

# AMCHAM Myanmar: 2018 US Federal Income Tax Reporting for Individuals

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**Yangon, Myanmar**

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# Important dates

# Filing Due Dates

- **April 15, but automatic extension to June 15 if living outside the US and Puerto Rico on April 15**
  - US federal tax purposes only
  - Be careful about state tax due dates if applicable
- **Pay federal tax due by April 15 to avoid interest charges**
- **Additional 4 month extension until October 15 may be applied by filing Form 4868**
- **Additional 2 month discretionary extension until December 15 may be requested by letter to the IRS if living and working outside the US on October 15**
- **First year abroad taxpayers may file Form 2350 to extend until qualifying period is met (discussed later)**

# Estimated Tax Payments

- **Required to avoid penalties**
- **Required if you owe US tax – insufficient tax withheld on salaries or investment income**
  - Income tax
  - Self-employment tax
- **Estimated taxes are prepaid quarterly as follows:**
  - 15<sup>th</sup> April (1<sup>st</sup> quarter)
  - 15<sup>th</sup> June (2<sup>nd</sup> quarter)
  - 15<sup>th</sup> September (3<sup>rd</sup> quarter)
  - 15<sup>th</sup> January (4<sup>th</sup> quarter)
- **Can prepay based on 90% of current year's tax liability, or 100% of the prior year's tax liability (or 110% if AGI > \$150,000)**

# Form 1040

- **New format**
- **More “schedules” included in the Form 1040**

Income

# What is Reportable to the IRS?

- **World wide income subject to US federal income tax**
  - US citizens
  - US permanent residents (green card holders)
  - US resident aliens – considered a US resident if you meet the “substantial presence test,” must be physically in the US at least:
    - At least 31 days in the current year, and
    - 183 days during the 3-year period that includes the current year and the 2 years immediately before that, counting:
      - All the days you were present in the current year, and
      - 1/3 of the days you were present in the first year before the current year, and
      - 1/6 of the days you were present in the second year before the current year.
- **Non-US residents taxed on certain US source income**
- **File a US federal income tax return even if you do not owe any tax**
  - Quantify tax losses available for future use
  - Determine tax credits available for use in another tax year
  - Make tax elections
  - Claim tax refunds
  - File information tax returns

# Taxable Income

- **Wages, salaries, bonuses, allowances, certain benefits paid by employer**
- **Equity compensation**
- **Portfolio income**
- **Dividend income, qualified dividends and deemed dividends**
- **Interest income**
- **Rental income**
- **Farm income**
- **Pensions and IRA income**
- **Social security income**
- **Alimony**
- **Others**

# Global Low-Taxed Intangible Income (GILTI)

- **Affects US taxpayers who own at least 10% of a controlled foreign corporation (CFC)**
- **Effective for tax years starting after December 31, 2017**
- **Current taxation of CFC's annual E&P recognized as a deemed dividend to the shareholder**
- **Taxable amount:**
  - Current year's E&P
  - Less: 10% of the tax basis of qualified tangible property (fixed assets) owned by the CFC
  - Less: the CFC's interest expense
- **For C corporations, they benefit from a 50% reduction in the GILTI inclusion, plus 80% indirect foreign tax credits of the CFC – neither of these benefits apply to individual shareholders**
- **Question: Should individual shareholders elect to be treated as a corporation for purposes of GILTI?**

# Exclusions and Adjustments to Income

- **Disability insurance**
- **Employer provided insurance**
- **Life insurance payouts**
- **Gain from the sale of principal residence – up to \$250,000 (\$500,000 for MFJ) of gain excluded if the principal residence and ownership duration tests met**
- **Ordinary income reduced by capital losses – up to \$3,000 per year**
- **Municipal bond interest income**
- **Receipt of gifts; grants of gifts up to \$15,000**
- **Inheritance**
- **Contributions to US qualified retirement plans**
- **Income earned from US qualified retirement plans (deferred until distributed)**
- **Alimony payments**
- **Others**

