



Deutsche Bank  
Wealth Management

# Experts Talk: Wealth Planning Update

Global mobility trends and  
pre-immigration tax planning

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Our live event will start shortly...



**Deutsche Bank**  
Wealth Management

# Experts Talk: Wealth Planning Update

Global mobility trends and pre-immigration tax planning

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# Global mobility trends and pre-immigration tax planning

## Spotlight on the Investment Migration Sector\*



EUR 20 billion

The estimated value of the investment migration sector in 2022

100 +

countries offer some form of program

90%

of programs are in high-income countries

Around 60

jurisdictions actively promote programs

30

programs attract the biggest share of applicants

26

European Union member states provide the right to reside in return for making an investment

All 19

sovereign countries in the G20 offer a mechanism to encourage inward investment in exchange for residence rights

\* By Henley & Partners

# Global mobility trends and pre-immigration tax planning

## Leading Residence and Citizenship Programs\*



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## The Difference between Residence and Citizenship\*



### Residence

- Grants the right to live, work, and study in a country
- Usually comes with conditions or requirements to maintain the residence
- May give some travel rights
- Must be renewed
- Provides access to country benefits: Healthcare, education, etc.
- May have a path to citizenship

### Citizenship

- Grants life-long full natural rights, including the right to vote
- Can be passed on to future generations
- Allows international travel
- Provides access to country benefits: healthcare, education, etc.
- Provides ability to live, work, study, conduct business in that country and possibly other countries

\* By Henley & Partners

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## Most Popular Programs for US citizens\*



### Caribbean

Antigua & Barbuda  
Grenada  
St. Kitts & Nevis

### Europe

Portugal  
Malta\*\*\*\*

Greece  
Italy

### Others

Australia  
United States  
Panama  
Switzerland

New Zealand  
UAE  
Costa Rica

**And non- Americans often come to the US through the EB5 program!**

\* By Henley & Partners

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## When Is Someone a U.S. Person?\*



- An individual is a U.S. person for U.S. tax purposes if he or she is either (a) a U.S. citizen (including a citizen residing abroad) or (b) a U.S. resident.
- **Different rules apply for purposes of determining whether an individual is a U.S. resident for income tax purposes than for purposes of establishing residence status for estate and gift tax purposes.**

### U.S. Resident for Income Tax Purposes

- A green card holder (lawful permanent resident)
- A person who, regardless of visa status, satisfies the “substantial presence” test under Internal Revenue Code §7701(b):
  - To be considered a resident under the substantial presence test, an individual must (1) be physically in the United States for at least 31 days during the current calendar year, and (2) be physically present in the United States for at least 183 days on a “weighted” basis, taking into account all days present during the current calendar year, 1/3 of the days present during the preceding calendar year and 1/6 of the days present during the second preceding calendar year.
  - This averages out to approximately 122 days per year

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## Substantial Presence Test Exceptions:\*

**There are several Code and treaty-based exceptions to the substantial presence test pursuant to which one can either remain a nonresident or determine his or her tax liability as a nonresident:**

- Exempt resident individual status
- Medical emergencies
- Closer Connection Test
- Treaty “tie-breaker” provisions for dual residents

## Mark to Market Exit Tax:

- U.S. citizens and “long term permanent residents” may face a capital gain realization event when they give up their citizenship or green card, as the case may be.
- The test to be a “covered expatriate” is \$2M or more of net worth or average annual net income tax for the 5 years ending before the date of expatriation or termination of residency of more than a specified amount, adjusted for inflation (\$206,000 in 2025).
- Failure to certify compliance with all U.S. federal tax obligations for the 5 years preceding the date of expatriation or termination of residence on Form 8854 also results in covered expatriate status.
- There is also the equivalent of an inheritance tax on gifts or transfers at death by covered expatriates to U.S. heirs.

