USA Tax Knowledgebase

Employee personal income tax

Tax residence

An alien's residence status for U.S. tax purposes is determined through specific tests. Generally, lawful permanent residents (green card holders) are considered residents, and their status remains unchanged until they formally relinquish their green card. Even if they move abroad permanently or indefinitely, they are still taxed as residents until they relinquish their green card. Special rules apply to individuals who have held a green card for at least eight of the 15 years preceding its relinquishment. It's essential to seek professional tax guidance before acquiring or relinquishing a green card.

Individuals who meet the "substantial presence test" are also classified as residents. This test is met if they are in the U.S. for at least 31 days in the current year and accumulate 183 equivalent days over the current and prior two years. The calculation for the 183 days is as follows: each day in the current year counts as one full day; each day in the previous year counts as one-third of a day; and each day in the second preceding year counts as one-sixth of a day.

However, if an individual has fewer than 183 days of presence in the U.S. during the current year and can prove they have a "tax home" and a "closer connection" to another country for the entire year, they may still be considered a non-resident alien, even if they meet the 183-day requirement. Exceptions are available for specific individuals, such as students, teachers, trainees, foreign vessel crew members, employees of foreign governments and international organisations, and certain medical cases. Special rules apply to determine residency status during the first and last years of residency.

Resident aliens often benefit from lower U.S. taxes than non-resident aliens, as they are eligible for higher deductions and more favourable tax rates for certain married taxpayers. As a result, some non-resident aliens may choose to elect resident status if they meet specific criteria.

The U.S. has tax treaties with several countries to prevent double taxation. If a tax treaty exists between the U.S. and an individual's home country, the treaty provisions may override the U.S. resident alien rules. In many cases, individuals who are tax residents in both the U.S. and their home country can be classified as non-resident aliens for U.S. tax purposes if they can prove their "permanent home" is in their home country. A form must be filed to claim non-resident alien status based on a tax treaty.

If a green card holder claims treaty benefits to override residency rules, they may be subject to expatriation rules. It's essential to consult a tax professional before claiming treaty benefits.

Conditions for the obligation to file the PIT

U.S. citizens and residents, including resident aliens and citizens living abroad, are required to pay federal taxes on their worldwide income. This includes the ability to claim credits for foreign income taxes, subject to certain limitations.

Taxation of non-resident aliens
Nonresident aliens are taxed only on effectively connected income (ECI) and U.S.-source non-ECI. Special tax rules may apply to former U.S. citizens and long-term residents upon expatriation or after they have left the country.

When should you file a U.S. tax return?
You are generally required to file a U.S. tax return if:

- Your income exceeds the filing requirement thresholds, or
- You have more than $400 in net earnings from self-employment (e.g., side jobs or freelance work).

Filing status	**Under 65**	**65 or older**
Single	$14,600	$16,550
Head of household	$21,900	$23,850
Married filing jointly	$29,200 (both under 65)	$30,750 (one spouse 65+) / $32,300 (both 65+)
Married filing separately	$5	$5
Qualifying surviving spouse	$29,200	$30,750

State taxes and anti-deferral rules
In addition to federal taxes, most states and the District of Columbia impose income taxes on nonresidents and residents within their territories. U.S. citizens and residents may also

be subject to anti-deferral rules related to foreign subsidiaries if they own a sufficient amount of stock in those entities, similar to the rules that apply to corporations.

For more information
To determine whether you need to file a U.S. tax return, consult the IRS website: IRS Filing Requirements.

Tax report in question (Form name)

Form 1040 – U.S. individual income tax return
The standard form used by U.S. taxpayers to file their annual income tax returns with the IRS. It reports income, deductions, and credits and calculates the tax liability or refund.
Filing deadline: April 15 (or the next business day if April 15 falls on a weekend or holiday). Extensions can be requested until October 15.

Form 1040-SR – U.S. Tax return for seniors
A version of Form 1040 designed for taxpayers who are 65 or older. It includes larger print and provides a simpler format for seniors.
Filing deadline: April 15 (same as Form 1040).

