

Taxpayer Name:
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FBAR Citizenship Lead Sheet

Tax Period	Per Return	Per Exam	Adjustment	Reference
12/31/2006		U.S. Person	U.S. Person	401-1.1, 401-3.2
12/31/2007		U.S. Person	U.S. Person	401-1.1, 401-3.2
12/31/2008		U.S. Person	U.S. Person	401-1.1, 401-3.2

Conclusion: *(Reflects the final determination on the issue.)*

The Taxpayer is a United States (US) Person as defined in Title 31 CFR § 1010.350, Title 31 C.F.R. § 1010.100 (iii), and Title 26 U.S.C. § 7701(b) for FBAR filing requirement purposes and verified by IRS Sources of IDRS Command Code DDBKD showing Citizenship Code B-Legal Alien-Authorized to Work during the calendar years 2006, 2007, and 2008.

The prior regulations (31 CFR 103.24) stated that a person subject to the jurisdiction of the United States (except a foreign subsidiary of a U.S. person) must file an FBAR to report foreign financial accounts. The instructions for the July 2000 revision of the FBAR defined a U.S. Person as a citizen of the United States, a resident of the United States, a domestic partnership, a domestic corporation, and a domestic estate or trust. Recall that IRS Notice 2009-51 instructed potential FBAR filers to disregard the expanded definition of U.S. Person contained in the October 2008 FBAR instructions.

The prior regulations did not specifically define who was a resident of the United States for FBAR reporting purposes.

The new FBAR regulations (31 CFR 1010.350(b)) specifically defines a United States Person to be a citizen of the United States or an individual who is a resident alien. For FBAR purposes, to determine whether a person is a resident alien, use the tests described in Internal Revenue Code section 7701(b) and the related regulations (the lawful permanent resident test and the substantial presence test), but use the Title 31 definition of the United States found in 31 CFR 1010.100(hhh).

This new definition of **U.S. Person** for FBAR purposes is not all that different than the prior definition of a U.S. Person. The most significant change is that the regulation clarifies that the Title 26 residency tests determine whether a resident is a U.S. person for FBAR reporting purposes.

Therefore, **Residency Status for FBAR reporting purposes is determined using only the Title 26 the Lawful Permanent Resident Test (i.e., Green Card" test) and the Substantial Presence Test.** With the linking of Title 26 residency tests to the Title 31 definition of U.S. Person, you must be careful not to use any other Title 26 definitions. For example, do not use the Title 26 definition of a U.S. person found in IRC section 7701(a)(30) or the Title 26 definition of a foreign estate or trust found in IRC section 7701(a)(31) to determine whether a person is a U.S. Person for FBAR purposes.

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The following techniques are not intended to be all-inclusive nor are they mandatory steps to be followed. Judgment should be used in selecting the techniques that apply to each taxpayer

The Goal --To establish the Taxpayer as a U.S. Person-- Defined in Title 31 CFR § 1010.350 and Subject to an FBAR filing requirement for Specific Calendar Years.

RA needs to secure the Proof Necessary that the TP is either a U.S. Citizen or U.S. Resident Alien

Audit Steps: <i>(Document audit steps taken or to be taken.)</i>	Workpaper Reference
1. Get a Copy of United States (U.S.) Passport with photo and Passport Number <i>(If Applicable and Available)</i> for the Relevant FBAR Years	
2. Get a Statement by the Taxpayer that shows he is a U.S. Citizen , either an admission of citizenship , or a statement about the location of the person's birth, is acceptable for the Relevant FBAR Years.	
3. Print IDRS Command Code DDBKD (Requested by Counsel) which has the indicator (Code "A") that means the person is a U.S. Citizen for the Relevant FBAR Years. (See Instructions on How to Do Command Code DDBKD at 401-2.1) The Citizenship Codes on DDBKD and MFTRAU are Defined as Follows: A —United States (US) Citizen B —Legal Alien—Authorized to Work C —Legal Alien—Not Authorized to Work D —Other Alien E —Alien Student—Restricted Work Authorized F —Conditionally Legalized Alien—Status Not Known	See 401-2.1 For Instructions Example at 401-2.3
4. Print IDRS Command Code MFTRAU to request a Social Security Administration transcript called NUMIDENT on an individual which has the indicator (Code "A") that means the person is a U.S. Citizen for the Relevant FBAR Years. (See Instructions on How to Do Command Code MFTRAU at 401-2.2)	See 401-2.2 For Instructions Example at 401-2.4 & 401-2.5
5. Get a Statement by the Taxpayer that he was a U.S. Resident Alien during the Relevant FBAR Years.	N/A
6. Get Other Records that shows the TP has U.S. Resident Alien Status like addresses on a drivers license, IDRS addresses, voting registration records, and statements by other witnesses, such as return preparer, or family members, about their knowledge of where the person lived during the Relevant FBAR Years.	N/A

