

Tax Information for Employees of the Kuwait Embassy & Consulate

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Agenda

- Categories of employees
- Exemptions from US Tax
- Taxation of US Citizens and Residents
- Taxation of A-2 Visa Holders
- Application of UK Consular Agreement
- Self-employment tax
- Taxable wages
- Deductions for unreimbursed employee business expenses
- SEP/IRA deductions & Self-Employed Health Insurance deductions
- Estimated Tax payments
- Joint filing election with nonresident alien spouse
- Foreign Bank Account Reporting (FBAR)
- Foreign Account Tax Compliance Act (FATCA)

Categories of Employees

Locally Engaged Staff

- US Citizens
- LPR/Green Card Holders
- A-2 Visa Holders “Permanently Resident In” the United States

Exemptions from tax in the US

Income Tax Exemption

- US/UK 1952 Consular Convention, Article 13
 - Covers Kuwait
- US Law – Section 893

Consular Agreement Exemption

Article 13 of the 1952 US/UK Consular Convention provides an exemption from US tax to certain consular employees.

- Dual US/Kuwaiti Citizens
- Green Card Holders
- A-2 Visa Holders

US Law – Internal Revenue Code Section 893

Section 893 of the Internal Revenue Code provides an exemption from US income taxes to employees of the Kuwait Government in the US.

The exemption provided by Section 893 generally does not extend to US citizens or LPR/Green Card holders employed at the Kuwait Embassy or Consulate.

Exceptions include:

- Dual US/Filipino citizens
- Green Card holders who did not sign USCIS Form I-508

Exemption from Income Taxes

Classification of Employee	Consular Agreement	Tax Treaty	US Law Section 893
US Citizen	Taxable unless dual US/Kuwait citizen [Article 13]	N/A	Taxable unless dual US/Filipino citizen IRC 893(a)(1)
LPR/Green Card	Exempt [Article 13]	N/A	Taxable, if §INA 247(b) waiver (Form I-508) signed. If waiver not signed, exempt
A-2 Visa Holder	Exempt [Article 13]	N/A	Exempt

US Citizens and Residents

Form 1040

- US citizens and residents who are subject to tax:

Must ✓

- Report wages on Form 1040, Line 7
- Complete Schedule SE to pay into the US Social Security system as if they were self-employed. If green card holder, no SE tax is due
- Make Estimated Tax payments on Form 1040ES

Must Not ✗

- Report wages Schedule C
- Report wages as Other Income on Form 1040, Line 21
- Claim SEP/IRA deduction on Form 1040, Line 28
- Claim SE Health Insurance deduction on Form 1040, Line 29

A-2 Visa Holders

A-2 visa holders who are considered “permanently resident in” the US, are exempt from paying US income taxes on wages from the Embassy or Consulate under:

- Section 893 of the Internal Revenue Code

LPR Green Card Holders

- In general, Green Card holders employed at the Kuwait Embassy are subject to US income taxes on the gross amount of their wages.
- Green card holders are not subject to US Social Security taxes and may not voluntarily contribute to US Social Security.
- Under Article 13 of the US/UK Consular Agreement, Green Card holders employed at consular locations are not subject to US income taxes on their wages from the consulate.
- No exemption under Section 893 of the Internal Revenue Code is allowed for Green Card holders, if the employee signed USCIS Form I-508.

Taxable Wages From Your Employer

Taxable wage income includes all salary and allowances, including

- Base salary
- Cost of living payments
- Housing allowances
- Reimbursement of social security taxes
- Other miscellaneous allowances

Employee Business Expenses

- US citizens and Green Card holders may have deductions for unreimbursed business expenses.

Expenses must be:

- Ordinary and necessary, required by employer.
- For items where no employer reimbursement available.

- Use Form 2106 to calculate the amount of unreimbursed employee business expense and claim deduction on Schedule A, Miscellaneous Itemized Deductions. Subject to 2% AGI limitation.

- Do not use Schedule C to claim employee business expenses.

Nondeductible items

Simplified Employee Pension (SEP/IRA) Retirement Accounts

- Available only to self-employed individuals.
- Wage income does not qualify as self-employment income for a SEP/IRA account.
- No deduction is allowed for a contribution to a SEP/IRA plan on Form 1040, Line 28. See IRS Revenue Ruling 73-38

Self-Employed Health Insurance Deductions

- Available only to self-employed individuals.
- Employees receiving wage income do not qualify to claim a deduction for self-employed health insurance on Form 1040, Line 29.

