US TAX GUIDE FOR AMERICANS WORKING OVERSEAS

The 10 best ways to save money on your US expat taxes while living abroad

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Tax Filing Obligations—Do You Need To File?

The United States government requires all US citizens and permanent residents (Green Card holders) to report their worldwide income, regardless of their location. Furthermore, certain non-permanent residents may be required to report worldwide income. However, the items discussed in this article relate to citizens and permanent residents residing abroad.

There are income thresholds that may preclude certain individuals from having to file an income tax return for a certain year. For 2014 those thresholds are:

Tax Tip 1

Just because you file in your host country does not mean you don't have to file a US tax return each year while you are living abroad!

Filing Status	Age at December 31, 2014	Gross Income
Single	Under 65	$10,150
	65 or older	$11,700
Married Filing Jointly	Under 65 (both)	$20,300
	65 or older (both)	$21,500
	Under 65 (one)	$22,700
Married Filing Separately	Any	$3,950
Head of Household	Under 65	$13,050
	65 or older	$14,600
Qualifying Widow(er)	Under 65	$16,350
	65 or older	$17,550

Even if an individual does not have a filing obligation based on the thresholds set forth by the IRS annually, they may consider filing a return in order to receive a refund due, or even to start the clock on the statue of limitations, among other items.

Normally, the IRS is allowed three years to audit a tax return and 10 years to collect any tax outstanding. If a substantial error is found, the IRS is allowed to go up to six years back. It is important to note that the clock does not start until the date of filing. As such, if an individual does not file, the clock never starts, and the IRS has the right to open up the year for examination.

Individuals who are behind in filing are advised to bring themselves to date to avoid potential audits and enquiries for missed years. For those individuals who cannot make payment, the IRS has various payment options (payments plans and installment options) to help delinquent filers get caught up.

Types Of Income You Are Required To Report

US citizens and permanent residents who are residing abroad are required to report all income received. This includes all wages and tips, interest and dividend income, rental income, certain retirement distributions, tax refunds, business income, capital gains, and so forth. Although the IRS provides certain tax concessions to expatriates to lighten the burden of double taxation, these concessions must be claimed (they are not automatic), and they need to be netted against the gross income. Certain items may be taxed in a foreign jurisdiction (such as tax that is withheld at the source on interest in the United Kingdom), and a taxpayer only sees a net amount, but the entire gross amount (pre foreign withholding) needs to be reported on the individual's tax form.

Allowances:

Allowances refer to those expenses paid to the individual by the employer. Some examples of allowances are: housing allowance, car allowance, education allowance, tax preparation allowance, and hardship allowance, among others. Those working for US-based companies that receive these foreign benefits and receive W-2s reporting their salaries need to ensure that the foreign allowances, which may or may not be included in the W-2 wages, get reported on the Individual Tax Return.

Companies have become aware of the tax implications of providing certain allowances to their employees, and have started to offer tax protection on certain items – meaning they pick up the bill for the incremental tax caused by the allowances. This is another area that US expatriates need to pay attention to, as the tax paid by a company is also viewed as an income item for US tax purposes. As one might imagine, there is a perpetual tax-on-tax effect when companies start picking up tax payments (as they will also be picking up the tax that their original tax payment created). In this situation, whatever tax is being picked up by a company needs to be "grossed-up," therefore paying the perpetual tax-on-tax.

As one can imagine, in the above situation, the US expatriate ends up with huge savings and a much higher income level than if he remained in the United States. This is because on the US side there are concessions offered (thereby eliminating some of the tax had the amounts been paid in the United States), and sometimes the company will even pick up the foreign tax bill. In order to level the playing field, many companies have started to "equalize" their assignees.

Tax Equalization:

With this provision, a "stay at home" calculation is prepared, calculating the US tax had the individual remained in the US (excluding the allowances), and compared to the actual tax return. Should the "stay at home" calculation show more tax than the actual tax return, the individual will owe money to the company. In this case, the playing field is leveled. Important to note is that these "equalization payments" are also considered income for US tax purposes, although they would also normally be tax protected. Expatriates need to consider the tax implications of how their expatriate contracts are structured, as many items are considered income items that normally do not affect US taxpayers residing within the United States.