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<p>7. Determine if the Taxpayer has Resident Alien Status which is determined in IRC Section 7701 by Meeting any 1 of 3 Tests:</p> <p>i) IRC 7701(b)(1)(A)(i)-Lawfully Admitted For Permanent Residence-"Green Card" Test.</p> <p>ii) IRC 7701(b)(1)(A)(ii)-Substantial Presence Test</p> <p>iii) IRC 7701(b)(1)(A)(iii)-First Year Election</p> <p>IRC Section 7701(b)(3) Defines the Substantial Presence Test and that an individual meets this test if the individual is <u>present in the United States for at least 31 days during the current year and at least 183 days for the three-year period ending on the last day of the current year using a weighted average</u></p>	<p>N/A</p>
<p>8. Determine days for which an alien is an exempted individual for the substantial presence test. See IRC §§7701(b)(3)(D)(ii), 7701(b)(7), and definitions in regulations §301.7701(b)-3(b).</p>	<p>N/A</p>
<p>9. To possibly confirm that the taxpayer has U.S. Resident Alien Status (Not Necessary if the previous audit steps show the TP is a US Person) the RA can request on any Case to Send Form 13931 via secure e-mail message attachment to "*SBSE International TECS Coordinator" to get the taxpayer's TECS (Treasury Enforcement Communication System) The Historical Travel Information per the Requirements and Instructions can be found at SB/SE TECS Historical Travel Information Website and Guidance at IRM 5.1.18.14.7 & the Attached Workpapers 401-3.1 and 401-3.2.</p> <p>TECS historical travel information will do the following:</p> <ol style="list-style-type: none"> 1. Learn possible address information to attempt taxpayer contact or identify assets 2. Determine a taxpayer's status regarding his/her contention regarding his/her US residency or non-residency 3. Confirm the validity of information on the taxpayer's returns or collection information statement . 	<p>N/A</p> <p>See 401-3.1 & 401-3.2 For Instructions</p>
<p>(b) (7)(E)</p>	

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10. Request from Taxpayer if they filled out Form 1078 (Certificate of Alien Claiming Residency in the United States, or Form W-9 (Request for Taxpayer Identification Number and Certification.))	N/A
11.	
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21.	

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Facts: *(Document the relevant facts.)*

Law: *(Tax Law, Regulations, court cases, and other authorities. If Unagreed, add Argument)*

Title 31 CFR § 1010.350, Title 31 C.F.R. § 1010.100 (iii), and Title 26 U.S.C. § 7701(b)

31 CFR § 1010.350 - Reports of foreign financial accounts:

(Revision 2/24/2011, Effective 3/28/2011 & Formerly 31 C.F.R. § 103.24-See below)

Subtitle B. Regulations Relating to Money and Finance

Chapter X. Financial Crimes Enforcement Network, Department of the Treasury. Reports Required to Be Made

§ 1010.350 Reports of foreign financial accounts.

(a) In general. Each United States person having a financial interest in, or signature or other authority over, a bank, securities, or other financial account in a foreign country shall report such relationship to the Commissioner of Internal Revenue for each year in which such relationship exists and shall provide such information as shall be specified in a reporting form prescribed under [31 U.S.C. 5314](#) to be filed by such persons. The form prescribed under [section 5314](#) is the Report of Foreign Bank and Financial Accounts (TD-F 90-22.1), or any successor form. See paragraphs (g)(1) and (g)(2) of this section for a special rule for persons with a financial interest in 25 or more accounts, or signature or other authority over 25 or more accounts.

(b) **United States person.** For purposes of this section, the term “United States person” means--

(1) A citizen of the United States;

(2) A resident of the United States. A resident of the United States is an individual who is a resident alien under [26 U.S.C. 7701\(b\)](#) and the regulations thereunder but using the definition of “United States” provided in [31 CFR 1010.100\(hhh\)](#) rather than the definition of “United States” in [26 CFR 301.7701\(b\)-1\(c\)\(2\)\(ii\)](#); and

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(3) An entity, including but not limited to, a corporation, partnership, trust, or limited liability company created, organized, or formed under the laws of the United States, any State, the District of Columbia, the Territories and Insular Possessions of the United States, or the Indian Tribes.

