



National Life
Group®

Planning for Foreign Nationals

Products issued by

National Life Insurance Company® | Life Insurance Company of the Southwest®

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Who is a Foreign National?

The term **foreign national** is not officially defined in the Internal Revenue Code (Code). However, a foreign national is broadly defined as an individual who is not a United States citizen by birth or naturalization. The Code uses the word *alien* to refer to foreign nationals. There are two types of "aliens" for federal tax purposes: Resident Aliens and Nonresident Aliens. These terms carry different meanings for income tax purposes and gift and estate tax purposes.

The Two Types of Aliens

1. Resident Alien

Definition for Federal Income Tax Purposes

Generally, an individual is a *resident alien* for income tax purposes if they are a lawful permanent resident of the United States (U.S.) or if they meet the substantial presence test.¹

- A lawful permanent resident is someone who has been granted permanent resident status by United States Citizenship and Immigration Services. These individuals are informally referred to as *green card* holders because the background of the permanent resident identification card has a green tint.
- Generally, an individual meets the substantial presence test if they are physically present in the U.S. for at least 31 days during the current year and at least 183 days during the three-year period that includes the current year and the two years immediately preceding.

Definition for Federal Gift and Estate Tax Purposes

A *resident alien* is an individual who, at the time of the gift or date of death, was domiciled in the U.S.²

2. Nonresident Alien

Definition for Federal Income Tax Purposes

An individual is a *nonresident alien* if they are neither a citizen or resident of the United States.¹

Definition for Federal Gift and Estate Tax Purposes

A *nonresident alien* is an individual who, at the time of the gift or at the date of death, was domiciled outside the United States.²

In this guide, a Resident Alien is referred to as a Resident Foreign National (RFN) and is assumed to be a non-U.S. citizen living in the U.S. A Nonresident Alien is referred to as a Nonresident Foreign National (NRFN) and is assumed to be a non-U.S. citizen living outside the U.S.



U.S. Income Taxation

Resident foreign nationals are subject to U.S. income tax on all income earned worldwide. Nonresident foreign nationals are subject to income tax on income from U.S. sources or income connected with a U.S. trade or business.

It is important to note that a tax treaty between the U.S. and a foreign country may modify your taxation under these tax rules. The purpose of a tax treaty is to help minimize or avoid double taxation of assets if a person has multiple citizenships or property located in multiple countries. It is important for you to consult with your U.S. and international tax and legal advisors for the tax considerations of your unique situation.



U.S. Gift and Estate Taxation

Do any of the following statements apply to you?

I am a foreign national currently living or planning to live in the U.S.

I am a foreign national who owns a business or other assets that are located in the U.S.

My spouse and I intend to transfer U.S. property to each other, and one or both of us are foreign nationals.

If any of these statements is applicable, your U.S.-based assets may be subject to a federal transfer tax as high as 40% with only a small tax exemption available.

U.S. citizens enjoy an annual gift tax exclusion which is a set amount that they could give away to any number of people each year without incurring a gift tax. U.S. citizens are also entitled to a lifetime estate and gift exemption (lifetime transfer tax exemption) which is an amount — indexed for inflation — that they can give during their lifetime or upon death in total without paying federal estate or gift tax.

U.S. Gift Tax

Resident foreign nationals are generally subject to the same gift tax rules as U.S. citizens. Therefore, the annual gift tax exclusion amount and the lifetime transfer tax exemption amount are available. Nonresident foreign nationals may be subject to U.S. gift tax if they make gifts of real or tangible personal property located in the U.S. While nonresident foreign nationals are not afforded the lifetime transfer tax exemption amount, they can use the gift tax annual exclusion. The unlimited gift tax marital deduction is not available for lifetime transfers to a foreign national spouse. However, these gifts may be sheltered by a larger gift tax annual exclusion allowed for transfers between spouses as indexed annually. Also, U.S. citizen spouses can allocate their lifetime transfer tax exemption amount to gifts to their foreign national spouse (also indexed for inflation).

Note that resident foreign nationals (as well as U.S. citizens) generally must file an informational return with the Internal Revenue Service if they receive gifts from nonresident foreign nationals of more than \$100,000 cumulatively. This also applies to bequests from foreign estates. Please see [IRS Form 3520 | Annual Return to Report Transactions With Foreign Trusts and Receipt of Certain Foreign Gifts](#).

U.S. Estate Tax

Resident foreign nationals are generally subject to the same estate tax rules as U.S. citizens. All property worldwide is subject to U.S. estate tax, and they are afforded the full estate tax exemption amount (less any amount allocated to lifetime gifts). Note that the estate may qualify for a credit for any foreign death taxes paid. Nonresident foreign nationals may be subject to estate tax regarding assets situated in the U.S. They are afforded a \$60,000 lifetime estate tax exemption amount. Note that life insurance owned by an NRFN insured is considered property situated outside the U.S., therefore not included in the gross estate for U.S. estate tax purposes.