In addition, the assignment country's tax and pension regimes need to be evaluated. If a company pays the foreign tax, that will also be included in income. This may be quite significant in high tax jurisdictions such as the United Kingdom; the tax can be 50% of actual income and which needs to get added to the reportable income. Again, if the item is tax-protected, the tax on the tax-protection payment will also need to be included in income. In regard to the foreign pension, many foreign jurisdictions require employers to make contributions to the scheme in addition to the employee; these employer paid amounts also need to be included in income.

Foreign Property Real Estate Considerations:

Sometimes expatriates buy property in foreign jurisdictions to gain rental income. These foreign rental properties trigger the Qualified Business Unit (QBU) reporting rules. A QBU requires all expenses and depreciation to be calculated in the foreign currency of the location of the QBU and then converted for US tax purposes. This significantly affects the depreciation, as the US dollar amount will vary from year to year based on exchange rates. Proper recordkeeping is extremely important. Furthermore, a QBU is depreciated over 40 years. Typically, these calculations are prepared on a separate spreadsheet and attached to the US return.

Selling/Renting Your US Property:

Many expatriates decide to sell their US property instead of renting it out. In these situations, should there be a gain, the US tax system allows for an exclusion of $250,000 ($500,000 if filing jointly) in gain from the sale of a primary residence. In order to qualify for this exclusion, the owners need to have resided in the home for two of the previous five years, and during the two years, this gain exclusion could not have been utilized.

Those who decide to rent report the rental income and related expenses on Schedule E. Among the expenses is a depreciation amount. The depreciation is deemed to have been taken whether reported or not. The total depreciation, upon the sale of the property, will need to be recaptured and added back into the basis. This is a tax planning consideration, as the recapture may cause a tax liability.

Reduce Your Income With The Foreign Earned Income Exclusion

In the income reporting section of the Form 1040 US Individual Income Tax Return, expatriates will also report any income excluded under the Foreign Earned Income Exclusion (FEIE). This is one of the tax concessions offered by the US government to help individuals residing and working abroad from the burden of double taxation. The exclusion is a reduction of the gross income reported on an individual's tax return. (Individuals who work for the US government abroad or in a US possession or Puerto Rico are ineligible for these exclusions.)

> **Tax Tip 2**
>
> Make sure you qualify for the Foreign Earned Income Exclusion using either the Physical Presence test or the Bona Fide Residence test. It allows you to exclude $99,200 in earned income on your US taxes ($100,800 in 2015)!

In order to qualify for the exclusion, your tax home must be in a foreign country, and you must also meet either (a) The Bona Fide Residence test or (b) The Physical Presence test. These two tests are quite different in their underlying rationales. The *Bona Fide Residence test* requires that you establish "residence" in a foreign country, and that determination will depend on the specific circumstances of your case, including your intention and the purpose of your stay. The minimum threshold states that you must live in a foreign country for one year and have no intention of moving back to the US. There are other factors that are taken into account with the BFR test, but that is the general premise. The *Physical Presence test,* on the other hand, is a test only of how many days you are physically present in a foreign country. Qualifying by the PPT means you were in a foreign country for 330 of any 365 day period and have foreign income.

If you are married filing jointly, only the spouse earning foreign wages needs to meet the above criteria. Thus, for example, if the working spouse qualifies under the Physical Presence test, the non-working spouse does not have to meet those same requirements for living out of the US for 330 days in 12 consecutive months, but is free to come and go as he/she pleases.

In addition to either of these tests, an individual must have established a tax home in a foreign jurisdiction.

Understanding a 'tax home':

The tax home is not necessarily an individual's domicile, or primary place of abode, nor does it mean that an individual is paying tax in the foreign jurisdiction. When the IRS refers to a "tax home," they mean that an individual's primary economic and business activity is in that jurisdiction, regardless of whether they pay tax to that jurisdiction or not. An individual who travels on business trips abroad, returning to the United States frequently, will not qualify for the FEIE because a proper tax home is not established abroad.

US Green Card holders:

Green Card holders are disallowed from using the BFR test to qualify for the FEIE. Why? Because Green Card is a statement of permanent residence for the United States, and individuals can only have one permanent place of residence. Should a

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Green Card holder be required to use the BFR (in the case that the PPT cannot be met due to too many US travel days), he may claim a non-discrimination clause from a tax treaty that will allow for use of the BFR. Each tax treaty must be examined to see if the non-discrimination clause is included. Citizens do not need to maintain residence in the United States, and as such may claim BFR status. The foreign jurisdiction does not need to remain the same to qualify for the BFR. For instance, if an individual relocates from France to Germany during a given year, and he was claiming BFR status before, the move to Germany does not lapse the BFR status (should a bona fide residence be established in Germany as well).

