

Extended Stays in the US- What are the US Tax Implications?

Whether you are a “Winter Snowbird,” planning an extended stay in the US, or make many small but frequent trips to the US during the year, it is important to know that you may be subject to US tax reporting if you stay too long!

For US tax purposes, individuals fall into three categories:

1. US citizen - must file a tax return and report worldwide income
2. Resident alien - must file a tax return and report worldwide income
3. Non-resident alien - only needs to file a tax return to report US sourced income

In determining whether a non-US citizen is either a resident alien or non-resident alien, the US applies a substantial presence test based on the number of days the individual is physically present in the US. Based on the test, an individual is considered a resident alien if:

1. Physically present in the US for 31 days or more during the current year, AND
2. Physically present for an aggregate of 183 days or more in the US over the last 3 years, calculated as:
 - a. All of the days in the current year +
 - b. 1/3 of the days from the first preceding year +
 - c. 1/6 of the days from the second preceding year(Note that partial days of presence are counted as full days.)

The substantial presence test must be reviewed annually to determine an individual’s tax status for the taxation year. If it is determined that an individual is a resident alien for tax purposes, a US tax return must be filed for that year reporting all income from all sources.

However, an exception exists for an individual who is considered a resident alien to treat them as a non-resident alien for US tax purposes. To be eligible for the exception, the following conditions must be met:

1. Meets the substantial presence test, AND
2. Physically present in the US for less than 183 days during the current year, AND
3. Has a tax home in a foreign country and has a closer connection to such foreign country than to the US.

An individual who qualifies for the exception in a taxation year is required to file a US tax return for that year only if they have US sourced income. However, all individuals claiming the exception, regardless of whether a US tax return is being filed, must file a Closer Connection Statement on Form 8840 with the IRS. The Statement must be filed by June 15th of the following year (April 15th for individuals with US sourced wages filing a US tax return).

A substantial presence test calculation worksheet is available in the “Client Resources” section of our website at www.dickson.ca to assist non-US citizens with determining their US filing requirement. If you have any further questions or require assistance, please call our office at (250) 984-6970.