

**Exhibit 3: Form 1040NR foreign national checklist 2007**

Client Name and Number: \_\_\_\_\_

Prepared by: \_\_\_\_\_ Date: \_\_\_\_\_ Reviewed by: \_\_\_\_\_ Date: \_\_\_\_\_

	<u>Done</u>	<u>N/A</u>	<u>Comments or Explanation</u>
<b>100. GENERAL INFORMATION</b>			
101. Has the client completed the foreign national questionnaire?	_____	_____	_____
102. See foreign national filing flow chart (Exhibit 4).			
1. Consider Sec. 6013(g) and 6013(h) elections.	_____	_____	_____
2. Consider Sec. 7701(b) election to become a resident if in the U.S. less than 183 days. Consider filing extension to meet the filing requirements of the election.	_____	_____	_____
3. Consider 10-day rule under Sec. 7701(b)(2).	_____	_____	_____
4. Consider combined Sec. 7701(b) election with Sec. 6013(g) or 6013(h) election.	_____	_____	_____
5. Consider use of closer connection exception (Form 8840, Closer Connection Exception Statement for Aliens). Sec. 7701(b)(3)(B) and (C); Regs. Secs. 1.7701(b)-2(a) and 301.7701(b)-2(f).	_____	_____	_____
6. Consider use of Sec. 911 exclusion with full-year resident election. Consider state applicability.	_____	_____	_____
7. Has the substantial presence test (counting days last year and two years ago) been properly applied?	_____	_____	_____
8. Consider Form 8843, Statement for Exempt Individuals and Individuals with a Medical Condition. Specific visa, medical condition, professional athlete. (Remember five-year rule.)	_____	_____	_____
103. Treaty issues (see Pub. 901 for a list of treaty countries): See instructions for Form 8833, Treaty-Based Return Position Disclosure Under Section 6114 or 7701(b), for complete list of disclosure exceptions.			
1. Residency tiebreaker.	_____	_____	_____
2. Dependent personal services clause.	_____	_____	_____
3. State conformity.	_____	_____	_____
4. Nonqualified retirement plan.	_____	_____	_____
5. Determine requirement to file Form 8833.	_____	_____	_____
104. Residency start date:			
1. For substantial presence test, consider 10-day <i>de minimis</i> presence exception per Sec. 7701(b)(2)(c).	_____	_____	_____
2. Green card test.	_____	_____	_____
3. Start date for purposes of Sec. 7701(b) election.	_____	_____	_____
105. Residency termination issues:			
1. Sec. 7701(b)(10) no-lapse rule.	_____	_____	_____

**Exhibit 3: Form 1040NR foreign national checklist 2007 — Continued**

- |      |   |       |       |       |
|------|---|-------|-------|-------|
| 2.   | Consider 10-day rule under Sec. 7701(b)(2).   | _____ | _____ | _____ |
| 106. | Consider U.S. and Mexican/Canadian citizens who commute to the U.S. daily as U.S. employees. Commuting days are not counted in determining whether the nonresident alien meets the 183-day test.  | _____ | _____ | _____ |
| 107. | Consider type of visa and special reporting requirements.   | _____ | _____ | _____ |
| 200. | <b>INCOME</b>   |       |       |       |
| 201. | Request worldwide income information.   |       |       |       |
| 1.   | Consider sourcing rule for wages (Regs. Sec. 1.861-4(b)).   | _____ | _____ | _____ |
| 2.   | Consider sourcing rule for stock options.   | _____ | _____ | _____ |
| 3.   | Consider “away from home” status per Rev. Rul. 93-86.   | _____ | _____ | _____ |
| 202. | Consider bona fide residence or physical presence test qualifications for Sec. 911 earned income exclusion.   | _____ | _____ | _____ |
| 203. | Determine housing costs for Sec. 911 exclusion.   | _____ | _____ | _____ |
| 204. | Determine if overseas taxpayer qualifies for the automatic two-month filing extension, the foreign earned income exclusion, the housing exclusion, or the housing deduction.  | _____ | _____ | _____ |
| 205. | Inquire if taxpayer had investment income from foreign sources and if tax was withheld at the source.   | _____ | _____ | _____ |
| 206. | Personal residence:   |       |       |       |
| 1.   | Is taxpayer renting a personal residence?   | _____ | _____ | _____ |
| 2.   | Foreign currency mortgage gains.  | _____ | _____ | _____ |
| 3.   | Gains properly computed on personal residence vs. rental property.  | _____ | _____ | _____ |
| 4.   | Exchange rates/qualified business unit (QBU) status.  | _____ | _____ | _____ |
| 5.   | Correct depreciation methods (exchange rates as well as depreciation methods).  | _____ | _____ | _____ |
| 6.   | Sec. 469(j)(7) mortgage interest (and proper place to claim).   | _____ | _____ | _____ |
| 207. | Consider foreign tax credit:  |       |       |       |
| 1.   | Foreign tax credit (Form 1116, Foreign Tax Credit).   | _____ | _____ | _____ |
| 2.   | Consider foreign tax credit reduction if claiming Sec. 911 exclusion(s).  | _____ | _____ | _____ |
| 300. | <b>OTHER REQUIREMENTS</b>   |       |       |       |
| 301. | Determine if Form TDF 90-22.1, Report of Foreign Bank and Financial Accounts, is needed to report foreign financial accounts (\$10,000 <i>de minimis</i> rule).   | _____ | _____ | _____ |
| 302. | For gifts received by a U.S. person from foreign donors under Sec. 6039F, consider requirement to file information return (Forms 3520, Annual Return to Report Transactions with Foreign Trusts and Receipt of Certain Foreign Gifts, and 3520-A, Annual Information Return of Foreign Trusts with a U.S. Owner). | _____ | _____ | _____ |

