

# Tax Information for Employees of the British Embassy & Consulate

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# Disclosure

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This presentation has been prepared for employees of the British Embassy by Embassy Tax Services LLC.

The information in this presentation is current as of February 2018 and is intended to be of a general nature. The presentation is not intended to address the facts or situation pertaining to any particular individual. It should not be viewed as legal, tax or investment advice. If advice is needed please consult with a professional tax advisor.

# Agenda

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- Categories of employees
- Exemptions from US Tax
- Taxation of US Citizens and Residents
- Taxation of A-2 Visa Holders
- Tax Treaty & Consular Agreement
- 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
- A-2 Visa Holders “Permanently Resident In” the United States

# Exemptions from tax in the US

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## Income Tax

- US-UK Tax Treaty, Article 19
- US-UK Consular Convention, Article 13
- US Law – Internal Revenue Code Section 893

## Social Security Tax

- US-UK Totalization Agreement

# Tax Treaty Exemption

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Article 19 of the US-UK Income Tax Treaty provides an exemption to employees of the UK Government in the US who are not citizens or residents of the US.

Article 19 does NOT provide tax exemptions to US citizens or Residents. They are subject to tax in the US on their income from the embassy or consulate.

For state income tax purposes, tax treaty benefits are recognized by Virginia, New York and Washington DC. California, Maryland and New Jersey do not recognize tax treaty exemptions.

# Consular Agreement Exemption

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Article 13 of the US-UK Consular Convention provides an exemption from US tax to consular employees who are not citizens of the US and to employees who are dual US-UK citizens.

# US Law – Internal Revenue Code Section 893

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Section 893 of the Internal Revenue Code provides an exemption from US income taxes to employees of the UK Government in the US who are not US citizens or LPR/Green Card holders



# Exemption from Income Taxes

| Classification of Employee               | Consular Agreement      | Tax Treaty              | US Law Section 893 |
|--|-------------------------|-------------------------|--------------------|
| US Citizen                               | Taxable<br>[Article 13] | Taxable<br>[Article 19] | Taxable            |
| Dual US/UK Citizen<br><br>LPR/Green Card | Exempt<br>[Article 13]  | Taxable<br>[Article 19] | Taxable            |
| A-2 Visa Holder                          | Exempt<br>[Article 13]  | Exempt<br>[Article 19]  | Exempt             |

# US Citizens and Residents

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## 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 dual US/UK citizen, or Green Card holder, no SE tax due to US.
- 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

# LPR Green Card Holders

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- In general, Green Card holders employed at the UK Embassy/Consulate and UN Mission are subject to U.S. income taxes on the gross amount of their wages
- Green Card holders are not subject to U.S. Social Security taxes on wages received from the UK Government.
- Under Article 13 of the US-UK Consular Convention, Green Card holders are not subject to U.S. income taxes on their wages from the consulate.
- No exemption under Section 893 of the Internal Revenue Code is allowed for green card holders.

# A-2 Visa Holders

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

- Article 19 of the US-UK Income Tax Treaty
- Article 13 of the Consular Convention. Applies to consular employees only
- Section 893 of the Internal Revenue Code

# A-2 Visa Holders

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If you are an A-2 visa holder working the Embassy/Consulate or UN Mission, you are not required to report the wages you receive on your US tax return (Form 1040NR).

If the wages you receive from the Embassy/Consulate or UN Mission are the only taxable income you receive, no tax return is required to be filed.

- Article 19 of the US-UK Income Tax Treaty
- Article 13 of the Consular Convention. Applies to consular employees only
- Section 893 of the Internal Revenue Code

# 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 at the UK Embassy/Consulate and UN Mission are taxed as if they were self-employed. For all other purposes they are considered employees.
- Dual US/UK citizens are covered by the UK Social Security system and are not subject to self-employment tax in the US
- Computation of self-employment tax is done on Schedule SE
- For 2017 and 2018 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

- NY & Maryland - 90% of the current year tax or 100% of the 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 Payments

