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Wealth Planning for Cross Border Clients

About 1 in 7 people living in the U.S. were not born here. Some eventually obtain U.S. citizenship, but many do not. There is a great need for wealth planning among non-U.S. citizens, otherwise known as foreign nationals. Planning for foreign nationals can be incredibly complex and depends on three main criteria: tax domicile, residency, and citizenship.

Tax domicile pertains to where taxes are paid. Residency is where one lives – this is often the same country where taxes are owed, but not always. Lastly, citizenship means that an individual is a citizen of a country. Within the category of residency, it's important to consider visa status and whether it's permanent or temporary.

A U.S. permanent resident, otherwise known as a green card holder, enjoys many of the same income, gift, and estate tax benefits as a U.S. citizen. Green card holders can gift the annual exclusion amount of \$17,000 per recipient (\$34,000 per recipient for married couples) without owing taxes. Green card holders may take advantage of the gift and estate tax exemption of \$12.92 million for single filers, and \$25.84 million for married couples. The unused exemption of a deceased spouse is portable to the surviving spouse and a form 706 is required. One major tax disadvantage is that the unlimited marital deduction, which allows for a transfer of assets to the surviving spouse without taxation, is unavailable. However, the unlimited marital deduction is available if the deceased spouse's assets are transferred to a spouse that is a U.S. citizen.

Another challenge is that income and estate taxes may be taxed by more than one country unless a tax treaty with the US exists. Tax treaties generally prevent double taxation on income. Every country's treaty is different. For instance, Netherlands taxes income received from U.S.-domiciled real estate. Some countries treat U.S. tax-deferred retirement accounts unfavorably. There are about 25 countries that have existing treaties with the US. If a green card holder would like to give up U.S. residency, an expatriation tax (exit tax) may apply, and all capital gains must be realized. The exit tax applies if the former resident lived in the U.S. 8 out of the last 15 years, has \$2m in assets, and has more than \$145,000 of income each of the last 5 years. On the investment side, green card holders can open U.S. investment accounts.

Those who live in the U.S. but do not have a green card nor are U.S. citizens are deemed non-resident aliens. Many non-resident aliens own property in the U.S. Unfortunately, non-resident aliens do not benefit from many of the income, gift, and estate tax privileges that green card holders enjoy. Non-resident aliens are allowed to gift the annual exclusion amount of \$17,000 per recipient (\$34,000 per recipient for married couples). Annual gift limits between non-resident alien spouses are \$175,000. The lifetime gift exemption is unavailable and any amount above the annual exclusion is taxed at 40%. Estate tax is more severe for non-resident aliens than for green card holders. The unlimited marital deduction and portability are unavailable. At death, any U.S. assets above \$60,000 are subject to U.S. estate tax. Estate and income tax rules vary for married couples depending on the spouse's status. Opening U.S. investment accounts is also more difficult for non-resident aliens.

Some people fall into the category of "International Citizens," this is a colloquial term rather than a technical one. International citizens may be dual citizens, green card holders, or non-resident aliens who hold property in multiple domiciles. These world travelers may aspire to forfeit their U.S. residency (possibly because of taxes) and adopt 'international citizenship' by moving assets to Singapore or other more tax-friendly countries. Green card holders who were born in Western Europe, Canada or countries with strong healthcare systems sometimes take lucrative jobs in the U.S., and then go back to their home country and enjoy the benefits of less expensive, socialized medicine in retirement. However, they are averse to paying the exit tax and so may keep their green cards and leave assets in the States.

Please reach out to your wealth manager with questions on non-US wealth planning. We collaborate with CPAs, attorneys and trust companies who specialize in cross-border income and estate tax planning.

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