

Understanding Expatriate Payroll

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Why is payroll an important topic for expatriate employees?

- Company payroll reporting compliance
 - Reporting in all required locations
 - Inclusion of all taxable compensation
- Company payroll tax withholding/remittance compliance
 - Income tax
 - Social tax
 - Insurance/Disability/Etc.
- Company cost savings opportunities
- Correct employee pay
- Timely employee pay



Where do we start?

Consideration of

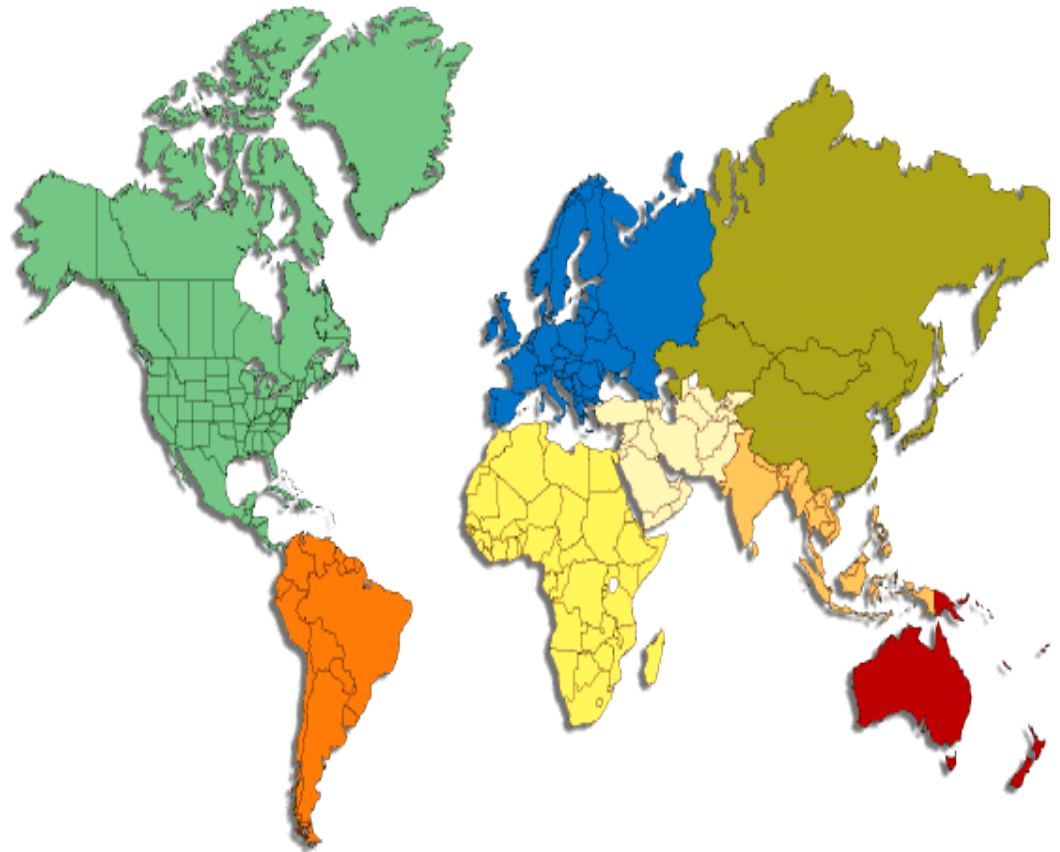
- Home and host countries
- Visa type
- Primary employer
- Assignment length
- Available tax treaties



Initial Payroll Considerations: Home and Host Country

We must consider the home and host countries to determine the necessary payroll reporting and tax withholding requirements.

The Internal Revenue Service requires that the company report worldwide taxable compensation for all US citizens, green card holders and/or US tax resident employees (even those working abroad).



Initial Payroll Considerations: Visa Type

In order to be added to payroll, an employee must have the right to work in the applicable country.

B-1 visa holders are not eligible to work in the US.

Exception: B-1 in lieu of H1-B



Initial Payroll Considerations: Employer

The primary employer is the company that has a signed employment contract, determines compensation, and has the right to terminate employment.