# IRA Deductions

- **Roth IRA – contributions not deductible, but AGI limits apply on who can contribute (2018):**
  - Single and HoH: \$120,000 - \$135,00 partial contributed allowed
  - MFJ: \$189,000 - \$199,000 partial contributions allowed
  - MFS: \$0 - \$10,000 partial contributions allowed
  - If limited, can contribute to a traditional IRA and convert the IRA to a Roth IRA
- **Traditional IRA – everyone can contribute, but not all contributions are deductible (2018):**
  - \$5,500 annual contribution deduction (\$6,500 for age 50 and higher)
  - Must be under 70½ years old at the end of the tax year to contribute
  - If able to participate in an employer retirement plan, IRA deduction limited to modified AGI:
    - Single and HoH: \$63,000 - \$73,000 deduction phased out
    - MFJ: \$101,000 - \$121,000 deduction phased out
    - MFS: \$0 - \$10,000 deduction phased out
  - Different phase-out limits apply if only one spouse participates in an employer plan

# Foreign Earned Income (FEI) Exclusion

- **Qualified individuals may elect to exclude some or all of the foreign earned income (FEI) from taxable income**
- **The excluded income is limited to the lesser or:**
  - Foreign earned income received from the current year; or
  - \$104,100 for 2018 – prorated for a transfer year
- **The exclusion applies to wages or self-employment income earned for services performed outside the US – does not apply to interest, dividends, capital gains, etc.**
- **Each working spouse has a separate FEI exclusion**

# Electing and Revoking the FEI Exclusion

- **Taxpayer needs to evaluate whether the election is beneficial or not**
  - Compare FEI Exclusion to the foreign tax credit (discussed later)
  - Will the taxpayer earn income in a lower taxed jurisdiction or higher taxed jurisdiction in the foreseeable future?
- **Electing the FEI exclusion and housing cost exclusion is made on Form 2555**
- **Election remains in effect for all subsequent years unless revoked**
- **Cannot re-elect, once revoked, before the sixth tax year following the year the revocation was effective, without obtaining the IRS Commissioner's consent**

# Qualified Individual

- **A US citizen or permanent resident (“green card holder”) who**
  - Meets either the bona fide resident or physical presence test;
  - Has a foreign tax home; and
  - Has foreign earned income
- **Citizen or national of a country that does not have a double tax treaty with US cannot qualify for the FEIE**

# Bona Fide Residence Test

- **The individual must be a US citizen, or a US resident alien who is a citizen or national of a country with which the US has an income tax treaty in effect**
- **Must reside in a foreign country (or countries) for an uninterrupted period that includes an entire year**
- **Must have changed home from the US to the foreign country**
- **Must not claim to be a non-resident of the foreign country for tax purposes**
- **If the foreign country has an income tax, the individual's earned income must be subject to that tax**
- **Once the test is met, such qualification is applicable to the first day of establishing bona fide residence**

# Physical Presence Test

- The individual must be a US citizen, or a US resident alien
- Must have changed his or her home from the US to a foreign country
- Must be physically present in a foreign country (or countries) for 330 full days during any consecutive 12-month period – not a calendar year

# Foreign Housing Exclusion / Deduction

- **Can claim an exclusion or a deduction from gross income for housing amount if the taxpayer's tax home is in a foreign country, and meet the FEI exclusion test**
- **The housing exclusion applies only to amounts considered paid for with employer-provided amounts**
- **The housing deduction applies only to amounts paid for with self-employment earnings**
- **Exclusion calculated as “housing expenses” less the “base housing amount,” but capped at the “ceiling amount” for the year**
- **The foreign housing exclusion reduces the amount of foreign earned income eligible for the FEI exclusion**

# Housing Expenses and Base Housing Amount

- **Housing expenses include:**

- Rent
- Fair value of housing provided in kind by employer
- Utilities (excluding telephone and cable television)
- Repairs
- Insurance for household items
- Residential parking

