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Global Tax Network (GTN), a mobility tax services firm, spoke to us about the increasingly complex arena of global tax compliance.

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Global Tax Compliance Becoming Increasingly Complex

Global tax compliance has become increasingly complex for globally mobile individuals, due to expanded overseas banks, financial account reporting and tax compliance requirements. There has been a rise in the number of the estimated six million US citizens living abroad who are giving up their US citizenship. According to the US Treasury Department, a record 3,415 Americans renounced their citizenship in 2014. The rise continues as in the first quarter of 2015 alone, and according to recent data released by the IRS more Americans living outside the US gave up their citizenship than ever before. According to data compiled by Bloomberg, the 1,335 expatriations in the first quarter of 2015 surpassed the previous record by 18%.

The question becomes, is there a correlation between the increasingly complex tax compliance requirements and the increase in the number of US citizens giving up their citizenship? While there can be non-tax related factors which can influence a person's decision to relinquish US citizenship or lawful US permanent residency (US green card), there is likely a correlation. The daunting task of filing tax returns with the added burden of reporting overseas bank and other financial account information can be a challenging experience for US citizens, US green card holders and US tax residents.

In this article, two senior leaders from Global Tax Network (GTN), UK based Richard Watts Joyce, Regional Managing Director EMEA, and New York based Chris Hall, Managing Director of GTN's Northeast US region, provide an overview of some of the challenges faced by globally mobile individuals.

The expansion of the foreign asset and reporting rules in the US under the Foreign Account Tax Compliance Act (FATCA) and its pursuit of taxpayers with unreported income from offshore financial accounts has garnered the most attention. However, other countries, including Canada and Italy, have or are considering similar reporting requirements. In addition to the foreign asset reporting requirements, a globally mobile individual should consider income, social security, estate, and gift tax exposure in countries other than their country of residence.

Even a change in country of residence can cause tax issues. In many countries, including the US and Canada, certain long term residents or citizens may be subject to a departure tax based on their net worth. The departure tax rules can be quite complex. In the US, for example, the rules regarding Expatriation Tax have been in existence since June 16, 2008. Individuals may become subject to Expatriation Tax, also referred to as "anti-expatriation rules," if:

- US citizenship is relinquished; or
- US permanent residency is relinquished by a "long-term US resident," meaning someone who has been a lawful permanent resident of the United States in at least eight of the last 15 years.

And, if any of the following three tests are satisfied:

- Tax Liability Test: The individual's average annual net federal income tax for the five years preceding the year of expatriation exceeds $160,000* (* indexed annually for inflation).
- Net Worth Test: The individuals' net worth exceeds $2,000,000 upon expatriation.
- Certification and Compliance: The individual fails to certify under penalty of perjury that he or she has met the requirements of the Internal Revenue Code for the five preceding years, or fails to submit evidence of such compliance.

An individual who satisfies this test is then considered a "covered individual," and the resulting Expatriation Tax is generally calculated by treating the individual's assets as having been sold on the date of expatriation. The resulting tax may cause hardship for the individual. Since their assets have not actually been sold, they may not have enough available funds to pay the tax related to the deemed sale of the assets.

One way for a green card holder to avoid falling subject to the Expatriation Tax is to track their lawful permanent residency period. If they can legally relinquish the green card before the eight year period has elapsed, it may be possible to avoid the Expatriation Tax, and its related burdens, altogether. It should be noted that a partial year will count as a full year for this test.

If the individual is not able to relinquish their green card before the eight year period, they may still escape the grasp of the expatriation tax


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if none of the other tests are satisfied. The individual will need to file the appropriate form to show they did not meet these additional tests. In the end, while it is difficult to outline the many possible scenarios and comment on all of the tax rules that may apply in the year that a person's US citizenship or green card is relinquished, the need to have an overall awareness of the tax rules and to exercise diligence in planning for such an event remains the same.

As this example illustrates, the residency status of a globally mobile individual is a key factor for income taxation. It is also important for social security and estate and gift taxes. Residents and non-residents are often subject to significantly different tax rules in a country.

UK tax residency
Residency had been a major issue in the UK for many years, falling outside of tax legislation and based mostly on case law. In an effort to reduce uncertainty and bring matters under a legislative framework, HMRC introduced a Statutory Residency Test in April 2013, which has significantly changed the way that tax residency is determined.

There are three tests to determine tax residency, namely "automatic non residency", "automatic residency" and the "UK ties" tests. When completing each test it is necessary to consider each year separately and work through the tests from the top down. Once you can answer "yes" to one of the tests, this determines your residency position for that tax year.

Automatic non-residency will apply in any tax year that an individual:
- has been non resident for the prior three years and spends less than 46 days in the UK; or
- has been resident in one of the prior three years and spends less than 16 days in the UK; or
- leaves the UK to work full time overseas and spends less than 91 days and no more than 30 working days in the UK.

Automatic residency will apply in any tax year that an individual:
- is present in the UK for 183 days or more; or
- has all of their homes in the UK and spends more than 30 days there; or
- Works "sufficient hours" in the UK (broadly more than 75% of overall workdays are spent in the UK over a 365 day period)

If you do not meet the requirements for "automatic non residency" or "automatic residency", then you must look to the "ties test". This provides the maximum number of days that an individual can spend in the UK before becoming tax resident, according to the number of "connection factors" that they have with the UK. The more connection factors, the lower the number of days that can be spent in the UK before becoming resident, or conversely, the more days that needed to remain outside of the UK to become a non resident.

