UNITED STATES OF AMERICA

0- SYNOPTIC TABLE: TAXATION OF RESIDENTS AND NON-RESIDENTS

1- AN OUTLINE OF COMPANY LAW

2- WHEN US COMPANIES CAN BE CONSIDERED RESIDENT OR NON-RESIDENT?

3- BUSINESS AND NON-BUSINESS ACTIVITIES (ADMINISTRATIVE OFFICES, LIAISON OFFICES, PURCHASING OFFICES, ETC.)

4- WHICH FOREIGN LOCAL UNITS CAN BE OPENED IN THE UNITED STATES: SECONDARY ESTABLISHMENTS, BRANCHES, SUBSIDIARIES OR PERMANENT ESTABLISHMENTS?

5- CALCULATING TAXABLE INCOME

6- TREATMENT OF LOSSES

7- IS INTEREST DEDUCTIBLE?

8- IS DEPRECIATION DEDUCTIBILITY ACKNOWLEDGED?

9- WHAT TAX TREATMENT IS APPLIED TO RESIDENT COMPANIES?

10- ARE GROUP COMPANIES CONSIDERED SINGLE COMPANIES FOR FISCAL PURPOSES?

11- WHAT TAX TREATMENT IS APPLIED TO FOREIGN LOCAL UNITS AND NON-RESIDENT COMPANIES?

12- ARE CAPITAL GAINS TAXED?

13- WHAT TAX TREATMENT IS APPLIED IN CASE OF COMPANY LIQUIDATION?

14- TRANSFER OR REPURCHASE OF SHARES: HOW ARE THEY TAXED?

15- WHAT OTHER TAXES ARE APPLIED IN THE UNITED STATES?

16- DIVIDENDS, INTEREST AND ROYALTIES: HOW ARE THEY CONSIDERED AND TAXED?

17- HOW ARE CALCULATED STOCKS OR INVENTORIES?

18- HOW ARE RESIDENT INDIVIDUALS TAXED?

19- HOW ARE FOREIGN INDIVIDUALS TAXED? WHEN ARE THEY CONSIDERED RESIDENT?

20- TERMS FOR TAX PAYMENTS: THE FISCAL YEAR IN THE UNITED STATES

21- WHAT TAX INSPECTIONS ARE MADE?

22- CAN TAXPAYERS AGREE IN ADVANCE THEIR TAX TREATMENT?

23- WHAT EXCHANGE CONTROLS ARE CARRIED OUT?

24- WHAT TAX RELIEFS AND INCENTIVES ARE GRANTED BY THE US GOVERNMENT?

25- HAS THE UNITED STATES SIGNED BILATERAL TAX AGREEMENTS WITH OTHER COUNTRIES? TABLE OF WITHHOLDING TAXES

Last reviewed: May 24

Embassy of Italy in the United States of America

Washington DC – Embassy of Italy
Amb. Maria Angela Zappia
3000, Whitehaven Street, NW - Washington, DC 20008
Tel. 0012026124400
Fax 0012025182154
Website: www.ambwashingtondc.esteri.it
E-mail: washington.ambasciata@esteri.it

Consulate of Italy in the United States of America

New York – First Class Consulate General
Cons. Gen. Fabrizio Di Michele
690, Park Avenue - New York, NY 10065
Tel. 0012127379100
Fax 0012122494945
Website: www.consnewyork.esteri.it
E-mail: cg.newyork@esteri.it

Embassy of the United States of America in Italy

Rome – Embassy of the United States of America
Amb.: Jack Markell
Via Vittorio Veneto, 121 – 00187 Rome
Tel. 00390646741
Website: www.it.usembassy.gov/it/embassy-consulates-it/

Consulate of the United States of America in Italy

Milan – Consulate General of the United States of America
Cons. Gen. Douglass Benning
Via Principe Amedeo, 2/10 – 20121 Milan
Tel. 003902290351
Website: www.it.usembassy.gov/it/embassy-consulates-it/milano/

0- SYNOPTIC TABLE: TAXATION OF RESIDENTS AND NON-RESIDENTS

	RESIDENTS	NON-RESIDENTS
CORPORATE INCOME TAX	Flat rate 21%	Local units: 30%
TAXES ON CAPITAL GAINS	Included in gross income	None, unless they are connected to USA activities
WITHOLDING TAXES		
Dividends	30%	30% reducible
Interest	30%	30% reducible
Royalties	30%	30% reducible
PERSONAL INCOME TAX	10% - 37%	10% - 37% on USA income
OTHER TAXES		
Local taxes	Variable	
Social contributions	7.65% for both employer and employee	
Tax on the environment	Variable according to the State	
VAT	None	
LOSSES		
Carried forward	Indefinitely up to 80% of taxable income (limit removed between 2017 and 2021)	
Carried back	For all companies: between 2017 and 2021: 5 years For agri-food and insurance: 2 years in any fiscal year	
DEPRECIATION		
Fixed assets	With MACRS method: depreciable assets are classified in 8 categories with depreciation from 3 to 31 years (e.g. special equipment: 3 years; vehicles: 5 years; residential real estate: 27.5 years)	
Intangible assets	15 years	

