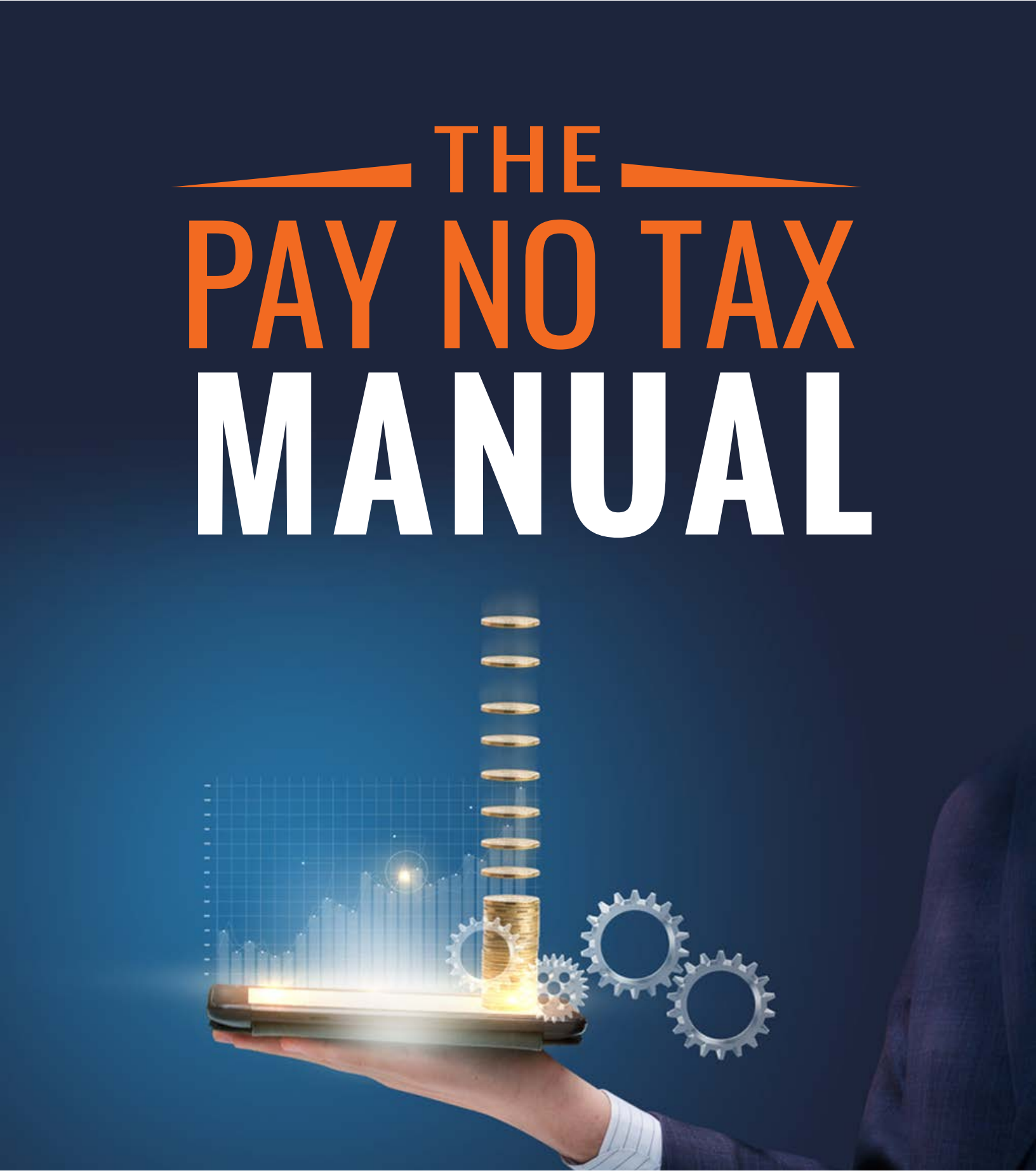
# THE PAY NO TAX MANUAL



INTERNATIONAL LIVING
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The Pay No Tax Manual

An *International Living* Report

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# INTRODUCTION

The U.S. is one of just two countries in the world that taxes its citizens on world-wide income…no matter where you live.

So there's no escaping the IRS.

But, if you care about keeping the wealth you've worked hard for… If reducing your tax burden matters to you, then this book is a valuable resource.

The U.S.'s fiscal disorder all but guarantees we will see tax hikes. And if the fiscal situation gets worse as interest rates march higher on the mountain of debt the government must repay, Congress will have to seek income to keep America's lights on. That could lead to overt tax hikes.

And that means you have to start planning now for what happens in the future. Putting measures in place to protect your wealth takes time, and you should begin the process of contemplating offshore opportunities.

That's why offshore expert Mark Nestmann details the best tax-saving strategies for you in Chapter One.

The IRS is taking a more and more aggressive approach to invading the financial privacy of American citizens, at a personal, institutional, and international government level by the year.

This new approach is covered by the Foreign Account Tax Compliance Act (FATCA).

Turn to Chapter Two to learn, in simple terms, what FATCA means for you… and read about five ways to "FATCA-proof" your international portfolio.

If you're planning on retiring abroad soon, turn to Chapter Three to learn what you need to know about taxes when you move overseas…and the huge tax and lifestyle benefits of doing so.

Relocating to another continent is not for everyone. But there is a way you can remain in the U.S. and reduce your tax bill—with a move to Puerto Rico.

Puerto Rico is a U.S. Commonwealth. That means some things fall under U.S. law, like customs and immigration (so you don't need a passport to visit), while other things are independent, such as the tax system.

Puerto Rico has used this autonomy to extend generous tax incentives to attract business owners, contractors, and self-employed people. These include zero federal income tax, a 4% corporate tax, and zero tax on capital gains and dividends.

Turn to Chapter Four to learn everything you need to know about Puerto's Rico's attractive tax incentives.

There are 20 questions you should ask before buying foreign real estate…which we've outlined in Chapter Five. This information, brought to you by tax experts Matthew Apodaca and Nick Hodges, is the ultimate guide on how to structure your foreign property purchase to keep you and the tax man happy.

In Chapter Six, expat Paul Carlino details what you need to know about filing a U.S. tax return when you live overseas.

One of the biggest tax benefits for expats living and working abroad is the "Foreign Earned Income Exclusion" (FEIE). Learn how to claim your FEIE—which can save you thousands of dollars.

