that for the remainder of the taxable year your tax home is in a foreign country or you have a closer connection to a foreign country. Until you file **Form 8854** with the IRS **and** notify the Department of Homeland Security of your termination of residency, your termination of your permanent resident status for immigration purposes will not relieve you of your obligation to file U.S. tax returns and report your worldwide income as a resident of the United States. For purposes of U.S. tax rules, the date of your termination of residency will be the later of the date you notify the Department of Homeland Security or the date **Form 8854** is filed with the IRS in accordance with the instructions for the form.

How do I give notice to the Department Of Homeland Security that I terminated my residency status?

You will be considered to have given notice of a termination of residency to the Secretary of Homeland Security as of the date that you complete **Form I-407** (Abandonment of Lawful Permanent Resident Status) before a diplomatic or consular officer of the United States or at a Port of Entry of the United States before a U.S. immigration official.

What if I have had my green card for less than 8 years out of the last 15 taxable years at the time I revoke or abandon my green card?

You do not need to file a **Form 8854** for any reason.

If I am a long-term resident, must I file Form 8854 for the next 10 years after I surrender my green card?

You must file a **Form 8854** for each of the 10 tax years after the date of your abandonment of your long-term resident status only if:

(a) your average annual net income tax liability for the 5 years ending before the date of your termination of residency is more than a set amount ($124,000 for 2004, $127,000 for 2005, $131,000 for 2006),

(b) your net worth is $2 million or more on the date of your termination of residency, or

(c) you fail to certify on Form 8854 that you have complied with all of your U.S. federal tax obligations for the 5 years preceding the date of your termination of residency.

Failure to file a required **Form 8854** in any of the 10 tax years after the date of your termination of residency may result in a $10,000 penalty for each year that the form is required but not filed.

Where do I get Form 8854?

The form is accessible on the internet at: **http://www.irs.gov/formspubs/index.html.**

Taxation under section 877.

If you are subject to section 877, you will be subject to an alternative tax regime with respect to your U.S. source gross income. For this limited purpose, special source and taxation rules apply; you should consider consulting a tax advisor as to the specific consequences. You generally will not be able to claim the benefits of an income tax treaty to reduce or exempt your income from U.S. taxation because the United States reserves the right to tax former citizens and long term residents according to U.S. law in almost all of its treaties. If you are subject to section 877 and you spend more than 30 days during any calendar year in the United States within the ten years following your termination of residency, you may be treated as a resident of the United States for tax purposes for that entire calendar year.

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BASIC TAX GUIDE

FOR GREEN CARD HOLDERS

UNDERSTANDING YOUR U.S. TAX OBLIGATIONS

If you have a U.S. green card, you are a lawful permanent resident of the U.S. even if you live abroad. This means you are treated as a U.S. resident for U.S. income tax purposes and you are subject to U.S. tax on your worldwide income from whatever source derived. Accordingly, you must file a U.S. tax return unless **(a)** there has been a final administrative or judicial determination that your lawful permanent resident status has been revoked or abandoned, **(b)** your gross income from worldwide sources is less than the amounts that require a tax return to be filed, or **(c)** your U.S. residence status is affected by an income tax treaty.

What if my green card has been taken by or given to someone in the U.S. government?

If you've surrendered your green card, this doesn't necessarily mean that your status as a lawful permanent resident has changed. Your status will not change unless and until you get an official notice from the **U.S. Citizenship and Immigration Service** (USCIS) that there has been a final administrative or judicial determination that your green card has been revoked or abandoned. You can contact the USCIS to check the status of your card.

What if I have been absent from the U.S. for a long period of time?

Your tax responsibilities as a green card holder do not change if you are absent from the U.S. for any period of time. Your income tax filing requirement and possible obligation to pay U.S. taxes continue until you either surrender your green card or there has been a final administrative or judicial determination that your green card has been revoked or abandoned. Therefore, even if the **U.S. Citizenship and Immigration Service** (USCIS) no longer recognizes the validity of your green card because you have been absent from the United States for a certain period of time or the green card is more than ten years old, you must continue to file tax returns until there has been a final determination that is not subject to appeal that your green card has been revoked or abandoned.

What if I haven't filed prior U.S. Income Tax Returns?

If you have not filed a U.S. income tax return for one or more years and there is no tax liability for any of those years, you should file returns for the current year and two prior years. However, if you have not filed a U.S. income tax return for one or more years and income tax is due for any of those years, you should file returns for the current year and five previous years.

What if I have income taxes withheld from income I received from the U.S.?

When an entity in the U.S. makes a non-wage payment (like social security or pension payments) to a nonresident alien, it is required to withhold 30% of the payment (only 85% of a social security payment is subject to the 30% tax) and forward it to the IRS. When an entity in the U.S. sends a payment to a green card holder who lives outside the U.S., it generally should not withhold the 30% tax. If this tax is withheld in error because you have a foreign address, you should notify the payer of the income with a **Form W-9** to stop the withholding and you can claim a refund of the tax withheld in error.

What if I'm living in another country? Do I have to pay taxes to both the U.S. and the country where I am living?

A green card holder is considered to be a resident of the U.S. for U.S. income tax purposes and is therefore subject to U.S. taxes on worldwide income. If there is no income tax treaty between your country of residence and the U.S., you must pay taxes to both countries. You generally will get a tax credit against either your U.S. taxes or your foreign income taxes, depending on your particular circumstances, so you will not be subject to double taxation.

If the country where you are living has an income tax treaty with the U.S., the treaty may contain so-called "tie-breaker rules" to determine which country will be treated as the country of your residence for income tax purposes. Usually, the location of the individual's permanent home or the center of the individual's vital interests determines resident status. If you are a resident of the treaty country under the tie-breaker rule and you elect to apply the treaty, you will be considered to be a resident of the treaty country for U.S. income tax purposes and will not be required to file a **Form 1040**. To make this election, you must file a U.S. Nonresident Alien Income Tax Return (**Form 1040NR**) in the year of the election and attach a copy of **Form 8833** (Treaty-Based Return Position Disclosure under Section 6114 or 7701(b)). Green card holders who reside in a country that has an income tax treaty with the U.S. should contact an income tax professional or an office of the Internal Revenue Service for assistance.

What if I surrender my green card?

Generally, if you surrender your green card during the taxable year, your tax status as a resident alien will terminate on the last day of that calendar year. However, if you can establish that, for the remainder of the calendar year, your tax home is in a foreign country or you maintain a closer connection to that foreign country than to the United States, your residency termination date will be the date you surrender your green card.

If you are a resident of the United States because you meet both the substantial presence test for the taxable year and have a green card during the taxable year, your residency termination date will be the later of the date you surrender your green card or the last day you are physically present in the United States, provided you can establish one of the exceptions above. See **Pub 519** (U.S. Tax Guide for Aliens) and the instructions to **Form 8840** (Closer Connection Exception Statement for Aliens) for additional information.

If you are a nonresident alien as of the last day of the year and a resident alien for a portion of the year, you should file a **Form 1040NR** even if you have no U.S. source income and attach a copy of **Form 1040** that reflects your income for the period of the year that you were a resident alien.

What if I am a long-term resident when I surrender my green card?

If you are a long-term resident of the United States, defined as an individual who is a U.S. lawful permanent resident in at least 8 of the prior 15 taxable years prior to the termination of permanent resident status, there are special rules to comply with. Your residency termination date will not occur until you file a completed **Form 8854** with the IRS and notify the Department of Homeland Security of your termination of residency, notwithstanding