\* By Katten LLP

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## Pre-Residency Planning Objectives \*



- **Minimize U.S. and home country taxes**
  - Consult with local counsel
  - Consider interim residence
  - Least aggregate amount of taxes in both countries, avoid double taxation to the greatest extent possible and/or line up foreign tax credits
- **Coordinate tax and estate plan with non-tax issues**
  - Family relationships
  - Cash flow and access to assets
  - Who runs the business
- **Maximize protection from creditors**
- **Address spousal rights, if any**
- **Address forced heirship rights, if any**

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## Pre-Immigration Income Tax Planning Strategies \*



- Accelerating gains and income, postponing losses and deductible expenses if moving to U.S. from lower tax jurisdiction (or jurisdiction with preferential tax regime).
- Deferring gains and income, accelerating losses and deductible expenses if moving to U.S. from higher tax jurisdiction.
- Vetting offshore holdings for CFC/PFIC issues.
- Stepping up basis/turning off or mitigating CFC/PFIC status through sales, liquidations and entity classification elections.
- Consider domestication of offshore structures (for example, foreign “blockers” holding U.S. real estate).
- Reviewing trusts and alternative vehicles (including pensions) with respect to which nonresident is a settlor, transferor or beneficiary to determine potential impact of grantor trust and throwback rules. Consider options for pre-immigration restructuring or possible domestication after becoming resident.

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## Foreign Corporation: CFC Rules

- If an individual owns significant shareholdings in a closely held foreign company it is important to check for potential CFC status before the individual becomes a U.S. resident.
  - A foreign corporation is a CFC if it is owned more than 50% (in value or voting control) by “United States shareholders.”
  - A United States shareholder is a U.S. person who owns (directly, indirectly or constructively) at least 10% of the stock of a foreign corporation (by vote or value).
  - Attribution rules can cause a taxpayer to be treated as owning shares of a corporation held by a related person.

## Foreign Corporation: PFIC Rules

- Generally, a foreign corporation is classified as a passive foreign investment company (“PFIC”) under Code § 1297 if it meets either an income test or an asset test:
  - A foreign corporation is a PFIC under the income test if 75% or more of its gross income is passive income (dividends, interest, royalties, rents and the like).
  - A foreign corporation is a PFIC under the asset test if at least 50% of the average percentage of assets held by the corporation during the tax year is comprised of assets that produce passive income or are held for the production of passive income.
  - Most foreign mutual funds and other non-U.S. investment funds are generally considered PFICs.

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## U.S. Person for Estate and Gift Tax Purposes\*



- **U.S. Resident for Estate and Gift Tax Purposes:**

- A person whose primary residence or “domicile” is in the United States is a resident for estate and gift tax purposes. An individual is a U.S. domiciliary if he or she has physical presence in the United States and has no definite present intent to leave, as shown by the surrounding facts and circumstances. See Treas. Reg. § 20.0-1(b)(1) and (2).
- There is no equivalent to the substantial presence test.
- An individual can become a U.S. resident for income tax purposes under the substantial presence test without becoming a resident for estate and gift tax purposes if he or she does not intend to remain indefinitely – for example, someone visiting for a few years on a temporary work assignment.
- Applying for a green card is a strong factor suggesting an intent to remain indefinitely.

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## Pre-Immigration Estate and Gift Tax Planning\*



- The current Federal exemption against U.S. gift and estate tax is \$13,990,000 per person.
- The maximum rate is 40%.
- These exemptions are scheduled to increase to \$15,000,000 on January 1, 2026. Indexed for inflation starting in 2027.
- The main goal of pre-immigration estate and gift tax planning is to reduce the amount of the estate that will be subject to U.S. estate tax after the inbound person moves to the United States. This must be done BEFORE the person moving becomes U.S. domiciled.
- Making completed gift of intangible property and foreign real property outright or in irrevocable trusts.
  - If beneficiaries are or will be U.S. persons, a domestic trust is often preferable.
- Restructure existing trusts:
  - Review for retained string provisions (if immigrating grantor) or taxable powers of appointment (if immigrating beneficiary).

\* By Katten LLP



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