Form 1040-X – Amended U.S. individual income tax return
Used to correct errors or make changes to a tax return that has already been filed.
Filing deadline: Generally within 3 years from the original filing date, or within 2 years after the tax was paid, whichever is later.

Form 1040-ES – Estimated tax for individuals
Used to pay estimated tax payments on income not subject to withholding, such as self-employment income, interest, dividends, or rental income.
Filing deadline: Quarterly due dates: April 15, June 15, September 15, and January 15 of the following year.

Form 1040-NR – U.S. non-resident alien income tax return
Filed by nonresident aliens who have income from U.S. sources or who need to claim tax treaty benefits.
Filing deadline: June 15 (if you were a nonresident alien during the entire year). Extensions may be requested.

Form 1040-NR-EZ – U.S. income tax return for certain non-resident aliens with no dependents
A simplified version of Form 1040-NR for certain nonresident aliens with simpler tax situations.
Filing deadline: June 15 (same as Form 1040-NR).

Form 4868 grants an automatic 6-month extension for filing personal income tax returns. The deadline for filing Form 4868 is typically April 15 (or the next business day if April 15 falls on a weekend or holiday).

Form W-2 – Wage and tax statement
Issued by employers to report wages, tips, and other compensation paid to employees, as well as the taxes withheld from their pay.
Filing deadline: Employers must issue Form W-2 to employees by January 31. Employees must file by April 15.

Form 1099-MISC – Miscellaneous income
Used to report income that is not wages or salary, such as self-employment income, rent, prizes, and other forms of income.
Filing deadline: Issued by January 31 for income earned in the previous year.

Form 1099-NEC – Nonemployee compensation
Used to report payments made to independent contractors or nonemployees, such as freelancers or consultants.
Filing deadline: January 31.

Form 8862 – Information to claim earned income credit after disallowance
Filed by taxpayers whose Earned Income Tax Credit (EITC) was previously disallowed and who want to claim it again.
Filing deadline: April 15 (or the filing deadline for the tax year in question).

Form 8863 – Education Credits (American opportunity and lifetime learning credits)
Used to claim education-related tax credits, such as the American Opportunity Credit and the Lifetime Learning Credit.
Filing deadline: April 15.

Form 8889 – Health Savings Accounts (HSAs)
Used to report contributions to and distributions from a Health Savings Account (HSA).
Filing deadline: April 15.

Form 8880 – Credit for qualified retirement savings contributions
Used to claim a tax credit for contributions to retirement plans, such as an IRA or 401(k).
Filing deadline: April 15.

Form 8862 – Information to claim earned income credit after disallowance
Used to requalify for the Earned Income Credit after a previous disallowance.
Filing deadline: April 15.

Form 8938 – Statement of specified foreign financial assets
Used by U.S. taxpayers to report foreign assets exceeding certain thresholds.
Filing deadline: April 15 (with an extension to October 15).

Form 8865 – Return of U.S. persons with respect to certain foreign partnerships
Filed by U.S. persons involved in certain foreign partnerships.
Filing deadline: April 15 (extension available).

Form 8949 – Sales and other dispositions of capital assets
Used to report capital gains and losses from the sale of assets, such as stocks or real estate.
Filing deadline: April 15 (with an extension to October 15).

Form 9465 – Instalment agreement request
Used to request a payment plan for tax liabilities that cannot be paid in full by the due date.
Filing deadline: Can be filed with the original tax return or separately.

Tax year

The United States tax year generally corresponds to the calendar year, from January 1 through December 31.

Tax rates

For a single taxpayer, the rates are:

Tax rate on taxable income from . . .		up to . . .
10%	$0	$11,600
12%	$11,601	$47,150
22%	$47,151	$100,525
24%	$100,526	$191,950
32%	$191,951	$243,725
35%	$243,726	$609,350
37%	$609,351 and up	

Tax returns and payment of tax

Individual income tax returns (Form 1040) must be filed by the 15th day of the fourth month following the end of the tax year (typically April 15). If the deadline falls on a Saturday, Sunday, or federal holiday, the return is considered on time if filed by the next business day. If the taxpayer cannot meet the deadline, they may request an automatic six-month extension by submitting Form 4868 (Application for Automatic Extension of Time to File U.S. Individual Income Tax Return) by the original due date. It's important to note that an extension only applies to the filing deadline, not the payment deadline. If taxes are not paid by the original due date, interest will begin to accrue.