If you live overseas part-time, you'll find the information you need (also in Chapter Six) on the tax tips for seasonal expats…and you'll learn how to deal with the IRS if you owe them money.

And finally in Chapter Seven, you'll hear from two Americans who renounced their citizenship…and their reasons why.

There is no way to escape taxes, especially as an American. You can, however, reduce your bill dramatically. And doing so is one of the best, smartest investments you can make.

Read on to find out more.

Sincerely,

Jackie Flynn,

Publisher,

*International Living*

# CHAPTER ONE

## The Best Tax-Saving Strategies

**By Mark Nestmann**


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*Funds you contribute to a qualifying pension or retirement plan grow tax-deferred.*

The U.S.'s fiscal disorder all but guarantees we will see tax hikes. And if the fiscal situation gets worse as interest rates march higher on the mountain of debt the government must repay, Congress will have to seek income to keep America's lights on. That could lead to overt tax hikes.

And that means you have to start planning now for what happens in the future. Putting measures in place to protect your wealth takes time, and you should begin the process of contemplating offshore opportunities.

## Tax deferral: more important than ever!

When it comes to taxes, deferring them is almost as good as avoiding them altogether. That's especially true if you can defer them for an extended period.

It's a function of the "present value" of a fixed sum of money. If you have to pay $100 in taxes now, the present value of that payment is $100. But if you can defer that obligation for 20 years, assuming a 5% inflation rate, the equivalent value of that future payment is only $37.69.

Obviously, as tax rates—and inflation—increase, deferral strategies become increasingly valuable. Some of the ones you should consider are:

### Annuities:

Income earned with an offshore variable annuity is tax-deferred until you cash in the contract or receive payments from it. The income part of payments is subject to ordinary income tax.

Consequently, an annuity most benefits the part of your portfolio that generates ordinary income rather than long-term gains. And if your retirement is far enough off, ordinary income's higher tax rate may be a small price to pay for the privilege of years of tax deferral.

You can buy annuities from a U.S. or non-U.S. issuer. Offshore, some of the strongest insurance companies that issue annuities are in the Isle of Man, Switzerland, and Liechtenstein. Laws in these countries provide strong asset protection for beneficiaries of annuities.

You also have the benefit of investing outside the U.S. dollar, in a portfolio of non-U.S. securities. While you can't self-direct your investments, many companies will permit you to select a portfolio manager.

## Life insurance:

Another way to defer tax is with a life insurance policy. All earnings within the policy accumulate free of taxes until withdrawal. There's no tax on the appreciation in value or accumulation of income of the investment account maintained within a life insurance policy. Additionally, the death benefit can pass to beneficiaries tax-free.

One popular estate-tax planning strategy is to form an irrevocable life insurance trust (ILIT) and fund it with a life insurance policy you purchase. A properly-designed ILIT can exempt both the insurance policy and the insurance proceeds from U.S. estate tax. At your death, the policy's death benefit pays any estate taxes on your estate that might be due.

The policy's cash value and death benefit generally are much greater than the premium you pay for the policy.

If you buy a life insurance policy offshore, you get greater asset protection and many more investment options—including being able to hold a portfolio of non-U.S. securities in the investment portion of your policy.

## Retirement plans:

Funds you contribute to a qualifying pension or retirement plan also grow tax-deferred. Plus, you may be able to get a tax deduction when you make the contribution.

As with annuities, the income you eventually receive from your pension or retirement plan is subject to ordinary income tax. But again, if your retirement isn't imminent, the opportunity for tax deferral in a retirement plan is a compelling one.

# CHAPTER TWO

## FATCA Made Easy: What the New Tax Regulations Mean for You

**By Bright!Tax U.S. Expat Tax Services**




*With any information you receive about FATCA, make sure you ask when, how, and for whom it applies.*

The IRS is taking a more and more aggressive approach to invading the financial privacy of American citizens, at a personal, institutional, and international government level by the year.

The U.S. government needs help to reduce the growing deficit and the IRS has been pressed to do its part.

The chief focus of their efforts is on finding the foreign financial assets of U.S. citizens. The IRS is doing this by requiring international financial institutions to report all financial holdings of U.S. citizens—or face a substantial reduction in earnings on their U.S. investments.

Simply put, the IRS is pressing foreign financial institutions and governments into doing the work of tracking U.S. citizens investing abroad.

This new approach is covered by the Foreign Account Tax Compliance Act (FATCA). Enacted in 2010 as part of the Hiring Incentives to Restore Employment (HIRE) Act, the act comes hot on the heels of the 2009 IRS challenge of UBS Switzerland (a Swiss bank which has admitted aiding U.S. citizens to evade tax. UBS has since paid a $780-million fine and handed over the names of more than 4,000 U.S. account holders to avoid prosecution).

Shortly after that case, the Hiring Incentives to Restore Employment Act (HR 2847)/FATCA regulations hit the media—long before it was signed into law on March 18, 2010. Hidden deep within the HIRE Act were the FATCA funding regulations.

These regulations are designed to target what the U.S. government sees as one of its greatest arenas of tax evasion: your foreign financial assets.

Across the internet and repeated in conferences and conversations around the world, a maelstrom of speculation exploded. Conjecture was taken as gospel; misinformation was repeated as fact.

Every commentator on the international financial scene seemed to think that they had the corner on the market of truth with respect to FATCA—when even the IRS didn't know how it was going to roll out.

Now, several years later, annual disclosure reporting for Form 8938 (Statement of Foreign Financial Assets) is the norm for U.S. citizens, as is full reporting from almost every foreign bank and investment firm in the world.

Taken alongside foreign tax information provided under sharing agreements with other governments, the IRS has a very clear picture of Americans' finances globally.

But in some quarters misinformation is still reported as fact. Don't base your financial decisions on these incorrect statements we've heard over and over:

*"Your international money wires are going to have 30% tax withheld!"*

*"Overseas banks will never comply with this U.S. invasion into their sovereignty."*

*"They won't be able to find me if I open an account with my non-U.S. passport."*

You can ignore the pressure and misinformation, if you're armed with the facts surrounding FATCA.

## What is FATCA really about?

In the greater scheme of things, the purpose of this legislation is to discover the foreign financial assets that American citizens hold by requiring two things:

1. Substantial disclosure reporting of foreign financial assets (FFA) by individuals.
2. Substantial compliance requirements of foreign financial institutions (FFI) regarding foreign accounts for Americans.