- **Ceiling for housing expenses**

- Maximum limit for housing expenses is 30% of the annual FEI exclusion amount

- **Base housing amount**

- 16% of the annual FEI exclusion amount

# Exemptions and deductions

# Exemptions

- Exemptions no longer allowed to reduce income
- However, definition of “qualifying child” and “qualifying relative” still important for purposes other than exemptions, e.g., claiming a child tax credit

# Standard Deduction

- **Standard deduction (2018)**

- Single / MFS    \$12,000 (\$6,350 in 2017)
- MFJ / QW        \$24,000 (\$12,700 in 2017)
- HOH              \$18,000 (\$9,350 in 2017)

- **Additional deductions**

- Age 65 or older: additional \$1,600 for Single / MFS, and \$1,300 for MFJ (each) / QW
- Blind: additional \$1,600 for Single / MFS, and \$1,300 for MFJ (each) / QW

- **Standard deduction limit: If you can be claimed as a dependent on someone else's tax return, your standard deduction is the higher of \$1,050 or earned income plus \$350**

- **MFS: If one spouse itemizes deductions, the other spouse cannot claim a standard deduction**

- **Non-resident aliens: Must itemize deductions; no standard deduction allowed**

# Itemized Deductions

- **Mortgage interest deduction limited to size of loan**
  - Pre-2018 loans up to \$1 million for qualified residence
  - 2018-2025 new loans up to \$750,000 for qualified residence
  - Limitations apply to interest from home equity lines
- **State and local taxes: Maximum deduction is \$10,000 (S) and \$20,000 (MFJ)**
- **Medical expenses:**
  - Deduction allowed if more than 7.5% of AGI
  - Medical insurance payments included
- **Employee expenses**
  - Non-deductible unless exception met
  - Exceptions: armed forces reservist, qualified performing artist, fee-based state or local government official, or an employee with impairment-related work expenses

# Itemized Deductions

- **Charitable donations**

- Cash donations cannot exceed 60% of AGI
- Food, clothing and household items: fair market value
- Stocks and bonds: fair market value
- File Form 8283 if an item of donated property is more than \$5,000

- **Others**

# Tax rates

# Income Tax Rates

Rate	For Unmarried Individuals, Taxable Income Over	For Married Individuals Filing Joint Returns, Taxable Income Over	For Heads of Households, Taxable Income Over
10%	\$0	\$0	\$0
12%	\$9,525	\$19,050	\$13,600
22%	\$38,700	\$77,400	\$51,800
24%	\$82,500	\$165,000	\$82,500
32%	\$157,500	\$315,000	\$157,500
35%	\$200,000	\$400,000	\$200,000
37%	\$500,000	\$600,000	\$500,000

# Alternative Minimum Tax

- **Should apply to fewer taxpayers due to the increased standard deduction limits**
- **AMT tax rates**
  - 26%: AMTI up to \$95,750 (MFS), AMTI up to \$191,500 (all other taxpayers)
  - 28%: AMTI in excess of \$95,750 (MFS), AMTI in excess of \$191,500 (all other taxpayers)
- **AMT exemption**
  - Single: \$70,300
  - MFJ: \$109,400
  - MFS: \$54,700

# Self-employment Tax

- **Applies if taxpayer has at least \$400 of net earnings from self-employment**
- **SE Tax is 15.3%**
  - 12.4% for Social Security (old age, survivor and disability)
  - 2.9% for Medicare (hospital insurance)
- **Social security tax applies up to \$128,400 of wages, tips and net earnings (2018)**
- **Medicare tax applies to all combined wages, tips and net earnings**
- **Employer-equivalent portion of SE Tax is deductible to calculate AGI**

