

Why 'accidental Americans' have an uphill battle with the IRS

 [cnbc.com/2019/10/03/why-accidental-americans-have-an-uphill-battle-with-the-irs.html](https://www.cnbc.com/2019/10/03/why-accidental-americans-have-an-uphill-battle-with-the-irs.html)

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- 'Accidental Americans' are considered U.S. citizens but are unaware of their status. They may have been born in the U.S. but resided here briefly, or they have at least one parent who is a U.S. citizen.
- These individuals must file income, estate and gift tax returns with the IRS. They must also tell federal authorities about their foreign accounts.
- Compliance can be complicated. Accidental Americans must obtain a Social Security number or an Individual Taxpayer Identification Number to report to the IRS.

Kevan Earl, 54, has lived in the United Kingdom for the last 53 years. He was born in Nashville, Tennessee, making him an "accidental American."

Kevan Earl of Manchester, England, may not feel like he is an American. The IRS would say otherwise.

The 54-year-old was born in Nashville, Tennessee, to British parents. He stayed in the U.S. for about a year before moving to the United Kingdom, where he has lived ever since.

"I have an American birth certificate and a document that's a registry of live birth from the British consulate," the IT consultant said. "I've always considered myself British."

This wasn't a problem until Earl opened a bank account in England and put down "Nashville" as his place of birth on the application.

His answer kicked off another request from the bank: "We need your Social Security number."

Earl is among thousands of "accidental Americans" residing in Europe who are finding out that they are subject to tax reporting requirements from the IRS, as well as foreign account filings with the Treasury Department.

About 9 million Americans reside abroad, according to the U.S. Department of State.

Accidental Americans — individuals who are U.S. citizens because they were born here or because they had at least one parent who is a U.S. citizen — don't identify as such.

The U.S. taxes individuals globally based on their citizenship, meaning they must file income, estate and gift tax returns with the IRS.

They have to comply with FATCA, but the truth is that many U.S. citizens don't have a Social Security number, and to get one is a pretty trying process.

Even those who want to comply have a difficult road ahead: They need to secure piles of documentation to obtain a Social Security number or Individual Taxpayer Identification Number and begin filing their taxes.

Further, foreign banks are required to share information with the IRS on their American account holders, so the institutions are now asking these customers for their Social Security number or ITIN.

"If you're someone who happens to be born in the U.S. to French or German parents and you leave at an early age, you don't associate with being a U.S. person," said David McKeegan, co-founder of Greenback Expat Tax Services.

"One day, you get a letter from your bank saying you're an American and that they need your Social Security number," he said. "Your first response is 'I'm not American.'"

Reporting rules

At the heart of the matter is the Foreign Account Tax Compliance Act, or FATCA — the law which requires Americans to tell federal authorities about their foreign accounts.

These Americans must file a report of Foreign Bank and Financial Accounts, or FBAR, with the Treasury Department's Financial Crimes Enforcement Network.

You're required to file an FBAR if you had an interest in or signatory authority over at least one account outside the U.S., and the aggregate value of all the foreign accounts exceeded \$10,000 at any time in the year.

Failure to submit an FBAR comes with hefty fines.

There's a \$12,921 penalty for non-willful violations, while individuals who flout the law could face fines of up to \$129,210 or 50% of the account.

Separately, citizens who file an FBAR may also need to submit [Form 8938](#) to the IRS. This is known as a statement of specified foreign assets.

Whether you're required to submit this form depends on where you reside and whether your foreign asset holdings meet a set threshold.

The IRS has sought to simplify FATCA compliance for Americans abroad through streamlined compliance procedures and additional amnesty for those who have given up their citizenship.

In both cases, these people must file back taxes.

The complexity of tax compliance has led some Americans overseas to renounce their citizenship. More than 600 people took this step in the second quarter, according to the IRS.

Compliance hitches

Foreign financial institutions have compliance requirements with FATCA — they must share with the IRS information on American account holders.

The IRS gave these banks until the end of 2019 to obtain an ITIN or Social Security number for these clients or else face penalties.

"They have to comply with FATCA, but the truth is that many U.S. citizens don't have a Social Security number, and to get one is a pretty trying process," said Katelynn Minott, a CPA with Bright!Tax.

These individuals must go to the U.S. embassy in their country of residence, apply for a Social Security number and provide an official birth certificate and additional documents to prove they've been living abroad all this time.

For instance, Xavier, 68, and originally born in Washington, D.C., has had to travel more than 300 miles to the Federal Benefits Unit at the U.S. embassy in Paris to apply for a Social Security number.

The retiree, who resides in a suburb west of Paris, moved to France in 1965. He did not want to share his full name, as he isn't in compliance with FATCA yet.

The authorities asked for an official birth certificate, which Xavier couldn't obtain because he didn't have sufficient documentation and proof of identity.

He's now working on getting an ITIN instead, which warrants another trip to the embassy.

"I can cope with this well: I speak English and I have time because I'm retired," Xavier said. "Other people can't do this so easily, and I maintain that some will never be able to follow this procedure."