



**Global
Financial
Planning
Institute**

Double Taxation Demystified: Essentials of Tax Treaties

Presented by:

**Ashley Murphy CFP® GFP(USA) Fellow
Founder/Principal Advisor - Arete Wealth Strategists**

gfp.institute

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Style Note: GFP Institute recognizes that there are many couples who are not heterosexual and/or heteronormative; however, in this presentation, we have chosen to use heterosexual terminology throughout because the husband/wife, she/her and he/him pairings allow for discrete differentiation in explaining some of the more complicated technical concepts.

The Global Financial Planning Institute



- An organization founded in 2020 to provide education, community, tools/resources, and ongoing research for fiduciary financial advisors and affiliated professionals worldwide who work with clients whose financial lives cross borders.



Ashley Murphy, CFP® GFP (USA) Fellow

- Tri-citizen → Born in UK to Australian Dad, raised in Australia, American mother
- Financial Planning Association
 - Int'l & Cross Border Knowledge Circle Host (2017 – 2019)
- Graduate Diploma in Financial Planning - Australia (2014 - 2019)
- Adjunct-Professor at UC Berkeley Ext (2014) and Golden Gate University (2017)
- Conference speaker (FPA, XYPN, Society Financial Service Professionals)
- Executive Director, GFP Institute (2020 - present)

Matt Goren, CFP® PhD GFP (USA) Fellow

- PhD from UC Berkeley
- Adjunct Professor of Cultural Psychology at UC Berkeley (2015 - 2016)
- Adjunct Professor of Personal Finance at University of Georgia (2016 - 2018)
- Adjunct Professor of Financial Planning at The American College (2018 - 2019)
- Assistant Professor of Financial Planning at The American College (2019 - pres.)
- Director of Curriculum at the Global Financial Planning Institute (2020 - pres.)



FA FINANCIAL ADVISOR

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How to Find Planning Opportunities When Reviewing a Tax Return

Individual Income Tax Return

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AUGUST 26, 2021 • JEFF SCHLEGEL

Ashley Murphy knows something about cross-border living. He's a tri-citizen of the U.S., Australia and the U.K., and in 2013 founded Areté Wealth Strategists, a Minneapolis-based, fee-only financial planning and investment management firm serving Australian and American citizens, many of whom are expatriates. These days, he kind of splits his client base in that he and his family in January relocated to Brisbane on Australia's east coast, where they expect to remain until August of next year before returning to the U.S.

Meanwhile, technology enables him to operate two businesses that keep him anchored to the U.S.—Areté and the Global Financial Planning Institute, a platform he created last year to help financial advisors and other financial services professionals understand the nuances and potential pitfalls of working with cross-border clients.

The GFP Institute has an education component comprising a master class series of 10 weekly lessons on U.S. inbound/outbound international financial planning. Topics range from pre-immigration planning and tax treaties to retirement account transfers and international estate planning. Master class lessons include presentations from tax professionals, immigration attorneys and global insurance experts experienced in working with cross-border clients.

In this guest post, Murphy shares the main challenges that advisors must be aware of when working with international clients. Additionally, he offers resources and suggestions to help advisors hone their knowledge of the issues that their cross-border financial planning clients face.

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SEPTEMBER 2020

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Bringing Cross-Border Planning Expertise to the Advisory Profession

by Bob Veres, 6/14/21

Somehow in your client base is at least one of the 41.3 million foreign-born Americans currently living in the U.S. One or more of your clients has or will become one of the nine million Americans who have decided to take an overseas work assignment. Untold others have investment interests abroad, foreign spouses, or have worked abroad and collected pension assets, bought a house overseas, or put money in local investments.

Millions of people—many of whom are excellent financial planning prospects—may not realize that they have to Murphy, a cross-border planner who has citizenship in the U.K., the U.S. and Australia, has hosted the FPA discussion boards as “dabblers” in the topic.

“Over and over again, somebody would come on and ask very general questions,” he says. “They’d have an attractive new client who had some sort of cross-border complication to deal with, and they would jump on the message board and say, hey, could someone teach me about passive foreign investment corporations, or Canadian registered retirement savings plans (RRSPs)—or some other situation?”

He also handles the obligations for both client and advisor. He also handles the obligations for both client and advisor. He also handles the obligations for both client and advisor.

