

# Snowbirds U.S. residency issues

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Canadians who wish to reside in the U.S. for the winter months should be aware of the U.S. residency rules. If you fall into these rules, you could be subject to U.S. tax on your world income unless you file the appropriate forms for exemptions.

Like U.S. citizens, green card holders are considered lawful permanent residents of the U.S. and must file annual federal personal income tax returns U.S. 1040. However those that do not have a green card may fall into what is called the “Substantial Presence Test”.

You are considered a U.S. resident if you meet the substantial presence test for a particular taxation year. You meet the test if you were present in the U.S. for at least 31 days in the current year, and a total of 183 days during the current year and the preceding 2 years. You take the days in the current year, add one-third of the days in the preceding year and one-sixth of the days in the second preceding year. You exclude days in which you are commuting and days in which you are presence for less than 24 hours or days you are presence because of a medical condition that arose while you were in the U.S.

If you meet the substantial presence test, but were present in the U.S., fewer than 183 days in the current taxation year, you must file IRS Form 8843 to claim a closer connection to a foreign country. In this regard, you establish through a series of questions that you had a closer connection to one country in which you had a tax home than to the U.S.

Form 8843 is due on or before June 15 of the following taxation year.

If you are not eligible to file Form 8843 because you were present in the U.S. in the current year for a period of 183 days or more or you hold a green card, you must look to the Canada/U.S. Tax Treaty on the definition of residency to support your case on non-resident status for U.S. tax purposes.

U.S. forms are available on the IRS website (at <http://www.irs.ustreas.gov/pub>).

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*Contact your professional advisor prior to implementing any of the outlined strategies*

## ***Internal Revenue Service Circular 230 Disclosure***

*Pursuant to Internal Revenue Service Circular 230, we hereby inform you that the advice set forth herein with respect to U.S. federal tax issues was not intended or written to be used, and cannot be used, by you or any taxpayer, for the purpose of avoiding any penalties that may be imposed on you or any other person under the Internal Revenue Code.*