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## Four Tax Tips for Expats Renting a US Property

By **David McKeegan** | October 24, 2013 8:33 AM ET

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Owning a property in the U.S. while living abroad may be the perfect choice for Americans who may want to return to the U.S. someday. You may want to gain additional income through renting, maintain your existing home or maybe you're underwater on a mortgage and decide its better to hold onto the property until prices come back. The longer you are abroad, the more you may consider selling or renting your U.S. based property you already own.

There are many factors you need to consider when deciding to rent or sell your property from abroad. While it is always wise to consult an experienced real estate agent and an accountant who specializes in taxes for expatriates, here are four key things to think about in your decision-making process.

- What happens if you sell?** When you sell property in the U.S. you will have to calculate your capital gain (or loss). Capital gains earned in the United States (other than in the conduct of a U.S. trade or business) are taxed to nonresident aliens only if they are physically present in the United States for at least 183 days during the tax year. If it is a rental, then the gains are subject to a 30 percent tax rate. But, remember -- if you cease rental activity for the year you are selling, the property reverts to basic capital gains treatment - no tax!
- Will I pay tax on rental income in my host country?** That depends upon your host country tax law. Remember that overseas property income may be treated as foreign income on your local tax return instead of land and property income. You also need to include any income and expenses from rental activities on your home country tax return, so keep records of all expenses.
- How is rental income treated for U.S. tax purposes?** If you have rental income, you may want to file as a business as there is a special election that permits an alien's real estate activities to be considered a trade or business even though they would not otherwise meet the trade or business requirements. This allows all deductions and losses from the activity to be claimed. If the election is not made (so it is not a trade or business), the real estate income is subject to the flat 30 percent withholding tax levied on a gross basis. Even if you rent for a portion of the year, it could defer some of the holding costs of your property without adding taxes.
- What if I want to rent my home for part of the year and live their part of the year?** For those living abroad, taxes are greatly affected by the amount of time spent overseas and in the U.S. In order to take advantage of the significant deductions afforded by the Foreign Earned Income Exclusion, the Foreign Tax Credit and the Foreign Housing Allowance, you must have established residency abroad. Residency is determined by meeting the requirements of one of two tests: the Physical Presence Test or the Bona Fide Residency Test. With the Physical Presence test, you must have foreign earned income and be present in a foreign country for at least 330 days out of a 365-day period. This does not have to be on a calendar-year basis. With the Bona Fide Residence test, you must have foreign earned income and be a resident of a foreign country for an entire tax year, with plans to reside abroad for an indefinite period of time. With that being said, if you plan to spend any part of your time in the U.S., it is wise to determine your residency status to ensure you don't lose out on the important deductions that will help you avoid double taxation.


When making major decisions such as selling or renting your U.S. property, clearly it pays to do your homework. Understanding the tax laws in both your host country and the U.S. will help you make the best financial decisions possible. If you have any questions, be sure to contact an expat tax professional who can help you navigate all the tax laws that may affect you.


*David McKeegan is the co-founder of [Greenback Expat Tax Services](#), a firm specializing in preparation of U.S. expat taxes for Americans living abroad.*

*Editor's Note: For more information on buying a home in the United States, WPC News has released its first United States Residential Property Guide, a comprehensive guide to the challenges and pitfalls of buying residential property in the United States. [Click here for the free download.](#)*

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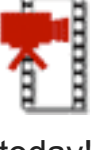
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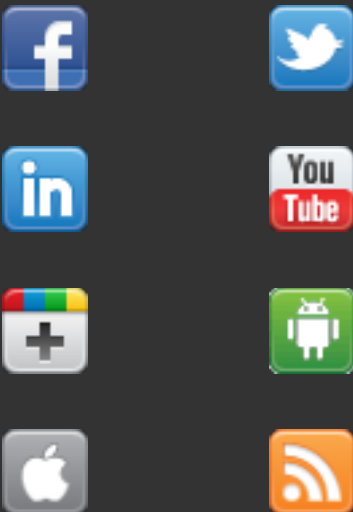
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