Through the foreign financial reporting requirements of FATCA, the IRS believes that it will uncover billions of unreported foreign financial assets that are earning unreported income.

The IRS expects to generate revenue from these unreported assets: not only through tax assessed on that income, but through the associated high-cost penalties and interest it can levy against these undisclosed assets.

This law is being changed as it is implemented. Since 2010, there have been multiple revisions and deadline extensions—affecting individual and foreign financial institutions separately, and creating a great deal of confusion.

Additionally, some requirements were implemented retroactively, catching many U.S. citizens by surprise when they filed their tax returns for 2011.

Controversy and misunderstandings abound regarding how and when HIRE/FATCA regulations are being rolled out. With any information you receive about FATCA, make sure you ask **when**, **how**, and **for whom** it applies.

Because the act covers foreign financial institutions and individual foreign financial assets separately, it is important to always fact check the information you hear or read about with an experienced tax professional.

## Your assets overseas

FATCA will deal with what are termed as Foreign Financial Assets (FFAs).

The IRS' interpretation of an FFA is constantly changing but a good rule of thumb is this:

*"Almost any investment you make overseas with a non-U.S. person or non-U.S. entity may be construed to be a foreign financial asset (FFA) for FATCA reporting purposes."*

A few obvious FFAs are: bank accounts, brokerage accounts, insurance policies, and other investment vehicles.

Some not-so-obvious FFAs are: ownership in a foreign corporation and beneficiary of a foreign estate or trust. This is the arena that the IRS continues to reinterpret.

While most of the news media are focusing on foreign bank accounts, FATCA regulations include all kinds of foreign financial instruments, including investments, brokerage accounts, insurance policies, offshore annuities, foreign business interests and any other offshore financial assets.

The reporting regulations are the same for all these asset types: You *must* report them on Form 8938 if you meet the filing thresholds.

Many foreign banking institutions, like UBS Switzerland, also hold brokerage accounts (also an FFA), so there is some overlap between FFA types and providers.

Furthermore, all foreign financial institutions (FFI), whether a bank, brokerage, or insurance company are subject to all the same reporting requirements and will be reporting to the IRS.

Just because a type of foreign financial asset is not getting as much press and discussion does not mean that they are not a part of the mix.

## How the IRS views your foreign financial institution

### What is a Foreign Financial Institution (FFI)?

An FFI is defined as any financial institution that is a foreign entity that:

- Accepts deposits in the ordinary course of a banking or similar business;
- Holds financial assets for the account of others;
- Is engaged in the business of investing, reinvesting, or trading in securities, partnership interests, commodities, or any interest in such securities, partnership interests, or commodities.

Within the FATCA framework, the IRS sees a Foreign Financial Institution (FFI) in one of two ways: to be compliant or non-compliant. In other words: to be reporting on their U.S. account holders and their earnings or not.

Banks and FFIs were required to start reporting your overseas earnings by July 1, 2014. At the time of writing this, non-compliant FFIs are subject to the 30% withholding rule.

### Compliant FFIs

Under FATCA, in order for foreign institutions to do business in the U.S. and not have the earnings on their U.S. investments affected by a 30% withholding rule, they need to identify three types of customers:

1. Obvious non-U.S. citizens.
2. Compliant U.S. citizens (i.e. customers who have disclosed to the institution with a W-8 or W-9).

3. Recalcitrant U.S. citizens (i.e. customers suspected to be U.S. citizens because of their ties to the U.S. who have not—or will not—declare their U.S. status. From these folks, 30% of any of their foreign earnings will be withheld and remitted directly or indirectly to the IRS).

Many international institutions, wanting to comply with FATCA regulations, will actually be breaking their own country's laws regarding disclosing private information if they choose to comply and report to the IRS.

In many countries, banks and financial institutions are already reporting account and account holders information to their own government. Some compliant FFIs have elected to report your investment information to the IRS (and you) on an IRS Form 1099 (or something similar).

However, not all FFIs will be reporting this way; you are still responsible to report your foreign earnings and foreign investment accounts per IRS regulations on your individual tax return and other required disclosure reporting—Form 8938 and/or FinCEN 114.

Having to reconfigure this information to the IRS reporting specs generated substantial additional costs to individual FFIs. So, the IRS is working on securing Inter-Governmental Agreements (IGAs), which would allow the banks and financial institutions to report to their government and their government would report to the IRS.

As of this writing, the IRS has secured approximately 100 countries that have signed or agreed to, in substance, an IGA. There are two agreement models:

- Model I IGA: Allows the bank to report to its own government.
- Model II IGA: The bank will report to its own government and communicate with the IRS directly.

## Non-Compliant FFIs

The FFIs that do not want to comply with IRS reporting requirements will still have to demonstrate to the IRS that they are not providing financial services to U.S.

citizens if they want to prevent 30% withholdings from their U.S.-source earnings on their U.S. investments.

As a result, many foreign banks and insurance companies (including, reportedly, banks in Switzerland and Uruguay) are electing to close all accounts associated with U.S. citizens.

### The 30% withholding myth

I want to set your mind at rest about something: The details that first made it to the rumor mill about FATCA had little to do with new reporting requirements of U.S. citizens. Instead, most reporters and writers focused solely on the portion of the regulation that calls for a 30% withholding on income—a portion of the regulations that will affect foreign financial institutions far more than individual Americans with foreign investments.

The 30% withholding specified in the FATCA regulations apply to only two situations:

1. A non-compliant foreign financial institution with U.S.-source income will have 30% of that income withheld from any earnings.
2. A non-compliant U.S. citizen with a foreign financial asset at a foreign financial institution will have 30% of that income withheld from any earnings.

So, if you, as a U.S. citizen investing in a foreign financial asset, are compliant in providing your U.S. information to a compliant foreign financial institution, you should not experience a 30% withholding.

## What this means for you

Banks and other foreign financial institutions are continuing to formulate their policy on opening accounts for U.S. citizens. At this time, here's how some of these policies will affect you:

1. It will be more difficult to find a foreign financial institution that will open accounts for U.S. citizens.
2. When you do locate a foreign financial institution that will accept investments from U.S. citizens, you will find many more restrictions and requirements in order to open the account.
3. There is no requirement for the bank or financial institution to notify you regarding any investigations of the bank or your account.
4. What you don't want is to be with a bank or financial institution that will end up having problems reporting to the IRS or its government. You will want to select an institution that is large enough and sophisticated enough to adequately comply with the reporting regulations.

