







Presenters




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 - Managing Partner & International Tax Consultant at Nonresident Tax Advisors, CPA


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2013
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Serving Clients In Over 30 Different Countries

NONRESIDENT TAX ADVISORS

Taking advantage of international investment opportunities can be rewarding, but the tax implications can be complex. NTA walks you through the tax process step by step ensuring your obligation is handled thoroughly, correctly, and to the high standards you expect.

When it comes to nonresident taxes experience is key - NTA has serviced clients in over 30 different countries. We understand the needs and expectations of our clients and hold ourselves to a high standard. NTA is the perfect complement to your U.S. investment.

Our Value Proposition

We are a boutique CPA firm that specializes in assisting nonresident US investors and domestic property management firms with their tax reporting matters. For nonresident US investors, we customize tax-advantaged income and estate strategies that enable our clients to maximize wealth creation and asset preservation. For property managers, we develop and implement compliance programs to ensure withholding minimization and efficiency.

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NTA Can Provide You With The Right Answers To Your U.S. Tax Needs

NONRESIDENT INVESTORS

- Financial Concierge - U.S., State, and Local Income Tax & Local Property Taxes**
NTA's service will give you the option of having us pay, on your behalf, your U.S. income, state, and local income taxes and/or local real estate taxes. Tax liabilities will be monitored and paid all for a nominal processing fee. We offer three payment options - give a call for more information.
- U.S. real estate investment and effectively connected income**
The basic rule, in regards to rental income, requires 30% withholding of gross rental income. With the proper tax elections and form submission, income will be considered effectively connected to a U.S. business.
- Effectively connected income elections**
Income that is effectively connected with a U.S. trade or business is taxed on a net basis (income minus allowable deductions) at the same federal income tax rates that apply to U.S. citizens or residents (maximum rate currently 35%). Generally, long-term capital gains rates (assuming the assets are held for at least one year) are currently 15% for individuals. The maximum current corporate tax rate is 35%. State and local taxes may increase the effective tax rate on income from a U.S. trade or business.
- Personal Services**
The performance of personal services within the U.S. during the taxable year will generally be treated as a U.S. trade or business, the determination as to whether a nonresident is engaged in a U.S. trade or business is otherwise a subjective test based on the person's activities.

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We Can Assist Your Clients In Staying Compliant With U.S. Tax Law

PROPERTY MANAGERS

- **Review, design, and implementation of IRS compliance program**
There are significant compliance issues and potential penalties relating to nonresident investors. NTA can assist you in assessing your effectiveness and identifying any deficiencies.
- **Preparation of annual information returns**
Annual information returns are required for paying agents with nonresident clients. NTA can assist you in preparation of these annual returns.
- **Effectively connected income elections**
To avoid mandatory 30% withholding on gross rental income of nonresidents, withholding agents are required to obtain a form W-8ECI. NTA can prepare these forms for you.

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We Can Help Enhance Your Sales Process By Assisting Your Nonresident Clients With Tax Answers Both Pre And Post Purchase

REAL ESTATE AGENTS

- **Personalized meetings and correspondence with current and prospective clients**
For a small retainer, NTA can advise real estate agents and their clients of their basic filing requirements and their options before purchasing real estate in the U.S. We can also help restructure client's previous investments before purchasing additional properties.
- **Income tax projections for potential clients**
- **Cobranded sales and marketing material**

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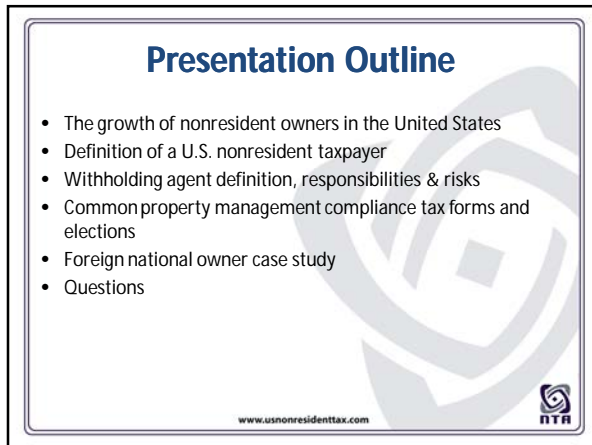


Need Assistance With Your Nonresident Tax Client? NTA Can Help!

TAX PROFESSIONALS

- **Concurrent professional relationships with CPAs, EA's (Enrolled Agents), Tax Preparers, and Attorneys with nonresident tax clients.**
- **NTA can assist other professionals who may or may not be versed in nonresident taxation. We can add value to your organization by providing expertise in this area.**







Why are nonresidents purchasing property in the United States?