The rules are extremely complex and require professional UK tax advice prior to any move. An added complication is that, for many globally mobile individuals, the UK domestic rules may be overridden by international tax agreements permitting "treaty" residency to another jurisdiction. Whilst this can complicate matters further, it can also be an effective planning tool, particularly where domestic UK residency rules provide a less favourable outcome, or a double taxation issue. What is clear is that both domestic and international law must now be considered with any UK inbound or outbound move and whilst the UK rules may now be under a statutory footing, they may still not provide the final answer.

Overseas workday relief
As part of these changes, the concept of Ordinary Residence was abolished and the overseas workday relief that used to be available to individuals who could claim "not ordinary resident" status has now been defined in statute. This allows certain individuals moving to the UK (with some restrictions on prior UK residency) to claim exemption from UK tax for earnings relating to days spent working outside of the UK for the year of arrival and the following two tax years.

However, one of the main conditions for the workday relief is that the proceeds from earnings relating to non-UK workdays must be paid outside of the UK and kept outside. The employment income must also be paid into a "Qualifying Account" in order to be able to make an overseas workday claim and benefit from "Special Mixed Fund Rules" (if the account is not qualifying, the relief is still possible, but is subject to the highly complex normal mixed fund rules, requiring analysis of each and every remittance to the UK). In order to be considered as a "Qualifying Account" the account must meet a number of conditions making pre-assignment planning so vital.

Capital gains tax changes for non-residents
The recent UK Budget Statement also extended the reach of UK capital gains tax to include disposals of UK residential property by non-residents of the UK. Prior to April 6, 2015, any sale of a UK property by a non resident individual would be outside the scope of capital gains tax at the point of sale, provided that the individual was either non-resident when the property was purchased, or spent at least five full tax years outside of the UK. From April 6, 2015 onwards, gains on the sale of UK property owned by non residents will be chargeable to capital gains tax, based on the increase in value from April 6, 2015 onwards. A valuation at that date will be required to determine the base cost for tax purposes.

UK "domicile" status
Finally, there has been much political debate over the concept of "domicile" status and associated tax advantage in the UK. Currently, an individual can claim non-domicile status if they are a non-UK citizen moving to the UK and do not intend to remain indefinitely. The status allows exemption from UK on overseas income and gains provided these are not remitted to the UK.

A non-domiciled individual that has been tax resident in the UK for at least seven out of the last nine years is required to pay an annual charge of £30,000 to maintain the exemption (effectively from year eight onwards), or commence reporting worldwide income and gains, whether or not remitted. The annual charge increases to £60,000 for individuals who have been resident in the UK in at least 12 of the last 14 years and £90,000 for individuals who have been resident in the UK in at least 17 of the last 20 years.

As part of the 2015 Summer Budget, the newly elected Conservative government declared their intent to introduce new legislation to limit the number of years that a non domicile claim can be maintained. From April 2017 any individual that has been resident in the UK for more than 15 of the past 20 tax years will now be deemed to be domiciled in the UK for tax purposes, without any possibility of paying an annual charge to avoid declaring worldwide income. This will have significant implications for many high net worth overseas nationals residing in the UK.

These are just a few of the tax challenges faced by globally mobile individuals. If you have any questions please contact Christopher Hall at chall@gtn.com or +1 (917) 470-9132 or Richard Watts Joyce at rwatts-joyce@globaltaxnetwork.co.uk or +44(0)207 100 2126. The information provided is for general guidance only, and should not be utilized in lieu of obtaining professional advice.

Global Tax Network ("GTN") is a mobility tax services firm. Global Tax Network Ltd is the UK member firm of GTN. We provide international and domestic mobility program development and support for organizations, including tax planning and preparation services for employees on assignment, transferring to a new host location (e.g., moving to a new country), or working temporarily outside of their home location. We combine excellent client service, technical expertise, and leading-edge technology to provide a full range of Mobility tax services. GTN is dedicated to the tax needs of mobile employees and the organizations that support them, creating a smooth employee experience.

Christopher Hall
Managing Director – GTN Northeast
Christopher is Managing Director of the GTN Northeast Region. He has over eighteen years of experience in expatriate tax compliance and consulting. Having worked in the UK, Canada, and the U.S., Christopher has significant experience in a wide variety of expatriate related topics including Social Security, pensions, treaty application and planning, and compensation and policy issues. As an expatriate himself, he adds personal experience to the technical knowledge that relates directly to the challenges of making cross border moves. After receiving a BA (Honours) in Economics from the University of Leeds, Christopher began his career in the UK with Arthur Andersen. He is UK tax qualified and an Overseas Member of the Chartered Institute of Taxation in the UK. Prior to joining GTN, Christopher worked in Deloitte's expatriate tax practice in Toronto and New York for over nine years.

Richard Watts-Joyce
Regional Managing Director - EMEA
Richard is a co-founder and partner of the UK office of GTN, where he assists high net worth individuals, non domiciles and professional sportspersons with international tax planning and compliance. In addition to advising private clients, Richard also assists companies with tax policy development and planning for international assignment programs. Richard has over 20 years of experience in international tax consulting, having previously worked within the London offices of KPMG and PricewaterhouseCoopers specializing in international executive tax planning and compliance for multinational companies. He then spent a number of years at Watson Wyatt Partners, assisting clients with international executive compensation structures and incentive schemes for board level directors, before establishing Global Tax Network Ltd in 2001. Richard has a BSc Honours Degree from the London School of Economics and qualified as a member of the Association of Taxation Technicians in 1995 and the Chartered Institute of Taxation in 1999.

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