Not desiring to lose 30% of their U.S.-source income, FFIs have been motivated to disclose your account information to the IRS.

Here's what the FFIs are planning to do:

- For all known U.S. account holders, a form similar to the IRS Form 1099 will be sent annually to the IRS by the FFI the account is held in. As of the date of this writing, the actual reporting form has not been created by the IRS.
- For suspected U.S. account holders, a database scrub and information crosscheck is being performed to find additional information to further identify U.S. account holders.

In order for banks to prove that they have identified all American account holders, they are accessing and compiling the various international lists and databases, including credit report companies, to cross-reference all available information to what they have on their account holders.

They are looking for emails, phone numbers, cell phones, mailing addresses, bill-paying, street addresses—anything that may provide additional information on their account holders.

- For non-compliant, but identified, U.S. account holders, 30% of all foreign-source earnings associated with their individual account will be withheld and forwarded to the IRS in name only.

A non-compliant account holder will be one that has not provided their Social Security number to the bank. As such, the foreign bank is to withhold 30% of any earnings on the non-compliant account.

That means that for every $1 earned, $0.70 will be credited to the account and $0.30 will be withheld. This withholding is to be forwarded to the IRS by the financial institution (or through the Inter-Governmental Agreement).

Without a Social Security number as a cross-reference, this withholding will be submitted to the IRS in the name of the account holder only. This may create a problem later for the account holder to claim the withholding on their tax return as there is no unique Social Security number by which to locate it—there may be thousands of "John Smith" names in the U.S.

Usually, refunds of withholdings are sought with the filing of the tax return. However, in this situation, a non-compliant U.S. citizen will likely not be filing the required Form 8938 and instead of receiving the refund, will be hit with a $10,000 failure-to-file penalty.

## Is FATCA concerned with foreign real estate?

Owning foreign real estate continues to be a very popular investment for many people.

If you own foreign real estate in your own name, it is *not* reportable under FATCA.

However, this poses a problem in some foreign countries as attorneys often suggest that you buy foreign real estate in some form of corporation. By putting foreign real estate into a foreign corporation, you convert it from being real estate (non-reportable) into being a foreign financial asset (i.e. stock in a corporation), making it reportable.

©IL

*If you own foreign real estate in your own name, it is not reportable under FATCA.*

A foreign trust is another structure for owning foreign real estate. The most common of these foreign trusts is known as a bank trust.

In Mexico it is known as a *fideicomiso* trust. In IRS Rev. Rul. 2013-14, the IRS ruled that in three situations a *fideicomiso* trust is not a trust for U.S. income tax reporting purposes if it's owned:

1. Through a disregarded U.S. limited liability company wholly owned by a U.S. citizen;
2. By a U.S. corporation;
3. Directly by a U.S. citizen.

Because the bank's only duties are to hold and transfer legal title at the direction of the buyer, a *fideicomiso* trust does not have to be reported on Form 3520A or Form 3520.

# 15 common questions about FATCA

## 1. I already have a U.S. tax professional; doesn't he/she already know about FATCA?

While many current U.S. tax professionals will get the tax calculations on your tax returns correct, most of them are unaccustomed to the area of the tax law that is related to disclosure reporting. FATCA regulations and implementation are all about disclosure reporting. If your tax professional misses filing the disclosure forms associated with your foreign financial assets, you could incur a $10,000 penalty.

## 2. My tax filings are simple; I file my tax returns myself.

For those readers who prepare their own tax returns, it's critical for you to understand the many tax law changes of the past four years. Again, the area that poses you the greatest exposure is that of disclosure reporting. Make sure you understand the new tax regulations completely before you file.

## 3. How do I know if I have to file a Form 8938?

If you're already required to file a U.S. tax return, the IRS wants you to tell them what foreign financial assets you have. FATCA requires the filing of IRS Form 8938 along with your annual tax return, based on a combination of asset values and filing thresholds.

We anticipate that these values and thresholds may change from time to time:

| Filing Status | Asset Value at Year-End | Asset Value at Anytime During Prior Year |
|---|---|---|
| Married Filing Jointly from U.S. | $100,000 or more | $150,000 or more |
| Married Filing Jointly from Abroad | $400,000 or more | $600,000 or more |
| Single Filing from U.S. | $50,000 or more | $75,000 or more |
| Single Filing from Abroad | $200,000 or more | $300,000 or more |

## 4. Do I have to file an IRS Form 8938 if I don't otherwise have to file a tax return?

Many U.S. expats are living on Social Security income and small retirement pensions that fall below the U.S. requirement to file an individual Form 1040 each year. For these folks, there is no requirement to file IRS Form 8938, since there is essentially no tax return to attach it to.

The IRS tax return filing requirement depends on age and marital status and changes each year.

These requirements can be looked up online at *https://www.irs.gov/*.

## 5. Will my international wire transfers automatically have 30% withheld?

Americans have the right to wire money anywhere in the world with very few restrictions and exceptions. There seems to be a general misconception in the market that the new FATCA requirements will cause your foreign transfers to have a 30% withholding taken from them. This is simply not true.

FATCA is not the problem for wiring or transferring money internationally—but the foreign governments' capital controls laws may be.

Americans transferring money overseas should review the capital controls laws in the country where the money is being received. For example, Brazil has no tariffs for money coming into the country, but has a fee on monies being transferred out of the country. In addition, you should check with a tax professional in your country of choice regarding possible withholdings on interest earned in accounts holding that country's currency.

## 6. Well, am I going to have 30% withheld or not?

FFIs will only withhold 30% (of the *earnings* on your foreign financial account) if you refuse to provide your U.S. information to them. In that case, you will be deemed a recalcitrant account holder, and you will only receive 70% deposit of the earnings your foreign account makes. The 30% withholding will be sent to the IRS in the name of your account, and possibly lost forever in the system.

## 7. Will filing Form 8938 increase my U.S. income tax?

The filing of Form 8938, while an invasive inquiry into your foreign financial holdings, will not increase your U.S. income tax unless you have not been including your foreign earnings/income on your Individual Form 1040. Form 8938 is simply an additional reporting form to ensure compliance with an already-existing requirement to report and pay U.S. income taxes on foreign-earned income.

Remember: Failure to file a Form 8938 may result in a statutory penalty of $10,000, which is non-negotiable with the IRS.

## 8. Is my gold in a foreign safe deposit box a Foreign Financial Asset?

FATCA is new and interpretations are still evolving. I believe at the time of this writing, that technically gold held in a foreign storage facility is not a foreign financial asset.