# Long-term Capital Gains Tax

- **Capital gains tax rates are either 0%, 15% or 20% for most assets held for more than a year (long-term capital gains)**
- **Capital gains tax rates on most assets held for less than a year correspond to ordinary income tax brackets (10%, 12%, 22%, 24%, 32%, 35% or 37%)**
- **Long-term capital gains tax rate depends on total taxable income and filing status**

Tax rate	Single	Joint	Head of household
0%	\$0 to \$38,600	\$0-\$77,200	\$0-\$51,700
15%	\$38,601-\$425,800	\$77,201-\$479,000	\$51,701-\$452,400
20%	\$425,801 and up	\$479,001 and up	\$452,401 and up

- **Example: a married couple filing jointly**

- Pays 0 capital gains tax if their total taxable income is no more than \$77,200
- Pays 15% on capital gains if their taxable income is \$77,201 to \$479,000
- Pays 20% on capital gains if their taxable income is greater than \$479,000

# Qualified Dividends

- **Qualified dividends taxed the same as long-term capital gains**
- **Qualified dividend**
  - Dividend had to have been paid by a US company or qualified foreign company
  - The dividends are not listed with the IRS as non-qualifying
  - The shareholder had to have met a minimum holding period of the shares of the company paying the dividend
- **Qualified foreign company**
  - Company is incorporated in a US possession,
  - Company is eligible for the benefits of a comprehensive tax treaty with the US, or
  - The stock of the company is traded on a US stock exchange

# Qualified Dividends

- **Dividends that do not qualify as qualified dividends – taxed as ordinary income rates**
  - PFIC dividends
  - REIT dividends
  - MLP (master limited partnership) dividends
  - Tax-exempt company dividends
  - Dividends paid from a money market account (treated as interest income)
  - Dividends from shares associated with hedging, such as those for short sales, puts and call options
- **Holding period**
  - Common shares: must hold the shares more than 60 days during the 121-day period that starts 60 days before the ex-dividend date
  - Preferred shares: must hold the shares more than 90 days during the 181-day period that starts 90 days before the ex-dividend date

# Net Investment Income Tax – Form 8960

- **3.8% Net Investment Income Tax will be applied to unearned income**

- Single / HOH: over \$200,000
- MFJ / QW: over \$250,000
- MFS: over \$125,000

- **NIIT applies to the lesser of:**

- Investment income, which includes interest, dividends, capital gains, annuity income, rents, and royalties, or
- The amount of modified adjusted gross income above threshold amounts

# Additional Medicare Tax – Form 8959

- **Tax rate 0.9%**
- **Impact of the Additional Medicare Tax on US citizens living abroad and non-resident aliens**
  - No special rules
  - Wages, other compensation, and self-employment income that are subject to the Medicare Tax will also be subject to Additional Medicare Tax if in excess of the applicable threshold
- **Applies to wages, compensation, and self-employment income above threshold amounts received**
  - Single, HOH, QW: \$200,000
  - MFJ: \$250,000
  - MFS: \$125,000

# Kiddie Tax – Forms 8615 and 8614

- **If the child's interest, dividends, and other unearned income total more than \$2,100, part of that income may be subject to tax at the parent's tax rate instead of the child's tax rate – Form 8615; or**
- **If the child's only income is interest and dividend income (including capital gain distributions) and totals less than \$10,500, the child's parent may be able to elect to include that income on the parent's return rather than file a return for the child – Form 8814**
- **Child affected if his unearned income exceeds \$2,100, and is**
  - Under age 18 at the end of the year;
  - Age 18 at the end of the year, with earned income that is equal to or less than half of his support for the year; or
  - Age 19 – 23 at the end of the year with earned income that is equal to or less than his support, and he is a full time student.

