Deloitte.

2017 Essential tax and wealth planning guide

Third installment

Get started ▶

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Dear Reader,

For many of us, the new year brings New Year's resolutions, along with the promise that we will practice better habits. Those habits may relate to what we eat, how frequently we exercise, and even how frequently we evaluate our personal and financial goals. Inherent in those financial goals is the tax planning we may need to implement in pursuit of those goals.

The 2017 *essential tax and wealth planning guide* has a different look and feel from our last two decades of guides. Unlike prior years, this guide has been issued through a series of releases, which started in October 2016. We hope that the multiple releases encourage an ongoing dialogue between you, your family, and your professional advisors. While the tax landscape may have significant changes on the horizon, understanding what the potential changes may be should give you a greater sense of control over your planning. This guide provides an overview of relevant tax planning topics to assist you in taking ownership of your tax planning.

The first installment presented sections on **Tax policy and elections**, **Individual income tax planning**, **Wealth transfer planning**, and **Unique investments**. The second installment provided a **Post-election tax policy update**, **Post-mortem considerations**, **Philanthropy**, and **Tax implications of fund investments**.

This final installment offers you insights on the **Family office** and **Globalization**.

Establishing and operating a family office, or expanding the services of an existing family office, requires careful considerations so that family wealth is properly managed and protected, allowing it to flourish over time. This section of the guide addresses key trends that many family offices consider to manage risks within the family office and to protect assets.

In addition, this final installment of the guide addresses the impact that globalization has on individuals. Currently, many individuals have opportunities to work and invest abroad, and those individuals are often more mobile than ever before. This added mobility increases regulatory complexity for individuals. For example, those who are actively planning for their wealth must give consideration to the rules in multiple jurisdictions. Understanding what steps can be implemented, prior to moving or traveling to a new country, will help avoid unanticipated consequences.

While this update represents the final installment of the 2017 essential tax and wealth planning guide, we will continue to share updates on tax policy changes throughout the year.

To find members of the Deloitte Private Wealth practice who specialize in your area of interest, please contact us at PrivateWealth@deloitte.com.

Regards,

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National Industry Leader
Private Wealth
Deloitte Tax LLP

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Family office

The roots of the family office extend back to the late 19th century when many family offices were founded to manage the significant fortunes of successful tycoons. While the original family offices were in many cases established for those individuals who had created large manufacturing empires, today we observe many hedge fund and private equity founders, as well as technology and real estate entrepreneurs, forming family offices following a significant liquidity event.

Family office

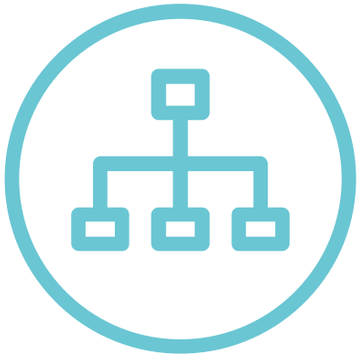
Introduction

In the last decade, several factors have converged to significantly drive interest in family offices:

- A wave of new global wealth creation and accumulation, including Baby Boomers who are selling their businesses and reinvesting the resulting liquid assets to sustain, enhance, and protect the family's wealth
- Successful entrepreneurs selling their businesses and pursuing their passion to invest capital and sweat equity in philanthropic endeavors
- A growing number of families committed to "making an impact" in the world, now and in the future
- Continued market volatility leading wealthy families to take more "hands on" control over investment policy decisions
- Banking and business failures, investment fraud, and cybercrime prompting families to take an institutional approach to family risk management

Although many top-tier private banks, investment firms, and consulting practices can provide these services, a growing number of individuals and families have chosen to form a single family office that is devoted to the personal needs and desires of the family. And regardless of how long a family office has been in existence, we consistently find that individuals and families want to assess the services the family office provides to the individuals, trusts, and entities ("clients") served by the family office.

In this section of our guide, we will take a look at the services frequently provided by the family office to its clients and discuss how the family office determines whether it will insource or outsource the responsibility for such services. There are a variety of factors that will impact a family office's decision to hire talent to deliver the services internally compared to paying a third party to provide the services to the family office's clients. Those factors include the cost to deliver the services, the complexity of the service to be delivered, and whether talent exists in the marketplace to provide the services. In many instances, the cost to acquire technology necessary to deliver the service is also a deciding factor. If the cost to acquire, implement, and maintain the technology exceeds a certain threshold, it may be more effective to hire a third party to deliver the service.



Although many top-tier private banks and investment firms can provide these services, a growing number of individuals and families choose to form a single family office that is devoted to the personal needs and desires of the family.

