

# Welcome to America ... Now What?

## U.S. Income Taxation and Other Reporting Requirements

Presented by  
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## When Do Foreign Nationals Become Subject To U.S. Income Tax?

- Taxation of “U.S. Persons” vs. “Nonresidents”
- What difference does it make?
- U.S. Persons are taxable on their “Worldwide Income” and are subject to information reporting

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# Who is a U.S. Person?

- Who is a U.S. Person?
  - U.S. citizens
  - Resident Alien Visa holders
  - Those who meet the Internal Revenue Code (“IRC”) Section 7701(b)(3) “183 Day Rule test”
- Aliens electing under IRC Section 7701(b)(4)
  - Nonresident aliens electing under IRC Section 6013(g)
    - Note – both the NRA and resident alien or citizen spouse must elect in accordance with Treasury Regulation (“Reg.”) Section 1.6013-6(a)(4).

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## Substantial Presence “183 Day Rule” Test

- Must be present at least 31 days in the current calendar year

and

- The adjusted sum of days present in the U.S. during the current year and preceding two years equals or exceeds 183 days

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## Determination of Adjusted Sum of Days

- Each day in the current taxable year = 1
- Each day in the preceding taxable year =  $1/3$
- Each day in the second preceding taxable year =  $1/6$

## Substantial Presence Test – Days Counted

- Generally considered present for a full day if present in the U.S. at any time during the day

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