As featured in **ThinkAdvisor** THE WALL STREET JOURNAL. **FA FINANCIAL ADVISOR MAGAZINE**

GFP CONNECT 26



Date Jan 17 - 19 (MLK Long weekend)

Prospera Resort

Roatan, Honduras

Price: \$895 GFP members
\$995 non-members

Feedback from GFP CONNECT events

Overall Experience 9.8/10



A large, dark blue banner with a white diagonal stripe runs across the middle of the slide. On the left, the GFPI logo is at the top, followed by the text '26 CONNECT GFP' in large white font. Below this is a white button that says 'REGISTER NOW'. At the bottom left is a cursor icon and the website 'www.gfp.institute'. On the right, a white arrow points to the text 'Prospera January 2026'. The right side of the banner features a photograph of the Prospera Resort, showing a large building, a swimming pool, and tropical landscaping. The website 'www.gfp.institute' is also visible in the bottom right corner of the photo.

GFP CONNECT 26



March 29th

March 30th

8:00 AM TO 9:00 AM

Registration and Breakfast

9:00 AM TO 9:20 AM

General Assembly

9:20 AM TO 10:00 AM

Do's and Don'ts for Americans Abroad

10:00 AM TO 10:40 AM

Top 5 Tax Issues with Cross-Border Clients

10:40 AM TO 11:00 AM

Break

11:00 AM TO 12:00 PM

Keynote Presentation

12:00 PM TO 1:00 PM

Lunch & Presentation

1:00 PM TO 1:40 PM

Practical Considerations in Working with International and Cross-Border Clients

1:40 PM TO 2:20 PM

Sponsor Session

2:20 PM TO 2:30 PM

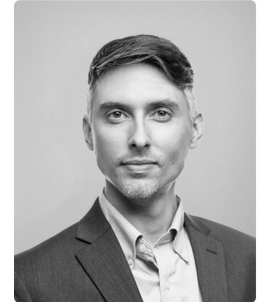
Close



Ashley Murphy
GFPI
Founder



Mel Warshaw
Independent
Tax Lawyer



Matt Goren
Farther
Vice President, Wealth Advisor



Richard Taylor
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Founder and CEO



Lauris Lamberg
Renaissance Wealth Advisors
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GFPI Membership Level Comparison

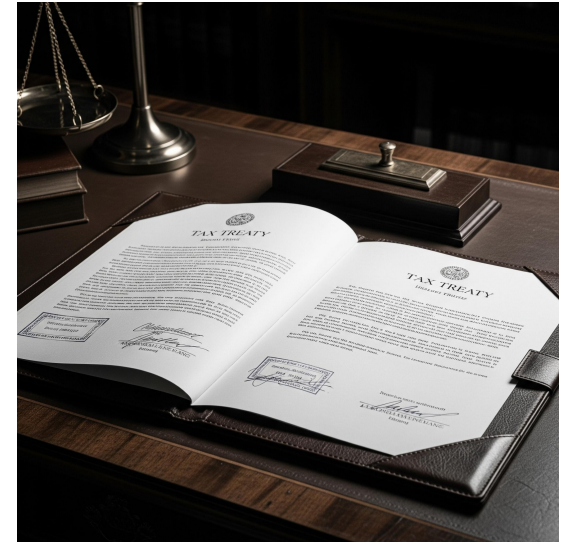


A	B	C	D	E
	<u>Benefit</u>	<u>Open Membership</u>	<u>Associate Membership</u>	<u>Full Membership</u>
<u>Annual Fee</u>		\$60	\$295	\$445 but first yr incl with Master Class Registration
<u>Community</u>				
	All Member Forum (unmoderated)	X	X	X
	Member Only Forum		X	X
<u>Marketing</u>				
	- Referrals - 'Find an Advisor' Listing			X
	- Media Enquiries			X
<u>Content</u>				
	- Introductory Presentations only (no access to slide-deck) - Blog	X	X	X
	- Intermediate and Advanced Presentations (Slide-decks) - White Papers	1 per year	X	X
<u>Events</u>				
	Discounts to Conferences/Events		X	X
<u>Practice Tools</u>				
	Institutional Foreign Exchange (25 bps)	X	X	X
	Professional Services Network - Network of international and cross-border CPAs, tax-attorneys, estate-attorneys, banking & insurance professionals.	X	X	X
	HEART Exit tax Calculator			X
<u>GFP Fellow Status</u>				
	- Entitled to use 'GFP Fellow'			X

- Membership in the GFP Institute is an investment In education, a like minded community and the the creation of a global profession

Outline

- What is a Tax Treaty and what is their purpose?
- Key Concepts of US Model Tax Treaties
- The Savings Clause
- Practical Example



What is a Tax Treaty and what is their Purpose?