Taxation of US Citizen Employees

Self-Employment Tax

- For Social Security tax purposes only, US citizens working at the Kuwait Embassy or Consulate are taxed as if they were self-employed. For all other purposes they are considered employees.
- Computation of self-employment tax is done on Schedule SE.
- For 2013 and 2014 the SE tax rate is 15.3%.
- A portion of self-employment taxes may be deducted on Form 1040, Line 27.

Estimated Tax Payments

Federal Estimated Tax Computation

Either

- 90% of the current year tax due
or
- 100% of the prior year tax
(110% if the AGI from Form 1040, Line 37 is greater than \$150,000)

State Estimated Tax Computation

- Maryland - 100% of current year or 110% of prior year tax
- DC & Virginia - 90% of current year or 100% of prior year tax

Estimated Tax Payments

- Federal estimated tax payments are made on Form 1040ES
- Federal (IRS) due dates for the current year are:

Quarter	Federal (IRS) Due Dates	DC Due Dates	Maryland State Due Dates	Virginia State Due Dates
1 st Quarter	April 15, 2014	April 15, 2014	April 15, 2014	May 1, 2014
2 nd Quarter	June 16, 2014	June 16, 2014	June 16, 2014	June 16, 2014
3 rd Quarter	Sept 15, 2014	Sept 15, 2014	Sept 15, 2014	Sept 15, 2014
4 th Quarter	Jan 15, 2015	Jan 15, 2015	Jan 15, 2015	Jan 15, 2015

Joint Filing Election with Nonresident Spouse

- One-time election to file a joint tax return with a nonresident alien spouse
- Written election is required in year of election
- Nonresident alien spouse is required to report worldwide income
- If a joint filing election is made, the exemption from US tax for A-2 visa holders is not affected.
- The election can be revoked, but once revoked cannot be made again

Foreign Bank Account Reporting

FinCEN Form 114

- Required of US citizens or residents with a financial interest in or signature authority over foreign financial accounts if the total value of the accounts exceeded \$10,000 at any time during the year
- FinCEN Form 114 is not an IRS form; it is filed electronically with the US Treasury. Do not include with your tax return or send by mail.
- Form is required whether or not a tax return is filed
- Filing deadline is June 30 of each year and cannot be extended
- Filing of Form 114 is required in addition to FATCA Form 8938 filing

Failure to file is risky – penalties are extreme

- Non-willful penalty is \$10,000 for failure to file
- Willful penalty is the greater of 50% of the account balance or \$100,000

Foreign Account Tax Compliance Act (FATCA)

Form 8938

- Required of US citizens or residents with an interest in Specified Foreign Financial Assets exceeding certain amounts
- Form 8938 is an IRS form and is required to be filed with your US tax return
- If a tax return is not required to be filed, no Form 8938 has to be filed
- Filing of FATCA Form 8938 is in addition to filing of FBAR Form 114 which replaces the old FBAR Form 90-22.1 starting in 2013

Failure to file is risky – penalties are extreme

- Penalty for failure to file starts at \$10,000 and continues up to \$50,000 for continuing failure to file after IRS notification
- Additional 40% penalty for failure to report income on tax return
- Statute of Limitations does not start until accurate Form 8938 is filed

Foreign Account Tax Compliance Act (FATCA)

Form 8938

- Specified Foreign Financial Assets include:
 - Bank and investment accounts
 - Direct ownership of foreign stock
 - Foreign retirement accounts
 - Foreign life insurance policies
 - Foreign partnership interests
 - Foreign estate and trust interests

- **When in doubt file Form 8938**

Foreign Account Tax Compliance Act (FATCA)

Form 8938

- Form 8938 must be filed when Specified Foreign Financial Assets exceed specified amounts
- File Form 8938 if Specified Foreign Financial Assets exceed either the Year-end Total or Highest Annual values in the table to the right

Filing Status / Location	Year-end Total (greater than)	Highest Annual (greater than)
Single in U.S.	\$50,000	\$75,000
Single Overseas	\$200,000	\$300,000
Joint in U.S.	\$100,000	\$150,000
Joint Overseas	\$400,000	\$600,000
Separate in U.S.	\$50,000	\$75,000
Separate Overseas	\$200,000	\$300,000

Taxation of US Citizens

Questions?