TAXES ON NON-U.S. CITIZENS

While walking around a shopping mall in the Triangle or dining on a mouthwatering dish in a local restaurant you are apt to hear someone speaking a foreign language or with a foreign accent. This area is a temporary or permanent home to many who came from other lands, and our culture is the richer for having them with us.

One of the things arrivals from distant lands soon learn is that the U.S. tax system definitely speaks an unfamiliar language that almost nobody truly understands. Here are a few of the key concepts for foreigners to keep in mind.

An “alien” has nothing to do with Star Trek, but it is someone who belongs to a foreign country. The key distinction is between a “resident” vs. a “nonresident” alien.

For income tax purposes, a “resident alien” of the U.S. is someone who is a lawful permanent resident of the U.S. (the “green card” test) or who meets a “substantial presence” test. A nonresident alien (NRA) is simply an alien who doesn’t qualify as being a resident.

A U.S. resident alien, although they are a citizen of another country, finds that their income is taxed in the same manner as a U.S. citizen. Therefore, they must report all their interest, dividends, wages, rental income, self-employment income etc., just like any U.S. citizen does. And, they must report this income from anywhere in the world – not just on what they receive within the U.S. For many resident aliens, this is a shock, because the U.S. is the only country I am aware of that taxes its citizens and resident aliens on their worldwide income.

On the other hand, a nonresident alien is usually subject to U.S. tax just on their income that comes from a U.S. source, such as wages earned in the U.S., profit from a business they operate in the U.S., rental income from U.S. real estate, etc.

Not only can living in the U.S. be taxing to foreigners, but dying can as well.

While the IRS uses a “residency” test for income tax purposes, it uses a “domicile” test for estate tax

calculations. A person acquires a domicile in a place by living there, for even a brief period of time, with no definite present intention of later leaving. Therefore, you could be a nonresident of the U.S. for income tax purposes, but still be considered as being domiciled in the U.S.

Generally, a person who is a U.S. citizen or a non-citizen domiciled in the U.S. is subject to U.S. estate taxes on their worldwide assets. Now, given that U.S. estate taxes are not imposed until estates reach $5.43 million (in 2015), this may not affect too many non-citizens.

But, even if you are a non-U.S. citizen who is also non-domiciled in the U.S., you can still end up paying U.S. estate taxes on U.S. situated assets, such as personal property, real property and stock in U.S. corporations. And, unlike the $5.43 million exemption available to aliens domiciled in the U.S., non-domiciled aliens with U.S. situated assets only get a paltry $60,000 exemption from the estate tax – an incredibly different circumstance.

Living in any foreign culture can be both exciting and confusing. Unfortunately, not understanding the tax laws of a country can also make it very expensive.

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