**Exhibit 3: Form 1040NR foreign national checklist 2007 — Continued**

303. Do family members need individual taxpayer identification numbers (ITINs)? (Form W-7, Application for IRS Individual Taxpayer Identification Number) \_\_\_\_\_
304. Did the taxpayer(s) bring a household employee or nanny with them into the U.S.?  
1. Was proper visa and employment paperwork obtained? \_\_\_\_\_  
2. Apply for a Social Security number. \_\_\_\_\_
305. Has filing requirement for Form 5471, Information Return of U.S. Persons with Respect to Certain Foreign Corporations, been considered?  
1. Officer or director of foreign company. \_\_\_\_\_  
2. Shareholder of controlled foreign corporation, directly or indirectly. \_\_\_\_\_
306. Other filings to consider:  
1. Form 926, Return by a U.S. Transferor of Property to a Foreign Corporation \_\_\_\_\_  
2. Form 8621, Return by a Shareholder of a Passive Foreign Investment Company or Qualified Electing Fund \_\_\_\_\_  
3. Form 8840, Closer Connection Exception Statement for Aliens \_\_\_\_\_  
4. Form 8858, Information Return of U.S. Persons with Respect to Foreign Disregarded Entities \_\_\_\_\_  
5. Form 8865, Return of U.S. Persons with Respect to Certain Foreign Partnerships \_\_\_\_\_
307. Registered retirement savings plan (RSP)/deferred compensation plan, general income (Form 8891, U.S. Information Return for Beneficiaries of Certain Canadian Registered Retirement Plans).  
1. Deferred taxation for federal purposes, not state. \_\_\_\_\_  
2. Potential treaty utilization. \_\_\_\_\_  
3. Consider state conformity. \_\_\_\_\_
400. OFFSHORE NONRESIDENT TAX IMPLICATIONS
401. Any U.S.-based income-generating property (rent, royalty, dividends, Social Security, retirement, IRA, pension)?  
See treaty for exceptions. \_\_\_\_\_
402. Filing of Form W-8BEN, Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding. \_\_\_\_\_
403. Filing Form W-7. \_\_\_\_\_
500. OTHER CONSIDERATIONS
501. Consider state filing options.  
1. Consider treaty applicability for state purposes. \_\_\_\_\_  
2. Residency status in state may not coincide with status for federal purposes. \_\_\_\_\_
502. Review federal position for state applicability. \_\_\_\_\_

**Exhibit 3: Form 1040NR foreign national checklist 2007 — Continued**

503. Consider application of foreign community property rules. \_\_\_\_\_
504. Consider application of state registered domestic partners rules. \_\_\_\_\_
600. EXPATRIATION OR TERMINATION OF RESIDENCY
601. Resident of the U.S. for 8 of the last 15 years? (Form 8854, Initial and Annual Expatriation Information Statement) \_\_\_\_\_
602. Lawful permanent resident (green card), Sec. 7701(b)(6). \_\_\_\_\_
603. Departing Aliens and the Sailing Permit (foreign citizens, regardless of their resident status). \_\_\_\_\_
1. The permit is obtained by filing Form 2063 (U.S. Departing Alien Income Tax Statement) before leaving the U.S., \_\_\_\_\_  
OR \_\_\_\_\_
2. Form 1040-C, U.S. Departing Alien Income Tax Return, is required for departing aliens who do not qualify to file Form 2063 before leaving the U.S. \_\_\_\_\_
3. Potential exemption from obtaining sailing permits, including diplomats, alien students, industrial trainees, exchange visitors, and others who generally have no income subject to U.S. tax. \_\_\_\_\_
700. ESTATE AND GIFT IMPLICATIONS
- Secs. 2001(a), 2031, 2501(a), and 2503(a)
701. Were any gifts made in excess of \$12,000? \_\_\_\_\_
702. Were there any transfers between spouses? \_\_\_\_\_
703. Does gift tax treaty apply? \_\_\_\_\_
704. Does foreign estate tax credit apply? \_\_\_\_\_
705. Consider location and type of assets within estate. \_\_\_\_\_
706. Does death tax treaty apply? \_\_\_\_\_
800. FOREIGN TRUSTS
- Regarding reporting related to foreign trusts (Sec. 6048), determine if U.S. person (Forms 3520 and 3520-A):
801. Created a foreign trust. \_\_\_\_\_
802. Transferred property to a foreign trust. \_\_\_\_\_
803. Received distributions, directly or indirectly, from a foreign trust. \_\_\_\_\_
804. Received loans, unless with arm's-length terms, from a foreign trust. \_\_\_\_\_
805. Is a beneficiary of a foreign trust. \_\_\_\_\_
806. Transferred property to a foreign grantor of the trust. \_\_\_\_\_