The unlimited marital deduction is not available for transfers from a deceased U.S. citizen spouse to a foreign national surviving spouse. However, with proper planning and execution, the marital deduction may be available for assets transferred to a Qualified Domestic Trust (QDOT) of which the foreign national surviving spouse is the beneficiary. Distributions from the QDOT to the foreign national surviving spouse may be subject to estate tax withholding (unless such surviving spouse becomes a U.S. citizen).

The U.S. gift and estate tax rules applicable to foreign nationals is summarized in the table* below.

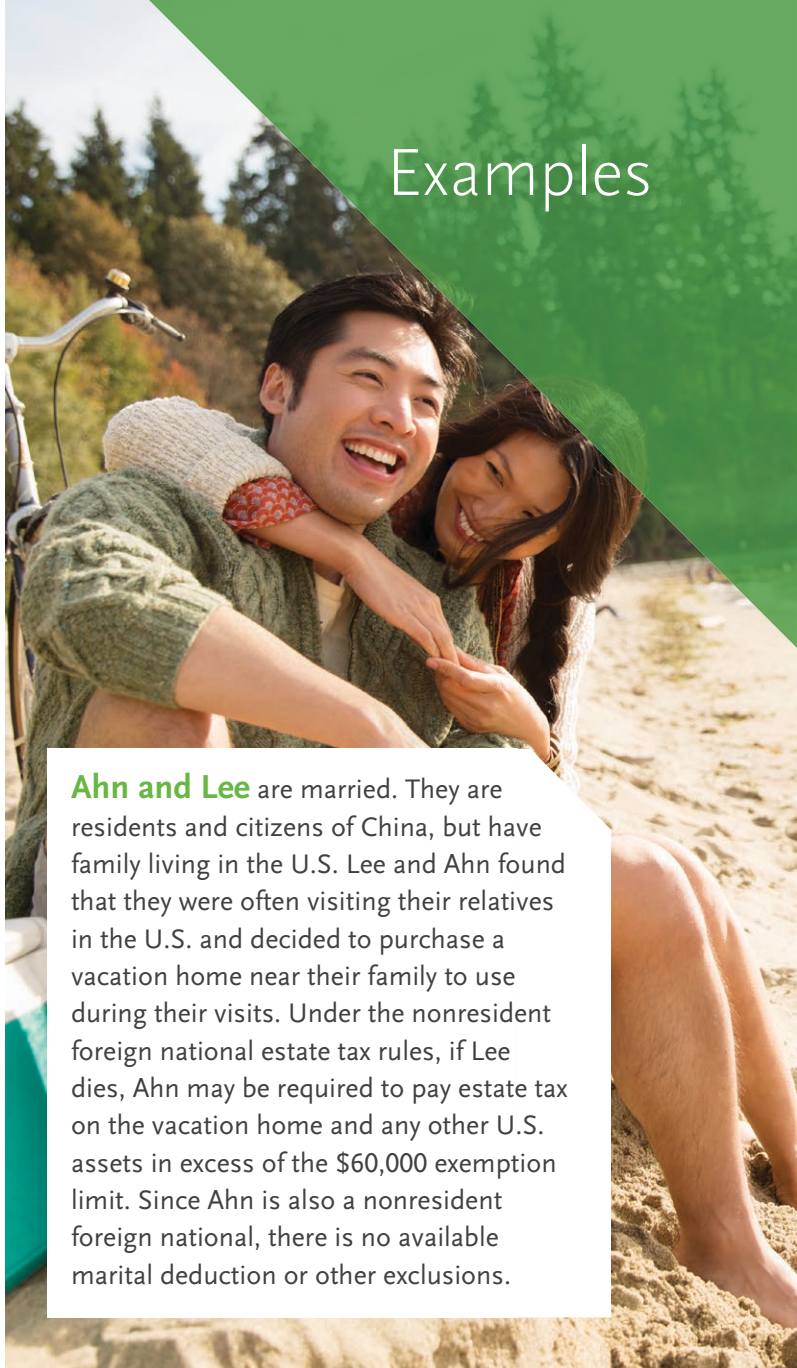
Assets Transferred From	Assets Transferred To	Annual Gift Tax Exclusion	Gift Tax Exemption	Estate Tax Exemption	Gift and Estate Tax Marital Deduction
U.S. Citizen or Resident Foreign National	U.S. Citizen Spouse	N/A due to unlimited marital deduction	\$13,610,000		Unlimited
	U.S. Citizen Non-Spouse	\$18,000	\$13,610,000		N/A
	Foreign National Spouse	\$185,000	\$13,610,000		Allowed if assets are transferred to a QDOT
	Foreign National Non-Spouse	\$18,000	\$13,610,000		N/A
Nonresident Foreign National	U.S. Citizen Spouse	N/A due to unlimited marital deduction	\$0	\$60,000	Unlimited
	U.S. Citizen Non-Spouse	\$18,000	\$0	\$60,000	N/A
	Foreign National Spouse	\$185,000	\$0	\$60,000	Legal ambiguity on the availability of QDOT
	Foreign National Non-Spouse	\$18,000	\$0	\$60,000	N/A

*Figures assume the transfer occurs in 2024.

