
Case Study I

Client Information:

Taxpayer name:	Maria DeLima
Taxpayer SSN:	xxx-xx-x201
Taxpayer DOB	July 2, 1984
Spouse name:	Claudio DeLima
Spouse SSN:	None
Spouse DOB	July 10, 1979
Address:	890 Berwyn Road, Berwyn Heights, MD 20784
Living Arrangement:	Clients purchased home September 15, 2017 jointly with another nurse
Home Phone:	XXX 555-0201 (J) Preferred (evening)
Work Phone:	XXX 555-4343 (T)
E-mail:	MdeLima@mtw.edu
Taxpayer Occupation:	Nurse
Spouse Occupation:	Artist

The DeLima's wish to file the most advantageous return possible. Neither Maria nor Claudio is blind or disabled. They are not students. Both are citizens of Costa Rica. Maria and Lourdes are covered by employer health insurance that provides Minimum Essential Coverage..

Dependent Information

Dependent name:	Lourdes DeLima
Dependent SSN:	None
Dependent DOB:	June 6, 2005
Dependent relationship:	Daughter

Visa Information

Maria's passport:	Costa Rica, X9876543
Maria's visa:	H-1b visa, No. 123456 issued in Costa Rica
First date in U.S. on H1 visa:	August 24, 2017, Visa issued August 15. Entered U.S. from Costa Rica
Prior visa:	F-1 visa, in U.S. September 1, 2014 – April 30, 2017
Left U.S. on H1 visa:	December 19, 2017, to Costa Rica
Returned to U.S. on H1 visa:	January 3, 2018
Claudio's visa:	H-2 visa, No. 123457, issued in Costa Rica
Lourdes' visa:	H-2 visa, No. 123458, issued in Costa Rica

Claudio and Lourdes traveled with Maria in December.

Employment

Maria DeLima is a nurse at Berwyn Hospital, in Prince Georges County, MD. She and her family are from Costa Rica. Maria's contract began September 1, 2017. It runs for two years, and is renewable a year at a time for the next three years. From September 1, 2014 – April 30, 2017, Maria was completing studies in specialized nursing at UMD while on an F-1 visa.

Claudio is a renowned artist and travels frequently. He expects to spend fewer than 120 days in the U.S. each year. He paints in Costa Rica and visits his gallery in Paris. Luckily, Berwyn Hospital has on-demand childcare available twenty-four hours a day.

Part I

Income

Claudio received a statement from his Paris gallery showing income of Euros 45,000 from sales of art works. He also has a Paris bank account with a balance of Euros 8,000. An exchange rate chart shows 0.923 for the euro zone in 2017.

W-2 Information

Payer: Berwyn Hospital, EIN 43-9999999

Box 1: \$ 39560

Box 2: \$5,121.25

Box 3: \$ 39560

Box 4: \$ 2,453

Box 5: \$ 39560

Box 6: \$ 574

Box 15: MD, State EIN 999999

Box 16: \$39.560 Box 17: \$ 0

Expenses

The DeLima's paid the following 2017 expenses:

\$3,360 lodging*

\$2,520 meals*

\$1116 DeLima share of mortgage interest

\$ 900 DeLima share of real estate tax

\$1,400 two times for timely payments of 3rd and 4th quarter estimated payments to Maryland

*Expenses for lodging and meals are for her share only, for the period before they bought a house.

Note: Maria did not file U.S. tax returns for 2014, 2015, or 2016. She did not have U.S. source income. She did file Form 8843 for each of those years.

Questions

1. Is Maria a tax resident alien or a non-resident alien for 2017? Explain.
2. What U.S. tax form must she file?
3. Did she request assistance and a ruling from a Competent Authority because she believed one or both parties to a tax treaty was misapplying a treaty provision? And is she now relying on a ruling in a determination letter she received?
4. What exemptions may she claim?
5. Which filing status does she use?
6. What income is taxable?
7. What expenses and deductions may she claim?
8. What will be her U.S. residence status for 2018?
9. What advice will you give them about their 2018 return?
10. What form(s), if any, must accompany her 2017 return?
11. What will appear on her 2018 return that is not on her 2017 return?

Prepare a 2017 return for this client.