1- AN OUTLINE OF COMPANY LAW

BUSINESS ENTITY	MAIN TRAITS	FORMATION	GOVERNANCE
C Corporations	A C corporation is a separate legal entity which can reduce, or even eliminate, its federal income tax liability by distributing its income as salary to shareholder-employees who perform valuable services to the corporation, thus reducing taxation at the corporation level; however, those who receive payments from a corporation in exchange for services must pay tax on the amount received as salary.	A domestic corporation is formed by filing a charter or articles of incorporation in a state, a US possession, or with the US Government.	A corporation is governed by a set of bylaws, has its business affairs overseen by a board of directors, and is owned by shareholders who possess shares of the corporation's stock.
S Corporations	An S corporation is a small business corporation, with the following statutory characteristics: • The corporation must be a domestic corporation. • It must have 100 or fewer shareholders. • All shareholders must be individuals, estates, or qualified trusts. • There must be only one class of stock. • The corporation cannot have a shareholder that is a nonresident alien.		An S corporation does not pay any income tax at the entity level. Instead, the corporation's income and deductions flow through to its individual shareholders. The individual shareholders are responsible for reporting their share of the income and deductions on their individual income tax returns.
Personal service corporations	A personal service corporation is an entity in which its employee-owners substantially perform personal services. Employee-owners are employees who own, directly or indirectly, more than 10% of the outstanding stock of the corporation.		
Personal holding companies	A personal holding company is any corporation in which at least 60% of adjusted ordinary gross income for the tax year is personal holding company income and more than 50% in value of its outstanding stock is owned, directly or indirectly, by or for not more than 5 individuals.		
Partnerships	A partnership includes a syndicate, group, pool, joint venture, or other unincorporated organisation that carries on any business, financial operation, or venture. Partnerships may be either general partnerships (GPs) or limited partnerships (LPs). The treatment of GPs and LPs may differ for state tax and legal purposes, but is substantially similar for federal tax purposes.		
Limited liability company (LLC)	A limited liability company (LLC) is formed under state law. LLCs can be either single member LLCs or 2 or more member LLCs. A LLC's member(s), like corporate shareholders, are not personally liable for the entity's debts or liabilities		

BUSINESS ENTITY	MAIN TRAITS	FORMATION	GOVERNANCE
Branch	A foreign corporation that operates a trade or business in the United States may be required to pay a branch profits tax and a branch-level interest tax in addition to the tax on income effectively connected with the conduct of a U.S. trade or business. The branch profits tax is 30 percent (or lower if permitted by a tax treaty) of the foreign corporation's dividend equivalent amount.		

2- WHEN US COMPANIES CAN BE CONSIDERED RESIDENT OR NON-RESIDENT?

A corporation organised or created in the United States under the law of the United States or of any state is a domestic corporation. A domestic corporation is a resident corporation even though it does no business or owns no property in the United States.

3- BUSINESS AND NON-BUSINESS ACTIVITIES (ADMINISTRATIVE OFFICES, LIAISON OFFICES, PURCHASING OFFICES, ETC.)

When a foreign corporation engages in business in the US, either directly, through a subsidiary or branch, or by investment, the resulting net income is US-sourced income known as ‘Effectively Connected Income’ (ECI) which is taxable by the US. Net ECI is taxed at the corporate tax rate, currently 21% at the federal level plus any additional state and local taxes.
Engaging in business in the US or holding assets that generate ECI create an additional layer of taxation known as the ‘Branch Profits Tax’ (BPT), which is essentially a tax on deemed dividends and is typically assessed at 30%; if the foreign corporation qualifies for treaty benefits, this rate can be lowered.

4- WHICH FOREIGN LOCAL UNITS CAN BE OPENED IN THE UNITED STATES: SECONDARY ESTABLISHMENTS, BRANCHES, SUBSIDIARIES OR PERMANENT ESTABLISHMENTS?

US tax law imposes a 30% branch profits tax on a foreign corporation's US branch earnings and profits for the year that are effectively connected with a US business, to the extent that they are not reinvested in branch assets. Thus, the taxable base for the branch profits tax is increased (decreased) by any decrease (increase) in the US net equity of the branch. The branch profits tax on profits may be reduced or eliminated entirely if a relevant treaty so provides (subject to strict 'treaty shopping' rules).

