



# EB-5 SERVICES & PRE-IMMIGRATION TAX PLANNING

# Firm Profile

65+ year history with an outstanding reputation at the national and regional levels

Founding member of the Leading Edge Alliance, the largest worldwide group of independent accounting practices

Exclusive U.S. member firm of ECOVIS International, a global accounting and advisory network with members in 60 countries on six continents

**Marcum LLP** is one of the largest independent public accounting and advisory services firms in the nation, with offices in major business markets throughout the U.S., as well as Grand Cayman, China and Ireland. Headquartered in New York City, Marcum provides a full spectrum of traditional tax, accounting and assurance services; advisory, valuation and litigation support; and an extensive range of specialty and niche industry practices. The Firm serves both privately held and publicly traded companies, as well as high net worth individuals, private equity funds and hedge funds, with a focus on middle-market companies and closely held family businesses. Marcum is a member of the Marcum Group, an organization providing a comprehensive array of professional services.

Established in 1951, Marcum is a leader with an outstanding reputation at the national and regional levels. Marcum is ranked as one of the largest firms in the New York metropolitan area (*Crain's New York Business*, *Long Island Business News*), the New England region (*Boston Business Journal*, *Hartford Business Journal*) and Philadelphia (*Philadelphia Business Journal*).

Marcum offers an extensive range of professional services and a high degree of specialization. In addition to domestic and international tax planning and preparation, the Firm's professional services include mergers and acquisition planning, family office services, forensic accounting, business valuation and litigation support. The Firm has developed several niche practice areas serving private equity partnerships; hedge funds; SEC registrants; real estate; government, public and not-for-profit sectors; manufacturing; construction; healthcare; and bankruptcies and receiverships; as well as a China specialty practice.

Marcum professionals combine practical knowledge with years of experience to provide a level of understanding and service that is unique among professional service firms. The Firm takes a team approach to every engagement, ensuring the highest degree of technical knowledge, experience and understanding of current issues and regulatory matters. As a founding member of the Leading Edge Alliance, a worldwide group of large, independent accounting practices, the Firm's professionals have added access to a wide range of industry and service specialization. In addition, as the exclusive U.S. member firm of ECOVIS International, a global accounting and advisory network with members in 60 countries on six continents, Marcum offers the resources of experts around the world.

For more information, visit [www.marcumllp.com](http://www.marcumllp.com).

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# Source of Funds and Path of Funds

Seeking classification as an immigrant investor under the employment based fifth preference category, also known as EB-5, carries an evidentiary burden on the investor. An integral part of the submission for conditional residency is that the petition must demonstrate the source and the path of the funds used in the investment structure. This report is referred to as the Source of Funds Report or SOF Report.

The EB-5 regulations require the investor to prove that the invested capital was “obtained through lawful means.” The USCIS (US Citizenship and Immigration Services) requires a detailed report (1) showing how the investor obtained the funds used for the investment and (2) providing a clearly documented “path of funds” from the original source to the commercial enterprise’s bank account.

For example, lawful sources of funds are personal savings, inheritance, a personal loan, a gift, or sale of an asset, etc. There is no single favored source, however whatever the source, it must be fully supported with as much third party documentation as possible. A mere declaration that the funds were lawfully obtained will not suffice.

EB-5 investors’ past income is also a factor used by the USCIS in its evaluation of the EB-5 investor’s conditional residency petition. Income tax records should be submitted for a minimum of five years. In addition to supporting the Source of Funds Report the EB-5 investor’s income tax returns will also assist in proving a “pattern” of

income. A “pattern” of income helps support situations where an investor may not have earned a substantial annual income in recent years but accumulated the funds over time.

An equally important part of the documentation process is the path of funds. This means that the flow of funds must be identified, lawful, and documented. The path of funds will demonstrate where the funds originated and how they ultimately arrived in the US investment escrow account.

Retaining a certified public accountant, both in the investor’s home country and in the United States, is highly recommended and will ensure full compliance for reporting purposes. Marcum has the resources available to provide this service to investors.

Marcum can assist the EB-5 investor in gathering all of the data necessary to prepare the Source of Funds Report. This process will include completing an interview questionnaire that will be provided to a local Marcum office or Leading Edge Affiliate in the investor’s home country. The interview questionnaire will request from the investor all the necessary data required by the US government. Marcum will then review this data prior to submission in order to ascertain its completeness and accuracy. Marcum will also coordinate with and assist the investor’s immigration attorney to make sure that the immigration process proceeds as seamlessly as possible.