Back to the specifics of the Foreign Earned Income Exclusion. Once individuals determine whether they qualify, and their qualifying period, they must figure the income that is eligible for exclusion. Income eligible for exclusion must be foreign sourced, meaning it is attributable to services rendered abroad. Any income earned while on business in the United States cannot be excluded. Travelling individuals must track business travel to allocate funds as being US sourced. Some allowances are considered completely foreign sourced, and do not need to be allocated. This is a matter of interpretation, and different companies have different guidelines on how allowances are to be treated on returns (they have a say because many times they tax-protect items). The tax code merely states that allowances are foreign sourced if their payment is directly attributable to the assignment, and would not have been received otherwise. Generally, items such as housing, schooling, and the like are completely foreign sourced.

Example Of Using FEIE :

Angelina and Brad Smith took up foreign assignments with their respective companies in February 2012 in Hong Kong. They sold their home in the United States, took along their 2 children, and enrolled them in an international school in China. Furthermore, they pay into the Chinese individual tax system, and their contracts are indefinite in nature. Angelina is a US citizen, while Brad is a French national, holding a US Green Card.

They decide taking the FEIE is beneficial to them, and fill out the required paperwork. They spent the entire summer of 2012 and January 2013 in the United States, thereby not qualifying for the PPT (discussed later). They decide to apply under the BFR. As the BFR requires a bona fide residence in a foreign country for a full calendar year, they will need to use 2013 as their qualifying year. They prepare their 2012 return with the exclusion, and pay any estimated amount due by April 2013, the filing deadline. They also file the proper extension, indicating they will not file the return until 2014 (after the full 2013 calendar year; this will also be discussed later in detail). Angelina, as a citizen, qualifies under the BFR test, and will have a qualifying period from February 2012 (discussed later). Brad uses a non-discrimination clause to use the BFR, for which he attaches an addendum. Should there have been no non-discrimination clause available in the treaty, he would have been unable to claim the FEIE for 2012, or would have to take an extremely prorated portion of the exclusion (discussed later).

The PPT is a bit easier to use, should US travel days permit. The PPT requires individuals to be present in a foreign country for 330 full days. A full day is considered starting at midnight and ending at midnight the following day. These days are rolling, and do not need to consist of a calendar year, although they need to be consecutive when counting. Travel from one foreign location to another does not preclude counting a foreign day, nor will travel through the US if it is less than 24 hours. Furthermore, once 330 foreign days is hit, any of the 35 days allowed for US days that are remaining can be rolled back from the beginning of the assignment, thereby extending the qualifying day period.

Tax Tip 3

The Physical Presence test requires you to be present in a foreign country for 330 full days. A full day is considered starting at midnight one day and ending at midnight the next. Make sure you count your days carefully when planning travel if you want to qualify!

Save More Money With The Foreign Housing Exclusion

In addition to the Foreign Earned Income Exclusion, individuals can also utilize the Foreign Housing Cost Exclusion. Individuals may deduct the equivalent of foreign rents, utility bills (apart from telephone and cable), rental of furniture, repairs, auto parking, and certain other expenses. Even if these amounts were paid on behalf of the employee, the exclusion is allowed. However, this exclusion is allowed for only one household per filer (exception discussed later).

It is important to note that there is a ceiling (which may vary from year to year) as well as a floor when calculating the housing exclusion. The IRS does allow for higher deductions in locations with higher costs of living; these amounts can be found on the IRS website, as they change annually. For example, the general ceiling for 2013 is $29,280, while expatriates residing in Hong Kong are allowed $114,300. The lesser of actual expenses or allowed housing exclusion is then reduced by the floor ($15,616), which must be prorated based on qualifying days. Individuals are not allowed to deduct amounts greater than their foreign income.

Example:

Brad Smith is an expatriate living in Shanghai. He has determined that he qualifies for the FEIE, and has sourced his income between the US and the foreign country. His foreign income that is eligible for exclusion is $250,000. His qualifying days in 2013 are 100 days. His employer paid $75,000 in housing costs on his behalf.