5- CALCULATING TAXABLE INCOME

The principal items of corporation income include gross sales receipts, dividends and interest received, rent and royalty income, and capital gains. The common deductions for a corporation include compensation paid to officers and workers, expenses for repairs and maintenance of property, taxes, licenses, interest paid, depreciation and depletion, advertising, and deductible amounts paid to pension and profit-sharing plans and employee benefit programs. In addition, a corporation may be entitled to special deductions for dividends received from other corporations, affiliates, and foreign corporations, as well as deductions for organizational expenses.
A corporation generally must use the accrual method of accounting to determine when income and expenses are reported. However, the cash method of accounting may be used by a qualified personal service corporation, a corporation engaged in a farming business, and a corporation whose average annual gross receipts do not exceed a threshold amount for the three tax years

preceding the current tax year ($29 million for 2023 and $30 million for 2024). Securities dealers must use the mark-to-market method of accounting.

6- TREATMENT OF LOSSES

An NOL arising in a tax year beginning after 2020 may not be carried back and may be carried forward indefinitely until used up. However, farming losses are carried back two years and carried forward indefinitely. NOLs of a non-life insurance company are subject to a two-year carryback and 20-year carryforward period.

Post-2020 NOLs are limited and may only reduce 80 percent of taxable income in a carryback or carryforward tax year. NOLs arising in tax years beginning in 2018, 2019, and 2020 may be carried back five years (2 years in the farming sector) and carried forward indefinitely, and are not subject to the taxable income limitation.

7- IS INTEREST DEDUCTIBLE?

Interest expenses or other borrowing costs incurred in a trade or business, or in the production of rental or royalty income, are generally deductible from gross income in the year paid or accrued. The deduction is generally limited to 30 percent of the taxpayer's adjusted taxable income (ATI). In addition, limits apply to the deduction for prepaid interest, investment interest paid by noncorporate taxpayers, interest paid on debt with original issue discount and interest paid on debt.

8- IS DEPRECIATION DEDUCTIBILITY ACKNOWLEDGED?

A taxpayer may deduct a reasonable allowance for property used in a trade or business, or held for the production of income. Depreciation is not allowable for property used solely for personal purposes, such as a residence.

Depreciation begins in the tax year that an asset is placed in service and ends in the tax year that it is retired from service or is fully depreciated. An asset is generally considered placed in service when available for a specifically assigned function.

The Modified Accelerated Cost Recovery System (MACRS) applies to tangible property and real property generally placed in service after 1986 and the Accelerated Cost Recovery System (ACRS) applies to property placed in service after 1980 and before 1987. Under MACRS and ACRS, the cost or other basis of an asset is generally recovered over a specific recovery period. An asset that is not subject to MACRS or ACRS cannot be depreciated below a reasonable salvage value. Depreciation based on a useful life under the pre-ACRS/MACRS rules is calculated over the estimated useful life of the asset while it is actually used by the taxpayer, not over the longer period of the asset's physical life.

9- WHAT TAX TREATMENT IS APPLIED TO RESIDENT COMPANIES?

A domestic corporation is taxed on its worldwide income and annually files Form 1120 to report net taxable income and pays tax at the federal corporate rate, currently 21%, plus any state and local taxes.

Corporations must pay income taxes at the time fixed for filing their returns, without regard to filing extensions. Corporations must generally deposit income taxes electronically through the Electronic Federal Tax Payment System (EFTPS).

A corporation must make estimated tax payments during the tax year if it expects its total tax for the year (less applicable credits) to be $500 or more. The corporation must make the estimated tax payments for the tax year in four installments.

For tax years beginning after 2022, a 15-percent corporate alternative minimum tax (AMT) is imposed on the adjusted financial statement income (AFSI) of an applicable corporation (generally, a corporation with a three-year average annual adjusted financial statement income in excess of $1 billion). To determine if the threshold is met, corporations under common control are generally aggregated and special rules apply in the case of foreign-parented

multinational groups. The corporate AMT does not apply to S corporations, regulated investment companies (RICs), and real estate investment trusts (REITs).

10- ARE GROUP COMPANIES CONSIDERED SINGLE COMPANIES FOR FISCAL PURPOSES?

An affiliated group of corporations may file a consolidated income tax return for the tax year instead of filing separate returns. An affiliated group is one or more chains of includible corporations connected through stock ownership with a common parent corporation that is an includible corporation if the common parent directly owns stock possessing at least 80 percent of the total voting power of at least one of the other includible corporations and has a value equal to at least 80 percent of the total value of the stock of the corporation, and stock meeting the 80-percent test in each includible corporation other than the common parent is owned directly by one or more of the other includible corporations.