Married couples can usually file jointly only if both spouses are either U.S. citizens or residents. However, if only one spouse is a full- or part-year citizen or resident, a joint return may still be filed if both spouses agree to be treated as full-year residents for tax purposes on their combined worldwide income.

In general, filing jointly will result in a lower tax liability than filing separately, though this can only be confirmed after reviewing the specific facts and circumstances of the taxpayers. Married non-resident aliens (where both spouses are non-resident aliens) are not eligible to file jointly and must file separately, using the tax table for married individuals filing separately. Non-resident aliens cannot file as heads of household.

If federal income tax is owed, payment is due on 15 April in order to avoid interest and penalties for non-payment.

Most types of US-source income paid to a foreign person are subject to tax at a rate of 30%, collected through withholding, although a reduced rate or exemption may apply under an applicable tax treaty or statutory exemption. In general, a person who makes a payment of US-source income to a foreign person must withhold the proper amount of tax and deposit it with the US government, report the payment on Form 1042-S, and file a Form 1042 by 15 March of the year following the payment(s).

Income tax is withheld from employee compensation. Citizens, resident aliens, and non-resident taxpayers with significant income not subject to withholding (e.g. self-employment income, interest, dividends) must generally make quarterly payments of estimated tax due 15 April, 15 June, 15 September, and 15 January following the close of the tax year. Non-resident aliens who do not have any income subject to payroll withholding tax must make three estimated tax payments (rather than four) due 15 June, 15 September, and 15 January, with 50% due with the first payment.

Personal deductions (salary)

Individual taxpayers are entitled to a standard deduction (USD 14,600 for single taxpayers and USD 29,200 for married taxpayers filing jointly for tax year 2024) from adjusted gross income in calculating taxable income, or they may “itemise” deductions for items including mortgage interest, medical and dental expenses, state and local income or sales and property taxes, investment interest expense, and charitable contributions, subject to certain
limitations. If you file as a head of household, the standard deduction is USD 21,900.

Credits are also available. In addition, a 20% deduction is available against "domestic qualified business income" from a partnership, S corporation, or sole proprietorship. The deduction is subject to limitations for taxpayers with taxable income in excess of a threshold amount (USD 364,200 for married taxpayers filing jointly and USD 182,100 for single taxpayers for the tax year).

Foreign income taxes generally may offset the US income tax on taxable income, in whole or in part, to the extent the US tax is allocated to foreign-source taxable income and additional conditions and limitations are satisfied.

Tax allowances

Citizens, resident aliens, and non-resident aliens may claim a child tax credit if the child is a resident of the United States. If the child has not reached the age of 17 by the end of the year, a tax credit is allowed for up to USD 2,000 per child (of which up to USD 1,700 is refundable). The amount of the credit is reduced once the taxpayer's income reaches USD 400,00 for married filing jointly and USD 200,000 for singles for all other filers. P.L. 115-97 also provided a USD 500 (per dependent) non-refundable credit for a qualifying dependent other than a qualified child.

Additional tax reliefs (not mentioned above)

Dependent care expenses paid up to USD 3,000 for one qualifying child or USD 6,000 for more than one qualifying child are eligible for a credit equal to 20% to 35% of the expenses paid, depending upon the taxpayer's adjusted gross income. The credit is non-refundable.

How to submit the tax return

Ways to file for free

- Free File - If your adjusted gross income is $84,000 or less. If higher, you can use Free File Fillable Forms.
- Direct File - Prepare and file your taxes online – for free – directly with the IRS.
- IRS-certified volunteers – If you earn $67,000 or less, have a disability, are 60 years or older or need language support.

