Welcome to America … Now What?
U.S. Taxation and Other Reporting Requirements

Presented to:

64th Annual Taxation Conference
The University of Texas Law School
Austin, Texas

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By T. Charles Parr, III *

INTRODUCTION

Should an individual choose to either obtain a resident alien visa or seek U.S. citizenship, he or she will be subject to the following taxes and information reporting:

- **Federal and, possibly, state income taxes;**
- **Federal transfer taxes including estate, gift, and generation-skipping transfer ("GST") taxes;**
- **Federal information reporting.**

DEFINITIONS

In discussing the taxation and reporting guidelines, this outline will utilize certain terminology as defined in Internal Revenue Code ("IRC") Section 7701 as follows:

Person ...	shall be construed to be an individual, a trust, an estate, a partnership, an association, a company, or a corporation.
Domestic ...	when applied to a corporation or partnership means created or organized in the U.S. or under U.S. law.
Foreign ...	when applied to a corporation or partnership means created or organized outside the U.S. or under non-U.S. law.
United States ...	when used in a geographical sense includes States and the District of Columbia.
U.S. Person ...	shall mean a citizen or resident of the U.S., a domestic partnership, a domestic corporation, any estate that is not a foreign estate, and any trust that is under primary supervision by a U.S. court or U.S. person or persons exercising control decisions.
Resident Alien ...	shall be construed as a person who is a lawful permanent resident of the U.S., meets the substantial presence test in the U.S. (Section I), or makes an election to be treated as a resident of the U.S. (Section I).

*** Special thanks to Michael V. Ohanesian of Parr & Associates for his assistance with preparation of this outline.**

CONTENTS AND ORGANIZATION

U.S. forms required to be submitted to the Internal Revenue Service ("IRS") or Treasury Department fall primarily into two categories:

- Returns reflecting a tax liability of the reporting entity; or
- Information reports that generally reflect taxable income, taxable transactions that may be taxable to another person, or certain other information.

Failure to file required reports or returns can result in substantial penalties and interest, or substantially curtail the ability to conduct business or personal transactions.

For example, the maximum penalty for a failure to file FinCEN Form 114 (FBAR) is the greater of $100,000 or 50% of the balance in question if there is a willful violation. The penalty for a non-willful violation after October 22, 2004 is $10,000. Penalty relief is available, however, the process is not simple and relief is not always obtained.

It is critical that tax practitioners know which foreign reporting requirements apply to their clients in order that costly penalties be avoided.

This discussion has been organized into the following six sections:

- **Section I - Tax Reporting Guidelines**

  This summary details reporting requirements in which an income tax is imposed by the U.S. This includes reporting requirements for corporations, partnerships, and individuals.

- **Section II - Investment In Real Property**

  This summary addresses reporting requirements under the Foreign Investors in Real Property Tax Act ("FIRPTA").

- **Section III - Information Reporting and Withholding Guidelines**

  This summary reflects reporting requirements in which no tax is imposed, but which impose the reporting of certain information to taxing authorities.

- **Section IV - Currency Reporting Guidelines**

  This summary covers reporting requirements dealing with currency related transactions and accounts.

- **Section V - Other Reporting Guidelines**

  This summary discusses other information reporting requirements.

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First appeared as part of the conference materials for the
64th Annual Taxation Conference session
"Welcome to America… Now What? U.S. Income Taxation and Other Reporting Requirements"