Case Study Solution**Maria DeLima****Answers**

1. Maria is a non-resident alien for 2017. No green card. She was eXempt from counting days while on the F visa. She does not have the 183 days of presence necessary to meet the substantial **presence** test in 2017. She files on a 1040NR. In 2018, she will count days in the US towards substantial presence beginning January 1. She will add 1/3 of her H1-b visa days in the U.S. from her first prior year.
2. She must file on Form 1040NR. The exceptions to counting days are **mandatory**.
3. No. There is no tax treaty between Costa Rica and the U.S. Also, these situations are rare. If a taxpayer has requested and received a ruling, they know it.
4. As a non-resident alien with no treaty privilege, she cannot claim dependents.
5. Her filing status will be “other married non-resident alien”. This equates to MFS on Form 1040, and uses the MFS tax table for effectively connected income.
6. She will be taxed only on her own U.S. source income, namely her wages from her job. Claudio is not a taxpayer on the NR return. His income and assets are not relevant.
7. She cannot deduct food and lodging as away from home expenses because her stay is expected to be more than one year. She is not temporarily away from her tax home on business, while maintaining lodging in Costa Rica. Mortgage interest and personal real estate taxes cannot be deducted on Form 1040NR.
8. For 2018 she will be a U.S. tax resident if she meets the substantial presence test.
9. Tell the DeLima’s that they could file jointly in 2018 on Form 1040 if Claudio meets the substantial presence test, or, they choose to be electing spouses and pay U.S. taxes on his worldwide income. Otherwise, if Claudio has any U.S. source income, he would file on his own Form 1040NR . This is unlikely, as the gallery that carries his work is in Paris, and he paints mainly in Costa Rica. Maria can claim Lourdes as a dependent in 2018 if Lourdes obtains a social security number or if Maria files an ITIN request for her with the return. Explain head of household rules, * (check the TCJA changes for 2018) and the limitations of MFS status for claiming credits and deductions, to help Claudio and Maria weigh all factors in choosing among MFS, HoH, and MFJ. Since Claudio is a non-resident alien, Maria’s filing status can benefit from being considered as ‘unmarried for tax purposes’ * (check the TCJA changes for 2018) even if Claudio is living with her at any time during the last six months of the year. This plus her child Lourdes could qualify Maria for Head of Household * (check the TCJA changes for 2018).
10. Her 2017 return must have Form 8843 attached, because she was eXempt from counting some days that year. It was only the third year on her F-1 student visa.
11. On her 2018 Form 1040 return, Maria may file MFS, and claim Lourdes for any benefits available to a dependent with her type of TIN (SSN or ITIN). Potentially she could file head of household*. She might not meet the conditions. She will claim the mortgage interest and real estate taxes that could not be claimed on the Form1040NR return.

The completed forms are on the following solution pages.

Note **Schedule OI, Item F** entry- Instructions ask for “Changed status from F-1 student to H1-b nurse on August 24, 2017”. The solution shortens the entry to conform to fillable forms limit.

Schedule OI—Other Information (see instructions)
Answer all questions

- A** Of what country or countries were you a citizen or national during the tax year? Costa Rica
- B** In what country did you claim residence for tax purposes during the tax year? Costa Rica
- C** Have you ever applied to be a green card holder (lawful permanent resident) of the United States? Yes No
- D** Were you ever:
- 1.** A U.S. citizen? Yes No
- 2.** A green card holder (lawful permanent resident) of the United States? Yes No
- If you answer "Yes" to **(1)** or **(2)**, see Pub. 519, chapter 4, for expatriation rules that may apply to you.
- E** If you had a visa on the last day of the tax year, enter your visa type. If you did not have a visa, enter your U.S. immigration status on the last day of the tax year. H1-b
- F** Have you ever changed your visa type (nonimmigrant status) or U.S. immigration status? Yes No
If you answered "Yes," indicate the date and nature of the change. ▶ 08/15/2017 to H1-b from F
- G** List all dates you entered and left the United States during 2017. See instructions.
Note: If you are a resident of Canada or Mexico AND commute to work in the United States at frequent intervals, **check the box for Canada or Mexico** and skip to item H Canada Mexico

Date entered United States mm/dd/yy	Date departed United States mm/dd/yy
01/01/17	04/30/17
08/24/17	

Date entered United States mm/dd/yy	Date departed United States mm/dd/yy

- H** Give number of days (including vacation, non-workdays, and partial days) you were present in the United States during:
2015 0, 2016 0, and 2017 118.
- I** Did you file a U.S. income tax return for any prior year? Yes No
If "Yes," give the latest year and form number you filed ▶ _____
- J** Income Exempt from Tax—If you are claiming exemption from income tax under a U.S. income tax treaty with a foreign country, complete (1) through (3) below. See Pub. 901 for more information on tax treaties.