You can prepare and file your tax return using paper forms. In this case, you can file the paper forms by mailing them to the IRS. The mailing address will depend on the form you file and the state you reside in. For detailed and up-to-date information, please consult the IRS website:
https://www.irs.gov/filing/where-to-file-paper-tax-returns-with-or-without-a-payment

If you have wages, file Form 1040, U.S. Individual Income Tax Return.
If you're a senior citizen, you can file 1040-SR.

If you have a business or side income, file Form 1040 with a Schedule C.

Others

When a foreign person is engaged in a trade or business within the United States, any income from U.S. sources that is connected to that activity is generally classified as Effectively Connected Income (ECI). This holds true even if the income doesn't appear directly linked to the U.S. trade or business during the same tax year.

To treat income as ECI, the individual must typically be engaged in a U.S. trade or business during the tax year. Performing personal services in the United States usually qualifies as such. Whether or not you are engaged in a U.S. trade or business depends on the nature and extent of your activities.

Income considered ECI is subject to U.S. income tax after allowable deductions and is taxed at the graduated rates that apply to U.S. citizens and resident aliens, or at a reduced rate under an applicable tax treaty.

While ECI is generally only recognized when a nonresident alien is engaged in a U.S. trade or business during the same tax year, income from prior-year transactions—such as the sale of property or the performance of services—may also be treated as effectively connected in the year it is received, provided it would have been ECI in the original year the activity occurred.

Employee taxation of income (int, div, royalties)

Interest income: Tax rates

Interest income earned from savings accounts is generally subject to federal income tax at your ordinary income tax rate, which ranges from 10% to 37% as of 2024. This interest income is considered part of your gross income and is taxed accordingly.

To ensure compliance, financial institutions typically issue Form 1099-INT to individuals who receive interest payments, detailing the amount earned. It's important to report all interest income on your tax return, as failing to do so can lead to penalties.

Non-resident aliens' US-source interest is generally subject to a flat 30% tax rate (or lower treaty rate), usually withheld at source. Note that certain "portfolio interest" earned by a non-resident alien is generally exempt from tax.

Dividend income: Tax rates

Dividend income received by a citizen or resident alien is subject to US tax, whether it is from US or foreign sources. The maximum federal income tax rate on "qualified dividends" received from a domestic corporation or a qualified foreign corporation is 20% (23.8% if the net investment income tax applies).

Capital gains: Tax rates

Nearly all personal and investment properties are considered capital assets, including your home, furnishings, and investments such as stocks. When you sell a capital asset, the difference between its sale price and your adjusted basis (usually the original cost) results in a capital gain or loss. Gains occur when the sale price exceeds the basis; losses occur when it's lower. However, losses on personal-use property (e.g., a personal car or home) are not tax-deductible.

Short-term vs. long-term:

The general rule is that:

- Assets held more than one year before sale generate long-term gains or losses.

- Assets held one year or less produce short-term gains or losses.

Long-term gains typically benefit from lower tax rates.

Please note that there are exceptions to the rule, including but not limited to the case of property acquired by gift, property acquired from a decedent, or patent property - https://www.irs.gov/publications/p544

Capital gains tax rates (2024):

0% rate: Applies if taxable income is below:

- $47,025 (single/married filing separately)
- $94,050 (married filing jointly/surviving spouse)
- $63,000 (head of household)
- 15% rate: Applies to income above 0% thresholds up to:
- $518,900 (single)
- $291,850 (married filing separately)
- $583,750 (married filing jointly/surviving spouse)
- $551,350 (head of household)

20% rate: Applies to income exceeding the 15% bracket thresholds.

Exceptions:

- 28% on gains from collectables and Section 1202 small business stock.
- 25% on unrecaptured Section 1250 gains (real estate depreciation recapture).
- Short-term gains are taxed at ordinary income rates.

Capital loss limits & carryover: You can deduct capital losses against income up to $3,000 ($1,500 if married filing separately) per year. Losses beyond this limit can be carried forward to future tax years using IRS worksheets.