The current stance of the IRS is this:

*"Directly held precious metals, such as gold, are not specified foreign financial assets. Note, however, that gold certificates issued by a foreign person may be a specified foreign financial asset that you would have to report on Form 8938, if the total value of all your specified foreign financial assets is greater than the reporting threshold that applies to you."*

However, I will continue to monitor how the IRS is interpreting the text of Treasury Regulations 1.6038D-3T(b): other specified foreign financial assets. Because the IRS is looking for unreported assets, I'm concerned that the IRS may broaden the interpretation of this text to include ownership of gold offshore.

With all this in mind, the question I am currently asking my clients is, "Does your holding have an account number?" If the answer is yes, then I recommend disclosure reporting with respect to the gold.

Why am I recommending disclosure reporting before it's required? Partly because the IRS is about two years behind in its review process, and because the penalties for non-disclosure are high (starting at $10,000) and they are statutory,

so they cannot be waived by the IRS. Given the general shift in tone with the IRS to a less forgiving and more aggressive one, I would advise erring on the side of caution.

## 9. What about Bitcoin and other cryptocurrencies?

The IRS has provided little guidance on when Bitcoin and other cryptocurrencies are considered reportable as foreign assets on form 8938. Most tax advisors agree though that if the virtual currency account or wallet is held outside the U.S., it is safer to report if than not to.

It's also worth noting that virtual currency profits are considered capital gains and should be reported, while payments in virtual currency for services provided are considered income and are liable to US income tax.

## 10. The IRS won't find me, will they?

In the past, the attitudes of some U.S. expats toward disclosure reporting have been:

- They'll never find me.
- I won't file.

or

- I'll just use my second passport.

The significant advances in international technology and information processing via the Internet with the aggressive IRS tactics of recent years has created an environment in which finding your foreign financial assets is as simple for the IRS as tumbling international bank secrecy laws.

Additionally, we are consulting with several banks outside the U.S. regarding their FATCA compliance activities.

Let me be very clear: with the data scrubbing, cross-referencing, and information sharing that is now happening at the international institutional level, there are no secrets in the world anymore.

## 11. What if they do find me?

The penalties can add up very quickly. Moreover, because the IRS is two to three years behind the filing curve for inspection, you can expect that they will add interest to your penalties.

| Description | Penalty |
|---|---|
| Failure to File: | $10,000 statutory penalty for each form unfiled. |
| Continued Failure to File: | Up to $50,000 maximum penalty, assessed each 30-day period (or portion) beyond 90 days after IRS notification. |
| Accuracy-Related: | 40% of tax underpayment related to inaccurate filing |
| Fraud Findings: | 75% of tax underpayment related to fraudulent filing |

In addition to these financial penalties, you may be subject to criminal penalties and additional tax audits for failure to file a correct and timely Form 8938.

## 12. Is the IRS really looking for me?

We can learn from the IRS's attack on UBS Switzerland that the IRS is looking for much larger dollar amounts and extremely wealthy, non-compliant filers. Most people investing abroad do not fall into this category.

However, when the IRS is casting the net to catch the larger fish, the small fish will also be caught in the net.

What the IRS is doing with FATCA regulations is turning the international banks into an IRS policing unit. With substantial revenues on the line, international banks are highly motivated to uncover and identify U.S. citizens investing in their foreign financial institutions.

With additional preparer penalties at stake, U.S. tax preparers are coming under much greater IRS scrutiny and face greater professional penalties for non-disclosure clients than ever before.

In the past, the IRS would just ask the U.S. tax preparer, "Did you know?" Now the tax preparer is being asked, "*Should* you have known?" and additional FATCA penalties can be assessed on the tax professional as well.

## 13. Does filing Form 8938 replace the FinCEN Form 114?

Form 8938 does NOT replace the FinCEN Form 114 (formerly called the TDF 90-22.1 FBAR) filing requirements. In some cases, you will need to file both forms.

## 14. What else do I need to know about Form 8938?

The 2010 tax year was the first year that required the filing of Form 8938. However, it wasn't until early 2012 that the IRS issued an actual Form 8938, which was dated for the 2011 tax year.

With the tardy creation of the form, the IRS issued instructions to use the 2011 version of Form 8938 to file your 2010 information and to send it along with your 2011 tax return.

If you were required to file Form 8938 for the 2010 tax year and have questions or concerns about it, be sure to contact a tax professional with foreign investments experience.

## 15. What can I do to protect myself?

- File an annual individual 1040 tax return to start the federal statute of limitations running (three years) to protect you from a future audit.
- File Form 8938 if you are required.
- Work with a tax professional experienced with international investments and make sure these additional disclosure filings are a part of your annual tax reviews:

  o FinCEN Form 114

  o Form 5471

  o Form 3520 and 3520-A

  o Form 926

## Top 10 legal loopholes of FATCA

I am asked all the time if there is any good news surrounding the new Foreign Account Tax Compliance Act (FATCA) regulations and its associated Form 8938 (Statement of Foreign Financial Assets). In an effort to protect my clients from the draconian penalties associated with a failure to file Form 8938, I have cautiously advised, "When in doubt, file."

However, recent conversations with a couple living in Costa Rica reminded me that there are legal loopholes to FATCA—situations where you are NOT required to file Form 8938.

**Disclaimer:** At the time of this writing, this information was current. However, the IRS continues to issue reinterpretations of the FATCA regulations as the deadlines roll out. If you have any questions regarding your situation, please consult with a tax professional.

**You *do not* have to file Form 8938 if:**

1. You do not otherwise have to file a U.S. individual income tax Form 1040 (IRS Publication 17, 2018).

2. The aggregate values of your foreign financial assets are below the Form 8938 filing thresholds, which are determined by filing status and location (Instructions for Form 8938).

3. Your foreign real estate is titled in your own name (IRS Q&A).

   However, any earnings on real estate owned in your own name should be reported with your annual 1040, usually on Schedule E.

4. Your Mexican real estate is held in a *fideicomiso* trust that meets the situations described in IRS Rev. Rul. 2013-14 (IRS Rev. Rul.2013-14).

   However, any earnings on real estate owned in a *fideicomiso* trust should be reported with your annual 1040, usually on Schedule E.

