



**Delivering U.S. International Tax Advice to  
Non-Resident Clients Relating to  
their U.S. Financial Activities**

**OGLE INTERNATIONAL TAX ADVISORS**

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**OUR INTERNATIONAL TAX PRACTICE INCLUDES BOTH CPAS AND ATTORNEYS WITH BIG 4 AND FORTUNE 500 EXPERIENCE. OUR PROFESSIONALS ARE DEDICATED TO THE HIGHEST STANDARDS OF SERVICE AND COMMITTED TO EXCELLENCE. WE HAVE CREATED A CULTURE THAT IS BASED ON TEAM BUILDING, INDIVIDUAL EMPOWERMENT, AND LEADERSHIP.**

## FDAP INCOME TAX ADVICE

Ogle International Tax Advisors specialize in advising individuals and multi-national companies on international tax matters. Our clients include both public and privately held businesses. We also assist other regional CPA and Law firms who do not have expertise in international tax. Our firm's staff includes both CPAs and attorneys. Our international tax services include: structuring of foreign investments, export tax incentives, repatriation strategies, transfer pricing, mergers & acquisitions, inbound tax planning and strategies for individuals. By offering both international tax planning and compliance services, we simplify the technical complexities our clients face.

## TAXATION OF NON-RESIDENT INDIVIDUALS

In general, for U.S. Federal income tax purposes, individuals are either U.S. citizens, resident aliens or non-resident aliens. A resident alien is generally defined for U.S. Federal income tax purposes as an individual who has been admitted for U.S. permanent residence (i.e., has a green card) or is physically present in the U.S. for 183 days or more during the current calendar year. A non-resident alien is generally defined for U.S. Federal income tax purposes as an individual who is neither a U.S. citizen nor a resident of the U.S.

For U.S. income tax purposes, resident alien individuals are taxed on their worldwide income (the same as U.S. citizens), and non-resident alien individuals are taxed on income that is effectively connected with a trade or business in the U.S. and U.S. source non-business income.

Delivering U.S. International Tax Services to Global Clientele





As mentioned earlier, non-residents are taxed on income that is effectively connected and U.S. source non-business income. The difference between these two categories is that effectively connected income, after allowable deductions, is taxed at graduated rates (the same rates that apply to U.S. citizens and residents). U.S. source non-business income is taxed at a flat 30% (or lower treaty rate) and no deductions are allowed against such income. U.S. source non-business income is also known as Fixed, Determinable, Annual, or Periodical (“FDAP”).

### **FIXED, DETERMINABLE, ANNUAL, OR PERIODICAL (“FDAP”) INCOME**

FDAP income is generally all U.S. sourced non-business income, except:

- ❖ Gains derived from the sale of real or personal property (including market discount and option premiums, but not including original issue discount)
- ❖ Items of income excluded from gross income, without regard to the U.S. or foreign status of the owner of the income, such as tax-exempt municipal bond interest and qualified scholarship income.

Income is fixed when it is paid in amounts known ahead of time. Income is determinable whenever there is a basis for figuring the amount to be paid. Income can be periodic if it is paid from time to time. It does not have to be paid annually or at regular intervals. Income can be determinable or periodic, even if the length of time during which the payments are made is increased or decreased.

## **FDAP INCOME TAX ADVICE**

### **TAX TREATMENT OF FDAP INCOME WHICH IS NOT EFFECTIVELY CONNECTED INCOME**

In general, non-residents are taxed at a 30% or lower treaty flat tax rate on FDAP income or gains from U.S. sources, but only if they are not effectively connected with a non-resident's U.S. trade or business. The 30% or lower treaty flat tax rate applies to the gross amount of U.S. source fixed or determinable annual or periodic gains, profits, or income. Deductions are not allowed against FDAP income.

### **THE FOLLOWING ITEMS ARE SOME EXAMPLES OF FDAP INCOME:**

- ❖ Compensation for personal services
- ❖ Dividends
- ❖ Interest
- ❖ Original issue discount
- ❖ Pensions and annuities
- ❖ Alimony
- ❖ Real property income, such as rents, other than gains from the sale of real property
- ❖ Royalties
- ❖ Scholarships and fellowship grants
- ❖ Other grants, prizes and awards
- ❖ A sales commission paid or credited monthly
- ❖ A commission paid for a single transaction
- ❖ The distributable net income of an estate or trust that is FDAP income, and that must be distributed currently, or has been paid or credited during the tax year, to a nonresident alien beneficiary



- ❖ A distribution from a partnership that is FDAP income, or such an amount that, although not actually distributed, is includible in the gross income of a foreign partner
- ❖ Taxes, mortgage interest, or insurance premiums paid to, or for the account of, a nonresident alien landlord by a tenant under the terms of a lease.

Generally, non-residents who are in the U.S. for less than 183 days during the tax year will not be taxed on capital gains not effectively connected with a non-resident's U.S. trade or business. These rules do not apply to the sale or exchange of a U.S. real property interest, or to the sale of any property that is effectively connected with a trade or business in the United States.

### TAX FORMS

In general, tax forms which may be required when non-resident individuals receive FDAP income:

- ❖ Form 1040NR, "U.S. Nonresident Alien Income Tax Return"
- ❖ Form W-8BEN, "Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding"
- ❖ Form W-7, "Application for IRS Individual Taxpayer Identification Number"
- ❖ Form SS-4, "Application for Employer Identification Number"

We are experienced in preparing these and other IRS forms that permit a seamless approach in combining the international tax planning and compliance functions with one advisory group.





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