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Ensuring compliance with US taxes for your corporate expats

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The American dream is no longer simply found in America. With an estimated 6.3 million Americans living abroad, the job market for employees has expanded well beyond the confines of the U.S. Even while living overseas, American employees have U.S. obligations—and filing U.S. taxes each year is one of the most important obligations that often gets overlooked. Here are four ways employers can advise their employees to help them stay compliant with their US tax obligations.

1. Avoid stiff penalties by filing FBAR

The Foreign Bank Account Report (FBAR), was created to uncover individuals who try to avoid U.S. taxes by hiding money overseas. FBAR must be filed each year if a U.S. taxpayer has $10,000 or more in foreign bank accounts at any point during the tax year, which many expat employees do. The penalties for failing to file FBAR can be quite stiff, starting at $10,000 for each account and each year and can rise to 50 percent of the balance of the accounts.

2. Know the FATCA laws

Similarly to FBAR, the Foreign Account Tax Compliance Act (FATCA) requires U.S. taxpayers report foreign assets if they exceeded certain thresholds. And as of July 1, 2014 FATCA laws now require foreign financial institutions to report on the accounts of their American clients. Penalties are reportedly $10,000 for each 'non-willful' violation but can be up to 40 percent of the value of unreported assets. 'Willful' violations carry the same penalty but can also result in criminal prosecution. Thresholds for filing FATCA for those living abroad are:

- Filing single with $200,000 in assets on the last day of the year or $300,000 at any point during the year
- Filing married jointly with $400,000 in assets on the last day of the year or $600,000 at any point during the year

Employees should look carefully at their overseas individual savings and pension accounts, as some can be viewed as foreign trusts by the IRS, which would eliminate any tax deferred status in the eyes of the IRS. Also, be aware that some foreign investments, such as foreign mutual funds and hedge fund investments can be considered a 'passive foreign investment company,' which changes how these investments are taxed by the IRS. Incorrectly reporting or failing to report foreign accounts and investments can lead to deep trouble with the IRS.

3. Calculate time in the U.S. carefully

Overseas employees often make frequent trips back to the U.S., but this can have a serious financial impact. Using the Foreign Earned Income Exclusion, U.S. expats can exclude the first $97,600 of earned income from their US taxes, this increases to $99,200 in 2014. To qualify you need to meet the requirements of either the Physical Presence Test or the Bona Fide Residence Test. Qualifying via the Physical Presence Test requires expats to be inside a foreign country for 330 of any 365-day period. Encourage your employees to calculate their time carefully. Even one extra day in the US in the course of a year can cost them thousands on their U.S. taxes. Expats can also qualify via the Bona Fide Residence Test, which requires you to reside outside the U.S. for at least one year full year and have no intentions of returning to the U.S..

4. Get caught up on U.S. taxes

If you have overseas employees who have not filed U.S. tax returns, alert them to the importance of doing so now. The IRS created two amnesty programs to help U.S. taxpayers become compliant. The Streamlined Program is the most fitting for expats who were unaware they needed to file. Under this program, taxpayers file 3 years of back tax returns and 6 years of FBARs to get caught up. Often, no penalties or fines are assessed and many expats won't have any tax due. Becoming voluntarily compliant is the smartest way to avoid penalties, fines and possibly even criminal prosecution.

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