

If you are a resident of the United States because you meet both the substantial presence test for the taxable year and have a green card during the taxable year, your residency termination date will be the later of the date you surrender your green card or the last day you are physically present in the United States, provided you can establish one of the exceptions above. See Pub 519 (U.S. Tax Guide for Aliens) and the instructions to Form 8840 (Closer Connection Exception Statement for Aliens) for additional information.

If you are a nonresident alien as of the last day of the year and a resident alien for a portion of the year, you should file a Form 1040NR even if you have no U.S. source income and attach a copy of Form 1040 that reflects your income for the period of the year that you were a resident alien.

What if I am a Long-Term Resident When I Surrender My Green Card

If you are a long-term resident of the United States, defined as an individual who is a U.S. lawful permanent resident in at least 8 of the prior 15 taxable years prior to the termination of permanent resident status, there are special rules to comply with. Your residency termination date will not occur until you file a completed Form 8854 with the IRS and notify the Department of Homeland Security of your termination of residency, notwithstanding that for the remainder of the taxable year your tax home is in a foreign country or you have a closer connection to a foreign country. Until you file Form 8854 with the IRS **and** notify the Department of Homeland Security of your termination of residency, your termination of your permanent resident status for immigration purposes will not relieve you of your obligation to file U.S. tax returns and report your worldwide income as a resident of the United States. For purposes of U.S. tax rules, the date of your termination of residency will be the later of the date you notify the Department of Homeland Security or the date Form 8854 is filed with the IRS in accordance with the instructions for the form.

How Do I Give Notice To The Department Of Homeland Security That I Terminated My Residency Status?

You will be considered to have given notice of a termination of residency to the Secretary of Homeland Security as of the date that you complete Form I-407 (Abandonment of Lawful Permanent Resident Status) before a diplomatic or consular officer of the United States or at a Port of Entry of the United States before a U.S. immigration official.

What If I Have Had My Green Card For Less Than 8 Years Out Of The Last 15 Taxable Years At The Time I Revoke or Abandon My Green Card?

You do not need to file a Form 8854 for any reason.

If I Am a Long-Term Resident, Must I File Form 8854 For The Next 10 Years After I Surrender My Green Card?

You must file a Form 8854 for each of the 10 tax years after the date of your abandonment of your long-term resident status only if:

- (a) your average annual net income tax liability for the 5 years ending before the date of your termination of residency is more than a set amount (\$124,000 for 2004, \$127,000 for 2005, \$131,000 for 2006),
- (b) your net worth is \$2 million or more on the date of your termination of residency, or
- (c) you fail to certify on Form 8854 that you have complied with all of your U.S. federal tax obligations for the 5 years preceding the date of your termination of residency.

Failure to file a required Form 8854 in any of the 10 tax years after the date of your termination of residency may result in a \$10,000 penalty for each year that the form is required but not filed.

Where Do I Get Form 8854?

The form is accessible on the internet at:

<http://www.irs.gov/formspubs/index.html>.

Taxation Under Section 877. If you are subject to section 877, you will be subject to an alternative tax regime with respect to your U.S. source gross income. For this limited purpose, special source and taxation rules apply; you should consider consulting a tax advisor as to the specific consequences. You generally will not be able to claim the benefits of an income tax treaty to reduce or exempt your income from U.S. taxation because the United States reserves the right to tax former citizens and long term residents according to U.S. law in almost all of its treaties. If you are subject to section 877 and you spend more than 30 days during any calendar year in the United States within the ten years following your termination of residency, you may be treated as a resident of the United States for tax purposes for that entire calendar year.