- Housing bubble burst
- Devaluation of United States dollar
- High building code standards
- Prestige of owning real estate in the United States
- Relatively low income tax rates
- Reason to visit the United States

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Nonresident purchasing stats

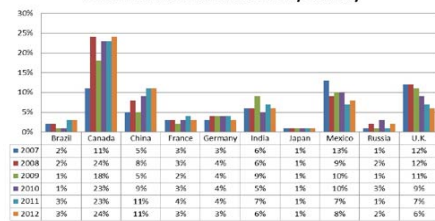
- According to a 2013 report by the National Association of Realtors, international clients purchased an estimated \$68.2 billion worth of residential property in twelve months ending March 31, 2013, or 6.3% of the total value of all U.S. home sales for the period.

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Nonresident purchasing stats

Percent of International Sales by Country



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Foreign National Investment Properties

Foreign Real Estate Investor Trends in the United States

The National Association of Realtors (NAR) recently revealed statistics showing that foreign investors in the United States have increased by 24 percent since 2011. Over half of international investors hailed from India, China, Canada, the United Kingdom and Mexico. Over 55 percent of foreign buyers came from these five countries.

Where were these buyers purchasing properties? Primarily in the states of New York, California, Texas, Florida and Arizona. The majority of sales, approximately 80 percent, were concentrated in these five states and 62 percent of those foreign investment dollars were in the form of cash purchases. The hot spots for residential income property investing are markets like Atlanta, Chicago, Charlotte, Houston, Indianapolis, Kansas City & Memphis where foreign investors can acquire affordable residential properties that produce positive monthly income for the investor.

Pros and Cons for International Investors in the United States

In foreign investor terms, an "absentee landlord" is one who purchases rental property in the United States, yet their primary residence is abroad. There are various pros and cons to being an investor from abroad seeking to purchase rental property on U.S. soil. See the primary detriments and benefits below.

Cons: One of the primary cons is difficulty in management. It can be hard for absentee landlords to manage real estate from abroad. Some rely on family members, which may or may not be the best idea. Many times these scenarios work fine, but in others, an arrangement such as this may not always be in the best interest of the investor.

Categories
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What is a Nonresident for U.S. Income and Estate & Gift Taxes?

- In most cases, the answer is quite obvious. The individual is a citizen of another country, visits infrequently, just owns property in the U.S.
- The reason why it may not be advantageous to be considered a U.S. resident for income tax purposes
 - Taxed on his or her "world-wide" income
 - Tedious and expensive process.
- When it is unclear whether the individual in question is considered a resident or nonresident for income tax purposes there are two basic tests:
 - Green Card Test
 - Substantial Presence Test

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NTA

What is a Nonresident for U.S. Income and Estate & Gift Taxes?

- The Domestic Single-Member LLC myth



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What is a Nonresident for U.S. Income and Estate & Gift Taxes?

- Domestic multi-member LLC with nonresident owners
- Foreign partnerships
- Foreign corporations or trusts
- Domestic trusts with foreign beneficiaries



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Implications and Risks for Withholding Agents

- Foreign Investment In Real Property Act of 1980 ("FIRPTA").
- The basic principle FIRPTA:
 - Introduced was the concept of mandatory income tax withholding, putting the onus on those who have control of the funds derived from certain types of income, referred to those individuals or companies as withholding agents.
- A withholding agent:
 - Is defined as any U.S. or foreign person that has control, receipt, custody, disposal, or payment of any item of income of a foreign person that is subject to withholding.
- As a withholding agent:
 - You are personally liable for any tax required to be withheld, independent of the tax liability of the foreign person to whom the payment is made.
 - If withholding agent fails to withhold, submit the 30% tax, and the foreign payee fails to satisfy his/her U.S. tax liability, both parties are liable for the tax and any related penalties and interest.

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Withholding Rules

- The basic requirement is for 30% mandatory withholding of **gross** rents and quarterly submission of that amount as income tax to the IRS.
- Withholding is required on rents paid to nonresident/foreign individuals, foreign partnerships or corporations, and "single-member LLCs" with non resident members, unless the following has been received by the withholding agent from the above:
 1. W-8 series form with proper tax election verbiage
 2. Individual Tax Identification Number or EIN depending on ownership structure

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Tier One Issue for the IRS

- In 2010, the IRS identified non resident taxation as a “tier one “ issue which means it is considered a top priority and have hired over 1,500 employees to administer non resident income tax since that time.
- Given the ever-growing federal deficit, the U.S. treasury department is looking for new sources of revenue to help it sustain and grow itself.
- The main tool they use is to mandate that those in the U.S. who have control of funds to be paid to non residents to withhold and submit income tax to the IRS on their behalf.