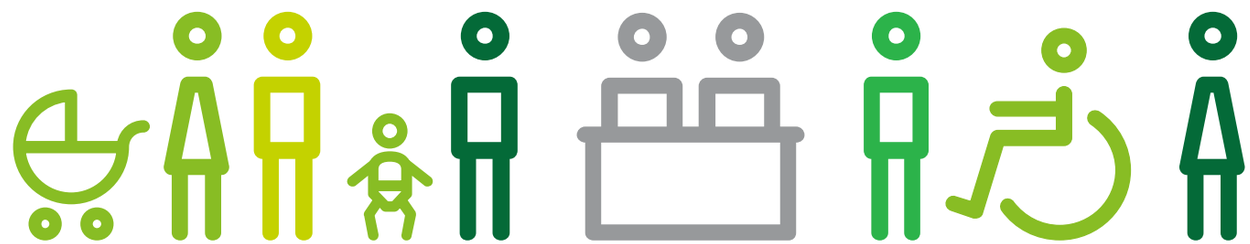
Family office

Introduction

In addition to evaluating whether to insource or outsource services, many family offices are reassessing the fees charged for their services. Although a family office may be created to serve one or multiple generations, the typical goal is to create a business organization that is appropriately compensated for the customized services it delivers to its clients. Furthermore, where related party transactions occur between the family office and its clients, such as payment for the services delivered, caution must be exercised to ensure that the amounts charged are reasonable and at market rates. We will evaluate in this section of the guide how transfer pricing guidelines could apply to assist the family office with determining reasonable compensation for the services it delivers.

Finally, whether the family office is managing assets that the family desires to pass to future generations or to achieve family members' philanthropic goals, the preservation and security of these assets is critical. No one wants to think that fraud could impact their family's wealth. Unfortunately, we are all susceptible to the possibility of fraud. Whether it be through identity theft, an attack on the family office technology systems, or even an employee's unanticipated fraudulent behavior, the family office should proactively implement strategies to mitigate the likelihood that one of these actions will occur.

Whether the family office is managing assets that the family desires to pass to future generations or to achieve family members' philanthropic goals, the preservation and security of these assets is critical.



Family office

Evaluating services to be provided

One of the most important decisions a family office must make is identifying the services the family office will provide. These can vary widely, depending upon the family's needs and expectations, as well as the extent and complexity of assets managed. Most family offices coordinate an extensive array of services for family members (Figure 1), using both in-house and external resources.

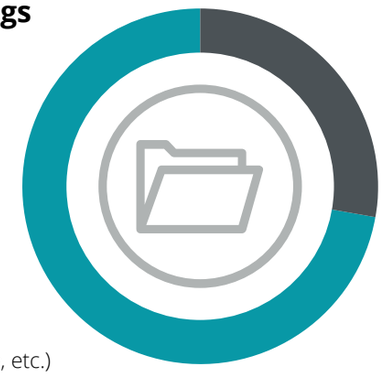
Since wealthy families have numerous options for obtaining personal and financial services, one success factor in forming a family office is to engage the right people to do the right work. Finding an optimal balance between services performed in-house by competent family office employees and those outsourced to qualified service providers is important for long-term success. The family office should regularly reassess whether its services should be insourced or outsourced. Over time, new family members may be born and others may pass, trusts may be created, and new investments may be made. All of these life events will impact how the family office chooses to serve its clients.

Our experience with hundreds of family offices in the past decade has revealed the following insights about insource vs. outsourced services (Figure 2 on next page):

- Many in-house services (dark blue) address daily activity at a granular level. Keeping these services in-house provides immediate access to, and control over, the information. It is also likely to be more cost efficient and expedient than outsourcing.
- Other services (light blue) may be performed by family office staff, outside providers, or some combination of the two. This can offer the best of both worlds—costs savings on work that involves lower risk or is less complicated and cutting-edge planning and quality assurance for more complicated work. For some of these services, the family office may initially rely on outside providers to establish core practices or processes for the family office to follow. Once the set-up is complete, the family office can hire talent to maintain the processes that were established.
- The services outsourced most often (green) typically require highly specialized skills or significant infrastructure. In many instances, the services within this category require individuals to have deep technical skills and experience with current tax and regulatory matters. Few family offices have the appropriate structure, professionals or resources to provide these services in-house from a risk-return perspective.

Figure 1

How would you describe the service offerings of your SFO?



Source: Deloitte's National Family Office Forum survey

Evaluating services to be provided

Figure 2

Insource vs. outsourced services

Family office administration	Technology	Accounting	Tax and wealth planning	Investments	Philanthropy	Legal	Personal
Human resources	Technology platform	Record keeping and recording	Tax compliance	Investment methodology — development/ implementation	Family strategies — development/ implementation	Contract oversight	Personal services
Office policies and procedures	Technology controls	Bookkeeping	Tax planning	Manager selection	Family foundation oversight	Litigation oversight	Household help
Insurance	Cloud computing	Budgeting and cash flow analysis	Wealth transfer planning	Manager benchmarking	Charitable benchmarking	Regulatory oversight	Property management
Risk management	Data analytics	Financial controls	Investment structure design	Performance reporting	Due diligence		Travel
Family education	Family and business information continuity		Succession planning	Due diligence			
	Cyber security						