LAW:

Title 31 C.F.R. § 1010.100

Subtitle B. Regulations Relating to Money and Finance

Chapter X. Financial Crimes Enforcement Network, Department of the Treasury

General Provisions

General Definitions

§ 1010.100 General definitions.

(hhh) United States. The States of the United States, the District of Columbia, the Indian lands (as that term is defined in the Indian Gaming Regulatory Act), and the Territories and Insular Possessions of the United States.

(iii) U.S. person.

(1) A United States citizen; or

(2) A person other than an individual (such as a corporation, partnership or trust), that is established or organized under the laws of a State or the United States. Non-U.S. person means a person that is not a U.S. person.

LAW:

Title 26 U.S.C.A. § 7701

SECTION 7701. DEFINITIONS.

7701(b)(1) IN GENERAL. —For purposes of this title (other than subtitle B) —

7701(b)(1)(A) RESIDENT ALIEN. —An alien individual shall be treated as a resident of the United States with respect to any calendar year if (and only if) such individual meets the requirements of clause (i), (ii), or (iii):

7701(b)(1)(A)(i) LAWFULLY ADMITTED FOR PERMANENT RESIDENCE. —Such individual is a lawful permanent resident of the United States at any time during such calendar year.

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7701(b)(1)(A)(ii) SUBSTANTIAL PRESENCE TEST. —Such individual meets the substantial presence test of paragraph (3).

7701(b)(1)(A)(iii) FIRST YEAR ELECTION. —Such individual makes the election provided in paragraph (4).

7701(b)(1)(B) NONRESIDENT ALIEN. —An individual is a nonresident alien if such individual is neither a citizen of the United States nor a resident of the United States (within the meaning of subparagraph (A)).

LAW:

Title 26 U.S.C.A. § 7701

SECTION 7701. DEFINITIONS.

7701(b)(3) SUBSTANTIAL PRESENCE TEST. —

7701(b)(3)(A) IN GENERAL. —Except as otherwise provided in this paragraph, an individual meets the substantial presence test of this paragraph with respect to any calendar year (hereinafter in this subsection referred to as the “current year”) if —

7701(b)(3)(A)(i) such individual was present in the United States on at least 31 days during the calendar year, and

7701(b)(3)(A)(ii) the sum of the number of days on which such individual was present in the United States during the current year and the 2 preceding calendar years (when multiplied by the applicable multiplier determined under the following table) equals or exceeds 183 days:

In the case of days in:	The applicable multiplier is:
Current year	1
1st preceding year	$\frac{1}{3}$
2nd preceding year	$\frac{1}{6}$

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LAW:

Title 26 U.S.C.A. § 7701

SECTION 7701. DEFINITIONS.

7701(b)(3) SUBSTANTIAL PRESENCE TEST. —

7701(b)(3)(B) EXCEPTION WHERE INDIVIDUAL IS PRESENT IN THE UNITED STATES DURING LESS THAN ONE-HALF OF CURRENT YEAR AND CLOSER CONNECTION TO FOREIGN COUNTRY IS ESTABLISHED. —An individual shall not be treated as meeting the substantial presence test of this paragraph with respect to any current year if —

7701(b)(3)(B)(i) such individual is present in the United States on fewer than 183 days during the current year, and

7701(b)(3)(B)(ii) it is established that for the current year such individual has a tax home (as defined in section 911(d)(3) without regard to the second sentence thereof) in a foreign country and has a closer connection to such foreign country than to the United States.

7701(b)(3)(C) SUBPARAGRAPH (B) NOT TO APPLY IN CERTAIN CASES. —Subparagraph (B) shall not apply to any individual with respect to any current year if at any time during such year —

7701(b)(3)(C)(i) such individual had an application for adjustment of status pending, or

7701(b)(3)(C)(ii) such individual took other steps to apply for status as a lawful permanent resident of the United States.

7701(b)(3)(D) EXCEPTION FOR EXEMPT INDIVIDUALS OR FOR CERTAIN MEDICAL CONDITIONS. —An individual shall not be treated as being present in the United States on any day if —

7701(b)(3)(D)(i) such individual is an exempt individual for such day, or

7701(b)(3)(D)(ii) such individual was unable to leave the United States on such day because of a medical condition which arose while such individual was present in the United States.