An expatriate employee is often seconded (loaned) to another company, but remains primarily an employee of the home country.



Initial Payroll Considerations: Assignment Length

Short-Term Assignment = 1 year or less

Income Tax Treaty Eligible Short-Term Assignment < 183 days in a rolling 12 month period or calendar year (dependent upon the treaty)

Long-Term Assignment = Greater than one year but for a defined number of years

Indefinite Assignment = Indefinite period



Initial Payroll Considerations: Tax Treaties

Income Tax Treaties

- **Dependent Personal Services Article**
 - Not exceeding 183 days
 - Remuneration paid by employer who is not resident in that state
 - Not borne by a permanent establishment or fixed base



Initial Payroll Considerations: Tax Treaties

Social Tax Treaties

- Totalization Agreements
- Certificate of Coverage
 - Normally limited to 5 years with possibility of extension

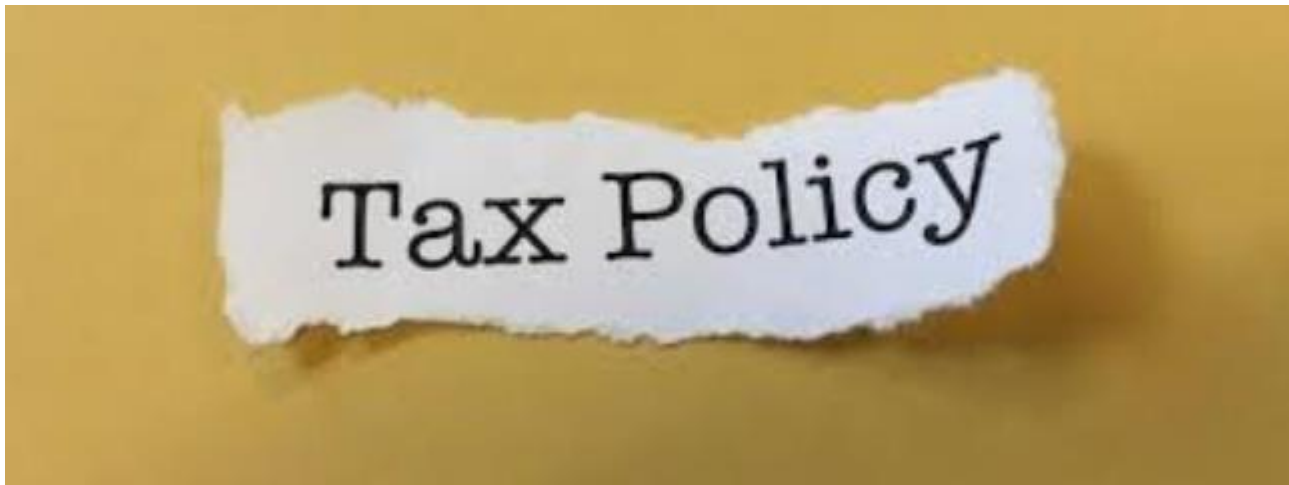
Note: The income tax treaty and social tax treaty are separate and one, both or neither may apply.

Your employment status	You are subject only to the laws of:
<i>You are working in Australia:</i>	
<i>For a U.S. employer who:</i>	
<ul style="list-style-type: none">• Sent you to work in Australia for five years or less	U.S.
<ul style="list-style-type: none">• Sent you to work in Australia for more than five years	Australia
<ul style="list-style-type: none">• Hired you in Australia	Australia
<i>For a non-U.S. employer</i>	Australia

What comes Next? Company Tax Policy

What does the company offer to the employee for tax support?

Does the company have a tax policy?