Most often in-house · Sometimes in-house · Most often outsourced

Family office

Evaluating services to be provided

Talent impacts the decision

The decision to insource or outsource specific services may also be impacted by the talent in the geographical area where the family office is located. For certain key family office roles, it may be easy to identify and attract talent to the family office. However, for more junior roles, the family office may be competing for talent with other family offices and will need to consider alternative strategies to attract and retain talent. This may include flexible work arrangements, increased opportunities to work in different areas of the family office, and training opportunities to help talent continue to develop new skills. If the decision is made to insource many functions, investing in the talents' professional and technical skills will be imperative for the family office to remain current and cutting edge.

Each family office is as unique as the family it serves. In some situations, family members will want control over the insourcing versus outsourcing decision. In other situations, transparency on this issue is not necessary and family members simply require the services to be seamlessly delivered. Regardless, in either situation, the family office will need to quantify the cost and the quality of any service that will be delivered and determine whether it should be insourced or outsourced. This assessment should be performed regularly as significant life events occur. Furthermore, as new leaders join the family office or family members become more involved in the family office, this offers an opportunity to reevaluate the services provided and to confirm that services are executed in the most timely and cost effective manner, while considering the family's complexity and tolerance for risk.

The decision to insource or outsource specific services may also be impacted by the talent in the geographical area where the family office is located.

Transfer pricing in the family office

While a family office is created to serve one or multiple generations, the goal is to create a business organization that is appropriately compensated for the customized services it delivers to its clients.

While a family office is created to serve one or multiple generations, the goal is to create a business organization that is appropriately compensated for the customized services it delivers to its clients. Once the family office determines the services it will provide to its clients, it must determine how much it will charge for such services. In many instances, the family office is owned by family members or trusts for the benefit of family members. Given the related party interactions between the family office and the clients it serves, there is a risk that the Internal Revenue Service (IRS) could challenge the compensation charged by the family office for the services it provides.

For example, pricing for services provided to family members that is *lower* than market rates may result in a deemed gift between family members. Alternatively, pricing for services provided to a private foundation or charitable trust that is *higher* than market rates could be interpreted to be an act of self-dealing, which may result in the imposition of an excise tax. As such, the family office and the clients it serves are both motivated to determine market-based compensation that is comparable to that charged by an unrelated third party.

The Treasury Regulations under section 482 and section 6662 govern how to establish and document pricing between taxpayers under common control (controlled service transactions). During an examination, the IRS may request the support and documentation for payments made between related parties. A transfer pricing analysis and related documentation can support the pricing of services and mitigate penalties if the IRS successfully challenges the amounts charged. Risk mitigation is the primary benefit of a transfer pricing study based on section 482 and section 6662 guidance.

Transfer pricing in the family office

What triggers transfer pricing considerations?

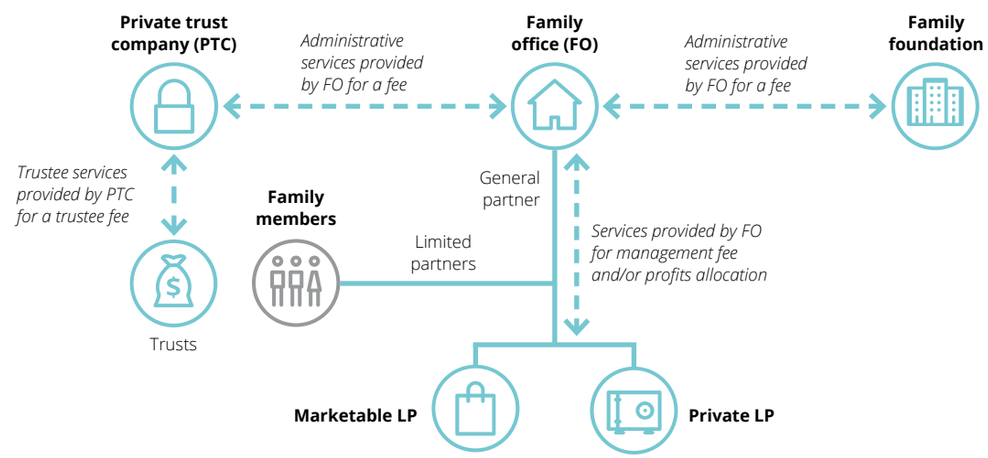
Services provided by a family office

Many of the services a family office provides can be analyzed and documented using methods provided in Internal Revenue Code (IRC) section 482, including:

- **Investment management**
- **Accounting/ bookkeeping**
- **Tax-return preparation**
- **Management services**
- **Technology services**
- **Concierge services**

Common family office structures and arrangements

The diagram below is representative of many family office structures whereby the family office provides accounting, administrative and investment management services to individuals, trusts, entities, and foundations related to the family.



