INTERNATIONAL TAX CHECKLIST FOR INDIVIDUALS

PRE-IMMIGRATION TAX PLANNING

☐ Select your US professional services team

- An international tax professional to address potential U.S. tax considerations and minimize tax impact. Make sure to discuss:
  - US federal income tax consequences
  - US federal estate tax, gift tax and generation-skipping transfer tax consequences
  - State and local income taxes

☐ Coordinate tax and estate plan with non-tax issues

- Areas to consider include:
  - Family relationships
  - Cash flow
  - Access to assets
  - US financial asset disclosure rules and other relevant laws

☐ Maximize protection from creditors

☐ Address spousal rights, if applicable

- US income tax rules may seek to allocate certain types of community property income to one or both spouses

☐ Consider the following if you anticipate US residency or you generally spend over 121 days in the US per year:

- Difference in tax implications during period of nonresidence vs. temporary residence or long term residence
- Keep in mind excludable days, closer connection exception and treaty provisions
- Special rules apply to the first and last year of residency

☐ Minimize US income taxation by implementing the following strategies prior to establishing US tax residence:

- Accelerate the recognition of non-US source income (foreign dividends, stock options, deferred compensation, prepaid rent, etc.) and defer losses
- Sell appreciated assets
- Surrender control or dispose of foreign corporations with passive income to avoid CFC and PFIC reporting (consider check-the-box election)
- Convert appreciated foreign currency holdings to US dollars
- Evaluate home country consequences

☐ Minimize US estate, gift and generation-skipping taxation by implementing the following strategies prior to establishing a US domicile:

- Minimize risk of US domicile where possible/appropriate
- If not domiciled, minimize direct holding of US situs assets
- Consider application of transfer tax treaties
- Make gifts outright and free of trust
- Plan with trusts:
  - Irrevocable gifts to non-US persons in trust
  - Transfer foreign assets and US intangible assets
  - Consider tax consequences of trust location and powers retained
  - *Note:* Gifts made to a trust within 5 years of becoming a US resident may result in inadvertent grantor trust
- Foreign revocable trusts can be revoked or otherwise dealt with prior to settlor's or beneficiary's US tax residency

TAX COMPLIANCE FOR US CITIZENS AND RESIDENTS

- [ ] **Prepare for US income tax compliance:**

- US persons are generally subject to tax on their worldwide income and have to report their worldwide assets subject to certain thresholds
- US income tax filing requirements (be prepared for international tax forms and statements required to report foreign bank accounts, foreign trusts and companies, foreign pensions and deferred compensation plans, foreign life insurance policies, etc.)
- Other areas to consider:
  - Special foreign exclusions
  - Foreign tax credit optimization
  - Tax equalization policies
  - Payroll taxes
  - Cross-border equity and deferred compensation taxation
  - Treaty benefits
  - *Note*: Failure to comply may result in harsh civil and criminal penalties

- [ ] **Withholding requirements may apply to payments to foreign persons**

- [ ] **Plan for state and local tax compliance**

- *Note*: State and local taxes shouldn't be overlooked. Significant and complex variations exist between the different jurisdictions. Tax treaties generally do not cover state and local taxes

- [ ] **Prepare for estate and gift tax compliance**

PRE-EXPATRIATION TAX PLANNING

- [ ] **Individuals that anticipate renouncing their US citizenship or Green Card may be subject to the US expatriation tax**

- The expatriation tax applies as a deemed sale of worldwide assets on the day before the expatriation and may result in a significant tax hit
- Special rules apply to deferred compensation items, specified tax deferred accounts and non-grantor trusts
- Consider exceptions for dual-citizens and certain minors
- Explore planning opportunities to avoid or mitigate the expatriation tax consequences
- *Note*: Treaty tie-breaker can trigger expatriation in year of election, if the individual has been a resident for 8 of the prior 15 years

- [ ] **Even if covered under an expatriation tax exception, be prepared to comply with US tax filing requirements on Form 8854 to avoid inadvertently triggering the expatriation tax**

US VOLUNTARY DISCLOSURE ASSISTANCE AND TAX DISPUTE RESOLUTION

US tax residents, green card holders and US citizens that have failed to identify and comply with their US tax filing and information reporting obligations with respect to their foreign financial assets or non-U.S. investments should consider making a voluntary disclosure under one of the programs offered by the IRS:

1. The statute of limitations may remain open indefinitely for failure to file required international information returns
2. Eligibility for the different programs and applicable penalties vary depending on whether income from foreign assets has been properly reported, whether failure to comply was willful, non-willful or the taxpayer can establish reasonable cause, and whether the IRS has already identified or would have inevitably identified the undisclosed foreign financial assets
3. Avoid substantial civil penalties and generally eliminate the risk of criminal prosecution

For further details and guidance regarding international tax issues, visit mgocpa.com/contact-us or call +1 (866) 355-2453.