

Feedback

Correspondence from readers on topical subjects.



US residency tests

In speaking to David Taxable, John Cullinane may have misheard just a few words (which is, of course, frequently a taxing problem listening to cartoon voices!) and the American 'green card test' has become muddled with the 'substantial presence test' in the article on residence ('Home is a Range', *Taxation*, 21 August 2008).

David Taxable clearly has sensible friends such as Lucy, given that she spends each winter in the Rockies. From a US tax perspective she becomes a US resident either if she meets what is known as the 'substantial presence test' or if she has a 'green card'. If she has a green card, she is always a resident of the United States until she formally abandons the green card.

The substantial presence test is a simpler mechanical test of day counting where almost any day of presence

is counted (none of this nonsense about deciding when midnight falls!).

This test states that one is automatically a US resident if one is present in the US for at least 31 days in the current year and the total number of days of presence reaches at least 183, counting all of the days in the current year, one-third of the days in the preceding year and one-sixth of the days in the second preceding year.

As with most tax systems there are some exceptions to this rule in specific circumstances. Nonetheless, Lucy will want to carefully count her days of travel if she wants to make sure that avoids the US tax system. There are of course many people who fail to monitor travel days, but Lucy will doubtless be able to do this much better now she understands the implications!

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