He calculates his Foreign Housing Cost Exclusion as follows:

Qualifying housing costs	$75,000		
Limit on costs (Shanghai)	57,001	→	as such, $75,000 is limited to the $57,001
Less: prorated floor amount	4,267	←	15,616 X (100 days / 366 days)
Housing Exclusion	52,734		

Special rules apply to jointly filing couples. Although for purposes of the FEIE each party must report his or her own income and cannot transfer excess income to the spouse who may have unused exclusion amounts, the Foreign Housing Cost Exclusion may be allocated between the parties.

Furthermore, if an individual maintains a second foreign household for his or her family during the year due to adverse conditions, he may deduct the additional expenses. Adverse conditions are defined as living in dangerous or unhealthy conditions (such as an oil field in the middle of the desert, where it would be difficult to bring a family).

FEIE Extras

It is important to note that with the FEIE individuals are allowed to claim additional exclusion at a later date if there is an unused portion remaining. For example, if a contract completion payment was paid out to an assignee in 2012 covering the contract from 2010 to 2012, and the individual was unable to exclude the entire amount, yet had unused FEIE in 2011, the individual would be able to apply the portion that was not excluded in 2012 to 2011.

Electing FEIE

Expatriates choosing the FEIE election must remember that it is just that—an election. The FEIE is not automatically granted to those residing abroad. Taxpayers make the election by completing Form 2555 Foreign Earned Income and attaching it to a timely filed income tax return. The IRS has the power to deny a request to exclude income, should it come with a tax return that was filed late. Generally speaking, the IRS allows individuals one year past the deadline to file a tax return with the initial Form 2555 Foreign Earned Income. Once the election is made, it stays in effect for the remainder of an assignment, unless revoked.

Tax Tip 4

The Foreign Earned Income Exclusion is not automatic.

You must complete Foreign 2555 to apply.

Once an individual makes a revocation of the election (by failing to file Form 2555 or amending a return and taking the form out), he or she cannot claim the FEIE for the upcoming five tax years, unless he or she receives written permission from the IRS. When individuals are making an initial evaluation as to whether they should claim the FEIE (as opposed to only claiming a Foreign Tax Credit, discussed later), they should consider these repercussions in their tax planning.

Adjustments That Can Lower Your Taxable Income

Once individuals determine their net income, adjustments may be taken, if any are available, to arrive at the Adjusted Gross Income figure. These are the same as those offered to taxpayers residing within the United States:

- Educator expenses
- Certain business expenses of reservists, performing artists, and fee-basis government officials
- Health savings account deduction
- Moving expenses
- Deductible part of self-employment tax
- Self-employed SEP, SIMPLE, and qualified plans
- Self-employed health insurance deduction
- Penalty on early withdrawal of savings
- Alimony paid
- IRA deduction
- Student loan interest deduction
- Tuition and fees
- Domestic production activities deduction

Apart from the "above the line" deductions (to get to AGI), taxpayers are also given either a standard deduction, or the option to itemize if that provides for a larger figure than the standard deduction. Most of the itemizations above relate to self-employed individuals, which is beyond the scope of this article. However, expatriates may utilize the moving expenses deduction during the duration of their assignment.

Moving Expenses

Moving expenses that are reimbursed by an employer (i.e. receipts are provided for) are generally excluded from gross income, and as such cannot be deducted from net income. In order to be excluded from income, the new workplace needs to be at least 50 miles farther from the former residence than the former place of residence to former workplace. In addition, the taxpayer needs to maintain full-time employment with the employer for at least 39 weeks following the move, with several exceptions. However, for moves that are not reimbursed, or if a lump sum is provided (which is included in income), individuals may take a moving expense deduction. Not all expenses associated with a move are eligible for the deduction. The deduction is limited to moving and storage of household goods, and transportation and travel costs for the household. Furthermore, for international moves, storage costs may be deducted annually, even after the initial year of move.

As discussed previously, the US tax authority does not allow for double-benefits. One of these relates to the moving expense deduction, as it is an item that is directly related to foreign income. As such, for individuals who choose to exclude income using the FEIE, a reduction of the moving expense deduction must occur. The reduction is directly proportional to the amount of income excluded over total foreign income:

$$\text{Moving Expenses} \times \frac{\text{Excluded Income on 2555}}{\text{Total Foreign Earned Income}} = \text{Moving Expense Deduction reduction}$$

IRA Deductions

Another deduction that affects US taxpayers residing abroad is the IRA deduction. Typically, individuals residing in the US and contributing to a traditional IRA may take a deduction on their tax returns for the contribution amount. However, individuals cannot contribute income that is excluded with the FEIE. As such, individuals may find themselves having made excess contributions that need to be withdrawn, should their income have been completely excluded using the FEIE. The ROTH IRA, although not a deduction, provides similar problems for taxpayers residing abroad who are excluding their income on Form 2555. The ROTH IRA has income limits, setting a window for those that are allowed to contribute. The FEIE further narrows the window of contribution, and also may create a situation where a normal contribution is deemed as excess, and needs to be withdrawn or incur a penalty tax.