Transfer pricing in the family office

While a transfer pricing analysis and related documentation can support pricing of services and mitigate penalties if the IRS successfully challenges the amounts charged, it can also be a beneficial exercise to demonstrate to family members and fiduciaries that the amounts they are paying for services are consistent with those that would be charged by an unrelated third party.

Which method fits your family?

Section 482 provides six alternative methods that can be used to benchmark and document transfer pricing for various controlled services transactions. Once the right method for a service is determined by the family office, the method should be applied in a consistent and reliable manner.

When completing a transfer pricing analysis, the first step involves interviews with family office executives who provide services to family members or to entities controlled by family members. The purpose of this fact-gathering step is to understand the services currently offered by the family office and to whom those services are provided, as well as how the family office is currently compensated for its services. For new family offices that are just being created, this discussion will relate to the services the family office plans to deliver to clients. Through these discussions, the family office is able to identify the controlled services transactions that will be evaluated through the transfer pricing analysis.

Once the controlled service transactions are identified, the next step is to use various public sources to identify and analyze industries that provide similar services to the ones offered by the family office. This process helps to identify relevant market benchmarks for the services provided.

All of this information is then used by the family office to select the best method to determine the appropriate price for the service(s) offered. After this analysis and identification of the applicable method occurs, a transfer pricing report is prepared to summarize the controlled services transactions analysis, the industry analysis, the benchmarks selected and applied, and the methods ultimately used to determine the pricing for services.

While a transfer pricing analysis and related documentation can support pricing of services and mitigate penalties if the IRS successfully challenges the amounts charged, it can also be a beneficial exercise to demonstrate to family members and fiduciaries that the amounts they are paying for services are consistent with those that would be charged by an unrelated third party. In addition, it provides an opportunity to re-educate family members on the services offered, as well as engage with the family on how the talent employed by the family office and third-party service providers serve the family.

Maintaining a family office may require significant costs to rise to the level of the customization that the family office desires. A transfer pricing analysis may provide comfort to family members that the family office is carefully managing these costs, while delivering valuable services to its clients.

Fraud in the family office

Family office fraud is not often in the news due to the private nature of the industry, but fraud does occur. Many family offices serve as investment managers, giving employees proximity to cash and other assets. In addition, they are often small organizations, where a single employee can have significant control over finances and be the sole person handling all communications to family members. These factors, among others, make family offices prime targets for fraud.

The overarching goal for fraud prevention is for the family to establish a culture that values integrity and transparency and encourages employees to report any suspicious activity. There are several steps that family offices can take to limit fraud, the first of which is to accept and acknowledge that fraud is a real threat. Then family offices and family members should become educated on fraud, perform periodic risk assessments within the family office, and structure and train the staff to prevent fraud.

Get educated

Employees engaged in fraud have a clear pattern of behavior that family members and other employees can be trained to detect. For example, hallmarks of embezzlers include a tendency to work very long hours, often arriving before and leaving after other employees. Embezzlers also tend to work weekends and generally do not take long vacations. These are all signs of employees working hard to "cover their tracks." The challenge is that these traits can also be characteristics of dedicated employees and are not in any way proof of a fraud. They are merely red flags and can be a prompt for additional research.

One simple technique is to require at least two weeks of consecutive vacation for all employees above a certain level or with access to the cash ledger. It is very challenging for an employee to keep a fraud hidden during a two-week absence from the office when another employee assumes their duties. Another technique that can limit fraud is periodic unannounced job rotations that require employees to switch job responsibilities.

Perform a periodic fraud risk assessment

Another good practice is to perform a periodic test, not just of the controls, but also of the entire operating environment. As mentioned, there are likely areas of fraud, such as payroll, expense accounts, and accounts payable, which are most often abused. These can be examined using data analytics that will flag suspicious activity or unanticipated patterns, such as an abundance of checks being written just under a control level or invoices to a single vendor that have been split to avoid the additional oversight of higher check amounts. The risk assessment does not have to happen every year or even on a regular basis; however, it is considered a prudent use of a family's resources to perform one periodically. Even if no fraud is uncovered, the clean bill of health gives the family a level of comfort and peace of mind.

A risk assessment does not have to happen every year or even on a regular basis; however, it is considered a prudent use of a family's resources to perform one periodically.

Fraud in the family office

Solve for the staffing problem

One common trait of family offices is that many have long-term employees. This is often a sign of loyalty and a productive work environment, but it can also lead to an overreliance on the trust and goodness of human beings. For example, a family office with trusted employees might not have the proper checks and balances in place for financial transactions. It can be challenging for a family to impose proper checks and balances when most employees are honest. However, one individual with too much control and access can cause an enormous amount of financial or reputational damage.