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Specific citations:

Substantial Presence Test

An individual is considered to be a resident of the United States if the individual meets **any one of three tests**: lawful admission to the United States (i.e., “**green card**” test); “**substantial presence**” in the United States, or: a **first year election** to be treated as a resident. IRC §7701(b)(1)(A). An individual becomes a lawful permanent resident of the United States in accordance with the immigration laws. Once permanent residence is obtained, an individual remains a lawful permanent resident until the status is revoked or abandoned.

The heart of IRC §7701(b) is the “substantial presence” test. An individual meets this test if the individual is present in the United States for at least 31 days during the current year and at least 183 days for the three-year period ending on the last day of the current year using a weighted average. IRC §7701(b)(3).

The weighted average works as follows: days present in the current year are multiplied by 1; days in the immediate preceding year are multiplied by 1/3; days in the next preceding year are multiplied by 1/6. For example, suppose an individual is present in the United States for 120 days in the current year and in each of the two preceding years. The individual does not satisfy the substantial presence test because the weighted average is only 180 days $((120 \times 1) + (120 \times 1/3) + (120 \times 1/6))$. **If the individual were present in the United States 122 days each year, the individual would exactly meet the 183 day weighted average** $((122 \times 1) + (122 \times 1/3) + (122 \times 1/6))$ and would be considered a U.S. resident.

An individual is present in the United States on any day the individual is physically present at any time during the day (except for commuters from Mexico and Canada). IRC § 7701(b)(7). For purposes of the residency test, individuals do not count days where the individual was unable to leave the United States because of a **medical condition** or days where the individual is a foreign government employee, a teacher, a student, or a professional athlete. IRC § 7701(b)(3)(D).

Even if an alien satisfies the substantial presence test, the **alien is not a resident if the individual is present in the United States on fewer than 183 days during the current year** and has a tax home in a foreign country to which the individual has a closer connection than to the United States. IRC § 7701(b)(3)(B). For this purpose, a tax home is considered to be located at a taxpayer’s regular or principal place of business or if the taxpayer has no regular or principal place of business at his regular place of abode. IRC §911(d)(3); Reg. § 1.911-2(b).

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Specific citations:

CCH-EXP, 2011FED ¶43,125A.01,

Resident and Nonresident Aliens: Synopsis - resident and nonresident aliens

Code Sec. 7701(b) and Reg. §301.7701(b)-1 through Reg. §301.7701(b)-9 set forth the standards used in determining the resident status of aliens for federal income, but not estate or gift, tax purposes.

An alien is a U.S. resident for federal income tax purposes if the individual either:

- (1) is a lawful permanent resident of the U.S. at any time during the year (Reg. §301.7701(b)-1(b)); or
- (2) meets a “substantial presence” test (Reg. §301.7701(b)-1(c)).

An alien who fails to satisfy either of these standards is treated as a nonresident alien for federal tax purposes. The definitions of resident and nonresident aliens are not intended to affect the determination of whether a trust or estate is a U.S. or foreign trust or estate under Code Sec. 7701(a)(30) and Code Sec. 7701(a)(31). Further, the rules are not intended to override any U.S. treaty obligation, even though they will govern determination of residency for U.S. tax purposes (Reg. §301.7701(b)-1(a)).

See also ¶43,125A.50 and ¶43,125A.71.

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Specific citations:

CCH-EXP, 2011FED ¶43,125A.025,

Resident and Nonresident Aliens: Substantial presence test

An alien who is physically present in the United States for at least 31 days during the calendar year and a total of 183 days during the last three years meets the substantial presence test. For purposes of the 183-day requirement, each day present in the U.S. during the current calendar year counts as a full day, each day in the first preceding year as one-third of a day, and each day in the second preceding year as one-sixth of a day (Code Sec. 7701(b)(3)(A) and Reg. §301.7701(b)-1(c)(1)).

Days excluded under substantial presence test. Any day is excluded as a day of presence for purposes of the substantial presence test if the alien individual is physically present in the United States on that day and is an individual who is:

- (1) exempt,
- (2) physically unable to leave the United States because of a medical condition,
- (3) in transit between two points outside the United States, or
- (4) a commuter (Reg. §301.7701(b)-3(a)).

Exempt individuals. For purposes of calculating days of presence, exempt individuals who may exclude days that they are present in the United States include certain foreign-government individuals (including full-time employees of an international organization), teachers or trainees, students and professional athletes (Code Sec. 7701(b)(5)(A) and Reg. §301.7701(b)-3(b)).