A consolidated return may be filed only if all corporations that were members of the affiliated group *at any time* during the tax year consent prior to the last day for filing the return. The making of a consolidated return is such consent.

The following corporations may not file consolidated returns: tax-exempt corporations, life insurance companies, foreign corporations, regulated investment companies (RICs) and real estate investment trusts (REITs), domestic international sales corporations (DISCs); and S corporations.

11- WHAT TAX TREATMENT IS APPLIED TO FOREIGN LOCAL UNITS AND NON-RESIDENT COMPANIES?

A foreign corporation is taxed at the regular U.S. corporate income tax rate on most income that is effectively connected with a U.S. trade or business and subject to a flat 30-percent withholding tax on U.S.-source fixed or determinable income that is not effectively connected. Tax treaties between the United States and foreign countries may provide for lower rates or exemptions from taxation.

12- ARE CAPITAL GAINS TAXED?

Corporate long-term and short-term capital gains are included in gross income and taxed at the same rate as ordinary income.

A capital gain or loss arises from the sale or exchange of a capital asset. A capital asset is any property held by a taxpayer, whether or not connected with a trade or business.

Capital gains resulting from the sale or other disposition of either business property or investment property, such as real estate, stocks and bonds etc. are considered taxable, but losses from the disposition of property are only deductible to the extent of the offsetting capital gains.

Whenever property is disposed of, the seller may realize a net taxable capital gain, but not a deductible loss.

13- WHAT TAX TREATMENT IS APPLIED IN CASE OF COMPANY LIQUIDATION?

Under US tax law, capital assets are generally deemed to be distributed to shareholders on liquidation. This deemed distribution results in the liquidating corporation recognising a capital gain or loss on the deemed sale of the capital assets.

A capital gains tax normally is not imposed on a foreign parent company that is the shareholder of a liquidating subsidiary, unless the gain is effectively connected with the conduct of a trade or business in the US.

14- TRANSFER OR REPURCHASE OF SHARES: HOW ARE THEY TAXED?

For US tax purposes, corporate distributions are treated as dividends and taxed to the recipient as ordinary income.

15- WHAT OTHER TAXES ARE APPLIED IN THE UNITED STATES?

VAT

No VAT (value added tax) or GST (goods and services tax) is imposed at the federal tax level in the US.

Sales taxes

Sales and use taxes constitute a major revenue source for the 45 states that impose such taxes and the District of Columbia. Sales and use tax rates vary from state to state and generally range from 2.9% to 7.25% at the state level. Many states also allow a 'local option' that permits local jurisdictions, such as cities and counties, to impose an additional percentage on top of the state-level tax and to keep the related revenues.

In general, a sales tax is a tax applied to the retail sale of tangible personal property and certain digital products and enumerated services. Although the form of the tax may vary, it is usually imposed directly upon the receipts from the retail sale of the taxable item. The person engaged in the business of making retail sales of the taxable item generally collects the sales tax from the purchaser and remits such amounts to the state. The use tax complements the sales tax and is usually assessed on purchases made out of state and brought into the jurisdiction for use, storage, or consumption. Typically, either a sales tax or a use tax can be assessed on a transaction, but not both.

Customs duties and import tariffs

All goods imported into the United States are dutiable or duty-free in accordance with their classification under the applicable items in the Harmonized Tariff Schedule of the United States, which also identifies eligibility for applicable preferential duty rates.

In addition to ordinary duties, select products also may be subject to addotional tariffs that are imposed in response to specific trading conditions and for specified time periods.

Excise taxes

Excise taxes (including retail excise taxes) are generally imposed by the federal and state governments on a wide range of goods and activities, including gasoline, kerosene, and diesel fuel used for transportation, air transportation, wagering, foreign insurance, ozone depleting chemicals (or products manufactured using ozone depleting chemicals), superfund taxes, manufacturing/importing of specified goods (e.g. certain sporting goods, tires, firearms and ammunition, alcohol, and tobacco), and selling certain goods at retail (e.g. heavy vehicles, trailers, bodies, and chassis).

The excise tax rates are as varied as the goods and activities upon which they are levied.

Property taxes

Many states and local governments impose a variety of property taxes on real property and on business personal property.

Stamp taxes

Stamp taxes are not generally relevant at the federal level, except for the federal stamp tax imposed on the transfer of National Firearms Act (NFA) firearms. State and local governments frequently impose stamp taxes at the time of officially recording a transaction involving real property (commonly referred to as transfer taxes), generally based upon the value of the real property being transferred. Many state and local governments also impose stamp taxes on certain goods made available for sale in the respective jurisdiction, like cigarettes and other tobacco products.

Accumulated earnings tax

Corporations accumulating earnings and profits for the purpose of avoiding shareholder personal income tax (PIT) are subject to a penalty tax in addition to any other tax that may be applicable. The accumulated earnings tax is equal to 20% of 'accumulated taxable income'.