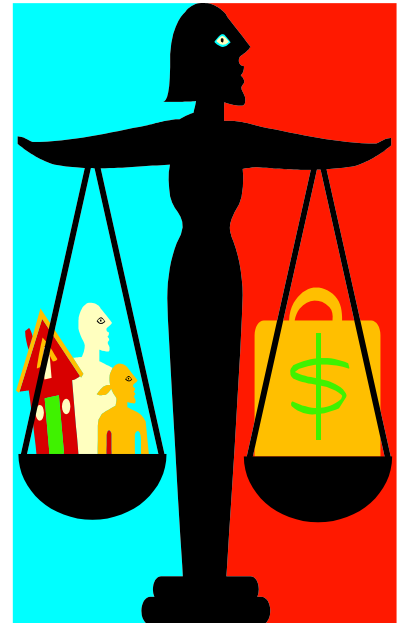
Company Tax Policy

Tax Equalization

Tax Equalization:

When you are a resident taxpayer in one country, but work in another, you may be subject to different taxation from if you had worked only in your home country, or even to double taxation. Tax equalization is the offsetting of any such difference so that working abroad is tax neutral for the employee.

No worse or better off



Payroll Form 673

Form **673**
(Rev. December 2007)
Department of the Treasury
Internal Revenue Service

Statement for Claiming Exemption From Withholding on Foreign Earned Income Eligible for the Exclusion(s) Provided by Section 911

OMB No. 1545-0074

The following statement, when completed and furnished by a citizen of the United States to his or her employer, permits the employer to exclude from income tax withholding all or a part of the wages paid for services performed outside the United States.

Name (please print or type) _____ Social security number _____

Part I Qualification Information for Foreign Earned Income Exclusion

I expect to qualify for the foreign earned income exclusion under either the bona fide residence or physical presence test for calendar year _____ or other tax year beginning _____ and ending _____

Please check applicable box:

Bona Fide Residence Test

I am a citizen of the United States. I have been a bona fide resident of and my tax home has been located in _____ (foreign country or countries) for an uninterrupted period which includes an entire tax year that began on _____, 20_____, (date)

I expect to remain a bona fide resident and retain my tax home in a foreign country (or countries) until the end of the tax year for which this statement is made. Or, if not that period, from the date of this statement until _____, 20_____. (date within tax year)

I have not submitted a statement to the authorities of any foreign country named above that I am not a resident of that country. Or, if I made such a statement, the authorities of that country thereafter made a determination to the effect that I am a resident of that country.

Based on the facts in my case, I have good reason to believe that for this period of foreign residence I will satisfy the tax home and the bona fide foreign resident requirements prescribed by section 911(d)(1)(A) of the Internal Revenue Code and qualify for the exclusion Code section 911(a) allows.

Physical Presence Test

I am a citizen of the United States. Except for occasional absences that will not disqualify me for the benefit of section 911(a) of the Internal Revenue Code, I expect to be present in and maintain my tax home in _____ (foreign country or countries) for a 12-month period that includes the entire tax year _____ . Or, if not the entire year, for the part of the tax year beginning on _____, 20_____, and ending on _____, 20_____.

Based on the facts in my case, I have good reason to believe that for this period of presence in a foreign country or countries, I will satisfy the tax home and the 330 full-day requirements within a 12-month period under section 911(d)(1)(B).

Part II Estimated Housing Cost Amount for Foreign Housing Exclusion (see instructions)

1	Rent	1	
2	Utilities (other than telephone charges)	2	
3	Real and personal property insurance	3	
4	Occupancy tax not deductible under section 164	4	
5	Nonrefundable fees paid for securing a leasehold	5	
6	Household repairs	6	
7	Estimated qualified housing expenses. Add lines 1 through 6	7	
8	Estimated base housing amount for qualifying period	8	
9	Subtract line 8 from line 7. This is your estimated housing cost amount	9	

Part III Certification

Under penalties of perjury, I declare that I have examined the information on this form and to the best of my knowledge and belief it is true, correct, and complete. I further certify under penalties of perjury that:

- The estimated housing cost amount entered in Part II, plus the amount reported on any other statements outstanding with other employers, is not more than my total estimated housing cost amount.
- If I become disqualified for the exclusions, I will immediately notify my employer and advise what part, if any, of the period for which I am qualified.

I understand that any exemption from income tax withholding permitted by reason of furnishing this statement is not a determination by the Internal Revenue Service that any amount paid to me for any services performed during the tax year is excludable from gross income under the provisions of Code section 911(a).