Teachers, trainees and students must substantially comply with relevant visa requirements to qualify as exempt. An individual is considered to have substantially complied with the visa requirements if he or she has not engaged in any activity prohibited by the Immigration and Nationality Act. That an individual's visa has not been revoked is irrelevant in determining substantial compliance (Reg. §301.7701(b)-3(b)(6)). Also, the ability to exclude days during which the alien is present as a teacher, a trainee or a student is subject to special length-of-stay limitations under Reg. §301.7701(b)-3(b)(7).

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Specific citations:

CCH-EXP, 2011FED ¶43,125A.025,

Resident and Nonresident Aliens: Substantial presence test

The immediate family of a foreign government alien or an organization-related alien, and a teacher, a trainee or a student may also qualify for exemption (Reg. §301.7701(b)-3(b)(2)).

Medical condition in transit. An individual will not be considered present on any day that the individual intends to leave but is unable to do so because of a medical condition or medical problem that arose while he or she was present in the U.S. (Reg. §301.7701(b)-3(c)(1)). Whether an individual intends to leave the U.S. on a particular day depends on the facts and circumstances (Reg. §301.7701(b)-3(c)(2)).

A preexisting condition will not be considered to arise while an individual is in the U.S. if the problem existed prior to the individual's arrival in the U.S. and the individual was aware of the condition. Whether or not the individual sought treatment for condition is irrelevant to the determination of exemption of days in the calculation of presence (Reg. §301.7701(b)-3(c)(3)).

Commuters. An individual who regularly commutes for business purposes from the U.S. to his or her residence in Canada or Mexico is not considered to be present in the U.S. on the days commuted to a place of employment and back to his or her residence within a 24-hour period (Code Sec. 7701(b)(7)(B) and Reg. §301.7701(b)-3(e)). In order to be a regular commuter, the alien must commute to the United States on more than 75 percent of the workdays in the working period.

Crew members of foreign vessels. Regular crew members of foreign vessels engaged in transportation between the U.S. and a foreign country or U.S. possession are not considered present in the U.S. for purposes of the substantial presence test on any day that they are temporarily present in the U.S., unless they otherwise engage in trade or business on that day (Code Sec. 7701(b)(7)(D)).

Procedural rules. Procedures are provided under which an individual may establish that he or she is qualified to exclude days of presence for purposes of the substantial presence test (Reg. §301.7701(b)-8). For a discussion of these rules, see ¶43,125A.075.

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ARGUMENT:

The definition of who is required to file an FBAR contains important terms that we will need to define. The important terms are: what or who is a person; what is the United States; what or who is a U.S. Person; what is a financial interest; what is signature or other authority; what is a foreign financial account; and what is the aggregate balance. We will now define each of these terms.

When evaluating whether a person has an FBAR filing requirement, take care to use the definitions that were in effect for the calendar year for which the person files the FBAR. Generally, persons who file FBARs for calendar years 2009 and earlier use the prior definitions of these terms, while persons who file FBARs for calendar years 2010 and later use the definitions in the new Treasury regulations. If there is any doubt regarding whether a particular set of definitions apply to a specific person or a specific calendar year, please consult Counsel.

The FBAR Treasury Regulations contain the definitions of the key FBAR terms. Treasury Regulation 31 CFR 1010.100 contains general definitions that are applicable to the Bank Secrecy Act.

For FBAR due for calendar years prior to 2010, see 31 CFR 103.24 and the instructions for the FBAR. Since 103.24 is only one paragraph long, the best place to seek FBAR-related definitions for calendar years prior to 2010 is the instructions to the FBAR.

For FBARs due for calendar years 2010 and later, the new regulations at 31 CFR 1010.350 contains specific FBAR definitions. These new definitions also appear in the FBAR instructions for the FBAR revisions dated March 2011 and January 2012.

The revised Treasury Regulations did not change the basic definition of a person, so this definition is valid for FBARs due for all calendar years.

The term person includes an individual, a partnership, a corporation, an estate or trust, an unincorporated association, and any other entity recognized as a legal person. See 31 C.F.R. section 1010.100(mm).

For Title 31 purposes, the term "United States" means the States of the United States, the District of Columbia, the Indian lands (as that term is defined in the Indian Gaming Regulatory Act), and the territories and insular possessions of the United States. This definition is valid for FBARs filed for all calendar years.