# EB-5 Regional Center Services

- Assist Regional Center in design of accounting system including internal controls
- Accounting services to investors pertaining to the transfer of funds
- Assist management with compliance applicable to EB-5 Regional Center reporting and administrative requirements set by USCIS.
- Assist management with investor reports
- Outsourced accounting services thru Family office division
- Independent CPA firm reporting
- Monitoring green card process and tax effects on U.S. transactions to investors and EB5 project
- International tax services for investors
- Documenting lawful source of funds
- Review of financial pro-forma ( budgets and assumption )



# Pre-Immigration U.S. Tax Services

Before you become a resident of the United States there may be an opportunity to minimize exposure to United States income, gift and estate taxes.

## **INCOME TAX**

The United States taxes its citizens and residents on their worldwide income. Prior to becoming a tax resident, the United States only imposes a tax on income from U.S. sources. An example of U.S. source income includes income from a U.S. trade or business or from a U.S. rental property.

Prior to becoming a U.S. tax resident there is the opportunity to accelerate income or obtain a step up in basis so that U.S. tax exposure is minimized. Also, it may be advantageous to delay recognizing losses or deductions until the time one becomes a U.S. tax resident.

The U.S. has a favorable 20% tax rate on long term capital gains (gains on property held for more than one year). Income on ordinary rates is subject to graduated rates up to 39.6%. Also, certain investment income is subject to an additional 3.8% tax resulting in an overall top federal rate of 43.4%.

In addition to the federal tax there are state and local income taxes. The state and local tax rates vary by state. Some states (like Florida) do not impose a state income tax.

A person who acquires a green card (even a conditional green card) is treated as an income tax resident the minute that the person arrives in the United States. A person can also become a tax resident by being physically present in the United States for more than 183 days over a three year testing period.

## **ESTATE AND GIFT TAX**

The United States taxes U.S. citizens on gifts made during their lifetimes and on their property, wherever located, when they die. Residency for estate tax purposes is based on intent to remain in the U.S. and taking into consideration all the facts and circumstances. Thus, it is possible to become a resident for U.S. estate and gift tax before obtaining a green card. The estate tax rate for 2013 is up to 40%.

The data noted below will enable us to provide you with planning recommendation on how to reduce your exposure to U.S. income, estate and gift taxes prior to obtaining U.S. residency status for income and estate/gift tax purposes.

## **Individual tax planning**

- Income recognition should be accelerated prior to US tax residency whereas losses should be deferred until after US tax residency.
- Expenses should be delayed until after US tax residency.
- Obtain relevant tax ID numbers for individuals and their family members.
- Educate the investor and family regarding US tax law.

## **Creation, implementation, and management of US organizational structure**

- Create tax efficient structures that are efficient and operationally feasible.
- Creating financing structures for initial and ongoing operations.
- Perform due diligence on investments and operations.
- Assist in formation of legal entities, bank accounts and contractual agreements.
- Manage all relevant tax filing requirements.

## **Reorganization of current corporate operations (Foreign/US)**

- Evaluate the tax consequences of the current corporate structure.
- Restructure operations for reduced taxation in US.
- Restructure operations for more efficient tax filings in US.
- Manage all relevant tax filing requirements.

## **Overall corporate operations**

- Integrate foreign and US corporate operations into an efficient and manageable structure.
- Evaluate interplay between foreign and US corporate tax issues in order to reduce the overall worldwide tax expense.

## **Estate Planning:**

- Analyze current worldwide assets in order to determine the most efficient ownership structure.
- Minimize assets in estate by creating an asset structure through corporate entities and/or trusts.
- Gifting of assets prior to immigration in order to reduce size of taxable estate.