Personal holding company tax

US corporations and certain foreign corporations that receive substantial 'passive income' and are 'closely held' may be subject to personal holding company tax. The personal holding company tax is 20% of undistributed personal holding company income and is levied in addition to the regular tax.

Payroll taxes

Employers generally are subject to federal unemployment tax (FUTA) of 6% on the first USD 7,000 of wages paid to employees meeting certain criteria, with potential reduction of up to 5.4% for state unemployment taxes. For 2024, employers also are subject to social security tax of 6.2% on the first USD 168,600 of wages paid to employees and Medicare tax of 1.45% on all wages (collectively, FICA taxes). For 2024, social security tax is imposed on the first USD 168,600 of wages paid to employees. Employers are required to withhold an equivalent amount of FICA taxes from employee wages, federal income tax at graduated rates, and Additional Medicare tax of 0.9% on wages in excess of USD 200,000. In addition, states may impose state income tax, state unemployment tax, workers' compensation insurance tax, and others at varying rates depending on state law and the nature of employees' activities.

Environmental taxes

Importers, manufacturers, and sellers of ozone-depleting chemicals (ODCs), or imported products manufactured using ODCs, are subject to environmental taxes calculated per weight of the ODC. There also is a tax on crude oil and petroleum products imposed on operators of refineries that receive crude oil and petroleum products entered into the United States for consumption, use, or warehousing.

The Infrastructure Investment and Jobs Act, enacted on 15 November 2021, reinstated certain chemical excise taxes, commonly referred to as 'Superfund' taxes and imposed on the first sale or use of certain chemicals and substances. These taxes currently expire on 31 December 2031.

Other state and municipal taxes

Other taxes that states may impose, in lieu of or in addition to taxes based on income, include franchise taxes and taxes on the capital of a corporation. State and municipal taxes are deductible expenses for federal income tax purposes.

16- DIVIDENDS, INTEREST AND ROYALTIES: HOW ARE THEY CONSIDERED AND TAXED?

Dividends

Withholding tax is imposed on U.S.-source dividends that are not effectively connected with the conduct of a trade or business in the United States. In general, dividends are sourced according to the place of incorporation of the payor. There are several exceptions to this rule.

A dividend from U.S. sources is subject to 30% withholding (or lower treaty rate) if received by a nonresident alien or foreign corporation.

Not every dividend payment by a corporation is regarded as a dividend for tax purposes. For example, a corporation may consider a payment a dividend when, from a tax perspective, it will be regarded as a return on capital; the converse is also true. To determine what portion of the payment will be considered a dividend from a tax point of view (and, therefore, will be subject to withholding tax), the applicable rules are those contained in the tax code to regulate the tax characterization of payments made by domestic corporations.

Dividends paid by certain domestic corporations that receive more than 80% of their income from foreign businesses are exempt from withholding tax.

Interest

Withholding tax is imposed on U.S.-source interest that is not effectively connected with the conduct of a trade or business in the United States. Foreign-source interest payments are not subject to withholding of tax.

As a general rule, interest income is sourced according to the residence of the payor (if paid by an individual, partnership, estate or trust) and according to the payor's country of incorporation (if paid by a corporation). There are several exceptions to this rule.

There are certain categories of interest that are not subject to withholding tax and that, therefore, are exempt from U.S. federal income tax if they are not effectively connected with a foreign person's conduct of a trade or business. Exempt interest includes interest on certain bank deposits and portfolio interest.

Royalties

Royalties paid to a foreign person that are not effectively connected with the conduct of a trade or business in the United States are subject to 30% withholding tax if they are U.S.-source. Royalty income for the use or right to use an intangible property is sourced in the United States if it is related to the right to exploit the intangible property in the United States.

17- HOW ARE CALCULATED STOCKS OR INVENTORIES?

The last-in, first-out (LIFO) method is based on cost values. Under the LIFO method, inventory is taken at cost, but the items contained in the inventory are treated as being those contained in opening inventory (whether or not they are physically on hand), and then those acquired during the tax year.

Although the election to adopt LIFO must generally cover the entire inventory of a business, manufacturers or processors may elect to have the method apply to raw materials only, including those in finished goods and work-in-process. Furthermore, if LIFO is used for tax purposes, it generally must also be used in preparing annual financial statements for credit purposes or for the purpose of reports to stockholders, partners, or proprietors. For purposes of this reporting rule, all members of the same group are treated as one taxpayer.

18- HOW ARE RESIDENT INDIVIDUALS TAXED?

