

# Tax Information for Employees of the OECD

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# Disclosure

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# Agenda

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- Categories of employees
- Exemptions from US Tax
- Taxation of Nonresidents
- Taxation of US Citizens and Residents
- Self-employment tax
- 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

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## Locally Engaged Staff

- US Citizens
- LPR/Green Card Holders
- G Visa Holders

# US Taxation of Nonresidents

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## Basic Concepts

- Nonresidents are taxed only on income from US sources
- All US sourced income received by a nonresident must be reported on US tax return unless it is specifically exempt from US tax under US law or a tax treaty or international agreement.

# Taxation of US Citizens and Residents

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## Basic Concepts

- US Citizens and residents are subject to tax on world-wide income
- All income from whatever source must be reported on US tax return unless it is specifically exempt from US tax under US law or a tax treaty or international agreement
- In the event income is also subject to tax in a foreign country, the US allows a foreign tax credit if the income is earned outside of the US. For income earned inside the US, the foreign country should allow a foreign tax credit to eliminate any double taxation

# Exemption for Wages received by G Visa Holders

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- Wages received by G Visa holders of the OECD are exempt from tax in the United States Under Section 893 of the Internal Revenue Code.
- Exemptions from US Tax - Executive Order 10133
- Wages earned by employees and other family members from US employers are subject to tax and must be reported on a US tax return (Form 1040NR).
- Wages received by US citizens and green card holders are subject to tax in the US and are not exempt.

# Taxation of US Citizens and Residents

## Form 1040

- US citizens and residents who are subject to tax:

### Must ✓

- Report wages on Form 1040, Line 7
- Make Estimated Tax payments on Form 1040ES
- (US Citizens Only) Complete Schedule SE to pay into the US Social Security system as if they were self-employed.

### 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



# LPR - Green Card Holders

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- Green Card holders employed at the OECD are subject to U.S. income taxes on their wages
- Green card holders are NOT subject to U.S. Social Security taxes.
- Generally, no exemption under Section 893 of the Internal Revenue Code is allowed for green card holders.

# Employee Business Expenses

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- US citizens and Green Card holders may have deductions for unreimbursed business expenses
- Ordinary and necessary, required by employer
- 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

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## 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

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## Self-Employment Tax

- For Social Security tax purposes only, US citizens working for the OECD 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 2016 and 2017 the SE tax rate is 15.3%
- A portion of self-employment taxes may be deducted on Form 1040, Line 27

# Estimated Tax Payments

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## 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 - 90% of current year or 110% of prior year tax (110% if the prior year State adjusted gross income is greater than \$150,000)
- DC & Virginia - 90% of current year or 100% of prior year tax

# Estimated Tax Payment Due Dates

- Federal Estimated tax payments are made on Form 1040ES
- Federal (IRS) and State due dates for the 2016 tax year are:

Quarter	Federal (IRS) Due Dates	DC State Due Dates	Maryland State Due Dates	Virginia State Due Dates
1 <sup>st</sup> Quarter	April 15, 2016	April 15, 2016	April 15, 2016	May 1, 2016
2 <sup>nd</sup> Quarter	June 15, 2016	June 15, 2016	June 15, 2016	June 15, 2016
3 <sup>rd</sup> Quarter	Sept 15, 2016	Sept 15, 2016	Sept 15, 2016	Sept 15, 2016
4 <sup>th</sup> Quarter	Jan 16, 2017	Jan 16, 2017	Jan 16, 2017	Jan 16, 2017

# Joint Filing Election with Nonresident Spouse

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- 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 G visa holders is not affected. See IRS Revenue Ruling 79-246
- The election can be revoked, but once revoked cannot be made again

# Foreign Bank Account Reporting - FBAR

## 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 April 15<sup>th</sup> of each year – 6 month extension available
- 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)

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## 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.

### **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)

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## 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

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# Questions?