

# WIDE ANGLE

## The Ventura Pranas Quarterly Newsletter

June-September 2024

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### ANNOUNCEMENTS

Welcome to the next issue of our newsletter. We have a few important announcements to make.

#### Our New Client Portal

We will be rolling out our new Ventura Secure portal very soon. The portal has been in development for a long time now and will hopefully provide you, our clients, with a more intuitive way to both upload and read data we send. Your client documents will be sorted according to work stream. Furthermore, any open items alerts and projects that need your approval will be flagged on the portal for your action.

We will be reaching out to a small segment of our clients and conducting a training for it on Zoom. This will then be circulated to all other clients for them to review to understand how the portal works.

#### Our New Website

We are thrilled to announce that we have upgraded our website to serve you better. This exciting development comes with a new design, a more user-friendly interface, and improved performance to provide you with a seamless online experience.

Here's what you can expect from our upgraded website:

- A fresh, contemporary look and feel that is easy to navigate.
- A more engaging and intuitive online environment.
- Access the information and services you need easier and faster.

Our new website went live on 3rd June 2024. We appreciate your patience as we work to bring these exciting improvements to you. We look forward to your feedback, and we are confident that you will enjoy the new and improved experience.

If you have any questions or need assistance during the transition, please do not hesitate to contact us at Adith Tiwari @ [ajayendrakumar@venturapranas.com](mailto:ajayendrakumar@venturapranas.com).

#### Indian Tax Deadline

It is already June and the July 31st due date that applies to most of our clients is not that far away. We ask you all to get ready to provide the data as efficiently and soon as you can to avoid the last minute rush.

We look forward to continuous engagement with you.

Sincerely,  
Prabha, and the Ventura Pranas team

# SOME IMPORTANT SHARES FROM THE IRS

## How important is data security?

The Dirty Dozen represents the worst of the worst tax scams. Compiled annually, the Dirty Dozen lists a variety of common scams that taxpayers may encounter anytime but many of these schemes peak during filing season as people prepare their returns or hire someone to help with their taxes. Don't fall prey.

For a detailed description of each scam, please refer to the list below:

- IR-2024-105, [Dirty Dozen: Bogus tax avoidance strategies, schemes with an international element wrap up annual taxpayer awareness campaign](#)
- IR-2024-104, [Dirty Dozen: High-income filers vulnerable to illegal tax schemes; face risk from improper art donation deductions, charitable remainder annuity trusts, monetized installment sales](#)
- IR-2024-100, [Dirty Dozen: IRS warns tax pros, businesses to be cautious of ongoing spearphishing attacks to gain sensitive information; warns of surge in "new client" scams](#)
- IR-2024-98, [Dirty Dozen: Taking tax advice on social media can be bad news for taxpayers; inaccurate or misleading tax information circulating](#)
- IR-2024-96, [Dirty Dozen: IRS urges taxpayers to not fall prey to untrustworthy tax preparers; "ghost preparers" can disappear with taxpayer cash, information](#)
- IR-2024-92, [Dirty Dozen: IRS warns about fake charities exploiting taxpayer generosity](#)
- IR-2024-91, [Dirty Dozen: Beware of offer in compromise "mills" that falsely claim their services are necessary to resolve IRS debt](#)
- IR-2024-89, [Dirty Dozen: IRS warns about false Fuel Tax Credit claims; taxpayers should be wary of scammers, heightened review](#)
- IR-2024-87, [Dirty Dozen: IRS warns taxpayers to stay away from "helpful" scammers offering to set up an Online Account](#)
- IR-2024-85, [Dirty Dozen: Beware of aggressive promoters who dupe taxpayers into making questionable Employee Retention Credit claims; risks continue for small businesses, special withdrawal program remains available](#)
- IR-2024-84, [IRS kicks off annual Dirty Dozen with warning about phishing and smishing scams](#)

## Important news: The IRS announces tax relief for taxpayers impacted by tornadoes in Ohio; various deadlines postponed to Sept. 3, 2024

The Internal Revenue Service announced today tax relief for individuals and businesses in Ohio that were affected by tornadoes that began on March 14, 2024.

