

# GROWING YOUR BUSINESS THROUGH THE FOREIGN NATIONAL MARKET

Guide to Foreign National Underwriting and Support



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As the global economy expands, so does the need for international estate planning. This is particularly true for Foreign Nationals (non-U.S. Citizens) with assets or investments in the United States.

## Market Overview

A different set of rules applies to these individuals under current estate tax law. These differences could result in substantial transfer taxes when Foreign Nationals either gift assets during their lifetime or dispose of assets upon their death.

### Taxation of Foreign Nationals

Foreign Nationals are taxed differently, depending on whether they are classified as either Resident Aliens (“RA”) or Non-Resident Aliens (“NRA”).

A Resident Alien is one who has established a legal domicile in the U.S.; that is, one who lives in the U.S., for even a brief period of time, with no present intention of permanently leaving the U.S.<sup>1</sup> Resident Aliens generally receive the same transfer tax treatment as U.S. citizens, including a full U.S. estate tax exemption. In other words, a Resident Alien’s worldwide assets will be subject to U.S. estate and gift tax. There is no unlimited marital estate tax deduction for transfers to a non-U.S. citizen spouse, so a surviving resident alien spouse may face planning challenges.

Aliens who have not established domicile in the U.S. are classified as Non-Resident Aliens and are subject to a special set of transfer tax rules. Generally, only a Non-Resident Alien’s assets which are considered located in the U.S. will be subject to federal estate and gift tax. Non-Resident Aliens are allowed a U.S. estate tax credit of \$13,000, which is not indexed for inflation.<sup>2</sup> This credit shields only the first \$60,000 of the estate from estate taxes.

### Taxation of U.S. Citizen Married to a Foreign National

Generally, a married couple may make unlimited gifts between spouses — during life or upon death — on a federal gift and estate tax-free basis. This tax advantage is known as the unlimited marital deduction. However, only transfers to U.S. citizen spouses will qualify for this deduction. Consequently, married couples consisting of at least one Foreign National may consider engaging in special planning if their estate is large enough to trigger estate tax liability. Any estate tax bill that may be due upon the death of the first spouse to die must be paid in cash within nine months of death. Furthermore, lifetime gifting strategies between such spouses must consider these and other limitations that apply to Foreign Nationals. These strategies are facilitated by the \$147,000 annual gift tax exemption for gifts to non-citizen spouses.

In addition, assets owned by spouses as joint tenants will not be treated as being owned 50% by each spouse. In other words, the entire value of the jointly-owned property will be included in the estate of the U.S. citizen if he/she is the first to die, unless the surviving Foreign National spouse can demonstrate that he/she contributed to the purchase price. The effects of these rules should also be addressed in such a couple’s comprehensive estate plan.

## Planning with Life Insurance

A Non-Resident Alien may individually own a life insurance policy insuring his or her own life and — unlike a U.S. citizen — the death benefit will not be subject to U.S. estate tax.<sup>3</sup> In addition, life insurance offers Non-Resident Aliens and Resident Aliens the same tax advantages available to U.S. citizens; namely, tax-deferred growth of cash values and a U.S. federal income tax-free death benefit. Because of these tax advantages, life insurance can be one of the best options for providing liquidity to pay estate taxes on U.S. based property.

<sup>1</sup> Treas. Reg. 20.0-1 (b)(1)

<sup>2</sup> IRC § 2102(b)(1)

<sup>3</sup> IRC § 2105(a); Treas. Reg. § 20.2105-1(g)

### Qualifying for Coverage

In some cases the amount of insurance coverage should be based on income replacement, since many foreign countries do not impose estate taxes. However, when a Non-Resident Alien owns U.S. based assets, estate tax liquidity may be considered to justify additional coverage.

## Eligibility

The most eligible non-resident aliens will have ties to the U.S., including, but not necessarily limited to: U.S. physician visits; frequent, regular, legal travel to the U.S.; liquid or non-liquid U.S. assets (e.g., insurance policies, property, accounts, U.S.-issued credit cards); immediate family residing legally in the U.S.; employment by, or ownership in, a U.S.-domiciled company; ownership of a U.S.-domiciled trust or other legal entity (e.g. LLC). Documentation may be required at Underwriter discretion. Foreign Nationals who do not reside in the U.S. are not eligible for special programs such as the Transamerica Opportunity Programs.

### Non-Resident Alien categories Not Eligible

- ▶ Judges, journalists, private pilots and/or crew members, politicians or government employees, public or private police personnel, missionaries or proselytizers, military personnel, trade union officials, celebrities, prominent, famous or public figures, individuals listed on the Treasury Department's Office of Foreign Assets Control (OFAC) list, individuals with "asylum" or "temporary protection" visas, or professional athletes.
- ▶ Any individual who does not have a meaningful connection to the U.S.

**Below is a list of examples in which individuals are not, or may not be, insurable:**

- ▶ Any country on the United States State Department (USSD) Travel Warnings list [http://travel.state.gov/travel/cis\\_pa\\_tw/tw/tw\\_1764.html](http://travel.state.gov/travel/cis_pa_tw/tw/tw_1764.html).
- ▶ Any country at war or in open conflict (declared or undeclared).