Royalty income: Tax rates

A royalty is income derived from the use of the taxpayer's property. A royalty payment must relate to the use of a valuable right. According to the IRS, tax must be withheld on payments of royalties from sources within the United States. Payments for the use of trademarks, trade names, service marks, or copyrights, whether or not payment is based on the use made of such property, are ordinarily classified as royalties for federal tax purposes.

In most cases, you report royalties on Schedule E (Form 1040). However, if you hold an operating oil, gas, or mineral interest or are in business as a self-employed writer, inventor, artist, etc., report your income and expenses on Schedule C (Form 1040).

Withholding

Withholding tax on interest: Rates

The gross amount of interest received by a nonresident corporation or individual from U.S. sources is generally subject to a 30% withholding tax, unless the rate is reduced under an applicable tax treaty or a statutory exemption applies. Interest that is ECI and certain interest on portfolio debt obligations, generally, may be exempt from withholding tax.

Withholding tax on dividends: Rates

The gross amount of dividends paid by a domestic corporation to a nonresident corporation or individual generally is subject to a 30% withholding tax, unless the rate is reduced under an applicable tax treaty or the income is ECI.

Withholding tax on capital gains: Rates

Non-resident aliens are taxed at 30%, collected by withholding at the source of the payment, on US-source net capital gains if they are in the United States for 183 days or more during the taxable year in which the gain occurs. The operation of this provision is limited to situations in which an alien is not otherwise taxed as a resident under the substantial presence test. Capital gains from US real property interests are taxable regardless of US presence.

Additionally, capital gains from the sale by non-residents of US partnerships with effectively connected income (ECI) will be subject to US tax. There are also withholding requirements on the gross proceeds from the sale of US real property interests as well as partnerships with ECI.

Withholding tax on royalties: Rates

Royalties received by a nonresident corporation or individual for the use of property in the US are subject to a 30% withholding tax, unless the rate is reduced under an applicable tax treaty or the income is ECI. Payment of royalties would be reported on a 1042-S. The only exception would be if the owner of the copyright in the film provides a Form W-8BEN (individuals) with a US EIN and a claim for a lower treaty rate based on the Royalties article.

Fees for technical services:

There is generally only a tax on fees for personal services, including technical services, if the
Services are performed within the US. If the services are performed in the US, such fees typically would be ECI.

Employee tax - Special regimes to apply

Special tax regimes (if applicable)

US expat filing regime

U.S. citizens living abroad, often referred to as expatriates or expats, are generally required to file U.S. income tax returns, just like individuals living in the United States. However, the tax obligations for expats can be different and more complex due to their international status. If you are a U.S. citizen or resident living or travelling outside the United States, you are generally required to file an income tax return using Form 1040 in the same way as individuals residing in the United States.

However, additional forms and schedules may apply, such as Form 2555 (for claiming the Foreign Earned Income Exclusion) and Form 1116 (for claiming the Foreign Tax Credit).

Your income, filing status, and age typically determine whether you are required to file a return. Typically, you must file a return if your gross income from worldwide sources is at least the amount shown for your filing status in the Filing Requirements table in Chapter 1 of Publication 54, Tax Guide for U.S. Citizens and Resident Aliens Abroad, available here: https://www.irs.gov/publications/p54

Two key reporting obligations for US expats are the Foreign Bank and Financial Accounts Report (FBAR) and the Foreign Account Tax Compliance Act (FATCA).

The FBAR is a form that you file separately from your tax return if the total value of all your foreign financial accounts exceeded $10,000 at any time during the tax year. This includes bank accounts, investment accounts, and certain insurance policies. Learn more about FBAR compliance to avoid costly penalties. It gets filed with FinCEN (the Financial Crimes Enforcement Network), not the IRS. The due date is April 15, but there's an automatic extension to October 15.

The FATCA, on the other hand, requires filing Form 8938 with your tax return if your foreign assets meet certain thresholds. It covers a broader range of assets than the FBAR, including stocks and ownership interests in foreign entities. The due date is the same as your tax return deadline.