These taxpayers now have until Sept. 3, 2024, to file various federal individual and business tax returns and make tax payments.

The IRS is offering relief to any area designated by the Federal Emergency Management Agency (FEMA). This means that individuals and households that reside or have a business in Auglaize, Crawford, Darke, Delaware, Hancock, Licking, Logan, Mercer, Miami, Richland and Union counties qualify for tax relief.

The same relief will be available to any other counties added later to the disaster area. The current list of eligible localities is always available on the Tax relief in disaster situations page on IRS.gov.

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## Filing and payment relief

The tax relief postpones various tax filing and payment deadlines that occurred from March 14, 2024, through Sept. 3, 2024 (postponement period). As a result, affected individuals and businesses will have until Sept. 3, 2024, to file returns and pay any taxes that were originally due during this period.

This means, for example, that the Sept. 3, 2024, deadline will now apply to:

- Individual income tax returns and payments normally due on April 15, 2024.
- 2023 contributions to IRAs and health savings accounts for eligible taxpayers.
- Quarterly estimated income tax payments normally due on April 15 and June 17, 2024.
- Quarterly payroll and excise tax returns normally due on April 30, 2024, and July 31, 2024.
- Calendar-year partnership and S corporation returns normally due on March 15, 2024.
- Calendar-year corporation and fiduciary returns and payments normally due on April 15, 2024.
- Calendar-year tax-exempt organization returns normally due on May 15, 2024.

In addition, penalties for failing to make payroll and excise tax deposits due on or after March 14, 2024, and before March 29, 2024, will be abated as long as the deposits were made by March 29, 2024.

# YOU ASK, WE ANSWER

This issue covers questions and answers that revolve around the 1040NR. Read on to know more about this trending topic.

## Q1. What is the 1040NR?

This is a non-resident 1040 that is filed in the US only to report incomes arising in the US and not having to report income derived in India or any other country for that matter. Keep in mind US imposes taxes on worldwide income even on deemed residents who are visiting the US and happen to spend more than 183 days therefore it is important to know when you need to file a regular 1040 (resident return) vs a 1040 NR (non-resident return).



## Q2. What are some of the scenarios?

There are several scenarios that we come across:

- People who move to the US on an H1B previously living outside the US
- People previously on some visa in the US returning mid-year to India
- Students who go to the US on an F1-STEM or Non-STEM
- Clients who apply for a GC under the EB5 and move to the US for the first time
- Other applicants under the EB1, J1, L1
- B1/B2 visa holders staying in the US for significant periods of time
- People who have never gone to the US but derive income by virtue of investments in the US – brokerage or ESOPs in a US parent of their Indian/foreign employer



## Q3. Does the 1040Nr require FATCA filings?

One of the big issues that drives compliance and taxpayers to seek professional assistance in the US to file returns is FATCA and the penalties associated with not filing them.

If one is eligible to file a 1040NR then usual forms under FATCA normally filed with a 1040 resident return are not required with a 1040NR. Filing them is not wrong but is not required.

## Q4. If you were on H1B and you moved to India?

You can very well file a 1040NR for US sources. A close review would have to be made in the year you move to see if you qualify to file a 1040NR or 1040 (per the substantive presence tests) but there are ways you can still qualify either because your employment moved, you are filing as a resident in another country or because you have closer tax ties in an another country.

Talk to your advisor because it can make a significant difference in terms of savings on state taxes and potentially even US taxes on foreign sources.