<sup>4</sup>Not all riders are available on all products

## Why Transamerica?

### Process Business Quickly with Dedicated Underwriting Team

Transamerica has a dedicated international underwriting team with a mission to provide the fastest service and most favorable overall risk assessment for Foreign National applicants. With over a century of combined underwriting experience, the team boasts a deep understanding of the nuances inherent in the global market. In addition, the team has the unique advantage of translation skills in several languages as well as extensive experience in the large case market.

### Experts on Advanced Marketing Team

Transamerica's Advanced Marketing department is available to provide technical guidance regarding the use and taxation of life insurance with respect to gift and estate planning strategies for foreign nationals.

### Close More Sales with Competitive Premiums

Transamerica offers competitive premiums for most products and regions of the world. Best preferred rates may be available in certain situations.

### Increase Market with Broad Product Availability

The products available to foreign national business are inclusive. With the exception of our variable life products, which are not available for sale to Non-Resident Aliens, all other U.S. Transamerica products are available<sup>4</sup>.





- ▶ Any country with increased risk due to terrorism, uprising, or political instability.
- ▶ Any country experiencing famine, endemic (e.g., Ebola), epidemic, or pandemic disease(s).
- ▶ Any country where access to at least routine medical care is limited or nonexistent.
- ▶ For potentially volatile medical risks (e.g., coronary disease, diabetes, respiratory disorders), we may decline travel to any country where access to emergency medical care is limited or nonexistent.
- ▶ We also regularly monitor Financial Action Task Force (FATF) and Anti Money-Laundering (AML) sites that may impose additional prohibitions.



## Solicitation Rules

Due to licensing requirements, and unless there is a specific program in place approved by Transamerica's underwriting department, all solicitation and communication (including marketing materials) concerning the sale of the life insurance products, including all telephone, fax, or other electronic or delivered correspondence to a foreign national must take place in the U.S. while the Proposed Insured (and/or Owner, if different) is/are legally and physically present in the U.S. Solicitation and communication includes, but is not limited to, all activity related to completing the application and the medical and exam/lab requirements, delivery of prospectuses, marketing materials or letters soliciting the purchase of insurance or securities products, meeting with clients or potential clients to discuss securities or life insurance products, and other similar prospecting activities. Transamerica requires that producers sign an acknowledgment of no foreign solicitation ("[Producer Statement](#)") with the policy application.

## Application Process and Policy Delivery

Unless there is a specific program in place approved by Transamerica's underwriting department:

1. The application must be completed and signed by the owner and insured in a state or territory of the U.S. where the agent is properly licensed and appointed.
2. The application must be accompanied by a signed [Foreign Nationals & Foreign Travel Application Supplement](#) ("Travel and Residency Questionnaire" form # MPQ161008T), a [Notice and Consent for Transfer of Health Information and/or Personal Information](#) form and a [Producer Statement](#). For trust owned policies, a [Verification of Trust Agreement](#) (US situs trust or foreign situs trust) is required. For entity owned policies, an [entity certification form](#) is required.
3. The policy must be delivered to the client in the U.S. while the Proposed Insured (and/or Owner, if different) is/are legally and physically present in the U.S. Policies may be delivered to an individual authorized with a [limited power of attorney](#) to accept delivery of the policy.

### Special Rules for Mexican Nationals

Currently, all solicitations, writing of applications, performing of exams, and obtaining of lab specimens must be completed outside of Mexico and in a jurisdiction where Transamerica is licensed to conduct business. And a U.S. Billing address is required.

Please be aware that Mexican law specifically states that anyone — including an agent, solicitor for agent, a prospect, a doctor, or a nurse — involved in the solicitation or completion of an exam or application for life insurance in Mexico on behalf of a non-licensed foreign company will be subject to a jail term of six (6) months to ten (10) years as well as stiff fines.



# Underwriting and Coverage Requirements

## Medical Exams

Generally, all medical examinations must be completed in the U.S. Any approved exception must occur prior to solicitation and would be at the sole discretion of the AVP or Associate Director of the L&P International Group.

## Translations Necessary

All medical declarations on applications must be completed in English. All medical records must be in English or translated into English. Some medical records may be translated in-house: Spanish, Portuguese, French. If translation occurred during any part of the Application or Exam process(es), and the translator **was not** the writing agent or the examiner, or if any translator is to be a party to the contract as either owner and/or beneficiary, we will require a statement from the translator. Other scenarios not specifically listed may also require similar statements.

## Restrictions on Coverage

Coverage availability is subject to change without notice.

## Retention

Based on different age groups, we have several levels of retention.\*

## Special Rules or Restrictions for Non-Resident Aliens

- ▶ Older Age (age 76+) risks require individual consideration.
- ▶ Riders — with the exception of Waiver of Premium — are not available. However, even Waiver of Premium will be assessed on an “Individual Consideration” basis, and in all cases will be available only for coverage that is within our retention.\* This includes child riders and living benefits riders.
- ▶ No aviation coverage is allowed. Aviation exclusion is available only to private pilots.