Examples



Juan and Maria are married and their primary residence is in the U.S. Juan and Maria met while Juan was working as an engineer for a U.S. firm based in Mexico. Juan is a U.S. citizen, and Maria is a citizen of Mexico. Juan was very successful and has a diverse investment portfolio including stocks, bonds, and real estate worth approximately \$16,500,000. If Juan predeceases Maria in 2024, she may owe estate taxes on any assets in excess of the \$13,610,000 exemption, and the marital deduction would not apply unless the assets transferred through a QDOT.



Ahn and Lee are married. They are residents and citizens of China, but have family living in the U.S. Lee and Ahn found that they were often visiting their relatives in the U.S. and decided to purchase a vacation home near their family to use during their visits. Under the nonresident foreign national estate tax rules, if Lee dies, Ahn may be required to pay estate tax on the vacation home and any other U.S. assets in excess of the \$60,000 exemption limit. Since Ahn is also a nonresident foreign national, there is no available marital deduction or other exclusions.

A Simple Solution for these Couples — Life Insurance

The Benefits of Owning U.S. Life Insurance for Nonresident Foreign Nationals

As illustrated above, foreign nationals are exposed to U.S. gift and estate tax whether or not they reside in the U.S. For the reasons set forth below, owning a U.S.-based life insurance policy may provide foreign nationals with several valuable benefits.



Why Life Insurance?

There are many reasons a foreign national should consider owning a U.S.-based life insurance policy. A permanent policy may provide:

Death benefits that may evade U.S. income³ and estate taxes

Tax-deferred cash value growth in the U.S.

Tax-advantaged distributions in the U.S.⁴

Liquidity heirs can use to protect their assets

Estate planning confidence



Benefits of Life Insurance

Life insurance offers many benefits to the owner and beneficiaries regardless of their U.S. citizenship status. Life insurance may help provide death benefit protection, long-term income tax benefits, asset security, and certainty in estate planning for you and your spouse. There are characteristics of a life insurance policy that may assist foreign nationals with these special planning needs.

- The proceeds payable under a life insurance policy are not considered a tangible U.S.-based asset and therefore are not subject to U.S. estate taxes for nonresident foreign nationals.
- Benefits payable under a life insurance policy are generally income tax-free in the U.S.³
- In a permanent life insurance policy any growth in the cash value is income tax-deferred in the U.S. This cash value may also be accessed by the policy owner without triggering U.S. income tax.⁴

Additional benefits of a U.S.-based policy

A foreign national may also find benefit in participating in the U.S. life insurance industry.

- The industry is one of the most mature in the world which may allow for access to improved product design and competitive product pricing.⁵
- The industry is highly regulated through both federal and state oversight and is considered one of the most stable in the world.⁵
- In addition, with the contract and benefits denominated in the U.S. Dollar, a policy may provide financial confidence, wealth diversification, and economic security that may not otherwise be available in a foreign market.
- A U.S. life insurance contract provides the personal freedom to choose beneficiaries and heirs and can avoid the concern of forced heirship for those whose home country requires a specific inheritance.

Regardless of the policy owner's citizenship status, a life insurance policy may also help with other needs such as income protection, business succession planning, legacy planning, wealth protection, and executive benefit planning.

Moreover, by using life insurance as part of an estate plan, a policy owner may be able to provide an income tax-free benefit to their heirs in order to pay any U.S. estate taxes without having to sell property. In addition, the policy may also provide some wealth transfer to the beneficiary after any tax liabilities are met.

Therefore, if either you or your spouse are foreign nationals, but own U.S. property, life insurance may be an important element of your overall planning portfolio.



These benefits are meaningful for all insurance policy owners but there may be special tax considerations when you are a foreign national.



National Life as the Right Company

Choosing the life insurance company with which to partner can be just as important as deciding to purchase a life insurance policy. The insurance companies of the National Life Group maintain a strong portfolio of products and our agents are committed to finding the right product to fit your needs.

Financial Strength Ratings⁶

A+ (Superior)

BY A.M. BEST
Second highest of 16 rankings

A+ (Strong)

BY STANDARD & POOR'S
Fifth highest of 21 rankings

A1 (Good)

BY MOODY'S
Fifth highest of 21 rankings

At National Life, our story is simple: since 1848, we've been working hard to deliver on our promises to millions of people with our vision of providing peace of mind in times of need. It's our cause, stemming from a deep passion to live our values to do good, be good, and make good — every day.

¹ Code § 7701(b).

² Treas. Reg. § 20.0-1.

³ Internal Revenue Code § 101(a)(1). There are some exceptions to this rule. Please consult a qualified tax professional for advice concerning your individual situation.

⁴ Policy loans and withdrawals reduce the policy's cash value and death benefit and may result in a taxable event. Withdrawals up to the basis paid into the contract and loans thereafter will not create an immediate taxable event, but substantial income tax ramifications could result upon contract lapse or surrender. Surrender charges may reduce the policy's cash value in early years.

⁵ Global Insurance Industry Insights, Global Insurance Pools 9th ed. McKinsey & Company (2021)

⁶ Financial strength ratings for National Life Insurance Company as of 11/29/2023. Ratings are subject to change.

This is not a solicitation of any specific insurance policy.