Tax treaties are foundational agreements in global financial planning—designed to minimize double taxation and maximize fairness for individuals and businesses with cross-border ties. Understanding their purpose enhances your ability to optimize clients' global wealth strategies.

- A tax treaty is a formal agreement between two (or more) countries determining how each country will tax certain types of income, assets, and activities that span their borders.
- Most treaties are bilateral (country-to-country) and their provisions override domestic tax law if a conflict arises.
- Tax treaties exist to;
 - **Prevent Double Taxation:** Without a treaty, the same income might be taxed twice—once where it's earned and once where the taxpayer resides.
 - **Relieve Excessive Tax Burdens:** By coordinating tax systems, treaties provide relief (such as reduced withholding tax rates on cross-border interest, dividends, and royalties).
 - **Allocate Taxing Rights:** Establish which country has the primary right to tax specific types of income, based on residency, place of business, or location of activity.



What is a Tax Treaty and what is their purpose?



- **Mitigate Tax Evasion and Avoidance:** Include provisions for information exchange and administrative cooperation to help countries combat tax evasion.
- **Provide Dispute Resolution Mechanisms:** Offer mutual agreement procedures if double taxation or inconsistent treatment arises, increasing certainty and reducing litigation risk.
- **Encourage International Investment and Commerce:** Treaties make it easier to operate across borders by providing predictable tax outcomes and reducing tax barriers for individuals and businesses.
- **Promote Information-Sharing and Cooperation:** Treaties typically foster cooperation between countries' tax authorities, promoting compliance and transparency.
- **Establish Rules for Residency and Tie-Breakers:** They establish consistent rules for determining tax residency and resolving dual residency cases, creating certainty for the globally mobile.
- **Support Pension Portability and Social Security Coordination:** Address cross-border pension contributions, distributions, and social security benefits, vital for mobile workers and retirees.

Key Concepts of US Model Tax Treaties

A U.S. tax treaty is constructed of core provisions that define how cross-border taxation applies, ensuring greater certainty and fairness for international families and businesses. Understanding these building blocks is critical for effective global financial planning:

- Residency Rules
- Permanent Establishment (PE) Standard
- Income Sourcing and Allocation
- Reductions in Withholding Taxes
- Relief from Double Taxation (Foreign Tax Credits/Exemptions)
- Limitation on Benefits (LOB) Clauses
- Non-Discrimination Provisions
- Savings Clause and Exceptions
- Mutual Agreement and Dispute Resolution



Key Concept: Residency



- **Eligibility for Treaty Benefits Limitation on Benefits (LOB):** Only bona fide residents of one of the treaty countries can access reduced taxes, credits, or exemptions provided under the treaty. Many treaties include LOB provisions to ensure only legitimate residents—those with genuine connections—enjoy treaty privileges, preventing treaty shopping by transient or artificial entities.
- **Proper Allocation of Tax Rights:** Residency status determines which country can tax worldwide income, while the other (source) country's rights are restricted per treaty terms. This helps avoid double taxation or total non-taxation.
- **Conflict Resolution:** When a person is considered resident in both countries (dual residency), tax treaties provide "tie-breaker" rules—such as permanent home, center of vital interests, habitual abode, or nationality—to settle which country has primary taxing rights.

Example: An individual who is a resident in both the U.S. and Australia can use the treaty's tiebreaker rules to determine which country's tax regime applies.

The Tie-Breaker Rules (for Individuals):



- **Permanent Home:** Residency first goes to the country where you have a permanent home available.
- **Center of Vital Interests:** If you have a permanent home in both countries, residency is granted to the country where your personal and economic relations are closer ("center of vital interests").
- **Habitual Abode:** If your center of vital interests cannot be determined, residency shifts to the country where you habitually reside.
- **Nationality:** Still tied? The country of your nationality (citizenship) takes precedence.
- **Competent Authority:** If the above fail, tax authorities from both countries must settle the case by mutual agreement.