1. Enter the name of the country, the applicable tax treaty article, the number of months in prior years you claimed the treaty benefit, and the amount of exempt income in the columns below. Attach Form 8833 if required. See instructions.

(a) Country	(b) Tax treaty article	(c) Number of months claimed in prior tax years	(d) Amount of exempt income in current tax year

- (e) Total.** Enter this amount on Form 1040NR-EZ, line 6. Do not enter it on line 3 or line 5
- 2.** Were you subject to tax in a foreign country on any of the income shown in 1(d) above? Yes No
- 3.** Are you claiming treaty benefits pursuant to a Competent Authority determination? Yes No
If "Yes," attach a copy of the Competent Authority determination letter to your return.

Return Note
Maria DeLima

XXX-XX-X201

Taxpayer made two 2017 quarterly estimated payments to Maryland, for the 3rd and 4th quarters

Third quarter payment made 9/15/2017	\$1,400
Fourth quarter payment made 1/15/2018	\$1,400
Total	\$2,800

The third quarter payment appears on Line 11 of the 2017 Form 1040NR-EZ

The fourth quarter payment will be entered on the 2018 Form 1040 tax return if the client itemizes.
Both payments are credited on the 2017 Maryland Form 502.

Form **8843**

Statement for Exempt Individuals and Individuals With a Medical Condition
For use by alien individuals only.

OMB No. 1545-0074

2017

Attachment Sequence No. **102**

Department of the Treasury
Internal Revenue Service

▶ Go to www.irs.gov/Form8843 for the latest information.

For the year January 1—December 31, 2017, or other tax year
beginning _____, 2017, and ending _____, 20

Your first name and initial

Last name

Your U.S. taxpayer identification number, if any

Maria

DeLima

xxx-xx-x201

Fill in your addresses only if you are filing this form by itself and not with your tax return

Address in country of residence

Address in the United States

Part I General Information

- 1a** Type of U.S. visa (for example, F, J, M, Q, etc.) and date you entered the United States ▶ F 9/1/2014
- b** Current nonimmigrant status. If your status has changed, also enter date of change and previous status. See instructions.
H-1b changed from F on 8/24/2017
- 2** Of what country or countries were you a citizen during the tax year? Costa Rica
- 3a** What country or countries issued you a passport? Costa Rica
- b** Enter your passport number(s) ▶ X98765432
- 4a** Enter the actual number of days you were present in the United States during:
2017 238 2016 365 2015 365
- b** Enter the number of days in 2017 you claim you can exclude for purposes of the substantial presence test ▶ 120

Part II Teachers and Trainees

- 5** For teachers, enter the name, address, and telephone number of the academic institution where you taught in 2017 ▶
- 6** For trainees, enter the name, address, and telephone number of the director of the academic or other specialized program you participated in during 2017 ▶
- 7** Enter the type of U.S. visa (J or Q) you held during: ▶ 2011 _____ 2012 _____
2013 _____ 2014 _____ 2015 _____ 2016 _____. If the type of visa you held during any of these years changed, attach a statement showing the new visa type and the date it was acquired.
- 8** Were you present in the United States as a teacher, trainee, or student for any part of 2 of the 6 prior calendar years (2011 through 2016)? Yes No
If you checked the "Yes" box on line 8, you cannot exclude days of presence as a teacher or trainee unless you meet the *Exception* explained in the instructions.

Part III Students

- 9** Enter the name, address, and telephone number of the academic institution you attended during 2017 ▶ University of Maryland address phone number
- 10** Enter the name, address, and telephone number of the director of the academic or other specialized program you participated in during 2017 ▶ Dr XYZ, Director of Nursing Programs, office address, office phone number
- 11** Enter the type of U.S. visa (F, J, M, or Q) you held during: ▶ 2011 _____ 2012 _____
2013 _____ 2014 F 2015 F 2016 F. If the type of visa you held during any of these years changed, attach a statement showing the new visa type and the date it was acquired.
- 12** Were you present in the United States as a teacher, trainee, or student for any part of more than 5 calendar years? Yes No
If you checked the "Yes" box on line 12, you must provide sufficient facts on an attached statement to establish that you do not intend to reside permanently in the United States.
- 13** During 2017, did you apply for, or take other affirmative steps to apply for, lawful permanent resident status in the United States or have an application pending to change your status to that of a lawful permanent resident of the United States? Yes No
- 14** If you checked the "Yes" box on line 13, explain ▶