# Transition Tax from 2017

- **Requires US shareholders to pay a “transition” tax on post-1986 E&P of a certain specific foreign corporations as if repatriated to the US (based on 2017 E&P)**
- **Specified foreign corporations are controlled foreign corporations and a foreign corporation that has a US shareholder**
- **Tax rates**
  - 15.5% of aggregate cash positions of the foreign corporation
  - 8% of remaining E&P not held in cash
- **Taxpayers can elect to pay installments over eight years**
- **If taxpayers did not file with the 2017 return, consider an amendment to the 2017 tax return**

# Tax credits

# Tax Credits – There are Many!!

- **Foreign tax credit**
- **Earned income tax credit**
- **Education credits**
- **Child tax credit**
- **Adoption credit**
- **Health coverage tax credit**
- **Saver's credit**
- **Others**

# Foreign Tax Credit

- **Consider a foreign tax credit in lieu of the FEI exclusion**
- **Method to avoid double taxation**
- **No foreign tax credit relief if no double taxation; therefore, no foreign tax credit allowed on income not taxed (i.e., income excluded due to the FEI exclusion)**
- **Foreign tax credit reduces actual US tax on a dollar-to-dollar basis; a deduction for foreign taxes only reduces income subject to tax**

# Earned Income Tax Credit

- **Refundable tax credit for low and moderate income earners**
- **If the taxpayer has no qualifying children, the taxpayer must be between 25 to 64 years old to qualify for the credit**
- **No age limit for the taxpayer if the taxpayer has one or more qualifying child, but**
  - Child must be under 19 or under 24 if a full-time student
  - No age limit if child is disabled
- **Earned income and AGI must be less than (2018):**
  - Single / HOH: \$15,270 (0 children), \$40,320 (1 child), \$45,802 (2 children), \$49,194 (3+)
  - MFJ: \$20,950 (0), \$46,010 (1), \$51,492 (2), \$54,884 (3+)
- **Maximum tax credit: \$519 (0), \$3,461 (1), \$5,716 (2), \$6,431 (3+)**
- **N/A for MFS**
- **Investment income cannot exceed \$3,500**

# Child Tax Credit

- **The Child Tax Credit is worth up to \$2,000 per qualifying child (2018)**
- **The age cut-off is 17 years (the child must be under 17 at the end of the year for taxpayers to claim the credit)**
- **The refundable portion of the credit is limited to \$1,400 (2018)**
- **The earned income threshold for the refundable credit is lowered to \$2,500**
- **The beginning credit phaseout for the child tax credit increases in 2018 to \$200,000 (\$400,000 for joint filers)**
- **The phaseout also applies to the new \$500 credit for qualifying dependents**
- **The child must have a valid SSN to qualify for the \$2,000 Child Tax Credit**

# Information returns

# Information Reports

- **In addition to the Form 1040, there is an increasing number of information reports required**
- **Some information reports are filed with the Form 1040, some separately**
- **Significant increase in targeting “hidden” offshore investment accounts and assets**

# Foreign Bank Account Reporting (FBAR) – Form FinCEN 114

- **Electronic filing only by April 15; extension to October 15**
- **Required for US citizen or resident if he has a financial interest, i.e., was the owner, (individual or jointly) and/or had a signatory authority over one or more foreign bank and financial accounts, in aggregate, amount to more than \$10,000 at any time during the year**
- **Increasing IRS enforcement**
- **Up to \$10,000 penalty per violation for wrong or missed filing (non-willful violation)**
- **Greater of \$100,000 or 50% of balance in the account for willful violation penalty**

# Foreign Bank Account Reporting (FBAR) – Form FinCEN 114

- **Examples of reportable accounts:**

- Bank account
- Insurance policies with a cash surrender value
- Securities, securities derivatives, or other financial instruments account
- Mutual fund account
- Business account with signing authority
- Trustee with signing authority over trust accounts
- Children's accounts