Corporations and Entities: For companies, tie-breakers focus on place of effective management, incorporation, or may require direct negotiation per the relevant treaty.

Key Concepts Cont'd:



Permanent Establishment (PE) Standard

- Business profits are only taxable in a country if the business has a substantial presence (“permanent establishment”) there—like a branch, office, or factory.

Example: A U.S. corporation selling into Canada remotely is not taxed by Canada unless it establishes a Canadian office.

Income Sourcing and Allocation

- Dictates where various types of income (interest, dividends, royalties, personal services, capital gains) are considered “sourced.”

Example: Royalty income is typically sourced to the location where the intellectual property is used; interest income is sourced to the payor’s country.

Key Concepts Cont'd:



Reductions in Withholding Taxes

- Caps withholding tax rates countries can impose on cross-border payments such as dividends, interest, and royalties.

Example: Under the U.S.-U.K. treaty, the withholding tax rate on qualifying dividends can be reduced from the statutory 30% to 5% or 15% depending on ownership levels.

Relief from Double Taxation (Foreign Tax Credits/Exemptions)

- Allows taxpayers to claim a foreign tax credit or exemption, reducing or eliminating double taxation on the same income.

Example: If a U.S. citizen pays tax on investment income to Germany, the U.S. provides a credit to offset U.S. taxes owed on that same income.

Key Concepts Cont'd:



Non-Discrimination Provisions

- Prohibit one country from imposing more burdensome taxes on residents or nationals of the other country.

Example: An American business operating in France cannot face higher French taxes than a French business would in comparable circumstances.

Key Concepts Cont'd:

Mutual Agreement and Dispute Resolution

- Mechanisms for tax authorities to communicate and resolve interpretation issues or taxpayer disputes.

Example: If double taxation still occurs, taxpayers can seek assistance from the competent authorities of either country to resolve the conflict.



The Saving Clause in U.S. Tax Treaties



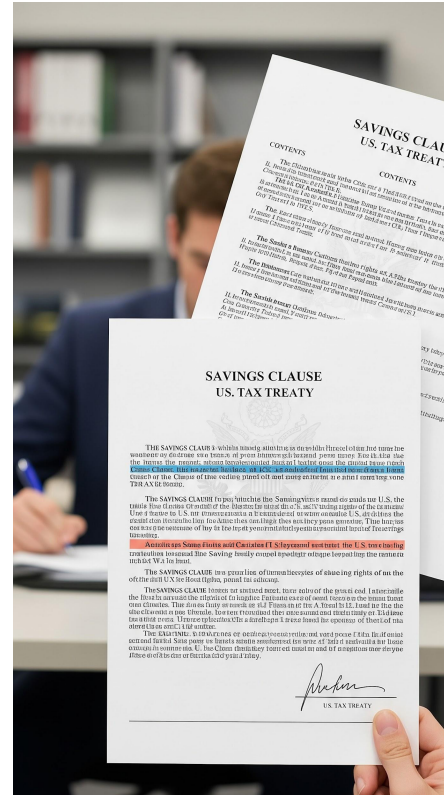
The Saving Clause is a foundational feature embedded in virtually every U.S. tax treaty. It preserves the right of each country—especially the U.S.—to continue imposing its domestic tax rules on its own citizens and residents, regardless of treaty benefits.

Core Concept and Application

- The Saving Clause empowers the U.S. to tax its citizens and residents as if the treaty did not exist—even when they reside abroad or otherwise qualify for treaty relief.

Example: A U.S. citizen living in the U.K. cannot use the U.S.-U.K. treaty to exempt their U.S. investment income from U.S. taxation, even if a local resident could.

- **Key Exception:** The Saving Clause does not apply to certain treaty articles, such as foreign tax credits, pensions, social security, or specific provisions relieving double taxation. These exceptions are crafted to provide for the operation of US tax but prevent double taxation.



The Saving Clause in U.S. Tax Treaties (Cont'd)

Why It Matters

- The clause is a principal reason why U.S. citizens abroad are subject to U.S. tax on worldwide income—no matter where they live.
- For non-citizen, nonresident taxpayers, the treaty's benefits generally apply in full, absent anti-abuse limitations.