Your Signature _____ Date _____



Payroll Form W-4

IRC Section 3401(a)(8)(A)(ii) provides that income earned by a US citizen for services performed in a foreign country, where the employer is required under the laws of a foreign country to withhold tax, is not subject to Federal income tax withholding in the US.

----- Separate here and give Form W-4 to your employer. Keep the worksheet(s) for your records. -----

Form **W-4**
Department of the Treasury
Internal Revenue Service

Employee's Withholding Allowance Certificate

OMB No. 1545-0074

2019

► Whether you're entitled to claim a certain number of allowances or exemption from withholding is subject to review by the IRS. Your employer may be required to send a copy of this form to the IRS.

1 Your first name and middle initial		Last name		2 Your social security number	
Home address (number and street or rural route)			3 <input type="checkbox"/> Single <input type="checkbox"/> Married <input type="checkbox"/> Married, but withhold at higher Single rate. Note: If married filing separately, check "Married, but withhold at higher Single rate."		
City or town, state, and ZIP code			4 If your last name differs from that shown on your social security card, check here. You must call 800-772-1213 for a replacement card. ► <input type="checkbox"/>		
5 Total number of allowances you're claiming (from the applicable worksheet on the following pages)				5	
6 Additional amount, if any, you want withheld from each paycheck				6 \$	
7 I claim exemption from withholding for 2019, and I certify that I meet both of the following conditions for exemption. <ul style="list-style-type: none"> • Last year I had a right to a refund of all federal income tax withheld because I had no tax liability, and • This year I expect a refund of all federal income tax withheld because I expect to have no tax liability. If you meet both conditions, write "Exempt" here ►				7	

Under penalties of perjury, I declare that I have examined this certificate and, to the best of my knowledge and belief, it is true, correct, and complete.

Employee's signature

(This form is not valid unless you sign it.) ►

Date ►

8 Employer's name and address (Employer: Complete boxes 8 and 10 if sending to IRS and complete boxes 8, 9, and 10 if sending to State Directory of New Hires.)		9 First date of employment	10 Employer identification number (EIN)
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Company Tax Policy

Tax Gross Up

Tax Gross Up:

Employee receives a larger gross amount in order to deliver a specific net benefit.

The gross-up payment itself is also taxable to the employee and subject to tax withholding.

Circular calculation or tax on tax



Company Tax Policy

Tax Gross Up Example

Housing	1,000.00
Car	1,000.00
Dependent Education	1,000.00
Relocation Allowance	1,000.00
Tax Gross Up	2,086.43
Total Taxable	6,086.43
Federal Tax Withholding	1,339.01
Social Security Tax Withholding	377.36
Medicare Tax Withholding	88.25
Colorado Tax Withholding	281.80
Total Tax	2,086.43
Net Pay	4,000.00

Gross Up Formula:

**Benefits/(1-tax rates)-
Benefits = Tax Gross Up**

**Calculation: \$4,000/(1-0.22-
.0145-.062-.0463)-4,000 =
\$2,086.43**

What is the final goal?

Payroll Set-Up

What is the best way to set up the payroll between the home and host countries?

Does the payroll set-up make sense for both the employee and the company?



Payroll Set-Up

Home Country Payroll Only

- All salary and benefits are paid from the home country payroll only
- No payroll reporting is processed in the host country
- A viable option if the host country does not have a payroll reporting and tax withholding/remittance
- Employee will need to transfer funds to obtain host country currency



Payroll Set-Up

Host Country Payroll Only

- All salary and benefits are paid from the host country payroll only
- No payroll reporting is processed in the home country
- A viable option if the employee is able to break tax residency in the home country and home country payroll reporting and tax withholding/remittance are not required
 - Consider pension, social tax, and benefit plans
- Employee will need to transfer funds to home country for savings and ongoing home expenses



Payroll Set-Up Shadow Payroll

A key component of maintaining compliance for an expatriate employee inbound or working abroad.