## Q5. Who needs Form 1040NR?

You need to file a Form 1040-NR if any of the following applies to you:

- You were a non-resident alien engaged in a trade or business in the United States during the tax year (even if you have no income from that trade or business).
- You were a nonresident alien not engaged in a trade or business in the United States during the tax year who nevertheless generated income from U.S. sources that appears on Schedule NEC, lines 1 through 12, and some of the U.S. tax you owe was not withheld from that income.
- You owe special taxes, such as the alternative minimum tax (AMT) or household employment taxes.
- You received distributions from a health savings account (HSA), an Archer medical savings account (MSA), or a Medicare Advantage MSA.
- Your net earnings from self-employment totaled at least \$400 and you live in a country with which the United States has a Social Security agreement.
- You are serving as the personal representative for a deceased person who would have been required to file the form.
- You represent an estate or trust that has to file Form 1040-NR.



## Q6. Who is considered a Non-resident Alien?

Generally, people who are not U.S. citizens are considered nonresident aliens if they fail to meet either the green card test or the substantial presence test for the tax year in question.

### Green Card Test

You pass the green card test—and constitute a resident alien—if you were a lawful permanent resident of the United States at any point during the tax year.

Typically, you are a lawful permanent resident if you were issued an alien registration card (i.e., a green card) by the U.S. Citizenship and Immigration Services (USCIS) or its predecessor organization, the Immigration and Naturalization Service (INS).

You are considered to have resident status unless that designation is revoked by the USCIS or has been abandoned through an administrative or judicial process.

There are certain limited exceptions in which you may meet one of these two tests and still remain a nonresident alien. That would be the case, for example, if you qualify as the resident of a country that has an income tax treaty with the United States and claim a lower U.S. tax liability as a result of that treaty.

### Substantial Presence Test

The substantial presence test bases your residency status on the length of your stay in the United States during the tax year in question and the preceding two years.

To pass the test, noncitizens must pass both the 31-day and 183-day tests to be considered a resident alien.

- You meet the 31-day test if you were present in the United States for at least 31 days during the tax year.
- You meet the 183-day test if the answers to lines 1, 2, and 3 below add up to at least 183.

Tax year days in the U.S. x 1 = \_\_\_\_ days

First preceding year days in United States x 1/3 = \_\_\_\_ days

Second preceding year days in United States x 1/6 = \_\_\_\_ days

## Q7. What taxes do non-citizens pay in the US?

Non-citizens who reside or work in the U.S. will usually have to pay income taxes the same as citizens. Depending on your status you may pay a different tax rate than citizen taxpayers.

## Q8. Can I also file a Form 1040 if I file a 1040NR?

Forms 1040 and 1040N-R are not mutually exclusive. In other words, it's possible to be considered a resident and a nonresident of the United States, for tax purposes, in the same calendar year. It's called being a "dual-status taxpayer."

## Q9. Who is a dual-status taxpayer?

A dual-status taxpayer is a citizen of another nation who, in a single calendar year, lives in the U.S. long enough to qualify as a resident alien and lives outside the U.S. for long enough to qualify as a non-resident alien.

As a foreign national, you are generally taxed one of three ways: as a non-resident alien, a resident alien, or a dual-status alien<sup>1</sup>. If you have maintained both statuses in the same calendar year, you will need to file as a dual-status taxpayer.

Classification as a dual-status taxpayer does not have any bearing on an individual's citizenship; it is only in reference to one's resident status for United States tax purposes.

## Q10. Understanding actual dual-status taxpayers

The dual-status taxpayer designation is based on the number of days the foreign national resides in the United States. The basic cutoff is 183 days, but the IRS has a substantial presence test to determine whether or not a taxpayer falls into this category. A foreigner who does not live in the United States long enough to meet the substantial presence test is categorized as a non-resident alien.

Most dual-status taxpayers come to the U.S. to work and have obtained green cards permitting them to work legally. Many will have this status for only one tax year, the year in which they arrive, and perhaps one more year (the year in which they leave). In between, most will be living and working in the U.S. for the full year.