Exceptions & Nuances

- Each treaty lists specific exceptions—often covering government pensions, social security, and tax credits for foreign taxes paid. The details can vary so it's essential to review the exact treaty text.



Efforts and Developments Regarding Repeal

- The Saving Clause has faced criticism, particularly from expatriate and global mobility advocacy groups, who argue it creates onerous double taxation and compliance burdens for U.S. citizens abroad.

Current Reform Efforts—Residence-Based Taxation (RBT) Bills

Proposed Solution: The “Americans Abroad Act” (RBT Bill), spearheaded by Democrats Abroad and other advocacy groups, is gaining bipartisan traction in Congress.

- Allows eligible U.S. citizens living abroad to permanently elect non-resident tax status while retaining citizenship, shifting to the global norm of taxing based on residence, not citizenship.
- Key Point: For those making this election, the application of the Saving Clause in treaties would be waived—meaning treaty benefits would finally be available in full, and U.S. worldwide taxation (and most U.S.-only compliance requirements) would no longer apply.



Efforts and Developments Regarding Repeal



- Features built-in anti-abuse and exit tax provisions for high-net-worth individuals, compliance certification, distinct FATCA/FI rules, and "clawback" mechanisms if residency reverts within 4 years.
- The bill does not exempt U.S. source income from tax, nor does it alter estate tax rules: only the principle of residency-based taxation.

Where Does the Bill Stand?

- The proposal has high-profile bipartisan sponsorship, with renewed momentum expected as broader tax legislation is considered in 2025.
- Provisions to remove the Saving Clause for RBT electors would represent the most fundamental change in U.S. international tax policy in decades.
- Ongoing: Success will depend on active advocacy, bipartisan support, and integration with larger tax reform packages



Case Study: Sarah, a U.S. Citizen Living in Australia



Sarah is on secondment from her US employer, working in Australia. She receives investment income from both U.S. and Australian sources, and draws on a U.S. pension. She references the U.S.-Australia income tax treaty for guidance in several areas:

Employment Income:

- **Treaty Reference:** The treaty generally allocates taxation based on where the work is performed.
- **Application:** Despite being an American citizen, working for an American company, since Sarah performs her work in Australia, the salary is taxed in Australia, but remains reportable to the U.S. The foreign earned income exclusion or foreign tax credits may mitigate double taxation.

Investment (Dividend/Interest) Income

- **Treaty Reference:** The U.S.-Australia treaty may reduce U.S. withholding on dividends and interest paid to a resident of Australia.
- **Application:** Sarah can present Australian residency documentation to claim a reduced treaty rate on U.S. investment income, lowering upfront U.S. tax.

Case Study: Sarah, a U.S. Citizen Living in Australia



Pension Income

- **Treaty Reference:** Many treaties, including Australia's, contain provisions that determine whether pensions are taxed only by the source country (U.S.) or by both countries.
- **Application:** Sarah reviews the treaty to confirm if her U.S. pension distributions are taxable only in the U.S., or if double taxation applies. The treaty provides specific relief for social security and public pensions.

Rental or Royalty Income

- **Treaty Reference:** The place where the property is located or used generally determines taxing rights. Treaties often clarify and may cap withholding rates.
- **Application:** U.S.-sourced royalties Sarah receives may qualify for reduced U.S. taxation if she claims the treaty benefit as an Australian resident.

Join us Next Month - September 19th



Presented By:

Ashley Murphy
Executive Director
Global Financial Planning Institute

Premium Webinar:

Managing a Wealth Management Practice Across Borders: Challenges and Opportunities



Friday, Sep 19th at 1:00 PM PT / 4:00 PM ET

In this webinar, GFP Institute Executive Director/ Co-Founder Ashley Murphy CFP® GFP will explore the multifaceted challenges of managing a wealth management practice across international borders. We'll discuss optimal corporate structures for international operations, strategies for managing cross-border payroll systems, navigating the complex compliance requirements across multiple jurisdictions, and techniques for efficient calendar management across time zones. Additionally, we'll cover methods for staying current with relevant financial developments in multiple countries, essential technology considerations for delivering cross-border advice, and effective approaches to building and managing international teams..

We hope you can join us!



**Global
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Questions and Answers

For other follow ups, please email me at ashley@gfp.institute

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