- Employee is paid from home country payroll and shadowed through the host country for proper payroll compliance.
- Employee is paid from the host country and shadowed through the home country likely for pension contributions and home country benefit participation.



Payroll Set-Up

Home Country Shadow Payroll

- The home country will “shadow” or “mirror” the host country payroll in order to report compensation and withhold/remit any necessary taxes in the home location.
- No cash will be disbursed to the employee from the home country payroll as it is only processed to properly report compensation and withhold/remit applicable taxes.
- The host country payroll will report compensation, withhold/remit tax, and disburse all cash through the host country payroll.
- A viable option if the employee prefers to receive all cash in their host country currency but there is a continued reporting and tax withholding/remittance requirement in the home country.
- Discussions with the home and host entities on corporate general ledger entries may be necessary.
- Although the same compensation is reported in two locations, the compensation will not need to be doubled on the individual’s home and host income tax filings (for worldwide reporting). However, full compensation reporting to each country may be required.

Payroll Set-Up

Host Country Shadow Payroll

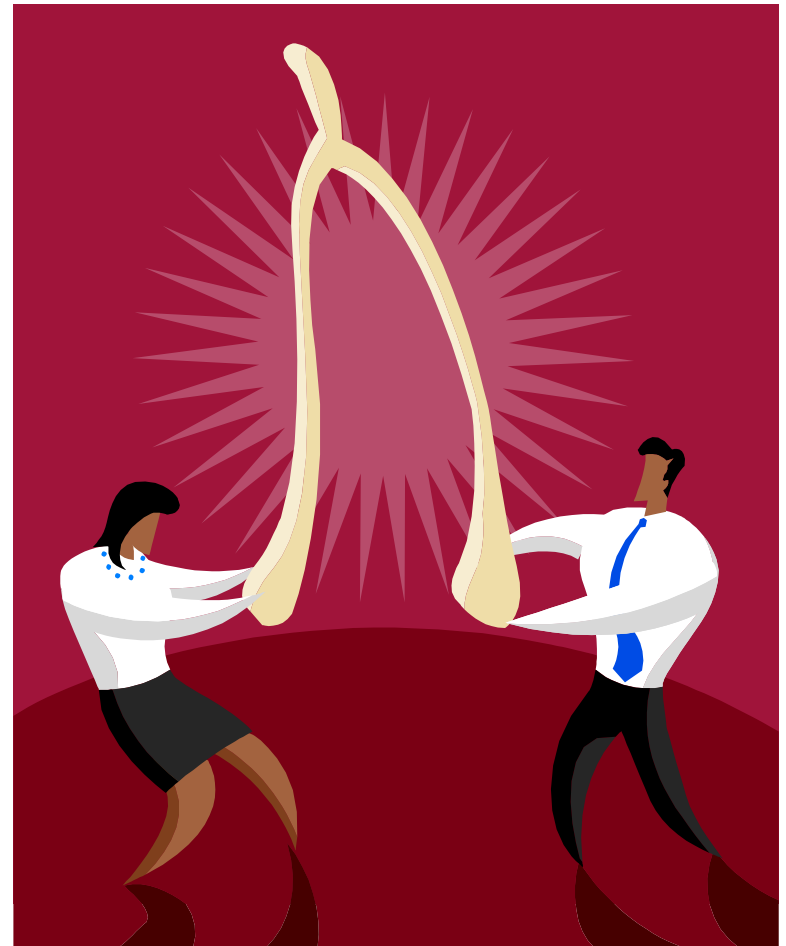
- The home country continues to report and disburse all cash through the home country payroll.
- The host country will “shadow” or “mirror” the home country payroll in order to report compensation and withhold/remit taxes in the host location.
- No cash will be disbursed to the employee from the host country payroll as it is only processed to properly report compensation and withhold/remit taxes (likely through a tax gross up).
- A viable option if the employee prefers to receive all cash in their home country currency but there is a reporting and tax withholding/remittance requirement in the host country.
- Discussions with the home and host entities on corporate general ledger entries may be necessary.
- Although the same compensation is reported in two locations, the compensation will not need to be doubled on the individual’s home and host income tax filings (for worldwide reporting). However, full compensation reporting to each country may be required.