## 1. Your Identifying Information

a. Name (please use full legal name as appears on passport and provide a photocopy):

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b. Date and place of birth:

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c. Is English your primary language? If not, please list:

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d. Primary mailing address outside of the United States:

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e. Primary mailing address inside the United States:

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f. Personal email address:

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g. Phone number (Home/Cell):

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h. Countries in which you have citizenship:

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i. Countries in which you have filed a personal tax return as a resident within the past three years:

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j. Your Social Security Number/U.S. Tax identification Number (if any):

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k. Number of days spent in the U.S. including dates of arrival and departure during 2013: \_\_\_\_\_,  
2012: \_\_\_\_\_, 2011: \_\_\_\_\_

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l. Expected marital status at the end of the current year:

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m. Has anyone in your immediate family filed a U.S. Tax return in the past?:

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**2. Identifying Information for family members.**

(If more space needed, please use additional pages at the end of the document)

	<b>Spouse</b>	<b>Child#1</b>	<b>Child#2</b>
<b>a.</b> Name(s):	_____	_____	_____
<b>b.</b> Date of Birth	_____	_____	_____
<b>c.</b> Place of Birth:	_____	_____	_____
<b>d.</b> Current Address:	_____	_____	_____
<b>e.</b> Country of citizenship:	_____	_____	_____
<b>f.</b> Occupation:	_____	_____	_____
<b>g.</b> Number of days spent (2013)	_____	_____	_____
in the U.S. during the (2012)	_____	_____	_____
past 3 calendar years: (2011)	_____	_____	_____

**3. Professional Advisors (Inside and Outside United States)**

- a.** Please list attorneys who you are working with or who have drafted last wills or trust documents:  
\_\_\_\_\_
- b.** Please list the attorney(s) contact information:  
\_\_\_\_\_
- c.** Please list any accountant(s) who have prepared your prior year tax return(s):  
\_\_\_\_\_
- d.** Please list the accountant(s) contact information:  
\_\_\_\_\_

**4. Asset(s)/Liabilities Detail**

- a. Homes:**
  - i.** Location:  
\_\_\_\_\_
  - ii.** Purchase date:  
\_\_\_\_\_
  - iii.** Title owner of house:  
\_\_\_\_\_
  - iv.** Approximate Current Fair Market Value:  
\_\_\_\_\_
  - v.** Mortgage owned on home:  
\_\_\_\_\_

**b. Bank Account(s):**

i. Name of Bank Account(s):

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ii. Location of Account(s):

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iii. Title owner on Account(s):

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iv. Approximate Value of Account(s):

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**c. Investment/Brokerage Account(s):**

i. Name of Financial Institution and contact person:

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ii. Location of Account(s)

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iii. Title owner on Account(s):

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iv. Approximate Value of Account(s):

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**d. Retirement/Pension Account(s):**

i. Name of Custodian:

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ii. Location of Account(s):

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iii. Approximate Value of Account(s):

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**e. List any bank account(s) that you don't own directly but which you have signature authority or control:**

i. Name of Financial Institution:

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ii. Location of Financial Institution:

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iii. Approximate Value of Account(s):

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iv. Name of Account Owner(s):

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v. Taxpayer Identification Number of Account Owner:

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vi. Address of Account Owner(s):

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**f. Are there any other assets (rental properties, annuities, etc.) that you have:**

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**g. Companies/Businesses(if a foreign entity, please specify):**

**i.** Name of entity:

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**ii.** Type of entity (sole proprietorship, partnership, corporation, foundation):

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**iii.** Taxpayer Identification Number (if any):

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**iv.** Percentage of ownership by you:

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**v.** Percentage of ownership by your spouse:

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**vi.** Location of company and location of books:

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**vii.** Principal business activity and locations:

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**viii.** When did business start and country of incorporating?

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**ix.** U.S. Shareholders (if any):

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**x.** U.S. business activities (if less than vii):

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**h. Documents needed:**

**i.** Tax return(s)

**1.** Current year and 3 prior years (for all jurisdictions)

**a.** Personal

**b.** Companies

**c.** Trust(s)

**ii.** Trust Documents

**1.** Formation documents

**iii.** Companies

**1.** Organizational structure chart showing ownership and percentages

**2.** Articles of incorporation

**3.** Operating agreements

**4.** Related party agreements/debt obligations

# The Leading Edge Alliance

## NATIONAL AND INTERNATIONAL RESOURCES

### The Leading Edge Alliance

Marcum LLP is a member of The Leading Edge Alliance, a national association comprised mostly of the largest Top 100 independently owned CPA firms in the country. As a member, we can draw upon the added expertise of a network of professionals throughout the United States as well as on a worldwide basis. Through The Leading Edge Alliance, Marcum LLP is able to utilize resources from this network of firms, so

we can offer our clients a wider base of resources. The Leading Edge firms have offices in more than 90 countries with 445 offices and can service clients through a global network of independent professional service firms.

Before any firm is admitted as a member of The Leading Edge Alliance it must undergo a rigorous peer review conducted by partners of other CPA firms. This selection process allows The Leading Edge to offer membership to only the highest quality firms.