- ▶ Medical risks above Table D (or its flat extra equivalent) will be considered on international risk cases on an “Individual Consideration” basis only, and only where the medical risk(s) in question are not volatile in nature. Examples of volatile medical risks include, but are not limited to, vascular diseases, cancer, diabetes, etc. On any specific case, “volatile” will be determined at the sole discretion of International Underwriting.
- ▶ Inspection reports may be required at certain amounts, or at the Underwriter’s discretion. The Proposed Insured must be legally and physically present in the U.S. to complete an inspection report or any other requirement (e.g. cognitive screening) that involves telephone contact. Otherwise, regular New Business Underwriting Requirements apply. Transamerica follows normal age and amount guidelines in determining underwriting requirements. All pertinent underwriting data must be available, including Attending Physician Statements (APS).
- ▶ A conditional receipt cannot be issued. An agent cannot conditionally bind the application. No cash should be taken with any application.
- ▶ All policy forms and applications used should be the English version (see “Translations Necessary” section on Page 4).
- ▶ All communications and premium payments made by the insured or the policy owner must be directed from an address within the United States. Premium payments must be in U.S. currency from a U.S. account. Credit card payments must be from a U.S. issued credit card. Furthermore U.S. money orders, etc. require additional identification and scrutiny in order to comply with the USA Patriot Act and Transamerica’s Anti-Money Laundering program.

\*Retention limits are dependent on country code classifications. Please refer to the [Foreign National Underwriting Risk Classes by Country chart \(OLA 2158\)](#).

## Anti-Money Laundering Requirements and Knowing the Client

Although any client is potentially capable of engaging in illegal transactions, such as money laundering or financing terrorism, Transamerica understands that certain clients may pose a higher risk and require enhanced due diligence procedures. Transamerica may order third party inspection reports and require additional documentation.

## Tips to Expedite Foreign National Underwriting

- ▶ If the Proposed Insured is a Resident Alien and travels only to Canada, Western Europe, Hong Kong, Australia, or New Zealand, answer “no” to the application Part 1 travel question. These cases will be processed on your regularly-assigned Underwriting team, as applicable.
- ▶ Submit the application with a fully completed [Foreign Nationals & Foreign Travel Application Supplement](#) (form # MPQ161008T) whenever the applicant indicates a foreign address or answers “yes” to the application Part 1 travel question or “no” to the US citizen question.
- ▶ Encourage the proposed insured to be as specific as possible when describing his or her travel (specific country/ies and city/ies, frequency, duration) or the location of a foreign residence. Ambiguous responses, such as “South America” or “Africa” will generate a follow-up inquiry.
- ▶ Ensure that the initial travel information is complete and accurate. Specific destinations, travel frequency, duration, etc. are critical. We **will not** reconsider adverse international risk decisions (poorer risk class, rating, decline) based on after-the-fact information



## Get Started Today

Insurance planning for foreign nationals is a potentially lucrative market with exciting opportunities to expand your insurance sales and grow your business. Likewise you will be able to provide value to clients by highlighting some potential estate tax risks that they might not be aware of and that life insurance can help mitigate. Transamerica is uniquely qualified to help you become successful by providing you with the winning combination of advanced marketing expertise, dedicated underwriting and support, and competitive premiums.

that appears to be altered as a response to the adverse decision. When scenarios arise, we will not reconsider the same risk until one (1) year has expired based on the date on the application or form that contains the disputed information.

- ▶ If the applicant or proposed insured requires someone to translate during the application process, make sure translator is not a party to the contract as either owner and/or beneficiary. When the translator is not either (a) a disinterested third party, or (b) the writing agent, or (c) an authorized examiner, we will require further details of the translation(s) that occurred during any part of the application process.
- ▶ Include copies of the proposed insured's visa(s) or green card with the application. IRS form [W-8BEN](#) is required for Foreign Nationals who do not have a TIN or SSN. If the owner is a foreign trust or other foreign intermediary, we will require form [W-8IMY](#).
- ▶ For informal inquiries, the international e-mail box, [international@transamerica.com](mailto:international@transamerica.com), is the most efficient way to get preliminary quotes. You will receive an initial reply within 24 hours (one business day). In order to allow us to provide this level of service, we ask that you do not follow up on inquiries sent to this address unless you have failed to receive a reply within the stated timeframe (one business day). Informal Inquires of this nature should be as brief as possible – a few short paragraphs or bullet points. Inquiries that require longer or more complex narratives should be your indication that the risk is probably better suited

for a trial submission.

- ▶ If a formal application is submitted based on a tentative assessment from the e-mail box, include an **original** copy (original copy must include the original header, underwriter name, and date of the informal opinion) of that message with the application. While we try our best to archive informal inquiries, our space is limited and it therefore will be the **agent's** primary responsibility to provide a complete, original copy of informal opinions. We will not honor any verbal or reconstructed information. Please also remember that we quote informal inquiries based on the international scenario(s) affecting the risk at the time of the quote. Given that the conditions on which we quoted may change rapidly and without notice, we reserve the right to retract or alter the assessment on a subsequent trial or formal case based on the then-current conditions.





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