



“U.S. TAX PRINCIPLES THAT AFFECT U.S. PERSONS LIVING ABROAD”

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UNIQUENESS OF U.S. TAX SYSTEM

- CITIZENSHIP BASED TAXATION (U.S citizens and Green Card Holders=U.S. Persons)
- RESIDENCY BASED TAXATION (each country determines by domestic law when an individual will be considered a Resident for tax purposes of that country).
- Tax Resident in Spain if:
 - Spends 183 days or more per calendar year in Spain
 - or if the center of their vital interests is located in Spain
 - a presumption of residence arises if the spouse not legally separated and the dependent children live in Spain
- In Spain: Residence for Immigration purposes does not correspond to Residence for tax purposes.
- In the U.S.: Immigration status affects taxation: Resident Aliens are taxed in the same manner as U.S. citizens on their WWI and Non Resident Aliens are taxed only on their U.S. source income or on income EC with a U.S. trade or business.

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UNIQUENESS OF U.S. TAX SYSTEM

CONSEQUENCE: U.S. Person is subject to taxation on a WW basis by two countries at the same time, by Spain for the residency criteria and by the U.S. by the citizenship Criteria.

This situation can lead to POTENTIAL DOUBLE TAXATION

American Citizens Abroad understands the burden of this reality and continues to advocate before Congress for Residency Based Taxation.



SPANISH TAX REPORTING OBLIGATIONS
&
U.S. TAX REPORTING OBLIGATIONS

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U.S. TAX REPORTING OBLIGATIONS

DO I HAVE TO FILE A U.S. TAX RETURN?

Income, filing status and age generally determine whether a U.S. tax return must be filed. If the income was above certain thresholds, a U.S. TAX RETURN (Form 1040) has to be filed by the U.S. CITIZEN or GREEN CARD HOLDER living abroad.

For the Tax Year 2015 (filing in 2016) the thresholds are:

Filing Status	Under 65	65 or Older
Single	\$ 10,300	\$ 11,850
Married filing jointly	\$ 20,600	\$ 21,850
Married filing separately	\$ 4,000	\$ 4,000
Head of Household	\$ 13,250	\$ 14,800
Widow or widower	\$ 16,600	\$ 17,850
Self Employed net earnings	\$ 400	\$ 400

If total gross income is below these thresholds: NO OBLIGATION TO FILE but advisable for different reasons, from starting the statute of limitations to establishing the cost basis of certain foreign assets

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U.S. INFORMATION RETURNS

- There are several Information Returns that have to be filed depending on the type and amount of the foreign assets.
- Obligation of filing even when there is no income associated with the assets.
- Penalties for non reporting can be very severe.

Most common Information Returns:

- FBAR (Fincen 114) to report foreign financial accounts with an aggregate value of USD 10,000 or more at any time during the calendar year.
- Form 8938 (FATCA Form) Thresholds depend on filing status (married or not) and on residency status(living within or without the U.S.)
 - Example: Married couple living in the U.S. and filing jointly (100,000/ 150,000 threshold).
 - Married couple living outside of the U.S. and filing jointly (400,000/600,000 threshold)

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U.S. INFORMATION RETURNS

Other information returns:

Form 5471: Ownership interest in foreign corporations (CFC)

Form 8865: For interests in a foreign partnership

Form 3520: For gifts and bequest received from a foreign person

Form 8858: related foreign disregarded entities

And many more depending of the type and amount of offshore assets.

Advisable to make a list every year to make sure the required forms are timely prepared and submitted.

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Common Misconception: Double Tax System means double taxation

While the reporting burden is significantly increased due to having to report in two countries, there are mechanisms to minimize the risk of double taxation.

FOREIGN EARNED INCOME EXCLUSION : U.S. Persons living abroad, that qualify, could exclude from U.S. taxation foreign compensation up to a maximum annual limit, which was \$100,800 in 2015 and is \$101,300 in 2016. This amount is adjusted by inflation annually.

FOREIGN TAX CREDIT or ITEMIZED DEDUCTION FOR FOREIGN TAXES PAID

QUALIFYING HOUSING COST EXCLUSION: exclusion or either a deduction from gross income is also allowed for the cost of foreign housing that meets certain requirements.