Put simply, the key differences are:

- FBAR has a lower threshold ($ 10,000) and only looks at financial accounts. It's filed separately with FinCEN.
- FATCA has higher thresholds, covers more types of assets, and Form 8938 gets attached to your tax return.

NOTE: *Failing to report foreign accounts can result in penalties starting at $10,000 per violation, even if unintentional.*

Other common expat reporting obligations include:

- Foreign-earned income: Report income from employment or self-employment abroad
- Investment income: Include income from foreign sources
- Rental property income: Report income from foreign rental properties
- Foreign pensions: Disclose contributions and distributions
- Business interests: Report interests in foreign businesses or trusts

U.S. citizens living abroad may be eligible for the Foreign Earned Income Exclusion (FEIE) or the Foreign Tax Credit (FTC). The FEIE allows you to exclude a certain amount of your foreign-earned income from U.S. taxation. The FTC, on the other hand, provides a credit for taxes paid to a foreign country, which can offset your U.S. tax liability.

The FEIE represents one of the most valuable tax benefits available to U.S. citizens working abroad. For the 2024 tax year, you can exclude up to $126,500 of foreign-earned income from US taxation, an increase from $120,000 in 2023.

Not all foreign-earned income is FEIE eligible. Please see a general overview below:

Income type	**FEIE eligible**
Salary/wages	Yes
Self-employment	Yes
Investment income	No
Rental income	No
Pension/retirement	No

To qualify for the FEIE, you must meet either:

- Physical presence test: Be present in foreign countries for 330 full days during any 12-month period.
- Bona Fide residence test: Establish residence in a foreign country for an uninterrupted tax year.

Pro tip: While the FEIE can provide substantial tax savings, it only applies to earned income, not investment or rental income. Additionally, claiming the FEIE may limit your ability to claim other tax credits and deductions, so careful planning is essential.

Double taxation can be avoided through the application of a Double Tax Treaty between the USA and the country of residence (if one is in force).

Impatriate Law (Inbound employee regulations)

US Nonresident Alien (NRA) tax regime
Purpose:
To tax nonresident aliens only on income that has a clear and direct connection to the United States, either through the source of the income or the nature of their U.S. activities.

Key features:

Two categories of taxable income for NRAs:

Effectively Connected Income (ECI):
Income that is connected with a trade or business conducted in the United States. This includes income from services performed in the U.S., real property income, and certain gains from U.S. business assets.

- Taxed at: Graduated tax rates (same as U.S. citizens and residents)
- Allowable deductions: Yes

Fixed, Determinable, Annual or Periodic (FDAP) income:
Passive income such as U.S.-source dividends, interest, rents, royalties, and annuities.

- Taxed at: Flat 30% rate (unless reduced or exempt under a tax treaty)
- Allowable deductions: No

Filing requirements:
NRAs must file a U.S. tax return (Form 1040-NR) if they have ECI, or if they wish to claim treaty benefits or refunds of over-withheld FDAP income.

Withholding obligations:
U.S. payers must generally withhold 30% on FDAP payments to NRAs unless a tax treaty applies and the recipient provides Form W-8BEN.

Special cases:

- Income from U.S. real estate may elect to be treated as ECI.
- Students, teachers, and researchers under certain visa types may have modified rules.

Expatriate Law (Working abroad rules)

Expatriation tax rules (Exit Tax)
Applies to: U.S. citizens or long-term green card holders (8 of the last 15 years) who give up their citizenship or lawful permanent resident status.

Purpose: To prevent high-net-worth individuals from renouncing U.S. status primarily to avoid future U.S. taxes.

Covered expatriate criteria (any of the following):

- Net worth of $2 million or more on the date of expatriation;
- Average annual net income tax liability over the last five years exceeds a set threshold (e.g., $201,000 in 2024);
- Failure to certify five years of U.S. tax compliance (via Form 8854).

Key tax consequences:

Mark-to-Market Tax (Exit Tax):

- Deemed sale of all worldwide assets the day before expatriation.
- Unrealised gains are taxed above a certain exclusion amount (e.g., $821,000 in 2024).
- Certain deferred compensation items, pensions, and trusts have special tax treatments.