# Specified Foreign Financial Assets (SFFA) – Form 8938

- **US persons with any interest in a specified foreign financial asset (SFFA) must file Form 8938 with their US tax return if the aggregate value of SFFAs exceeds certain thresholds**
- **SFFA defined as:**
  - Any financial accounting maintained by a foreign financial institution
  - Any of the following assets which are not held in an account maintained by a financial institution:
    - ✓ Any stock or security issued by a person other than a US person
    - ✓ Any financial instrument or contract held for investment that has an issuer or counterparty which is not a US person
    - ✓ Any interest in a foreign entity
- **Filing threshold if living abroad**
  - Single: SFFAs of \$200,000 at year-end or \$300,000 any time during the year
  - MFJ: SFFAs of \$400,000 at year-end or \$600,000 any time during the year
- **Penalty:** \$10,000 failure to report each incident

# Investment in Certain Foreign Corporations – Form 5471

- **Certain US persons who are shareholders, officers or director of a foreign corporation may be required to file Form 5471**
- **US persons include US citizen or resident, US corporation, partnership, trust or estate**
- **Four categories required to file:**
  - US person is an officer or director of a foreign corporation in which any US person owns or acquires at least 10% of the shares
  - US person who acquires or disposes of enough shares to exceed or drop below 10%, or acquires at least 10% of shares
  - A US person who had control (more than 50% vote) of a foreign corporation for at least 30 days
  - A US shareholder who owns shares in a foreign corporation that is a controlled foreign corporation for an uninterrupted period of at least 30 days, and who owned those shares on the last day of the tax year
- **Penalties:**
  - \$10,000 failure to report for each incident
  - Potential loss of foreign tax credits

# Passive Foreign Investment Company (PFIC) – Form 8621

- **US persons who are shareholders of a passive foreign investment company must file Form 8621**
- **PFIC definition (PFIC if either test is met):**
  - Income test: at least 75% gross income is passive income, e.g., interest, dividends, rents, royalties, capital gains
  - Asset test: at least 50% of average assets are passive assets, could produce passive assets or are assets (cash and land) that produce no income – must use adjusted basis value, but may elect fair market value
- **Foreign mutual funds generally considered to be PFICs, including LTFs, RMFs and Thai Provident Funds**
- **Very complex rules and elections**

# Passive Foreign Investment Company (PFIC) – Form 8621

- **A PFIC shareholder who receives income from the PFIC from the disposition of shares of a PFIC subject to tax and interest regime**
- **Extremely complex tax calculations – recommend seeking competent tax advice**
- **Things to know**
  - Excess distributions
  - Qualified electing fund (QEF) election
  - Mark to market election
- **Penalty for non-filing**

## Other Information Reporting

- **Form 926 for transfers of property to a foreign corp**
- **Form 8865 for investment in a foreign partnership**
- **Form 8858 for investment in a foreign disregarded entity**
- **Form 3520 for transactions with foreign trusts, ownership of foreign trusts, and gifts or bequests from foreign individuals.**
- **Form 3520-A for owners of a foreign trust**

# ACA – Individual Shared Responsibility Provision

- Generally, each member of the family must have qualifying health coverage (also known as [minimum essential coverage](#)), qualify for a coverage exemption, or make an individual shared responsibility payment when you file your federal income tax return
- Starting with the 2017 tax returns, the IRS will not consider a return complete and accurate if the taxpayer does not report coverage for the year, an exemption or a payment
- Taxpayers that have qualifying health care coverage for all 12 months in the year will check the "Full-year coverage" box on Form 1040, 1040A or 1040EZ
- If you or anyone in your family claims an exemption from the requirement to have minimum essential coverage, you are not required to make a shared responsibility payment for any month that you qualify for the exemption
- Claim most exemptions using [Form 8965](#)

# Remedies to correct non-compliance

# What do you do if you are not in Compliance?

- **Offshore voluntary disclosure program – CLOSED!**
- **Updated voluntary disclosure practice -- guidance issued November 20, 2018**
- **Streamlined filing compliance procedures**
- **Delinquent FBAR submission**
- **Delinquent international information return submission**
- **Amendment of a tax return**

# Contact Details

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