could also be subject to potential estate tax on those assets. If an assignee decides to apply for a green card, he or she could also become subject to potential US estate and gift tax on assets located outside the United States, unless a treaty exempts such transfers during the transition period.

117. Although the federal gift tax is imposed on US-domiciled individuals with respect to gifts of assets located anywhere in the world, if a nondomiciled foreign national makes a gift of US-based assets, gift tax is only imposed if the gift is of tangible property. Because US stocks and bonds are considered to be intangible property, gifts of those assets are exempt from gift tax, even though the same assets might be subject to estate tax if owned at death.

118. If a foreign national's home country imposes a gift tax on its residents but the individual becomes exempt from that tax because of his or her temporary nonresidence there, home country estate and gift tax planning may be possible during the US assignment. Individuals who are not US-domiciled and who make substantial gifts to their children during a US assignment may be able to escape both US and home country gift tax and thereby avoid the home country estate and gift tax that would have been imposed if they had transferred the same assets to their children while still resident there.

119. If an assignee becomes US-domiciled, there are steps that should be taken in order to minimize any potential estate and gift tax. These include making gifts to a spouse (limited to $136,000 (2011 limit) per year if the spouse is not a US citizen), making a spouse the owner of any insurance policies on the assignee's life, making a will that establishes a credit shelter trust in order to ensure that both the assignee and his or her spouse utilize separate exemption amounts, and purchasing term insurance to cover the amount of any potential estate and gift tax.

120. As discussed in paragraph 108, under rules that took effect in 1996 (for expatriations prior to June 17, 2008), individuals who have held a green card in eight of the prior 15 years and who relinquish such green card or claim US nonresidency under a treaty could be subject to a special set of US income, estate and gift tax rules during the subsequent 10-year period, including if they make gifts of US-based property to anyone during the 10-year period. For expatriations occurring on or after June, 17, 2008, the estate and gift tax rules are complex and these rules should be discussed with a US tax professional prior to any green card relinquishment and prior to any move out of the United States.

121. US 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 totaling more than $14,375 must be reported to the IRS or the possibility exists that the gifts will be taxed to the individual as income and also be subjected to a 25-percent penalty.

Miscellaneous US taxes

122. In addition to federal and state income, estate and gift taxes, miscellaneous taxes are imposed, mostly by states and municipalities. These include sales and excise taxes on retail purchases, and real and personal property taxes.

Sales taxes

123. Sales taxes are imposed by most states as well as by many municipalities and counties in the United States. They are imposed as a percentage of the retail sales price, and may rise as high as 11 percent. Each state has its own tax rate and rules regarding which purchases are taxable and which are nontaxable. The intent of the sales tax is similar to that of a value-added tax in most European countries. However, the calculations and methods of collecting the tax at the point of sale are different.

Excise taxes

124. 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

125. 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 income tax rates

Individual income tax rates for 2011

Married Filing Jointly & Surviving Spouses

Taxable income over	Not over	Tax on Column 1	Percentage on excess
0	17,000	0.00	10%
17,000	69,000	1,700.00	15%
69,000	139,350	9,500.00	25%
139,350	212,300	27,087.50	28%
212,300	379,150	47,513.50	33%
379,150	and above	102,574.00	35%

Single

Taxable income over	Not over	Tax on Column 1	Percentage on excess
0	8,500	0.00	10%
8,500	34,500	850.00	15%
34,500	83,600	4,750.00	25%
83,600	174,400	17,025.00	28%
174,400	379,150	42,449.00	33%
379,150	and above	110,016.50	35%

Married Filing Separately

Taxable income over	Not over	Tax on Column 1	Percentage on excess
0	8,500	0.00	10%
8,500	34,500	850.00	15%
34,500	69,675	4,750.00	25%
69,675	106,150	13,543.75	28%
106,150	189,575	23,756.75	33%
189,575	and above	51,287.00	35%

Head of Household

Taxable income over	Not over	Tax on Column 1	Percentage on excess
0	12,150	0.00	10%
12,150	46,250	1,215.00	15%
46,250	119,400	6,330.00	25%
119,400	193,350	24,617.50	28%
193,350	379,150	45,323.50	33%
379,150	and above	106,637.50	35%

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Appendix B: Individual key rates and limits

Individual key rates and limits for 2011

FICA Taxes	2010		2011	
Social Security wages:	$106,800		$106,800	
SS maximum - 6.2%:	$6,621.60		$4,485.60*	
Medicare - 1.45%:	No Ceiling		No Ceiling	
* For 2011, the employee tax rate for social security is 4.2% (employer tax rate remains unchanged at 6.2%).				
Personal Exemption	**2010**		**2011**	
Personal exemption:	$3,650		$3,700	
PE Phase-out	**2010**		**2011**	
The phase-out of personal exemptions begins when Adjusted Gross Income (AGI) reaches:	Single MFJ MFS HOH	- - - -	Single MFJ MFS HOH	- - - -
For 2011, the phase-out of personal exemptions does not apply. Therefore, for 2011, there are no limitations for the deductible amount of personal exemptions.				
Standard Deduction	**2010**		**2011**	
Standard deduction:	Single MFJ MFS HOH	5,700 11,400 5,700 8,400	Single MFJ MFS HOH	5,800 11,600 5,800 8,500
Itemized Deductions	**2010**		**2011**	
The reduction of itemized (not standard) deductions begins when AGI reaches:	MFS All Others	- -	MFS All Others	- -
For 2011, the overall limitation on itemized deductions does not apply. Therefore, for 2011, there are no limitations for the reduction of itemized deductions.				
401(k)	**2010**		**2011**	
401(k) maximum pre-tax contribution:	$16,500		$16,500	
Maximum wages considered:	$245,000		$245,000	
Standard Mileage rates	**2010**		**2011**	
Standard mileage rates:	Business Charitable Medical & Moving	50¢ 14¢ 16.5¢	Business Charitable Medical & Moving	51¢ 14¢ 19¢

Section 911	2010		2011	
Annual exclusion:	$91,500		$92,900	
Base housing amount:	$14,640		$14,864	
Standard qualified housing expense limit:	$27,450		$27,870	
AMT	**2010**		**2011**	
Alternative minimum tax exemption:	Single MFJ MFS	47,450 72,450 36,225	Single MFJ MFS	48,450 74,450 37,225

Capital Gains Tax	2010	2011
Long term:	15%	15%
Lower income taxpayers:	0%	0%
Short term:	Ordinary rates	Ordinary rates
Dividends	**2010**	**2011**
Dividend rate (certain exceptions apply):	15%	15%
Child Tax Credit	**2010**	**2011**
Child tax credit:	$1,000	$1,000
Supplemental Withholding Rate	**2010**	**2011**
Supplemental withholding rate:	25%	25%
Supplemental wages greater than $1,000,000:	35%	35%

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Appendix C: Total agreements

Countries with which the United States currently has totalization agreements with are:

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

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Appendix D: US contacts and offices

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Offices
A complete listing of PricewaterhouseCoopers' US offices can be found on pwc.com at the following **weblink**.

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