LEA AFRICA & MIDDLE EAST FIRMS	LEA EUROPE FIRMS	LEA LATIN AMERICAN FIRMS
Bahrain Egypt Ghana Israel Jordan Kenya Kuwait Lebanon Mauritius Morocco Nigeria Palestine Qatar Saudi Arabia Senegal South Africa Syria Tunisia United Arab Emirates Yemen	Albania Austria Azerbaijan Belgium Bosnia and Herzegovina Bulgaria Channel Islands Croatia Cyprus Denmark England Finland France Germany Greece Hungary Ireland Italy Kazakhstan Latvia Luxembourg Macedonia Malta Moldova Montenegro Netherlands Norway Poland Portugal Romania Russian Federation Scotland Serbia Slovakia Spain Sweden Switzerland Turkey Ukraine	Argentina Bolivia Brazil Cayman Islands Chile Colombia Costa Rica Dominican Republic Ecuador El Salvador Guatemala Honduras Mexico Nicaragua Panama Paraguay Peru Uruguay Venezuela
LEA ASIA PACIFIC FIRMS		LEA NORTH AMERICA FIRMS
Afghanistan Australia Bangladesh China (P.R.) India Indonesia Japan Malaysia New Zealand Pakistan Philippines Singapore South Korea Sri Lanka Taiwan Thailand Vietnam		Canada United States

# Services

## ASSURANCE

Marcum's Assurance Services Division provides independent audit, attestation and transaction advisory services to both publicly traded and privately owned companies in a wide variety of industries. The Firm provides clients with an independent and objective view of their financial condition and results of operations, while maximizing

the transparency and reliability of financial information.

- Attestation Engagements
- Audits
- Compilations & Reviews
- Employee Benefit Plans
- International Financial Reporting
- IT Risk & Assurance
- Mergers & Acquisitions
- SEC Advisory Services
- SOC Reports
- Transaction Services

## TAX & BUSINESS

Marcum's Tax & Business Services Division offers all forms of accounting and regulatory compliance services. Our tax professionals are deeply experienced in advising large corporations, international businesses, foreign nationals, high-net-worth individuals, family business owners, local business operators and others on complex transactions at the local, national and international levels. Our high degree of specialization ensures

that both the advice and services clients receive are specific to their needs.

- Accounting Services
- Bankruptcy and Insolvency
- Business Advisory
- Cost Segregation
- EB-5 Investor Services
- Financial Statements
- International Taxation
- Marcum Family Office
- State & Local Taxation
- Transaction Advisory
- Tax Controversy
- Tax Credits & Incentives
- Tax-Exempt Business
- Tax Return Compliance
- Trusts & Estates

## ADVISORY

Marcum's Advisory Services Division provides regulatory agencies, lawyers, trustees, financial institutions, insurance companies and business owners with answers to business and litigation matters. Our teams of asset managers, operational consultants, forensic experts and accountants have the experience and expertise to accomplish the specific goals of our clients.

- Anti-Money Laundering
- Bankruptcy
- Business Interruption Claims
- Business Process Outsourcing Solutions
- Business Valuations
- Civil & Criminal Fraud
- Class Actions
- Computer Forensics
- Corporate Revitalization
- Economic Damages
- Forensic Services
- Financial Advisory
- Insolvency Analysis
- Intellectual Property Disputes
- Litigation Support
- Loan Portfolio & Credit Risk
- Marital Dissolution
- Mergers & Acquisitions
- Performance Improvement
- Risk Management
- Workplace Security & Investigations

## INDUSTRIES

Marcum's comprehensive services accommodate companies of all sizes in varied industries. From start-up through growth, merger or acquisition to public listing or ownership transition, Marcum professionals guide businesses every step of the way.

- Alternative Investments
- Automotive
- Broker Dealers
- Construction
- Financial Institutions
- Financial Services
- Government
- Healthcare
- High Technology
- Higher Education
- Insurance
- Litigation Support
- Manufacturing, Retail & Distribution
- Maritime
- Media & Entertainment
- Not-for-Profit
- Real Estate
- Retail & Consumer Products
- SEC/Transaction Services
- Talent & Literary Agencies



## MARCUMGROUP

Marcum Group is a family of organizations providing a comprehensive range of professional services including accounting and advisory, technology solutions, wealth management, and executive and professional recruiting.

These organizations include:

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