5. You directly hold foreign currency (IRS Q&A).
6. You directly hold precious metals (IRS Q&A).
7. You directly hold collectible personal property, such as art, antiques, jewelry, cars and other collectibles (IRS Q&A).
8. Your offshore account is in a foreign branch of a U.S. institution (IRS Q&A).
9. You have a Stateside financial account, maintained by a U.S. branch or U.S. affiliate of a foreign financial institution. Additionally, any specified foreign financial assets in that account do not have to be reported (IRS Q&A).
10. Your foreign assets are used in a trade or business (Instructions for Form 8938).

    Here's my favorite:

11. Marry a foreigner and don't own any assets with your name on them.

    Georgia from Atlanta married a prince from Monaco. She moved all her belongings there to live with him. As a U.S. citizen abroad, she files her annual Form 1040 individual tax return as Married Filing Separate. All assets are in her husband's name and nothing is titled jointly.

    - She does, however, have signatory authority over all his accounts which are collectively worth millions of dollars. In this setting, Georgia is not required to file a Form 8938.

      However, she will be required to file a different disclosure form (FinCEN Form 114, formerly known as FBAR).

## Introduction to the Alphabet Soup

Some acronyms will come up again and again when it comes to dealing with taxes. To help you, the most common are explained below.

| AML | Anti-Money Laundering Laws |
|---|---|

In a bid to stop the process of making illegally-gained money appear legal, the government enacted multiple laws, requiring banking agencies and financial institutions to identify and report the movement of money. It's changed the way new account forms look, and requires additional information when the amount involved is over $10,000 in deposits or transfers. These laws include:

Bank Secrecy Act (1970)

Money Laundering Control Act (1986)

Anti-Drug Abuse Act of 1988

Annunuzio-Wylie Anti-Money Laundering Act (1992)

Money Laundering Suppression Act (1994)

USA Patriot Act (2001)

Intelligence Reform & Terrorism Preventions Act of 2004

| KYC | "Know Your Customer" Regulations |
|---|---|

As identified in Section 326 of the USA Patriot Act (2001), KYC regulations require financial institutions to implement customer identification programs (CIP) for all customers desiring to open financial accounts.

The details are spelled out by regulations associated with multiple federal agencies: FINRA, SEC, FDIC, and Secretary of Treasury, and include back-checking names against international lists of terrorists and money launderers.

| HIRE | Hiring Incentives to Restore Employment Act of 2010 (HR 2847) |
|---|---|
| Best known as a “jobs bill”, in Subtitle A of Title V, it makes modifications to Chapter 4 of the IRS Code that created the FATCA provision, requiring disclosure reporting for individuals and foreign banks. | |
| **FATCA** | **Foreign Account Tax Compliance Act (2010)** |
| Created as a part of the HIRE Act, FATCA is estimated to raise revenues of $800 million per year for the U.S. Treasury. FATCA requires U.S. citizens to report their Foreign Financial Assets with their annual 1040 filing on IRS Form 8938 Statement of Foreign Financial Assets. | |
| **FBAR** | **Treasury Department Form TD F 90-22.1: Report of Foreign Bank and Financial Accounts** |
| FBAR filing requirements were authorized in 1972 under one of the original provisions of the Bank Secrecy Act. In February 2011, it was amended by the Financial Crimes Enforcement Network (FinCEN) to the current reporting requirements. This form is required to be electronically filed directly with the Treasury Department and not with the IRS. Beginning in 2017, (for tax filing year 2016), the filing deadline will be your tax return filing due date, including extensions filed—but filed electronically with the Treasury Department, not the IRS. | |

# Five Legal Ways to Avoid FATCA

**By Mark Nestmann**




*You have many options if you don't want to tell the IRS about your holdings offshore.*

I call FATCA the worst law most Americans have never heard of.

FATCA demands that every foreign financial institution (FFI) in the world turn over account information from its U.S. clients to the Internal Revenue Service.

As you can imagine, this can make it difficult for U.S. citizens to offshore their money and keep it safe from the prying hands of the U.S. government.

But if you're willing to invest outside the mainstream "financial system," you can still protect your wealth offshore. And it's perfectly legal to do so.

## Beat FATCA…legally

Are there foreign assets that aren't reportable on Form 8938, no matter how much you own?

The simple answer is yes. Here are five ways to "FATCA-proof" your international portfolio:

1. **One or more international "financial accounts" held in your name that have an aggregate value of less than $10,000.** Keep in mind that the currency held in the account(s) can rapidly change value. To legally avoid reporting the existence of foreign accounts, keep the total combined account balances far enough below the $10,000 ceiling so that an increase in currency value can be absorbed under the limit.

2. **Certain safekeeping arrangements.** According to current IRS guidance, valuables purchased outside the U.S. and placed directly into a non-U.S. safe deposit box or private vault held in your name—and to which only you have access—don't trigger the FBAR or Form 8938 reporting requirements. There's one important exception: If you hold stock certificates (certifying ownership of stocks or shares in a company) in a safe deposit box, their value counts toward the Form 8938 reporting threshold.

3. **Real estate.** Direct ownership in your name of an apartment, condo, house, or land in a foreign country doesn't count as an international account.

4. **Personal property owned overseas.** You don't need to tell the IRS anything about personal property you own outside the U.S. If you have an apartment in another country, you don't need to tell the IRS anything about the furnishings you purchase for it. Similarly, you could keep a vehicle locked in the garage or a boat moored to a dock, without reporting anything to the IRS. Again, you must own this property directly, in your name. If you own it through any type of entity, that entity must file some type of information return with the IRS.

5. **Foreign investments in retirement plans.** Foreign investments held directly through your IRA, SEP, or 401(k) need not be reported to the IRS.

## Sample FATCA-proof portfolios

You have many options if you don't want to tell the IRS about your holdings offshore. Here are some ideas for international portfolios of various sizes, which completely avoid Uncle Sam's reporting requirements.

### If you have $10,000 to invest internationally.

Open a bank account in Canada in your name and rent a safe deposit box with that bank. Withdraw a portion of the account balance to purchase gold or silver coins (Canadian Maple Leafs are ideal), and store those coins in the box.

Then you can replenish the account—always taking care to keep the balance well below the equivalent of US$10,000. Over time, the value of the metals you accumulate in the box could be well over $10,000.

Banks in Canada are relatively safe, minimums are low, and many branches offer safe deposit boxes. To open an account, you'll need to make a personal appearance and bring your passport, driver's license, a utility bill listing your home address, and possibly a bank reference. Simply contact a branch in the city where you want to open the account and make an appointment. Make sure to find out exactly what documents you need to bring with you…and make sure the bank will rent you a safe deposit box.