The small staff at most family offices makes establishing checks and balances very difficult. However, the segregation of duties is one of the simplest ways a family office can prevent fraud. For example, a family office should consider separating the individuals who handle cash from those who record cash on the ledger, which should then be reconciled by another party. At first glance, this may seem like a tedious and unnecessary process, especially for a smaller family office that is trying to run in a lean and efficient manner. However, such a system is a proven and effective way to combat fraud and more likely will pay for itself many times over. Placing a family office employee in a situation where he or she has access to cash, without the proper controls, can encourage fraudulent behavior. Even the most honest and trustworthy employee may at times be under financial pressure and can find it challenging to resist taking advantage of such a situation. These controls may feel inefficient to some and that is because they are not meant to be efficient—they are meant to be effective. If they are working well, fraud will have much less opportunity to take root.

The bottom line

The best way to prevent fraud is to accept that it occurs and to make a decision to prevent it. While it is often hard for a family to accept that they are being taken advantage of, experience shows that fraud is often perpetrated by trusted individuals. Once the fraud issue is a focus of the family, it is very possible to promote the culture and controls designed to thwart it. Doing so does not have to be overly intrusive or expensive; the solution is finding the right balance between trusting employees and verifying that they are being trustworthy. Family offices that do not make this a focus risk serious financial and reputational harm to the family. In addition, family offices may ultimately spend more time and effort on damage control than they would have in prevention.

Looking into 2017

While each family office is unique, they are businesses that are offering tailored services to satisfy their clients' needs while being compensated for the high-touch delivery that they provide. Reevaluating the services that are offered, how the family office is compensated for such services, and who should provide such services is one of the leading practices family offices can employ. In addition, family offices may consider performing a fraud assessment to mitigate risk within the operating environment. Family office leaders must be able to understand the challenges faced, determine priorities and develop and execute an action plan to address these matters.

Once the fraud issue is a focus of the family, it is very possible to promote the culture and controls designed to thwart it.

Globalization

"Globalization" may have only seemed an abstract and distant term yesterday. Today, with companies and businesses expanding their footprints, workforces, and talent, and investment capital becoming more mobile, globalization is truly unstoppable. The world we live in is increasingly borderless. It is no longer uncommon to see cross-nationality marriages, members of the same family living in different countries, or individuals living in one country but working in another. Understanding how to manage global tax obligations effectively has become increasingly more important for many individuals and families.

Globalization in action

Global migration

Globally, there were **244 million** international migrants in 2015.[1]

Between 1990 and 2015, the number of international migrants worldwide rose by over **91 million**, or by **60 percent**. Much of this growth occurred between 2000 and 2010, when some 4.9 million migrants were added annually, compared to an average of 2.0 million from 1990 to 2000 and 4.4 million from 2010 to 2015.[1]

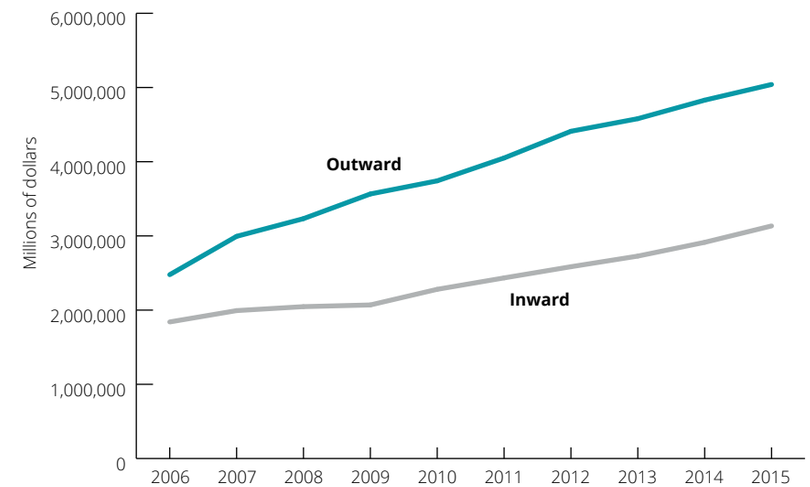
In the United States (US), more than **1 million** persons obtained permanent resident status in 2015.[2]

There were more than **181 million** non immigrant entries in the US in 2015.[3]

- 3.7 million were temporary workers and their families[3]
- 900,000+ were intracompany transferees[3]
- 449,000+ were treaty traders and investors[3]
- More than 8 million were temporary visitors for business[3]

Direct investment and activities of multinational enterprises

In 2015, the US direct investment position in All Countries Total (outward) was $5,040.6 billion, an increase of 4.4 percent from 2014. The direct investment position from All Countries Total in the United States (inward) was $3,134.2 billion, an increase of 7.6 percent from 2014.[4]



[1] http://www.un.org/en/development/desa/population/migration/publications/migrationreport/docs/MigrationReport2015.pdf
[2] https://www.dhs.gov/sites/default/files/publications/Yearbook_Immigration_Statistics_2015.pdf
[3] US Department of Homeland Security
[4] Bureau of Economic Analysis – US Department of Commerce

Globalization

Key questions to ask in a global context

If you and your family are thinking of joining the globalization trend and moving and/or investing internationally, have you asked yourself these questions:

- How will you manage investment, legal, immigration, tax, and accounting issues?
- What types of investment vehicles should you consider?
- Should potential estate taxes or inheritance taxes affect the structuring of your international investments?
- What are some of the tax considerations for non-US families making US investments?
- What are the potential issues for US families making investments in foreign countries?
- What effect does family mobility have on investment planning and taxation?
- Do you understand how to comply with your US and foreign country tax obligations?
- Do you know what your overall tax position will be across the globe?