Payroll Set-Up

Split Payroll

A key component of maintaining compliance for an expatriate employee inbound or working abroad while delivering cash through both payrolls.

- **Benefits:**
- Reduce currency fluctuation
- Delivers cash in both host and home country
- Compliance with tax withholding requirements
- Allow employee to maintain eligibility for home country benefits



Payroll Set-Up

Split Payroll (continued)

- The entity and individual will agree on a desired and or necessary split of the payroll.
- A portion of the payroll will be reported and paid from the host location and the other portion will be reported and paid from the host location.
- A “shadow” or “mirror” of the other portion may be required in order to report worldwide compensation appropriately.
- A viable option if the employee prefers to receive some cash in their host country currency and some cash in their home country currency.
- A viable option if the employee will continue to pay personally into their home country benefits schemes and social tax schemes but desires disbursement of the remainder of his cash in the host country.

Assignment Related Benefits

- Housing
- Utilities
- Home Country Property Management
- Car
- Living Away From Home Allowance
- Goods and Service Differential (COLA)
- Location Premium
- Dependent Education
- Home Leave
- Tax Payments
- Relocation - Moving



Assignment Related Benefits

- Assignment benefits
 - Imputed or actual cash outlay



Year-End Payroll Forms

- The final US Form W-2 should include worldwide employment income and benefits.

- Gather all compensation components and exchange rate adjustments
- Year-end review of payroll and taxes
- Add any additional non US payroll compensation not previously “shadowed”

- Reconcile the foreign payroll forms to the US payroll form.

- Discrepancies will exist as taxability and deductibility differ by country.

- Provide an explanation of the payroll forms to the employee.



Payroll Audits

Form 4564 (Rev. September 2006)	Department of the Treasury - Internal Revenue Service Information Document Request	Request Number
To: (Name of Taxpayer and Company Division or Branch)		
Subject ET - Expatriates US Working in Foreign Countries		
SAIN number		Submitted to:
Dates of Previous Requests		

Please return Part 2 with listed documents to the requester identified below

Description of documents requested:

For the years under examination 2007 and 2008, please provide the following information and/or documents:

- Does the Company have Expatriate employees, U.S. citizens who worked in foreign countries? If yes, please provide a complete list of these Expatriate employees identifying the following:
 - Name
 - Social Security Number
 - Country of assignment and living in
 - Amount of Form W-2, Box 1 and Box 5 Wages
 - Year(s) worked abroad
 - Beginning and ending dates each foreign assignment(s)
 - Form 673, Statement for Claiming Benefits Provided by Section 911
- A complete copy of all Human Resources Policy Statements, Handbook(s), Manual(s) Tax equalization policy statements, tax protection policy statements and similar materials describing the benefits, cost reimbursements, and other employer-provided or employer-subsidized items provided to Expatriate employees, who worked in a foreign country and describing the tax equalization, tax protection, or other method used.

If the list provided under item 1 above does not exceed 25 Expatriate employees, please provide items 3, 4, and 5 listed below. If the list exceeds 25 employees, then disregard these items at this time and we will select a sample from the list provided.

3. For each Expatriate employee who worked in a foreign country identified under item 1 above, please provide the foreign assignment contract, foreign assignment agreement, letter for expatriate, and other similar documents authorizing the foreign assignment.

4. For each Expatriate employee who worked in a foreign country identified under item 1 above, provide a detailed Wage Reconciliation Worksheet, itemizing all categories of compensation and reconciling to the filed Form W-2, Box 1, Box 5. Common compensation categories/benefits include but are not limited to:

- Salary/Stock Based//NQDC
- Signing/Retention/Expatriate Bonuses
- Fringe benefits:

- Housing/Relocation/Moving expenses – if repatriated, verify that the 39 week test has been met
- Vehicles/Chauffeur expenses
- Security expenses
- Aircraft/Airfare expenses
- Spousal/Dependent Travel expenses
- Education expense for spouses and dependents
- Language/Interrupter expenses
- Tax Preparation/Financial fees
- Home Leave expenses, including airfare and spouse and dependents' expenses
- Rest and Relaxation expenses
- Storage costs
- Property management fees and reimbursements
- Domestic Services
- Clothing expenses and allowances
- Other Personal Living Expenses

5. For each Expatriate employee who worked in a foreign country, please provide a copy of their Form W-4 for the years worked abroad.

