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**MEMORANDUM**

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**RE:     U.S. INCOME TAXATION: FOREIGN NATIONALS**  
**UNITED STATES TAXES “U.S. PERSONS” ON THEIR**  
**WORLDWIDE INCOME (IRC §61(A))**

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**United States Taxes “U.S. Persons” On Their Worldwide Income  
(IRC §61(A))**

Under IRC §7701(a)(30) U.S. Persons include the following:

- (1) U.S. Citizens;
- (2) Resident Alien Individuals  
(Green Card Test; Substantial Presence Test,(IRC §7701(b)(1)(A));
- (3) Domestic Corporations  
(Corporations created under the laws of one of the 50 states) - location of corporate headquarters is irrelevant, (IRC §7701(a)(4) and (a)(9));
- (4) Domestic Partnerships  
(Partnerships created under the laws of one of the 50 states) (IRC §7701(a)(4) and (a)(9));
- (5) Any Estate other than a Foreign Estate  
An estate is foreign if its foreign-source income is not subject to U.S. taxation (other than any income effectively connected with a U.S. trade or business (IRC §7701(a)(30)(D), (a)(31)(A));
- (6) Any Trust  
If a U.S. court is able to exercise primary supervision over the administration of the trust and one or more U.S. persons have the authority to control all substantial decisions of the trust (IRC §7701(a) (30) (E)).

## **U.S. Income Tax - Foreign Nationals**

A foreign national is taxed in the United States on world- wide income if they are classified as a U.S. income tax resident, under one of two tests:

(1) Lawful Permanent Resident Test

A “Green-Card Holder” is automatically treated as a U.S. income tax resident and is taxed on world-wide income (IRC § 7701 (b)(1)(A) (i)).

(2) Substantial Presence Test

A non-green card holder will be classified as a U.S. income tax resident if they meet the substantial presence test found in IRC§7701(b)(3)(IRC § 701 (b)(1)(A)(ii)):

- (a) Resident in the U.S. for 183 days or more in any one tax year (IRC § 7701 (b)(3)(A)).
- (b) Resident in the U.S. for at least 31 days during the current tax year and 122 days per year over 3 tax years (current year and prior 2 years). See Treas. Reg. § 301.7701(b)-1(b)-1(c)(1).

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