### If you have $100,000 to invest internationally.

That's enough money to buy an apartment in many countries, plus have a few thousand dollars left over for a small bank account.

I have had a number of clients who have bought real estate in other countries and who have installed a safe on their property. They can then purchase all manner of non-financial assets—gold, silver, diamonds—locally and store those assets in the safe.

Whenever they want to buy more valuables to store in the safe, they simply withdraw cash from their local account and make the purchase locally.

Although you don't need to tell the IRS about foreign real estate you own directly, it is subject to whatever tax or reporting requirements apply in that country.

Some countries place ownership restrictions on real estate purchases by foreign nationals. To purchase the property, you may need to either form a partnership with a local or form a local company. Either option results in an arrangement that must be disclosed on an IRS reporting form.

### If you have $500,000 to invest internationally.

This level of investment basically lets you buy more expensive real estate or store more valuables in a foreign safe deposit box or private vault.

However, this is a high enough investment threshold that you'll want to think seriously about placing the investment inside a protective entity like an LLC.

This investment is also more than enough to buy foreign real estate that qualifies you for a second citizenship and passport. The Commonwealth of Dominica requires the lowest investment threshold to qualify for this benefit through a real estate investment ($200,000).

## What you must report under FATCA

Assets that must be reported under FATCA include:

**Shares of foreign stock.** If you own stock issued by a foreign corporation, you must report it on Form 8938. But if the stock is held through a bank account, you report the aggregate value of that account, including the value of the stock.

You don't need to report it twice. You don't need to report ownership of the shares on Form 8938 if you file Form 5471, which you must file if you own a 10% or greater stake in a foreign corporation.

**Foreign partnerships.** You must report an investment stake in a foreign partnership, or an agreement to share in its profits, on Form 8938. But if you own 10% or more of that partnership, you should already be filing Form 8865. If you are, you don't need to report the value of the partnership stake on Form 8938.

**Foreign pension and deferred compensation plans.** You must generally report your interest in such a plan under FATCA, although entitlement to foreign social security or social insurance benefits need not be disclosed.

If you don't report your interest in a foreign pension or deferred compensation plan on Form 3520 or Form 3520A, you must report it on Form 8938. There's one exception: Canadian registered retirement savings plans (RRSPs) need not be reported as foreign trusts. To qualify for this tax-favored treatment, you must file Form 8891.

**Investments in bonds, options, and derivatives.** If these investments are not held in a financial institution, they must be reported separately on Form 8938, including swaps or similar agreements with a foreign counterparty.

Any other financial instrument or contract that has an issuer or counterparty that is not a U.S. person. These include assets that in some cases must also be reported on the FBAR, including the cash value of foreign life insurance policies and annuities.

**Interests in foreign mutual funds.** If you hold shares of a foreign mutual fund, these must be reported. But you generally report these interests on Form 8621, not Form 8938. However, if you own shares in foreign funds that you don't report on Form 8621, you must report them on Form 8938 if you meet the Form 8938 filing thresholds.

# CHAPTER THREE

## What You Need to Know About Taxes When You Retire Abroad

**By Ted Bauman**

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*If you live overseas, you still have to report your income, file your return, and pay your taxes.*

For U.S. citizens looking to retire overseas, one of the main concerns is their tax obligations. How will the big move affect the taxes they have to pay? And will they still be able to access their retirement income overseas without difficulty?

By and large, these issues are more straightforward than you might expect.

Let's start with the basics: U.S. tax obligations don't end at the border, as those of most countries do. We U.S. citizens are taxed on our global income, no matter where we earn it or where we live. This is known as a **worldwide tax system**.

Under a **territorial tax system**, by contrast, a country only taxes the income earned within its borders. Most other countries have a territorial system.

Because of the U.S.'s worldwide tax system, almost all U.S. citizens living abroad must file a 1040 return. You're probably wondering how this will work when you're living overseas and have accounts in various jurisdictions.

Here's the main thing you need to know: When it comes to U.S. taxes, there is no difference between living in the U.S. and living abroad. You still have to report your income, file your return, and pay your taxes.

Most U.S. retirees who live abroad fall into one of two categories:

1. Those who live abroad on income from U.S. dividends, interest, capital gains, alimony, Social Security benefits, pensions, or annuities.
2. Those who live abroad on income from a **mix of foreign and U.S. dividends**, interest, capital gains, alimony, Social Security benefits, pensions, or annuities.

Now, before I go any further, let me address something you have probably heard before. This is the idea that you can live overseas and "pay no U.S. taxes." It's true: Under certain circumstances, you can live abroad and pay no U.S. tax—I did this for more than 25 years.

But this only applies to people who are living permanently abroad, with no U.S. home, and who are actively earning a living from a salary or from running a business.

**The Foreign Earned Income Exclusion (FEIE)** allows a household to earn up to a certain amount from overseas work, report it to the IRS, but pay no U.S. federal tax on it. This exclusion is $112,000 (for tax year 2022) per qualifying person.

Married couples, if both are U.S. taxpayers working and living abroad, can exclude double this amount. Note that investment income, pensions, and the like cannot be excluded from U.S. tax—only earned income.

Of course, if you do work or run a business when you move permanently abroad, you can benefit from the FEIE. As long as you no longer have a U.S. home and don't spend much time in the U.S., you don't have to pay U.S. taxes on any current income you earn overseas.

But for most of us, who will be living abroad on savings, pensions, and Social Security—and possibly keeping a U.S. home and visiting regularly—the FEIE won't apply.

## "Unearned income"

Many people finance their retirement abroad via investments, pensions, and Social Security, all of which can be accessed easily abroad. In other words, these folks live on "unearned income."

This is a rather unfortunate official term for dividends, interest, capital gains, alimony, pensions, annuities, and Social Security benefits. It's called that because you actually earned this income years ago but deferred using it until you retired. On the other hand, income you earn from a job or business is called "earned income."

In most cases, you can receive "unearned" income from a variety of sources around the world, into an account in almost any country. Let's review some key aspects of using investment and retirement income to fund your life abroad.

## Who taxes "unearned" income?

The typical U.S. retiree abroad will receive "unearned" income from a variety of sources, including Social Security, a corporate pension, a private pension, annuities, and dividends on investments. In most cases, this income will be taxed exactly as it would be if you lived in the U.S. Let me give two examples so you can see where you fit in.