Tax Tip 5

US expats cannot contribute income to an IRA that is excluded within the FEIE.

Make sure you check the rules carefully before investing in an IRA or Roth IRA, as different rules may apply than what you are used to in the US!

An area for expatriates to note is the "taxes you paid" section of Schedule A Itemized Deduction. Individuals who regularly itemized due to high state tax may find they are no longer itemizing as they break state residency requirements. This may greatly affect the taxable income figure. This also holds true for mortgage and real estate taxes—for expatriates who sell or rent their homes, the amounts for these categories either disappear (in the case of a sale) or get allocated to Schedule E (as a rental expense).

Standard Deductions And Tax Treaties To Lower Your Taxes

After deducting the allowable items, and taking the standard deduction (same as for those residing in the United States), a taxable income figure is calculated, from which the tax is calculated.

For individuals excluding income on Form 2555, special “stacking rules” apply in calculating tax. Although income is excluded, the tax rate that is to be used is calculated as if income were not excluded. For example, if income was USD100,000 before the exclusion, and USD5,000 after electing to exclude the foreign compensation, the USD5,000 is taxed at a rate that a taxpayer with USD100,000 in income would be paying. This rule is another attempt by the IRS to reduce the “double-benefit” affect.

The Alternative Minimum Tax (AMT) is also affected by an individual’s utilization of expatriate concessions. The AMT is a tax that is activated when individuals take a significant number of deductions, and the regular tax due is significantly low in relation to the total income. The Foreign Tax Credit (FTC) is recalculated for AMT purposes, and used in figuring whether AMT is required. Should AMT be charged in a certain year, it can be used as a credit deduction in future years against AMT amounts.

Individuals, as long as they continue to be paid by US companies, will be obliged to pay Social Security (FICA) taxes. If the employment is transferred to a foreign affiliate, FICA taxes are not required to be paid, although the US company may elect to continue to have FICA withheld from employees. Furthermore, tax treaties need to be examined, as there are many potential tax savings that may be offered within the treaties. For instance, there may be clauses that ensure taxpayers are not paying into both foreign and US social security systems within Social Security Totalization Agreements, which also need to be examined. A list of all tax treaties with the US is listed on the final page of this article.

Dollar-For-Dollar Tax Reductions With The Foreign Tax Credit

The other significant tax concession utilized by US taxpayers residing abroad is the Foreign Tax Credit (FTC). The FTC is deducted from the actual US tax liability, rather than the income. The purpose of the FTC is to mitigate all or some of the double taxation that arises when US taxpayers earn money abroad and are taxed in the foreign country. It is important to note that the FTC is limited to the US tax that arises from the foreign income. Foreign taxes paid on compensation will not help mitigate US taxes arising from, as an example, rental property income. Foreign taxes available for claiming FTC must be similar to the US income tax in nature (cannot be real estate taxes), and must be imposed by the foreign government. For example, an individual cannot decide to pre-pay a government a lump sum for several years and take a credit for the amount on his or her US Individual Income Tax Return.

Tax Tip 6

The Foreign Tax Credit is your best weapon against double taxation. It mitigates all or some of the double taxation if you are taxed in a foreign country as well as the US. However, it only applies to foreign sourced income, not income sourced in the US.

The FTC is grouped into buckets of income that are separated by nature. For instance, there is a "general" category, into which wages and salaries fall, and there is a "passive" category, into which items such as interest, dividends, and rents fall. As such, the number of Forms 1116 Foreign Tax Credit depends on the income categories, rather than taxpayers. For joint filers, tax incurred on similar types of income will be grouped together.

Calculate Your Taxable Income Using All Available Deductions

Similar to the FEIE, eligible income needs to be calculated for the FTC. Total foreign income (less foreign exclusions) is reduced by the directly related deductions (moving expenses), and a ratio of the non-directly attributable deductions (most of the itemized deductions). The ratio to figure the attributable portion is the foreign earned income over total income. The net foreign earned income is later used to calculate the portion of the US tax due that is related to that portion of income.