Continued U.S. tax exposure:
Covered expatriates may face U.S. tax on gifts and bequests made to U.S. persons (the recipient pays a transfer tax similar to estate tax rules).

Compliance:
Form 8854 is required to formally notify the IRS of expatriation and to determine if the individual is a "covered expatriate."

Double taxation agreements (link website)

https://www.irs.gov/businesses/international-businesses/united-states-income-tax-treaties-a-to-z

Impatriate Law (Inbound employee regulations)

How to apply and deadlines for employees

Here's a step-by-step explanation of how the Nonresident Alien (NRA) Tax Regime works in the U.S., including forms, rules, and filing deadlines:

Step 1: Determine Non-Resident Alien (NRA) status
A nonresident alien (NRA) is generally a person who is not a U.S. citizen and does not meet either:

- The Green Card Test (you are a lawful permanent resident), or
- The Substantial Presence Test (you are physically present in the U.S. for a significant amount of time — generally 183 days or more over a three-year lookback period).

✅ If you are an NRA, only your U.S.-source income may be taxable, depending on the type of income.

Step 2: Identify types of U.S.-source income
NRA income is taxed under two separate regimes, based on the nature of the income:

1. Effectively Connected Income (ECI)
Income effectively connected to a U.S. trade or business (e.g., income from performing personal services, operating a business, or real estate activities).

- Taxed at graduated U.S. income tax rates (like those applied to residents).
- Deductions are allowed against ECI.

2. Fixed, Determinable, Annual, or Periodical (FDAP) Income
Passive income, such as interest, dividends, rents, royalties, pensions, etc.

- Taxed at a flat 30% rate, no deductions allowed (unless reduced by a tax treaty).
- Withheld at source by the payer (e.g., U.S. bank or company).

Step 3: Determine if a U.S. tax treaty applies
Many countries have tax treaties with the U.S. that may reduce or eliminate withholding on FDAP income and provide additional benefits (e.g., reduced tax rates on dividends or royalties).

✅ Check the treaty between your country and the U.S. to see what rates apply.
✅ If claiming treaty benefits, you must file Form W-8BEN with the withholding agent.

Step 4: File the correct tax return (if required)
NRAs file tax returns only if they have:

- ECI (e.g., earned income, business income),
- Want to claim a refund (e.g., too much was withheld),
- Want to make treaty elections or claim deductions (like for real estate).

Form to File:
Form 1040-NR – U.S. Nonresident Alien Income Tax Return

Attach supporting forms like:

- Schedule NEC (for FDAP income)
- Schedule OI (Other Information, including treaty claims)
- Form 8833 (for treaty-based return position, if required)

Deadline:

- June 15, if you have no wages subject to U.S. withholding

- April 15, if you have U.S. wages
- Use Form 4868 to request an extension to file (until October 15)

Step 5: Withholding obligations
FDAP: 30% withholding by the payer (unless reduced by treaty).

ECI: Generally, no withholding tax paid through filing. However, in some cases, backup withholding may apply.

To prevent over-withholding, provide Form W-8BEN to the payer to certify foreign status and claim treaty benefits.

Step 6: Real estate and other U.S. investments
If you own U.S. real estate or other U.S. assets:

Rental income: Can elect to treat it as ECI and file Form 1040-NR to pay tax on net income (after deductions), instead of 30% gross withholding.

Must file Form 8716 or attach election to Form 1040-NR.

Sale of U.S. real property: Subject to FIRPTA withholding (15% of the sales price); must file Form 8288-A and 1040-NR to report actual gain/loss and claim refund if applicable.

Step 7: Reporting & compliance
If you receive ECI, you may also need to obtain a U.S. Taxpayer Identification Number (ITIN) using Form W-7.

Keep records of income, withholding, and any U.S. tax paid.

If required, submit Form 8938 or FBAR if you later become a resident and have foreign assets.

