



7235 N. Western
Chicago, IL, 60645
T. 773.262.0470/F.773.262.4457
Info@wisecpagroup.com

Green Card Expired! Now What?

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The day finally came; you received your U.S. green card. This magical card can do you wonders, but at the same time can create a tax nightmare if you're not aware of the powers possessed. U.S. green card holders, like U.S. citizens, are taxed on their worldwide income. This annual filing obligation creates many headaches for green card holders residing overseas as many feel that since they are not citizens of the United States they shouldn't be taxed as though they are. An issue that commonly presents itself for U.S. green card holders, unlike U.S. citizens, is the implications of an expired green card.

If your green card does expire, and you choose not to renew it, you might be under the false impression that your filing obligations cease. A green card holder's filing obligations remain in effect unless one of the following three choices are exercised:

1. There has been a final administrative or judicial determination that your lawful permanent resident status has been revoked or abandoned;
2. Your gross income from worldwide sources is less than the amounts that require a tax return to be filed; or
3. Your U.S. residence status is affected by an income tax treaty.

Regarding option one, unless a determination was made, one must stand before a U.S. consulate/embassy officer outside the United States and formally renounce his/her green card. Once this decision is made, special expatriation taxes could be incurred by the green card holder.

Regarding option two, the individual's filing status and income level may dictate whether a return needs to be filed, although disclosure forms such as the FBAR or 5471 must still be filed regardless of income levels.

Regarding option three, the presence of tie breakers rule regarding residency in a tax treaty is the most favorable option of the three as one is released from having to formally present oneself before a consulate/embassy officer to renounce the green card. An expatriation tax could be in effect and should be considered before electing this position.

For all the aforementioned options, if the individual lives abroad and has income from sources effectively connected to the U.S. income subsequent to any of these elections, the individual must file on that respective income as a nonresident alien.

If this tax situation presents itself and you would like to discuss this further, or if you would like to discuss any other U.S. tax and/or accounting matters, please feel free to call Gabriel at 773.269.6513 or email Gabriel.wise@wisecpagroup.com.

We look forward to hearing from you.

Gabriel Wise, CPA