Globalization

Cross-border income tax considerations

Inbound considerations

If you are not a US citizen and you are moving to or investing in the US, how you are taxed in the US is determined by your residency status.

Obtaining a green card is one way to establish US residency. The other way to establish US residency is to meet the substantial presence test. The substantial presence test is defined as being physically present in the US on at least:

- 31 days during the current year, and
- 183 days during the three-year period that includes the current year and the two years immediately preceding the current year, by adding together the following:
  - All the days you were present in the US in the current year,
  - One-third of the days you were present in the US in the first year before the current year, and
  - One-sixth of the days you were present in the US in the second year before the current year.

Once you become a US resident, you will be subject to US tax on your worldwide income in the same way as a US citizen.

Once you become a US resident, you will be subject to US tax on your worldwide income in the same way as a US citizen. You may still have significant economic ties in your home country (for example, bank accounts, investments, stockholding in companies, pensions, trusts, etc.). The US has certain "anti-deferral" rules and some of those investments, although they may be tax-favorable in a foreign jurisdiction, could give rise to adverse US tax consequences. You will also need to be aware of the various US information reporting obligations that may apply, as failure to fulfill these obligations could result in significant penalties.

Anyone who is not a US resident is referred to as a "nonresident alien". As a nonresident alien you are generally taxed in the US on income from US sources. In some circumstances, even if you meet the substantial presence test, you may be treated as a nonresident alien due to the application of certain exceptions or by the application of an income tax treaty between the US and a foreign country.

Cross-border income tax considerations

Most of the individual states in the US impose income tax. Some cities and localities also impose income tax. Given that states have varying definitions of residency, tax rules, and tax rates, it is important to understand the tax rules for the state you are moving to or investing in. Generally if you are tax resident in a state, you are taxed in the state on your worldwide income. If you are a nonresident, you are taxed only on your income sourced from the state.

Once you have moved to or invested in the US, what happens back home? What is your residency status in your home country? Will you need to continue paying tax or filing tax returns there? If you have to pay tax in both your home country and the US, will you be taxed twice? Does the domestic legislation in the US or in your home country provide relief for double taxation? Is there an income tax treaty between the US and your home country? Does the state you are moving to or investing in give you the benefit of the tax treaty at the state level?

There are many issues to be considered when you want to move to or invest in the US. Various actions that you take may affect the amount of taxes you pay in the US and the reporting obligations you have. Tax planning, therefore, is not only essential from a US tax perspective but also crucial in determining a tax-efficient global tax position.

Outbound considerations

If you are a US citizen or a green card holder, you are subject to US tax on your worldwide income no matter where you live. Your US filing and reporting obligations do not stop when you move to a foreign country. On the contrary, they tend to become more complex.

If you set up a business or make investments in a foreign country, you may have additional information reporting obligations in the US. US tax rules may also disadvantage some types of investments and entity structures. It is therefore very important to consult with your tax advisor before you take any action in order to understand the potential tax consequences and possible tax-efficient alternatives.

You may establish residency and be subject to tax in a foreign country. The foreign country may provide relief for double taxation in their domestic legislation or have an income tax treaty with the US, which also helps reduce double taxation. However, the foreign country may tax your US investments differently, and there may still be situations in which you are taxed twice if appropriate planning has not been conducted.