Form	**Purpose**
Form 1040-NR	Tax return for NRAs
Form W-8BEN	Certify NRA status and claim treaty benefits
Schedule NEC	Report FDAP income on 1040-NR
Schedule OI	Disclose treaty claims and NRA details

Form 8833	Treaty-based return position disclosure
Form W-7	Apply for an ITIN
Form 8288 / 8288-A	FIRPTA withholding on U.S. real estate
Form 4868	Request extension to file 1040-NR

Expatriate Law (Working abroad rules)

How to apply and deadlines for employees

Here's a step-by-step breakdown of how the Expatriation Tax Rules (Exit Tax) apply for U.S. citizens and long-term residents who renounce their citizenship or green cards, including forms, deadlines, and key criteria:

Step 1: Determine if you're a covered expatriate
To determine whether you're subject to the Exit Tax, first check if you are a "covered expatriate." You are a covered expatriate if any of the following applies at the time of expatriation:

- Net worth test: Your net worth is $2 million or more on the date of expatriation.
- Tax liability test: Your average annual U.S. income tax liability for the previous 5 years exceeds a certain threshold ($201,000 for 2024, adjusted annually).
- Compliance test: You fail to certify on Form 8854 that you have complied with all U.S. federal tax obligations for the 5 tax years preceding the date of expatriation.

Step 2: Understand the tax consequences
If you are a covered expatriate, you are subject to the Exit Tax, which is a mark-to-market tax on the net unrealised gain of your worldwide assets as if they were sold on the day before expatriation.

The first $866,000 of gain in 2024 (indexed annually) is exempt. Certain assets are excluded (e.g., deferred compensation, specified tax-deferred accounts) and are taxed under special rules. Special rules apply to deferred compensation plans and non-grantor trusts.

Step 3: Renounce your citizenship or abandon your Green Card
Complete the formal expatriation process, which includes:

- Renouncing U.S. citizenship at a U.S. embassy or consulate abroad and receiving a Certificate of Loss of Nationality (CLN); or

- Filing Form I-407 with USCIS if abandoning a green card after holding it for at least 8 of the last 15 years.

Note: The date of expatriation for tax purposes is the date you relinquish citizenship or green card, not necessarily when you notify the IRS.

Step 4: File the final U.S. tax return
For the year of expatriation, you must file a dual-status tax return:

- Use Form 1040 for the portion of the year before expatriation.
- Use Form 1040-NR for the portion of the year after expatriation.

Write “Dual-Status Return” across the top of the first page of Form 1040 and “Statement” across the top of Form 1040-NR.

Attach:

- Form 8854, Initial and Annual Expatriation Statement (explained below).
- Any required forms relating to Exit Tax calculation (e.g., Form 8949 for capital gains, Form 8621 for PFICs, etc.).

Deadline: Due by the normal tax return deadline—typically April 15 (or June 15 if you’re living abroad, with further extension possible to October 15 using Form 4868).

Step 5: File Form 8854
Form 8854 is required to:

- Certify compliance with U.S. tax laws for the previous 5 years
- Determine your covered expatriate status
- Report net worth and asset valuations
- Compute mark-to-market gains and apply exclusions

When to file:

Must be filed with your final U.S. tax return. Also, attach it separately and send a copy to the IRS address listed in the instructions.

Step 6: Pay any exit tax owed
Compute your deemed disposition gains (or special treatment for deferred comp). Reduce gain by exclusion ($866,000 in 2024). Calculate tax owed using capital gain rates and report on Schedule D / Form 8949.

Special notes:

- Long-term residents (green card holders of 8 of the last 15 years) follow similar rules.

- Deferred compensation, IRAs, and tax-deferred accounts are taxed differently:
- Some are taxed as if distributed the day before expatriation.
- Others may be subject to a 30% withholding if paid later.

Summary of key forms

Form	Purpose
Form 8854	Certify expatriation and report assets, compliance
Form 1040 / 1040-NR	Dual-status return for the year of expatriation
Form 8949 & Schedule D	Report deemed sales and capital gains
Form 8621	For Passive Foreign Investment Companies (PFICs)
Form 4868	To request an extension (if needed)
Form I-407	Abandonment of green card (filed with USCIS)