After calculating the net foreign income, an individual must report the foreign taxes paid, using the average exchange rate for the year. They may either report the tax on a "paid" basis, or on an "accrual" basis. Although US individual taxpayers are required to report items on their returns on a "paid" basis, this is one area they are allowed to elect an accrual method. This method may be beneficial when individuals expatriate to locations with a fiscal year rather than a calendar year for tax purposes. This allows for more appropriate income-to-tax matching. However, individuals should be aware that once the accrual method is elected, it cannot be reversed.

The foreign tax paid is then reduced by any FEIE that was taken (again, the "double-benefit" that the IRS tries to prevent). This is the ratio of excluded income over total foreign income. The remaining foreign tax, plus any carryforwards, is then the foreign tax available for credit. This amount is compared to the US tax attributable to the foreign income, and the lower of the two is used as the FTC. Should there be excess foreign tax that cannot be used (generally in foreign jurisdictions where the tax is higher than in the US), then the excess can be carried forward to future years.

The ratio for reducing the FTC is related to FEIE for the year that the income is attributable to. For example, if the foreign tax spans two US tax years, two FTC reduction ratios will be used.

Example:

Brad qualified for the FEIE for 2013, excluding $97,600 of income. Total foreign income was $200,000. He ended up paying $20,000 in foreign taxes. After deducting direct and indirect deductions from the foreign income, he is left with net foreign income of $82,400, on which he calculated $4,000 of US tax. He has no carryovers.

First, as Brad excluded income using the FEIE, he needs to reduce his available FTC:

$$\frac{97{,}600}{200{,}000} \quad \text{X} \quad \$20{,}000 \quad = \quad \$9{,}760 \quad \leftarrow \quad \text{disallowed}$$

Then, the lower of $4,000 and $10,240 (which is $20,000 foreign tax—$9,760 disallowed amount) → $4,000 → FTC

The remaining $6,240 ($10,240-$4,000) is carried over to a future year.

As the tax credit is a dollar-for-dollar reduction of actual tax, the use of the FTC is preferred to the FEIE. As such, individuals need to evaluate the use of the FEIE. The general rule of thumb is if an individual finds himself or herself in a jurisdiction with higher tax, it is advantageous to bypass the FEIE and use the FTC. In this manner, there will be no reduction, and any amount not utilized may be carried forward. The carryforward amounts may be used later on even when the individual has repatriated to the United States.

If the return is a joint return, then the foreign tax paid by each individual is reduced by his or her own ratio before combining to get the available tax for credit.

Gain More Time By Filing An Extension

US taxpayers residing abroad receive an automatic two-month extension on tax return filing from the IRS. With no extensions filed, an individual's return due date is June 15. To extend to October 15, an individual needs to file Form 4868 Application for Automatic Extension of Time To File US Individual Income Tax Return. For those waiting to qualify for the FEIE, and may need much additional time to file (for instance, the next calendar year), a Form 2350 Application for Extension of Time To File US Income Tax Return may be filed with the IRS. This is generally filed for first year expatriates who are waiting to qualify under the BFR.

If October 15 does not provide sufficient time to file a tax return, a handwritten letter may be sent to the IRS, indicating the reason for an additional extension request to December 15.

Any extensions filed with the IRS need to be attached to the return when filed, along with documents such as W-2s. It is important to note that an extension to file does not extend the time to pay any tax due. The deadline for tax payment remains April 15. Expatriates are advised to make an estimated payment with their extension request (based on a draft return), or to make estimated payments throughout a tax year in situations when there is no tax withholding from the company.

Generally, 90% of the tax due must be paid in to the IRS throughout the year. Taxpayers residing within the United States usually aren't affected by this under-payment penalty due to employer withholdings, but in situations with no US tax withholdings, individuals need to ensure they meet the minimum payment requirements. These payments are generally due on the 15th of each quarter. However, if the tax liability is less than $1,000, no payments are required and no under-payment penalty is calculated.

Generally speaking, in situations where taxpayers are assigned to high tax jurisdictions where tax is negated with a FTC, estimated payments are not required as no tax is due. However, in situations where a taxpayer ends up with balances due, estimated payments should be considered.

Tax Tip 7

The US expat tax deadline is June 15th (not April 15th as it is in the US).

You may also file for an extension to October 15th using Form 4868 if you need extra time.

But don't forget: if you owe taxes, interest accrues as of April 15th!