For Title 26 purposes (income tax), the United States is defined to be the states and the District of Columbia (and certain other geographic locations that are not important for our purposes). Be careful not to confuse the income tax definition of the United States with the Title 31 definition of the United States.

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ARGUMENT:

The prior regulations (31 CFR 103.24) stated that a person subject to the jurisdiction of the United States (except a foreign subsidiary of a U.S. person) must file an FBAR to report foreign financial accounts. The instructions for the July 2000 revision of the FBAR defined a U.S. Person as a citizen of the United States, a resident of the United States, a domestic partnership, a domestic corporation, and a domestic estate or trust. Recall that IRS Notice 2009-51 instructed potential FBAR filers to disregard the expanded definition of U.S. Person contained in the October 2008 FBAR instructions.

The prior regulations did not specifically define who was a resident of the United States for FBAR reporting purposes.

The new FBAR regulations (31 CFR 1010.350(b)) specifically defines a United States Person to be a citizen of the United States or an individual who is a resident alien. For FBAR purposes, to determine whether a person is a resident alien, use the tests described in Internal Revenue Code section 7701(b) and the related regulations (the lawful permanent resident test and the substantial presence test) , but use the Title 31 definition of the United States found in 31 CFR 1010.100(hhh).

This new definition of U.S. Person for FBAR purposes is not all that different than the prior definition of a U.S. Person. The most significant change is that the regulation clarifies that the Title 26 residency tests determine whether a resident is a U.S. person for FBAR reporting purposes.

Of course, using the a Title 26 residency test leads to questions regarding the effect of certain Title 26 elections on residency determinations. Fortunately the public raised these exact questions during the rule-making process and the Financial Crimes Enforcement Network (FinCEN) addressed these issues in the new regulations.

The notice of the final rules amending the Bank Secrecy Act regulations contains clarifications regarding the definition of U.S. Person. Although these clarifications are not part of the actual regulations, FinCEN stated that the following Internal Revenue Code elections do not affect the determination of whether a person is a U.S. Person for FBAR purposes: an election under a tax treaty to be treated as a non-resident for tax purposes, elections under IRC sections 6013(g) and (h) (elections related to non-resident alien spouses of citizens or residents of the United States), and an election under IRC section 897(i) (a foreign corporation that owns a U.S. real property interests elects to be treated as a domestic corporation).

See Section 3 of 76 FR 10234 at page 10238 for FinCEN's comments regarding these elections.

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Therefore, residency status for FBAR reporting purposes is determined using only the Title 26 the lawful permanent resident test and the substantial presence test.

With the linking of Title 26 residency tests to the Title 31 definition of U.S. Person, you must be careful not to use any other Title 26 definitions. For example, do not use the Title 26 definition of a U.S. person found in IRC section 7701(a)(30) or the Title 26 definition of a foreign estate or trust found in IRC section 7701(a)(31) to determine whether a person is a U.S. Person for FBAR purposes.

It is possible that a person is required to file an FBAR to report a foreign financial account and not be subject to U.S. taxes.

It is equally possible for a person to subject to U.S. taxes and not be required to file an FBAR to report a foreign financial account.

Now we will go over two examples to show that a person could have different FBAR and income tax filing requirements.

Example 1: A resident of Puerto Rico who pays taxes only to Puerto Rico (and is not subject to United States income taxes) is required to file an FBAR to disclose foreign financial accounts. Title 26 applies to United States income taxes, and many residents of Puerto Rico only pay taxes to Puerto Rico and not to the United States. Under Title 31, Puerto Rico is considered to be part of the United States, so a resident of Puerto Rico has a requirement to file and FBAR to report foreign financial accounts.

Example 2: A corporation created under the laws of the United Kingdom is subject to U.S. income taxes on income effectively-connected with a United States trade or business, but the corporation is not required to file an FBAR to disclose foreign financial accounts. In this example, the foreign corporation does not have a physical location inside the United States, so it does not have an FBAR filing requirement, even though the foreign corporation has to pay United States income taxes on income earned from sources within the United States.

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The Taxpayer is a United States (US) Person as defined in Title 31 CFR § 1010.350, Title 31 C.F.R. § 1010.100 (iii), and Title 26 U.S.C. § 7701(b) for FBAR filing requirement purposes and verified by IRS Sources of IDRS Command Code DDBKD showing Citizenship Code B-Legal Alien-Authorized to Work during the calendar years 2006, 2007, and 2008.

Taxpayer Position: *(If applicable)*

Taxpayers agree with this position to date.