## Q11. What is the 183-Day Rule?

The 183-day rule refers to a threshold used by most countries to determine whether an individual should be considered a resident for tax purposes. This number is often used in a tax context because it marks the point at which someone has spent more than half the calendar year in a particular jurisdiction.

In the U.S., the Internal Revenue Service (IRS) uses a formula to determine whether people who are neither U.S. citizens nor permanent residents should be considered residents for taxation. This is called the "substantial presence test." One of its criteria includes the question of whether an individual has spent 183 days in the U.S. based on a calculation that considers their combined physical presence in a given tax year and the two years prior.



# PARALLEL UNIVERSES

Stories and scenarios you can relate to, for families in the US and in India, to help you understand the complexity (and humour) involved in financial planning. Please note that the following is simply a case study. Any references to names and situations are entirely coincidental.

Let us take the example of Sriram, who lived in the US and was on a H1B visa. He had hoped to get a Green Card but given the long wait times and soaring opportunities in India, he decided to take on a role in India and move there. This makes him a non-resident alien (NRA). Sriram has been investing in the US stock market on his own and also owns significant stock in a US listed company with whom he was employed.

Much of this was acquired as stock options. The question now becomes what happens when Sriram receives income from this investment portfolio in the nature of dividend, capital gains and some interest (from his money market savings). Sriram would not be liable to pay tax on the capital gains in the US as he continues to spend very few days in the US each year, amounting to no more than 20-25 days. The Capital gains income is deemed to be “not effectively connected (NECI)” and also because he is a resident of a country with which the US has a treaty and he has rightly submitted a form W8-Ben with his brokerage house. All of this points to zero tax on capital gains in the US and taxation would fall in India on such income.

Dividend, interest income would be considered fixed and determinable (FDAP) income and typically subject to withholdings and taxation in the US. If Sriram had failed to provide a W8-Ben, he would have suffered a flat 30% tax. However, if he does and opts for a lower percentage of withholdings under the treaty, he would be subject to lower withholding. He would still need to file Form 1040NR and recover any additional withholdings or pay any tax (in excess of withholdings) to the IRS.

To complete the story, Sriram would offer to tax the US earned interest and dividends in India and avail a credit for any taxes paid in the US.

We switch now to Rahul, who was working at Google India in Bangalore but has recently won a spot in the H1 Lottery Scheme. His company has agreed to send him to the US and he will be deputed to work out of California. Since Rahul got his H1 lottery notification by March 31st and will be leaving India by May 31, 2024, he would have in essence spent 60 days or less in India. He will become a NR in India for the tax year 2024-25. He would only declare and tax and file in India income derived in India. This will be any or all income only earned in India such as interest, dividend, rental, capital gains and his wage income.

He would, however, be deemed a resident of the US for 2024 as he would have spent over 182 days in the tax year 2024. He would have to file a 1040 return in the US and will offer to tax (both at the Federal and CA level) income derived for the entire year from both the US and India.

Any taxes paid in India can be availed as a credit against Federal taxes (only) and not on the state. So for Rahul, a consultation with us before he left India might have included a quick assessment of the savings in Indian tax on worldwide income vs. the incremental Federal and CA tax on worldwide income.



# PRABHA'S OFFICE LOCATIONS & APPOINTMENTS



Our director, Prabha Srinivasan will be available for appointments in Hyderabad, Singapore, Los Angeles, San Francisco and New York.

**Hyderabad:**

June 24th and 25th

**Singapore:**

July 5th, August 26, September 30, October 1

**New York:**

August 27th-September 10th

**Los Angeles:**

September 10th-September 18th

**Bay Area/Palo Alto:**

September 19th-September 30th

To book an appointment, email us at [ea@venturapranas.com](mailto:ea@venturapranas.com), along with details of what you would like to discuss and your time zone, so we can schedule the call or appointment for an appropriate time. Or you can email Prabha directly at [psrinivasan@venturapranas.com](mailto:psrinivasan@venturapranas.com)



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