Additional Forms You May Need To File To Avoid Penalties

State Returns:

Just because an individual expatriates to work outside the United States does not necessarily mean there is no state tax-filing obligation. Certain states are domiciliary, and do not consider a residency broken by a move overseas; others need an individual to reside abroad for a certain number of days. Rules vary state by state; as such, individuals are advised to check the specific rules for a particular state. Furthermore, many states require reporting of any deferred income that was earned while in state residency (i.e., stock options that vested, or retirement income).

Tax Tip 8

You may also be required to file state taxes, depending on the last state you resided in. Each state has different rules, so consult your expat tax accountant or check with the state for more details.

FBAR or FinCEN Form 114 Report of Foreign Bank and Financial Accounts:

This form is required to be filed separately from the individual income tax return and filed electronically with the Treasury Department by June 30. It is for informational purposes only. Individuals who had a financial interest or signing authority ove r any foreign account(s) where the aggregate value was over $10,000 at any point in the year are required to file the form.

Tax Tip 9

Individuals with more than $10,000 in foreign bank accounts at any point in the year must file FinCEN 114. Failure to file can result in harsh penalties!

Form 8938 Statement of Specified Foreign Financial Assets:

This form is similar to the FinCEN Form 114, and is filed with the individual income tax return for informational purposes only. The thresholds for filing are as follows:

	US Expat				US Resident		
Account Balance on:	Single	Married Filing Jointly	Married Filing Separately		Single	Married Filing Jointly	Married Filing Separately
Last Day of Year	$200,000	$400,000	$200,000		$50,000	$100,000	$50,000
Any Time During Year	$300,000	$600,000	$400,000		$75,000	$150,000	$75,000

Form 8832 Entity Classification Election:

One of the most important forms to file for owners of foreign LLCs. If an election is not made to treat the company as a partnership or sole proprietorship, the IRS automatically deems the company to be a foreign corporation, opening up additional reporting requirements (listed below). Form 8832 allows for the election for the company to be treated as one of the two.

Form 8858 Information Return of US Persons with Respect to Foreign Disregarded Entities:

Information return to be filed by individuals who own shares in foreign entities that by United States law are disregarded entities (i.e. sole proprietorships). This form is filed along with the individual income tax return.

Form 5471 Information Return of US Persons With Respect to Certain Foreign Corporations:

Certain individuals who own more than 10% of stock in a foreign corporation must file this informational form along with their individual income tax return. There are several other categories of filers, and it is advisable for individuals who own stock in a foreign corporation to read through the “who must file” portion of the instructions of the Form 5471 to determine if they fall into any of the filer categories. When individuals own interest in varied foreign companies, ownership rights and percentages should be examined to see which companies require disclosure to the IRS.

Form 3520 Annual Return to Report Transactions with Foreign Trusts and Receipt of Certain Foreign Gifts:

This is an informational form that needs to be filed within 90 days of a transfer to a foreign trust, or receipt of a foreign gift.

Form 1040NR US Nonresident Alien Income Tax Return:

Informational form required to be filed for a foreign grantor trust. The informational portion is filled out, along with an attached statement listing out the income and expenses of the trust that are to be allocated on the owner’s individual returns.

As the United States government is focused on tracking the offshore assets of US taxpayers, self-employed individuals and owners of foreign companies have many additional informational reporting requirements. Each individual case must be reviewed to determine exactly what forms need to be filed. Many of the elections need to be made on timely filed returns, and as such, keeping up to date with filings is crucial.

The Foreign Account Tax Compliance Act (FATCA) And What You Need To Know

FATCA is the Foreign Account Tax Compliance Act

Under FATCA, certain US taxpayers holding financial assets outside the United States must report those assets to the IRS. In addition, FATCA will require foreign financial institutions to report directly to the IRS certain information about financial accounts held by US taxpayers, or by foreign entities in which US taxpayers hold a substantial ownership interest.

Reporting by US Taxpayers Holding Foreign Financial Assets

FATCA requires certain US taxpayers holding foreign financial assets with an aggregate value starting at $50,000 to report certain information about those assets on a new form (Form 8938) that must be attached to the taxpayer's annual tax return. The following chart summarizes the filing requirements for US residents and US expats.