Tax liability criteria

Whether individuals are U.S. citizens, resident aliens or nonresident aliens is a critical factor in determining their tax treatment, including whether they are subject to U.S. tax, the appropriate rate of tax to apply and whether they are covered by an income tax treaty.

The United States taxes its U.S. citizens on their worldwide income. A U.S. citizen is a person who is either born or naturalized in the United States and subject to the jurisdiction of the United States as its citizen.

For U.S. tax purposes, an alien is an individual who is not a U.S. citizen. Aliens are divided into two categories:

- resident aliens, taxed on their worldwide income at the graduated U.S. tax rates
- nonresident aliens, subject to U.S. tax only on income that is effectively connected with a U.S. trade or business or on specific types of U.S. income.

An alien is a resident for purposes of U.S. tax law if:

- the individual has been granted a green card and is a lawful permanent resident of the United States, or
- the individual meets a substantial presence test based on physical presence in the United States.

An individual may be a dual-status resident if the individual is a resident alien for part of the tax year and a nonresident alien for the other part of the tax year.

A U.S. citizen or long-term resident who gives up citizenship or residency is subject to a special taxing regime and reporting requirements. See Expatriation and Loss of Residency Status.

Tax rates

An individual determines his or her income tax liability by applying the appropriate tax rate to his or her taxable income. There are seven tax rates for an individual with each rate applied to a different level of taxable income (10, 12, 22, 24, 32, 35, and 37 percent for tax years beginning in 2018 through 2025). The income levels at which the seven tax brackets apply depend on the taxpayer's filing status and are adjusted annually for inflation.

Main deductions and reliefs

An individual may claim a child tax credit of up to $2,000 for each qualifying child who is:

1. under the under the age of 17

2. supported by the taxpayer, and
3. the taxpayer's dependent.

An individual may also claim a partial child tax credit of up to $500 for tax years beginning after 2017 and before 2026 for a dependent who is not a qualifying child.

Inheritance and gift tax

The estate, gift, and generation-skipping transfer (GST) taxes are designed to form a unified transfer tax system on the transfer of property at death (estate tax), during life (gift tax), and on transfers that skip a generation (GST tax). The maximum marginal tax rate is 40 percent for the estates of decedents dying and gifts and GSTs made after December 31, 2012. An applicable credit amount applies to estate, gift, and GST taxes. The credit is adjusted annually for inflation, for decedents dying and gifts made after 2017 and before 2026.

Pension, social security and national health policy

A pension or annuity plan provides specific benefits to an employee or beneficiaries generally in the form of an annuity based on a formula reflecting the compensation and years of service of the employee. The employer must make required minimum contributions to the plan , whereas employee contributions are sometimes required or voluntary. Instead of funding the plan directly, an employer may buy an insurance policy or annuity contract to fund the plan.

For employees, social security tax (old-age, survivors, and disability) is withheld at the rate of 6.2% on the first USD 160,200 of wages paid, whereas Medicare hospital insurance taxes are withheld on 1.45% of all wages.

The social security taxes for resident self-employed individuals are equal to 12.4% of the first USD 160,200 and Medicare hospital insurance taxes are equal to 2.9% of all net self-employment income.

Note that non-resident aliens are not subject to social security and Medicare hospital insurance taxes on self-employment income.

19- HOW ARE FOREIGN INDIVIDUALS TAXED? WHEN ARE THEY CONSIDERED RESIDENT?

Tax liability criteria

Whether individuals are U.S. citizens, resident aliens or nonresident aliens is a critical factor in determining their tax treatment, including whether they are subject to U.S. tax, the appropriate rate of tax to apply and whether they are covered by an income tax treaty.

The United States taxes its U.S. citizens on their worldwide income. A U.S. citizen is a person who is either born or naturalized in the United States and subject to the jurisdiction of the United States as its citizen.

For U.S. tax purposes, an alien is an individual who is not a U.S. citizen. Aliens are divided into two categories:

- resident aliens, taxed on their worldwide income at the graduated U.S. tax rates
- nonresident aliens, subject to U.S. tax only on income that is effectively connected with a U.S. trade or business or on specific types of U.S. income.

An alien is a resident for purposes of U.S. tax law if:

- the individual has been granted a green card and is a lawful permanent resident of the United States, or
- the individual meets a substantial presence test based on physical presence in the United States.

An individual may be a dual-status resident if the individual is a resident alien for part of the tax year and a nonresident alien for the other part of the tax year.

A U.S. citizen or long-term resident who gives up citizenship or residency is subject to a special taxing regime and reporting requirements. See Expatriation and Loss of Residency Status.