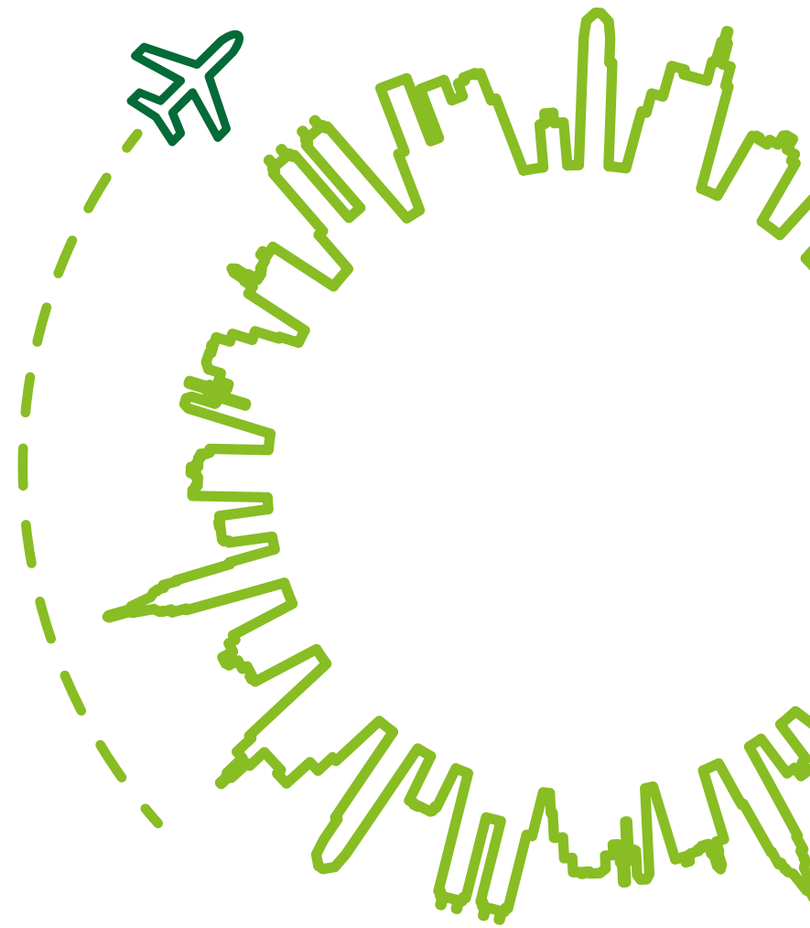
Globalization

Cross-border income tax considerations

If you are leaving the US and you do not hold a green card or US citizenship, you may cease being a US resident in the year of departure or the year after your departure if your later trips back to the US are minimal (that is, no longer meeting the substantial presence test). You may still have US filing obligations after you become a nonresident alien if you receive US "Effectively Connected Income" (ECI), that is, income arising from the activities of or assets used in a US trade or business. Examples of ECI include compensation for personal services performed in the US, income and profits from the operation of a business in the US, and income from the disposition of US real property.

Surrendering your green card will cause you to be considered a nonresident alien for US income tax purposes. If you subsequently spend substantial time in the US (after surrendering your green card), you may again become a US resident under the "substantial presence" test. Upon surrendering your green card, you will need to consider whether you are subject to the US expatriation tax or "exit tax."

As mentioned earlier, states have varying rules and it is equally important to understand the state tax implications when you move out of the US.



Globalization

Estate and gift tax considerations

Whether and how your assets are subject to US estate and gift taxation depends on your domicile status.

Domiciliaries

Determining domicile for US estate and gift tax purposes is different than determining US income tax residence discussed in the previous section. You are considered to be domiciled in the US for estate and gift tax purposes if you live in the US and have no present intention of leaving. Thus, you may be a resident for income tax purposes, but not US domiciled for estate and gift tax purposes.

Facts and circumstances test
To determine whether you are a US domiciliary, the following factors are considered:

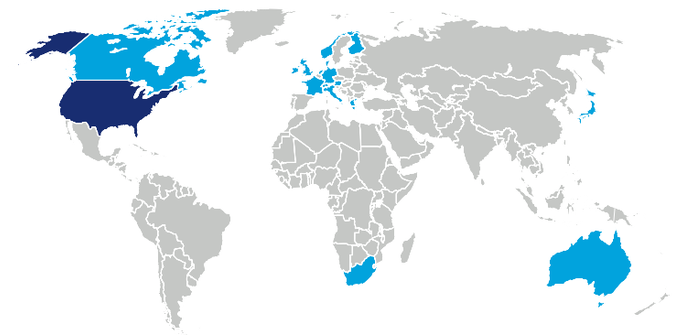
- Statement of intent (in visa applications, tax returns, will, etc.)
- Length of US residence
- Green card status
- Style of living in the US and abroad
- Ties to former country
- Country of citizenship
- Location of business interests
- Places where club and church affiliations, voting registration, and driver licenses are maintained

For details on how US estate and gift tax applies to you as a US domiciliary, please refer to the "Wealth transfer planning" section of installment one of this guide.

It is possible that two or more countries will consider you a domiciliary, and/or that certain assets may be subject to estate or gift tax in more than one country.

As of January 2017, the US has entered into estate and/or gift tax treaties with 16 jurisdictions. Tax treaties may define domicile, resolve issues of dual-domicile, reduce or eliminate double taxation, and provide additional deductions and other tax relief.

Countries with whom the US currently has gift and/or estate tax treaties



- Australia
- Austria
- Canada*
- Denmark
- Finland
- France
- Germany
- Greece
- Ireland
- Italy
- Japan
- Netherlands
- Norway
- South Africa
- Switzerland
- United Kingdom

*Through the income tax treaty

Globalization

Estate and gift tax considerations

Non-US domiciliaries

You are considered a non-US domiciliary for estate and gift tax purposes if you are not considered a domiciliary under the facts and circumstances test described on the previous page.

