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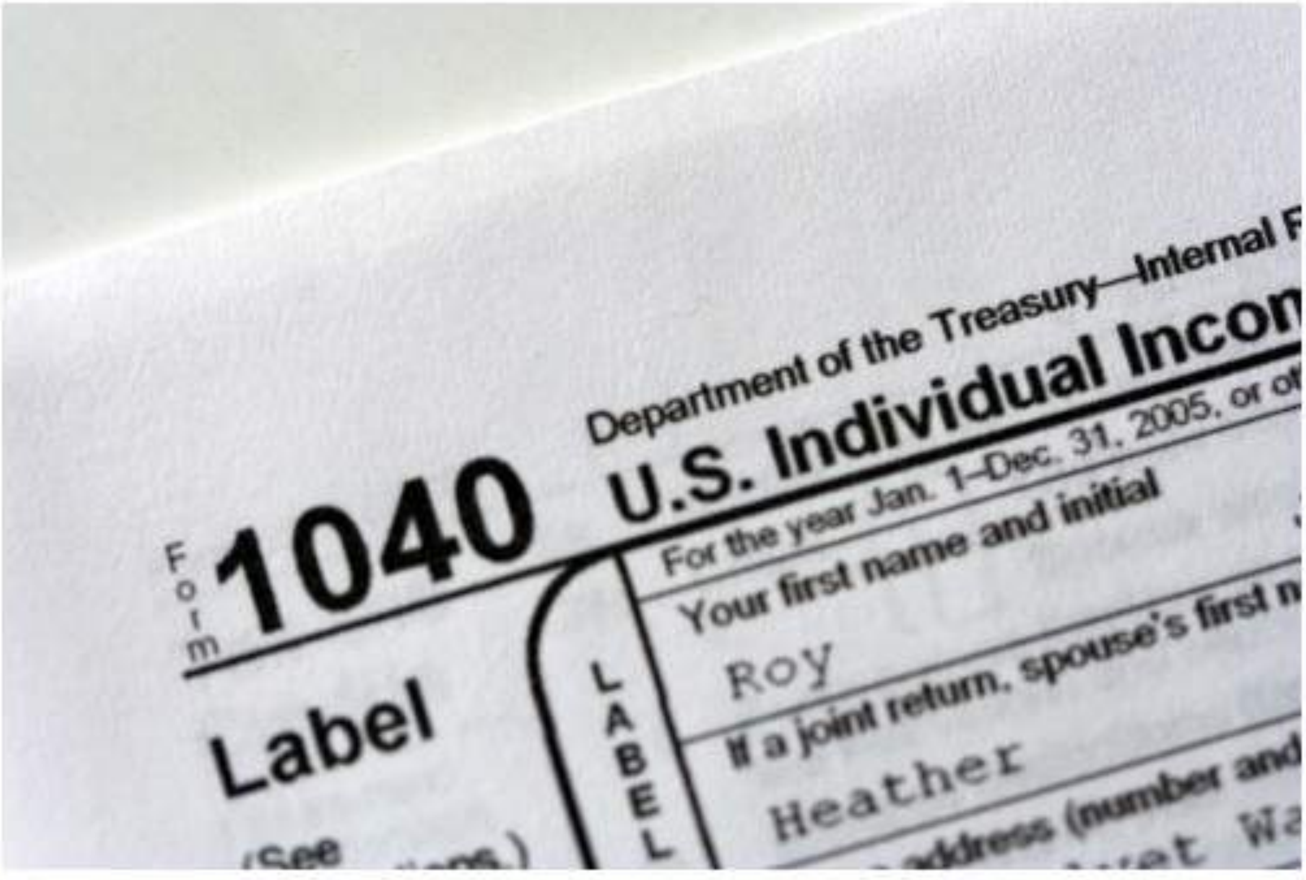
Tax Reform and U.S. Expats: The Good, the Bad and the Same

BY DAVID MCKEEGAN ON FEB 7, 2018



Here's what we know. The new tax reform bill called, Tax Cuts and Jobs Act (TCJA), is the first time in 30 years that the tax code has been fully transformed. While it is expected to ease tax filings and processing for Americans, the same can't be said for American Expats. These are US Citizens who live abroad (whether for personal or professional reasons), and who are also required to file with the IRS annually. For years, this group of tax-paying Americans have raised concerns about changes they would like made but unfortunately, for the most part, their voices were ignored. Below is a look inside the new tax reform bill for US Expats:

What hasn't changed:

The Foreign Information Reporting Requirements Expats are required to submit, in addition to their tax returns, are largely unchanged. The Foreign Bank Account Report, AKA FBAR or FinCen 114, the FATCA requirements - Form 8938, Form 5471 (Report of Certain Foreign Corporations), Form 3520 (Report of Foreign Trusts), and the Net Investment Income Tax, are still here and unchanged. This means that many Expats will continue having trouble banking abroad and face onerous penalties if they fail to file.

The two most important tax code provisions for Expats, the Foreign Earned Income Exclusion (FEIE) and the Foreign Tax Credit have also not been substantially changed. Expats can use the FEIE to exclude over $100,000 in earned income, from their US taxes each year and can use the FTC to reduce their US taxes dollar for dollar by the amount they have paid to a foreign government. This allows individuals to try to avoid double taxation and this has been largely unchanged in the Tax Cuts and Jobs Act. However, the way the FEIE will increase going forward has been changed, which brings us to what has changed.

What's New:

The new tax reform changes the way inflation is calculated and will affect a number of tax-related issues. Inflation calculations had previously been calculated using the "regular consumer price index," but going forward the IRS will use the "chained consumer price index." The end result is a lower rate of inflation will be used to calculate the increase to the FEIE, which will increase taxes over time.

Modifications were made in tax brackets, exemptions, and deductions. Tax brackets are now larger, meaning you may now be in a lower bracket than you were previously, and the standard deduction has been nearly doubled. For those considering a move to or from the US, two new issues should be considered: 1) the moving deduction has been completely eliminated; 2) the individual mandate, as part of the Affordable Care Act has been eliminated. Unfortunately, the Net Investment Income Tax was not eliminated and will still impact Expats.

The corporate tax has been the most talked about change. This tax reform bill has transitioned the US to a territorial system of corporate taxation. Before, the US operated using worldwide taxation, meaning that corporations had to pay taxes on the income they earned abroad. This change will affect Expats who own corporations outside of the US, because they will face a one-time deemed repatriation tax of 15.5% of any previously untaxed overseas profits as the US transitions to a more territorial system for corporations instead of a worldwide system.

For US Expats, the new tax bill is pretty much the same tax bill with disappointments and frustrations for the nearly 9 million Americans living away from the United States. And, those who own small businesses abroad may actually find their situation is worse under the TCJA than under the old system. But this is the new tax reality so file away!

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