BILATERAL TAX TREATIES: Under Tax Treaties or conventions that the U.S. has with many foreign countries it is also possible to reduce the foreign tax liability.



Conclusion: being subject to both US and Spanish taxation does not generally result in having to pay tax twice, on the same income. Since Spanish income tax rates are generally higher than U.S. income tax rates, most Spanish residents U.S. Persons will usually find that they owe no U.S. tax at all.

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FORMS TO EXCLUDE INCOME AND CLAIM FOREIGN TAX CREDITS

- The exclusions apply regardless of whether any foreign tax is paid on the foreign earned income or housing amounts.
- But these exclusion benefits can be claimed only if a U.S. tax return is filed within certain time deadlines.
- They are not automatic and must be requested by filing special Forms

Form 2555: Foreign Earned Income Exclusion (Apply only to salary or in general, compensation from personal services performed)

Form 1116: Foreign Tax Credit (Apply to foreign taxes paid on both, earned income and other types of income such as dividends, royalties, interests, rents, etc.

- FTC is not available for income excluded under the FEIE.
- Taxpayers have the choice between FEIE or FTC.
- Earned income above the exclusion amount is generally eligible for the FTC in the portion of non excluded income.

FILING DEADLINES

U.S. Tax Return (Form 1040)	April 15th	June 15th (By Statement with Tax Return)	October 15th (By Form 4868)
Tax Owed Due Date	April 15th	Interest assessed + possible penalties if not estimated payments	Interest + Penalties
FBAR (FinCEN 114) through BSA online filing system*	June 30st	NO possible extension	

*Starting with tax year 2016, which ends this December, the FBAR filing deadline is moved to match the tax return filing deadline and extension requests will be allowed for the same time. This means that in 2017 the FBAR will be due on April 15th with the possibility to extend to October 15th. The mechanism for filing and extending has not been created by the IRS year and it is not expected to be communicated until next year.

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HIGHER INCOME FAMILIES: beware the Net Investment Tax

Introduced by The Affordable Care Act (Obamacare).

Applies to:

- Single taxpayers with income above \$200,000/year
- Families with income above \$250,000.

This tax is a 3.8% sur tax that applies to passive income such as rents, dividends, interest, royalties and capital gains and it is paid in addition to the regular income tax owed on this type of income.

Its is not an income tax, therefore, it is not eligible for the FTC.

Many higher earning taxpayers with incomes above these thresholds, to their surprise, have been liable to pay this US tax even when their US income tax is completely offset by the FEIE and FTC.

The income thresholds are not adjusted for inflation, so as years go by, more and more taxpayers are expected to be affected by this tax. This tax has been in effect since 2013, so it is a fairly recent development. The tax is calculated and reported on Form 8960.

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Obama Care new Form 8965

The Affordable Care Act: every US citizen and green card holder should maintain qualified health insurance that meets the Minimum Essential Coverage under Obamacare.

Penalties apply for absence of coverage: ranging from a minimum of \$95 per person in the household to a much higher amount based on the family income.

There are a number of exemptions from having to maintain this coverage.

US Persons who live outside of the US for at least 330 days during the calendar year or who are bona fide residents of a foreign country are exempted from this mandate under exemption C.

Each family member must qualify for the exemption individually and Form 8965 must be used to claim the exemption from the penalty.

This form is filed with the tax return and the penalty will be assessed if it is not included when it should have been included.

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GETTING BACK INTO COMPLIANCE

Many of you may not have been aware of these rules and how they applied to you and may find out that you have not been compliant

WHICH ARE THE OPTIONS?

After years of advocacy from American Citizens Abroad, the IRS finally introduced additional programs aimed at allowing a path back into compliance from non-willful actors and those with reasonable cause for their noncompliance with much lower penalties, and in some cases, for those who qualify, with no penalties at all.

These programs include:

- Streamlined Offshore Program
- Delinquent FBAR Submission Procedures
- Delinquent International Information Return Submission Procedures

These programs are still open, although this is not expected to remain the case for a long time.

Do not wait any longer!

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THANK YOU VERY MUCH FOR YOUR INTEREST

GOOD EVENING!

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