	US Expat			US Resident		
Account Balance on:	Single	Married Filing Jointly	Married Filing Separately	Single	Married Filing Jointly	Married Filing Separately
Last Day of Year	$200,000	$400,000	$200,000	$50,000	$100,000	$50,000
Any Time During Year	$300,000	$600,000	$400,000	$75,000	$150,000	$75,000

Reporting applies for assets held in taxable years beginning after March 18, 2010. Failure to report foreign financial assets on Form 8938 will result in a penalty starting at $10,000 (and a penalty up to $50,000 for continued failure after IRS notification). Further, underpayments of tax attributable to non-disclosed foreign financial assets will be subject to an additional substantial understatement penalty of 40 percent.

The United States Treasury Department is now actively working with more than 50 nations to share Americans' personal financial data that will reveal who is tax compliant, including American expats living overseas. The effort is in support of new FATCA (Foreign Account Tax Compliance Act) laws that require foreign financial entities to report Americans' account information to US authorities and to undertake mandatory withholding from them to assure compliance with American income tax laws.

Tax Tip 10

In addition to reporting your foreign bank accounts to The Treasury, you may also be required to file an extra form (Form 8938) with the IRS alongside your tax return.

This form is due at the same time as your federal tax return.

The inception of, roll out and implementation of FATCA has been clever, if not masterful on the part of the US Treasury. The United States enacted FATCA and began by leaning, mostly, on foreign financial entities and mandating that they comply with certain new rules, including reporting of data on American clients and withholding of monies, to ensure Americans were compliant with US tax laws. Foreign financial interests, in turn, desperately sought relief from their own governments. The US mandates were burdensome and cost-prohibitive for them to implement. The solution for financiers was for their own governments, many of whom already have the data the US wants, to take on the sharing requirement that the US, using its global financial clout, is forcing on everyone.

More than 50 countries in all are clamoring to get on board. In part because of the controversial nature of FATCA itself and the fact its implementation is so prohibitively expensive, foreign financial entities are pleading with their own governments to facilitate the newly required reporting that the US laws mandate. For many, it is impossible to continue doing business with American clients, and so the banks are closing their accounts. Additionally, foreign banks and investment houses who do not comply face a 30% withholding on their own transactions that occur within the US, so there's no way to opt-out.

The US Treasury expects to finalize signed data-sharing agreements by the end of the year with countries that include Norway, the Netherlands, Mexico, Jersey, Ireland, Isle of Man, Guernsey, Finland, Denmark, Canada, Switzerland, Japan, Spain, Germany, Italy and France.

The Treasury is actively negotiating with the following countries to finalize and enact data-sharing agreements—Sweden, Singapore, Slovak Republic, New Zealand, Malta, Malaysia, Liechtenstein, Korea, Israel, Hungary, Estonia, Cyprus, Cayman Islands, Belgium, Australia and Argentina. Their goal is to conclude agreements with as many as possible by the end of 2013.

The list goes on—The US Treasury is reaching out to and actively attempting to engage the following countries to agree to data sharing as well—South Africa, Slovenia, Sint Maarten, Seychelles, Russia, Romania, Luxembourg, Lebanon, India, Gibraltar, Czech Republic, Chile, British Virgin islands, Brazil and Bermuda.

Mark Mazur, Assistant Secretary of the US Treasury said in a public statement, "Global cooperation is critical to implementing FATCA in a way that is targeted and efficient. By working cooperatively with foreign governments and financial institutions, we are intensifying our ability to combat tax evasion while minimizing burdens on financial institutions."

United States Tax Treaties

A [Armenia]
[Australia]
[Austria]
[Azerbaijan]

B [Bangladesh]
[Barbados]
[Belarus]
[Belgium]
[Bulgaria]

C Canada
China
Cyprus
Czech Republic

D Denmark

E Egypt
Estonia

F Finland
France

G Georgia
Germany
Greece

H Hungary

I Iceland
India
Indonesia
Ireland
Israel
Italy

J Jamaica
Japan

K Kazakhstan
Korea
Kyrgyzstan

L Latvia
Lithuania
Luxembourg

M Malta
Mexico
Moldova
Morocco

N Netherlands
New Zealand
Norway

P Pakistan
Philippines
Poland
Portugal

R Romania
Russia

S Slovak Republic
Slovenia
South Africa
Spain
Sri Lanka
Sweden
Switzerland

T Tajikistan
Thailand
Trinidad
Tunisia
Turkey
Turkmenistan

U Ukraine
Union of Soviet Socialist Republics (USSR)
United Kingdom
United States Model
Uzbekistan

V Venezuela

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