Tax rates

Like U.S. citizens, resident aliens are taxed on their worldwide income at the graduated U.S. tax rates. A nonresident alien is generally subject to U.S. tax only on income that is effectively connected with a U.S. trade or business or on specific types of U.S. income. The graduated

U.S. tax rates apply to income on a net basis that is effectively connected with a U.S. trade or business. A 30 percent tax rate (or lower treaty rate) applies to U.S. source non-effectively connected income-referred to as fixed and determinable annual or periodical income (FDAP). FDAP income is subject to withholding tax on a gross basis (i.e., without deductions and is usually collected by withholding at source). A nonresident alien that sells or otherwise disposes of certain interests in real property located in the United States ("U.S. real property interests") is taxed on a net basis at graduated tax rates on the gain from the sale or disposition, as though it were effectively connected.

Main deductions and reliefs

The standard deduction is not available to non-residents.

Inheritance and gift tax

The estate, gift, and generation-skipping transfer (GST) taxes are designed to form a unified transfer tax system on the transfer of property at death (estate tax), during life (gift tax), and on transfers that skip a generation (GST tax). The maximum marginal tax rate is 40 percent for the estates of decedents dying and gifts and GSTs made after December 31, 2012. An applicable credit amount applies to estate, gift, and GST taxes. The credit is adjusted annually for inflation, for decedents dying and gifts made after 2017 and before 2026.

Pension, social security and national health policy

A pension or annuity plan provides specific benefits to an employee or beneficiaries generally in the form of an annuity based on a formula reflecting the compensation and years of service of the employee. The employer must make required minimum contributions to the plan , whereas employee contributions are sometimes required or voluntary. Instead of funding the plan directly, an employer may buy an insurance policy or annuity contract to fund the plan.

For employees, social security tax (old-age, survivors, and disability) is withheld at the rate of 6.2% on the first USD 160,200 of wages paid, whereas Medicare hospital insurance taxes are withheld on 1.45% of all wages.

The social security taxes for resident self-employed individuals are equal to 12.4% of the first USD 160,200 and Medicare hospital insurance taxes are equal to 2.9% of all net self-employment income.

Note that non-resident aliens are not subject to social security and Medicare hospital insurance taxes on self-employment income.

20- TERMS FOR TAX PAYMENTS: THE FISCAL YEAR IN THE UNITED STATES

Corporations must report their income on a tax-year basis. A corporation can adopt a calendar tax year or a fiscal tax year that covers a 12-month period ending on the last day of any month other than December. A corporation can also adopt a different tax year if it is in an industry in which the books are traditionally closed on a particular day of the week (e.g., restaurants or retail stores). The year may be shorter than 12 months if the corporation changes its tax year or has not been in existence for the full tax year. Once adopted, the tax year generally may not be changed without the consent of the IRS.

Certain corporations are limited in their tax year's selection. For example, S corporations and personal service corporations must use the calendar year unless they can demonstrate a good business purpose for a fiscal year. Such corporations may also choose a tax year that defers income for no more than three months, provided certain tax payments are made to eliminate the tax benefits of the deferral.

21- WHAT TAX INSPECTIONS ARE MADE?

The IRS may audit the books and records of a taxpayer if it suspects taxpayer fraud or understated income, or even if there is no evidence of wrongdoing or mistake.

22- CAN TAXPAYERS AGREE IN ADVANCE THEIR TAX TREATMENT?

The IRS can give advance rulings on the tax consequences of a proposed transaction.

23- WHAT EXCHANGE CONTROLS ARE CARRIED OUT?

The United States government has strict regulations governing the import of monetary instruments. Failure to comply with the rules may result in significant penalties.

The U.S. government requires all travelers bringing currency or other monetary instruments into the United States to declare currency and other instruments that equal to or exceed $10,000. This requirement applies to *all* travelers, regardless of citizenship or nationality.

For purposes of the currency declaration requirement, currency includes any coins or paper money, as well as traveler's checks, money orders, and other monetary instruments such as bearer negotiable instruments, bearer investment securities, bearer securities, and/or stock on which title is passed on delivery.

To declare currency, the bearer must complete a FinCEN Form 105, available from any U.S. Customs and Border Protection (CBP) officer.

When you complete the FinCEN Form 105, you must provide the following information:

- Your name and address,
- The date of your arrival in the United States,
- The value of currency or other monetary instruments you are bringing into the United States, and,
- The country from which you are bringing the currency or other monetary instruments.

24- WHAT TAX RELIEFS AND INCENTIVES ARE GRANTED BY THE US GOVERNMENT?

Empowerment zones

Empowerment zones are areas that have been designated by the U.S. Department of Housing and Urban Development (HUD) or the U.S. Department of Agriculture (USDA) and will remain in effect until December 31, 2025, with the following tax benefits:

- employment credit,
- tax-exempt bond financing,
- work opportunity credit for employees who meet age restrictions and have a principal place of abode in an empowerment zone, and
- an exclusion for 60% of the gain on the sale or exchange of small business stock in an empowerment zone business acquired after December 21, 2000, and before February 18, 2009, and held for at least five years.