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Withholding penalty slide

The following penalties/assessments may apply:

- Failure to withhold the required tax. Liability for 100% of the withholding amount if the IRS cannot collect it from the payee
- Failure to make deposit of taxes
 - In general
 - 2% if the failure is not more than 5 days
 - 5% if the failure is more than 5 days but not more than 15 days
 - 10% if the failure is more than 15 days
 - Special rule
 - 15% in any case where the tax is not deposited on or before the earlier of
 - The day 10 days after the date of the first delinquency notice to the taxpayer, or
 - The day on which notice and demand for immediate payment is given

Failure to collect and pay over tax (IRC Sec. 6672)
 Any person required to collect, truthfully account for, and pay over any tax imposed by this title who willfully fails to collect such tax, or truthfully account for any payover such tax, or willfully attempts in any manner to evade or defeat any such tax or the payment thereof, shall, in addition to the other penalties provided by law, be liable to a penalty equal to the total amount of the tax evaded, or not collected, or not accounted for and paid over.


Willful failure to collect or pay over tax (IRC Sec. 7202)
 Any person required under this title to collect, account for, and pay over any tax imposed by this title who willfully fails to collect or truthfully account for and pay over such tax shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, shall be fined not more than \$10,000, or imprisoned not more than 5 years, or both, together with the costs of prosecution.

Misstatements on W-9s
 You are not responsible for misstatements on a Form W-9 or other documentation provided to you claiming a reduced rate under a treaty. If, however, you do know or have reason to believe that a payee is not eligible for a reduced rate, you must not apply the treaty rate claimed.

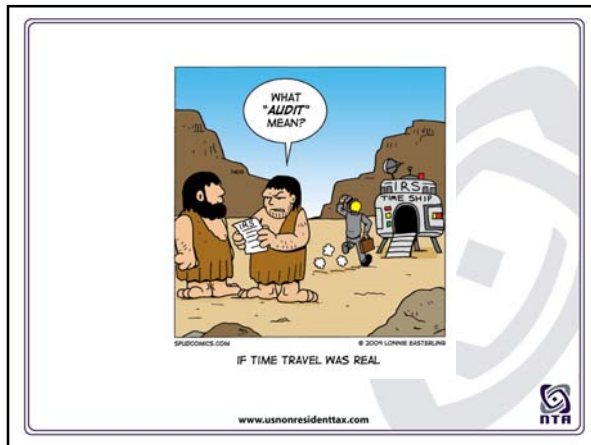
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1042/1042S penalty & interest slide

- Failure to file Form 1042. The penalty for not filing Form 1042 when due (including extensions) is usually 5% of the unpaid tax for each month or part of a month the return is late, but not more than 25% of the unpaid tax.
- Failure to file correct Form 1042-S. A penalty may be imposed for failure to file Form 1042-S when due (including extensions) or for failure to provide complete and correct information. The amount of the penalty depends on when you file a correct Form 1042-S. The penalty for each Form 1042-S is:
 - \$30 if you file a correct form within 30 days, with a maximum penalty of \$250,000 per year (\$75,000 for a small business);
 - \$60 if you file after 30 days but by August 1, with a maximum penalty of \$500,000 (\$200,000 for a small business); or
 - \$100 if you file after August 1 or do not file a correct form, with a maximum penalty of \$1,500,000 per year (\$500,000 for a small business).

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Mr. Sugar E. Daddy case study

Mr. Sugar E. Daddy is an Australian national that recently purchased 50 properties in the Jacksonville, Florida area for \$500,000. He will be putting \$1,000,000 into the rehabilitation of the properties. Each property will be rented out at \$800 per month with a 10% management fee


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Mr. Sugar E. Daddy case potential penalty

Mr. Sugar E. Daddy potential property manager's penalty:


50 units producing 10,000 per year each of gross revenue:	\$ 500,000
Potential penalties (does not include interest at applicable rates):	
30% of gross rental withholding penalty	\$ 150,000
Failure to deposit taxes within 15 days	15,000
Failure to file Form 1042-S	15,000
Late filing penalty of Form 1042	37,500
Total	\$ 217,500
Estimated annual management fee income at 10% of gross rent	\$ 50,000

*Note: If convicted of felony fine no more than \$10,000 and 5 years in prison

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Other considerations

- Death
- Title change
- LLC formation
- Corporate tax election
- Estate tax hedging

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Questions?

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