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Payroll Audits

Form 4564 (Rev. September 2006)	Department of the Treasury - Internal Revenue Service Information Document Request	Request Number
To: (Name of Taxpayer and Company Division or Branch)		
Subject ET - Expatriates Foreign Nationals Working in US		
SAIN number	Submitted to:	
Dates of Previous Requests		

Please return Part 2 with listed documents to the requester identified below

Description of documents requested:

For the years under examination 2007 and 2008, please provide the following information and/or documents:

- Did the Company have Expatriate employees, Foreign Nationals who worked in the United States? If yes, please provide a complete list of these Expatriate employees identifying the following:
 - Name
 - Tax Identification Number, if any
 - Country of Citizenship
 - Resident Alien
 - Non-resident Alien
 - Documentation/immigrant status, Green Card, Visa, etc.
 - Year(s) worked in U.S.
 - Amount Reported on Form W-2, Box 1 and Box 5 Wages
- A complete copy of all Human Resources Policy Statements, Handbook(s), Manual(s) Tax equalization policy statements, tax protection policy statements and similar materials describing the benefits, cost reimbursements, and other employer-provided or employer-subsidized items provided to Expatriate employees, Foreign Nationals who worked in the United States and describing the tax equalization, tax protection, or other method used.

- Did the Company have Expatriate employees or individuals, Foreign Nationals who worked in the United States and their salary is paid by a foreign affiliate/corporation? If yes, please provide a complete list of these Expatriate employees or individuals identifying the following:

- Name
- Tax Identification Number, if any
- Country of Citizenship
- Foreign Affiliate/corporation
- Resident Alien
- Non-resident Alien
- Documentation/immigrant status, Green Card, Visa, etc.
- Year(s) worked in U.S.
- Amount Reported on Form W-2, Box 1 and Box 5 Wages

- For the Expatriate employees or individuals, Foreign Nationals who worked in the United States identified under item 3 above: Did the Company pay to any of these Expatriate employees or individuals any allowances, benefits, expenses or expense reimbursements? Did the Company pay or make intercompany transfers to a Foreign Affiliate/Corporation for the services of these Expatriate employees or individuals for any salary, allowances, benefits or expenses? If yes, please provide a complete list including:

- Name
- Foreign Affiliate/Corporation
- Amount
- Amount Reported on Form W-2, Box 1 and Box 5 Wages

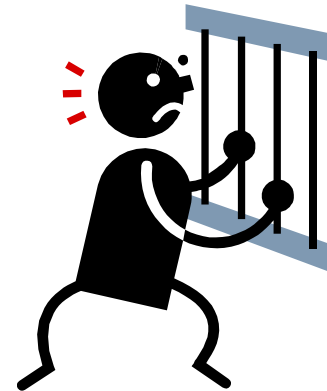
- For each Expatriate employee or individuals, Foreign Nationals who worked in the United States identified under item 1 and 3 above, please provide a copy of their Form W-4 for the years worked in the United States. If the list provided under item 1 and 3 exceeds 25 Expatriate employees, please disregard these items at this time and we will select a sample from the list provided.

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Payroll Audits

Possible Interest and Penalties

- Failure to Make Deposit of Taxes - IRC 6656 (Up to 15% of amounts unpaid)
- Failure to Collect and Remit Taxes - IRC 6672 (Up to a 100% penalty of the amount not collected)
- Failure to Furnish Correct Payee Statement - IRC 6722 (Greater of \$100 per statement or 5-10% of the amount required to be reported)
- Negligence or Fraud - IRC 6662 and 6663
- Criminal Penalties - IRC 7207



Thank you for your time!

Any Questions?

Ronii Rizzo

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