Exempt bond financing

The aggregate face amount of bonds that may be designated at empowerment zone bonds is limited to:

- $60 million for an empowerment zone in a rural area;
- $130 million for an empowerment zone is an urban area, and the zone has a population of less than 100,000; and
- $230 million if the empowerment zone in an urban area, and the zone has a population of at least 100,000.

Research Credit

The research credit comprises three separately calculated credits:

- the incremental research credit
- the credit for basic research payments to universities and other qualified organizations, and
- the credit for energy consortium payments.

Taxpayers may elect to reduce the total research credit in order to increase the amount of post-2021 research expenses that may be amortized. A qualified small business may also elect to claim a portion of the total credit as a payroll tax credit against the employer's portion of social security taxes.

Excess research credits may be carried back for one year and forward for 20 years. The research credit that remains unused at the end of the 20-year carryforward period can generally

be deducted in the following year, unless the taxpayer elected to reduce the credit in order to amortize (or deduct) a larger amount of the expenses.

Tax incentives for economically distressed communities

The Internal Revenue Code provides tax incentives for investment in certain geographic areas that are considered to be economically distressed. The incentives, available only for a limited period of time, and only in areas that are designated as eligible, include an employment credit, an exclusion for the gain of small business stock, an enhanced work opportunity credit, and tax-exempt bond financing.

25- HAS THE UNITED STATES SIGNED BILATERAL TAX AGREEMENTS WITH OTHER COUNTRIES? TABLE OF WITHHOLDING TAXES

The United States has concluded tax treaties with a number of countries which specify the withholding tax rates that apply. Non-treaty withholding tax rates apply when they are lower than the rate specified in the treaty. The following rates of US withholding tax apply to non-resident entities.

	Dividends	*Interest*	*Royalties*
	%	*%*	*%*
Non-treaty countries	30	30	30
Treaty countries			
Armenia	30	0/30	0
Australia	0/5/15	0/10	5
Austria	5/15	0	0/10
Azerbaijan	30	0/30	0
Bangladesh	10/15	0/5/10	10
Barbados	5/15	0/5	5
Belarus	30	0/30	0
Belgium	0/5/15	0	0
Bulgaria	5/10	0/5	5
Canada	5/15	0	0/10
China	10	0/10	7/10
Cyprus	5/15	0/10	0
Czech Republic	5/15	0	0/10
Denmark	0/5/15	0	0
Egypt	5/15	0/15	0/15
Estonia	5/15	0/10	5/10
Finland	0/5/15	0	0
France	0/5/15	0	0
Georgia	30	0/30	0
Germany	0/5/15	0	0
Greece	30	0/30	0/30
Hungary	5/15	0	0
Iceland	5/15	0	0/5
India	15/25	0/10/15	10/15
Indonesia	10/15	0/10	10
Ireland	5/15	0	0
Israel	12.5/25	0/10/17.5	10/15
Italy	0/5/15	0/10	0/5/8
Jamaica	10/15	0/12.5	10
Japan	0/5/10	0	0
Kazakhstan	5/15	0/10	10
Korea	10/15	0/12	10/15
Kyrgyzstan	30	0/30	0
Latvia	5/15	0/10	5/10
Lithuania	5/15	0/10	5/10
Luxembourg	5/15	0	0
Malta	5/15	10	10
Mexico	0/5/10	0/4.9/10/15	10

Moldova	30	0/30	0
Morocco	10/15	15	10
Netherlands	0/5/15	0	0
New Zealand	0/5/15	0/10	5
Norway	15	0	0
Pakistan	15/30	0/30	0/30
Philippines	20/25	0/10/15	15
Poland	5/15	0	10
Portugal	5/15	0/10	0/10
Romania	10	0/10	10/15
Russia	5/10	0	0
Slovak Republic	5/15	0	0/10
Slovenia	0/5/15	0/5	5
South Africa	0/5/15	0	0
Spain	0/5/15	0	0
Sri Lanka	15	0/10	5/10
Sweden	0/5/15	0	0
Switzerland	0/5/15	0	0
Tajikistan	30	0/30	0
Thailand	10/15	0/10/15	5/8/15
Trinidad & Tobago	30	0/30	0/15
Tunisia	14/20	0/15	10/15
Turkey	15/20	0/10/15	5/10
Turkmenistan	30	0/30	0
Ukraine	5/15	0	10
United Kingdom	0/5/15	0	0
Uzbekistan	30	0/30	0
Venezuela	0/5/15	0/4.95/10	5/10

The United States has signed TIEAs based on the OECD model convention with about 30 countries.