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U.S. Taxes for Non-US Persons

Nancy A. Nelson CPA

Presenter



Introduction to US Taxes

This webinar is intended for non – US Persons and is not formal tax advise as all circumstances are personal.

Who this webinar is for:

- Non – US persons:
 - o Not a US Citizen
 - Not a US legal resident
 - Not a Green Card Holder
 - In the US on a Student, Teaching, Government or other special visa
- If you are a US Citizen, Green Card Holder, or resident in the US. You are a US person and subject to US taxes and must file as such.

Special status

Foreign Students in the US

If you are in the US on a student visa – even if you have been issued a US taxpayer ID – you remain a non-US person for investment income. This does not necessarily mean that you are not subject to US taxes on earnings if you work. •

Government Workers (Embassy, UN, World Bank)

If you are in the US on a Government visa, you remain a non-US person for tax purposes.

Performers and Athletes

Earnings from performances/games in the US are subject to US taxation.

Introductory Remarks

One Big Beautiful Tax Bill (OBBB)

No changes in this area of the tax code

What could come?

Because of tariffs imposed by the current administration it would not be surprising to if some countries either renegotiate current tax treaties or refuse to renew. The involvement of the US courts make the situation complicated.

What Can Cause US Income Tax

Earning income from working in the US for a short period (less than 30 days)

Performers

Gambling winnings

Rental income from US Real Estate

Direct earnings (being a partner/owner) from a US Business

Investment Income

Primary focus of the presentation

- Looking at the reporting of US investment income on form 1042S
- Touch on publicly traded partnership income

W-8 forms

- Only going to address the W-8BEN completed by individuals.
- W-8 forms for partnerships, associations, corporations and trusts can be complex.

The W-8BEN

For Individuals only.

- Critical to get this right to have US tax withholding be done correctly in your account.
- Complete correctly
- Keep updated
- Expires every three years
- Required for FATCA reporting – also critical to have right
- Completed form stays with institution – it is not sent to the IRS.

FACTA

Foreign Account Tax Compliance Act - 2010

- Enacted as a revenue raising portion of the offset the Hiring Incentives to Restore Employment Act
- Intended to increase collection of US taxes due from US persons holding assets/earning income overseas – US has a global concept of taxation
- The idea was to force non-US financial institutions to report earning of US citizens to the IRS
- Resulted in information sharing and reporting worldwide

What Investment Income is subject to US Tax

Withholding Tax

- Any payment received from revenue generated in the U.S.
- Interest
- Dividends
- Payments in lieu (PIL)
- Rents (direct and indirect)
- Stock loan fees
- Business operating income – including distributions from MLPs and PTPs

Withholding Rates

- The statutory rate of withholding is 30%
- However, treaty agreements may lower this rate:

General Treaty rate – 15%

Can be 10% or 25%

Find out which countries have treaties at:

[https://www.IRS.gov/businesses/international-business/United States income tax treaties - A to Z | Internal Revenue Service](https://www.IRS.gov/businesses/international-business/United%20States%20income%20tax%20treaties%20-%20A%20to%20Z%20|%20Internal%20Revenue%20Service)

IRS Publication 519 – **Free** at IRS.gov

- Business income 37%

Timing of withholding

- Withholding occurs when the payment is made – received in your account
- Can be reversed if payment is reclassified
- Once reporting is issued no direct refunding can be done. March 15 of the following year – some changes have been made in this area, however once the 1042S is issued no refunds can be made.
- Tax withheld is remitted weekly by IBKR to the US Treasury.

Business Income

- This refers to DIRECT business income
 - Earned from rental property (Vacation Home rented)
 - Earned from a directly owned interest in a US business
 - Happens at the business level
 - 37%
 - Usually requires that a US tax return be filed
 - Form 1040NR

Interest Income Codes

- 01 – Interest (investment)
- 29 – Deposit Interest (Bank)
- 30 – Interest – Original Issue Discount
- 31 – Short – term Original Issue Discount
- 33 – Substitute payment (PIL) - interest
- 54 – Interest from certain actively traded or public securities

Dividend Codes

- 06 - Dividends paid by US Corporations – General
- 34 – Dividends – Substitute Payments (PIL)
- 40 – Other dividend equivalents
- 52 – Dividends paid on certain actively traded or public securities
- 53 – Dividends substitutes paid on certain actively traded or public securities

Other Codes - 1

- 09 – Capital Gains
- 14 – Real property income (rents) and Natural Resources Royalties
- 15 – Payments from pensions, annuities, alimony and insurance premiums
- 16 – Scholarships and Grants
- 23 – Other Income
- 24 – Qualified investment Entity (QIE) distributions of capital gains
- 27 – Publicly traded partnership distributions subject to IRC 1446 – business income

Other Codes - 2

- 28 – Gambling Winnings
- 35 – Substitute payment – other
- 36 – Capital Gain distributions (mutual funds)
- 37 – Return of Capital

Exemption Codes

- 02 – Exempt under Internal Revenue Code
- 04 – Exempt under Tax Treaty
- 05 – Portfolio income exempt under Internal Revenue Code
- New mandatory reporting requirement – if rate of withholding is less than 30% then a code must be given - just enforces current practice.

Do I need to file a tax return with the IRS?

- You only have investment income – holdings in publicly traded securities – NO
- You have a Rental Property in the US – YES
 - State tax return/sales tax (FL) may also be required
 - Timeshare property falls under this too.
- You have direct business income - YES
- You have an interest in a PTP – Maybe
- Your investment Account had a reclassification of income post 3/15 that should have resulted in a refund of withheld tax - Maybe

Questions

- Or send them to webinars@interactivebrokers.com