As a non-US domiciliary you are taxed only on the value of your US "situs" tangible and intangible assets owned at death, and on the value of your US "situs" tangible assets gifted during your lifetime, with a maximum tax rate of 40 percent. An exemption of $60,000 is available, but only for transfers at death. US situs tangible assets generally include real and tangible personal property located in the US and business assets located in the US; US situs intangible assets include stock of US corporations. The definition of US situs assets may be modified by an applicable estate and gift tax treaty.

US citizens with non-citizen spouses

There are additional estate and gift tax considerations when only one spouse is a US citizen.

An unlimited amount can be gifted to a spouse who is a US citizen, whereas gifts to a non-US citizen spouse are offset by an increased annual exclusion ($149,000 for 2017, indexed annually). US citizens and domiciliaries can also "gift split," allowing married donors to exclude up to $28,000 per donee per year (for 2017, indexed annually). Gift splitting is not permitted if either spouse is a non-US domiciliary.

When both spouses are US citizens, an unlimited amount of assets can pass between them without being subject to US estate tax. An election can also be made on a timely filed estate tax return to pass any remaining exemption amount to the surviving spouse for use in addition to his or her own exemption. If your surviving spouse is not a US citizen, the marital deduction is generally not allowed. However, a deferral of US estate tax for assets passing to a non-US citizen surviving spouse may be obtained if US property passes through a qualified domestic trust. Some estate and gift tax treaties also allow for some form of a marital deduction in cases where such a deduction would not normally be available.

As a non-US domiciliary you are taxed only on the value of your US "situs" tangible and intangible assets owned at death, and on the value of your US "situs" tangible assets gifted during your lifetime, with a maximum tax rate of 40 percent.

Globalization

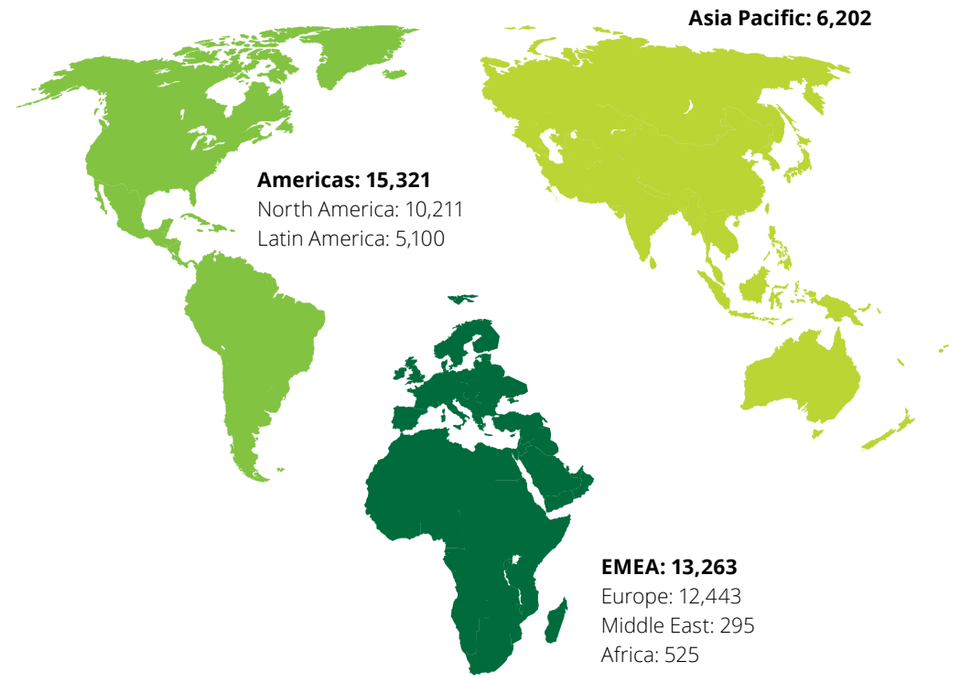
Thinking ahead

As companies and individuals are increasingly globally mobile, more and more people will be affected by multinational tax rules. Individuals and families moving and/or investing internationally need to have a clear understanding of the potential tax implications. Before taking any action, it is important to seek professional tax advice in order to understand how your US tax obligations interact with foreign country tax obligations and what your global tax position will look like.

How Deloitte can help

Nearly 35,000 tax professionals globally

Deloitte has been discreetly serving high net worth individuals, families, and their enterprises for more than 100 years. As a trusted advisor to many of the world's most affluent families, family offices and private trust companies, we bring significant experience and integrated service capabilities to our clients. We deliver a global network of resources and a world-class level of knowledge and experience tailored to each family's unique and personal circumstances.



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Tax policy and elections	Tax News and Views
Individual income tax planning	Private wealth tax controversies: Deep experience navigating interactions with taxing authorities
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