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

| Quarter                 | Federal (IRS) Due Dates | NY State Due Dates | DC/Maryland State Due Dates | Virginia State Due Dates |
|-------------------------|-------------------------|--------------------|-----------------------------|--------------------------|
| 1 <sup>st</sup> Quarter | April 17, 2018          | April 17, 2018     | April 17, 2018              | May 1, 2018              |
| 2 <sup>nd</sup> Quarter | June 15, 2018           | June 15, 2018      | June 15, 2018               | June 15, 2018            |
| 3 <sup>rd</sup> Quarter | Sept 17, 2018           | Sept 17, 2018      | Sept 17, 2018               | Sept 17, 2018            |
| 4 <sup>th</sup> Quarter | Jan 15, 2019            | Jan 15, 2019       | Jan 15, 2019                | Jan 15, 2019             |

# 2017 Estimated Tax

**Payment Voucher 3**

OMB No. 1545-0074

File only if you are making a payment of estimated tax by check or money order. Mail this voucher with your check or money order payable to "United States Treasury." Write your social security number and "2017 Form 1040-ES" on your check or money order. Do not send cash. Enclose, but do not staple or attach, your payment with this voucher.

**Calendar year—Due Sept. 15, 2017**

Amount of estimated tax you are paying by check or money order.

|         |       |
|---------|-------|
| Dollars | Cents |
|---------|-------|

|               |  |                         |                                 |
|---------------|--|-------------------------|---------------------------------|
| Print or type | Your first name and initial  | Your last name          | Your social security number     |
|               | If joint payment, complete for spouse  |                         |                                 |
|               | Spouse's first name and initial  | Spouse's last name      | Spouse's social security number |
|               | Address (number, street, and apt. no.)   |                         |                                 |
|               | City, state, and ZIP code. (If a foreign address, enter city, also complete spaces below.) |                         |                                 |
|               | Foreign country name   | Foreign province/county | Foreign postal code             |

For Privacy Act and Paperwork Reduction Act Notice, see instructions.

Tear off here

# 2017 Estimated Tax

**Payment Voucher 2**

OMB No. 1545-0074

File only if you are making a payment of estimated tax by check or money order. Mail this voucher with your check or money order payable to "United States Treasury." Write your social security number and "2017 Form 1040-ES" on your check or money order. Do not send cash. Enclose, but do not staple or attach, your payment with this voucher.

**Calendar year—Due June 15, 2017**

Amount of estimated tax you are paying by check or money order.

|         |       |
|---------|-------|
| Dollars | Cents |
|---------|-------|

|               |  |                         |                                 |
|---------------|--|-------------------------|---------------------------------|
| Print or type | Your first name and initial  | Your last name          | Your social security number     |
|               | If joint payment, complete for spouse  |                         |                                 |
|               | Spouse's first name and initial  | Spouse's last name      | Spouse's social security number |
|               | Address (number, street, and apt. no.)   |                         |                                 |
|               | City, state, and ZIP code. (If a foreign address, enter city, also complete spaces below.) |                         |                                 |
|               | Foreign country name   | Foreign province/county | Foreign postal code             |

For Privacy Act and Paperwork Reduction Act Notice, see instructions.

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# 2017 Estimated Tax

**Payment Voucher 1**

OMB No. 1545-0074

File only if you are making a payment of estimated tax by check or money order. Mail this voucher with your check or money order payable to "United States Treasury." Write your social security number and "2017 Form 1040-ES" on your check or money order. Do not send cash. Enclose, but do not staple or attach, your payment with this voucher.

**Calendar year—Due April 18, 2017**

Amount of estimated tax you are paying by check or money order.

|         |       |
|---------|-------|
| Dollars | Cents |
|---------|-------|

|               |  |                         |                                 |
|---------------|--|-------------------------|---------------------------------|
| Print or type | Your first name and initial  | Your last name          | Your social security number     |
|               | If joint payment, complete for spouse  |                         |                                 |
|               | Spouse's first name and initial  | Spouse's last name      | Spouse's social security number |
|               | Address (number, street, and apt. no.)   |                         |                                 |
|               | City, state, and ZIP code. (If a foreign address, enter city, also complete spaces below.) |                         |                                 |
|               | Foreign country name   | Foreign province/county | Foreign postal code             |

For Privacy Act and Paperwork Reduction Act Notice, see instructions.

Form 1040-ES (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 A-2 visa holders is not affected. The tax exemption is based on the US/UK tax treaty and is not lost by the joint filing election.
- The election can be revoked, but once revoked cannot be made again

# Foreign Bank Account Reporting

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## 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 and can 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)

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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<br>(greater than) | Highest Annual<br>(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

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**Questions?**