Any U.S.-based investment income you receive abroad will generally be taxed by the U.S., at U.S. rates, just as if you were living in the U.S. For example, if you live in Costa Rica on the proceeds of U.S. investments and Social Security, you'll report, file, and pay tax on that income just as if you were living in the U.S. itself.

Any **foreign-sourced investment** income you receive will be taxed according to the laws of the country where the investment resides, at its tax rates. In most cases, however, that foreign tax can be taken as a credit on your U.S. taxes. That's because of tax treaties between the U.S. and many foreign countries, which prevent double taxation.

For example, if you live in Mexico from the proceeds of investments located in Switzerland, you will pay tax to the Swiss government as per its laws. Any Swiss tax you pay can be deducted from your U.S. tax obligations.

## Foreign taxes

All countries are different, and so are their taxation systems. Some countries, such as Qatar, Bahamas, and the Cayman Islands, don't tax residents at all. Most only tax them on income earned locally. A few tax residents on global income like the U.S., but not many (Eritrea being an example).

But the more important reason for downplaying foreign taxes is that they generally won't add to your U.S. tax obligations. That's because of the tax treaties between the U.S. and other countries, which govern who taxes whom. These treaties are based on the following principles:

A "source of income" country may be the taxpayer's country of origin, his or her foreign home or place of business, or both.

The "source of income" country is allowed to tax the income earned within its borders.

The other country agrees not to tax that income, usually by giving credit for foreign taxes paid against domestic taxes owed.

Under these tax treaties, both the U.S. and the foreign country give filers credit for any taxes paid on income earned in the other jurisdiction. That way, you

only pay tax once on the same income—to the country where it was earned. So remember: When you move abroad, you will be able to deduct taxes you pay to the government of your new home from your U.S. taxes.

## It pays to get help

Even if you prepared your own taxes when you lived in the U.S., you should really consider hiring an international tax expert while you are living abroad. Here's why:

**You may have to reconcile your host country tax year to the U.S. tax year**, which begins on January 1 and ends on December 31. Not all countries operate on this calendar—for example, Australia, Hong Kong, New Zealand, and the U.K.

The IRS requires that you (or your tax preparer) prepare your return according to the U.S. tax year, which means taking your tax statements from your host country for two of its tax years, extracting the appropriate information, and then plugging it into your U.S. tax return.

You also have to keep up with changes in U.S. tax legislation. The U.S. tax code changes every year, especially when there are major changes in the political landscape. If you're not a tax professional, you probably don't have the time or inclination to keep up with all these changes.

**You may be required to file a state return, even if you have not lived in the U.S. for a few years.** Every U.S. state has its own rules, and certain states it more difficult to avoid filing their tax return. You may have a state tax domicile if you maintain a state driver's license, state voter registration, or bank accounts or property in that state.

**Commercial tax software isn't designed with expats in mind, and may miss deductions or exclusions that could cost you money.** It may save you a few dollars upfront, but you could end up losing a significant amount in overpaid taxes or missed credits in the long run.

For the full lowdown on paying tax abroad, check out *IL*'s book *Expat Taxes Made Easy*.

# The Huge Tax and Lifestyle Benefits of Moving Overseas

**By Jeff Opdyke**

The sky opened up in Prague. One minute, a gray winter's day, a bit below freezing. The next…a winter wonderland of brilliant white. Ultimately, inches and inches of snowy powder covered the city.

I know lots of people shudder at the thought. They grew up shoveling snow, driving in snow, tracking muddy snow boots everywhere. I understand their distaste (it's how I feel about perfect beach weather 365 days a year…blecch!).

But me…I basked in that snowy day. I walked to one of the parks near my apartment and I sat on a bench and just watched it snow. The beauty of silence all around me. That's one of the characteristics I love about snow: It magically muffles the urban soundtrack.

Snow in winter—better yet, appreciating snow in winter—is part of the "living abroad" concept for me. I know it sounds like some touchy-feely, hippy-dippy emotion, but one of the primary reasons I chose to take my life abroad in 2018 was my decades-long pursuit of something new and exciting and different.

I don't mean different like the difference between New York City and South Louisiana, places where I have lived and which, despite their outward differences, are mirrors in many ways simply by dent of their centuries of shared American-ness.

I mean different as in "not something I know."

I once read a fabulous travel book—*No Sh***ing in the Toilet*—by an Aussie writer, the premise of which was that the best travel is at times challenging and difficult and frustrating.

You overcome those hurdles, you earn your victory, and the travel, thus, becomes more memorable. More meaningful. The experience is something you hold on to.

That idea resonates deeply in me. Those moments when I've overcome some annoyance or inconvenience in my overseas life, or I've learned how the system operates—it builds confidence.

I feel somehow stronger for having expanded my ability to navigate a new situation. I feel like someone can drop me anywhere in the world, and I'll get along just fine.

To be crystal clear here, I don't mean to imply that living abroad should be difficult and frustrating. Or that it is. No one wants that on the daily. And, honestly, while living in Prague, my life was so much simpler and calmer than my life ever was in the U.S.

I never—and I mean *never*—ever thought about traffic, or finding a parking place. Or car insurance. Or remembering to buy gas when the tank is low. I never thought about healthcare co-pays or whether insurance will cover a procedure, or if I needed pre-authorization, or whether this doctor was in my network. (Americans haven't a clue how craven and anti-human U.S. healthcare really is).

I didn't really have any time constraints. I walked wherever I wanted to go, or hopped the tram just outside my apartment or the metro five minutes away.

When I was in the midst of tax season—paying Uncle Sam and the Czech version of him, Uncle Jakub, maybe?

That, too, was a reminder of my simpler life in Prague. My U.S. taxes require real effort, and I'm never sure if I'm doing them right, even with TurboTax pretending to ask me all the right questions.

My Czech taxes? My accountant just needed a list of my income and answers to 25 questions, many of which didn't apply, didn't change from year to year, or required a yes/no answer.

*I love winter in Prague. Just feels magical. Whatever your ideal living environment, you can find it overseas…likely for much less than the cost of living in the States.*

My Czech taxes were quite simple: How much did I earn? Write off 60% of that. Pay taxes at a 15% personal rate on the remaining amount. (Every month during the year, I paid just under 15% into the local Social Security system, and 6.75% for the state health system.)

In all, my taxes were much lower, and I benefited from the Foreign Earned Income Exclusion that allowed me to exclude $108,700 in income from my personal taxes in the U.S. That allowed me to save and invest much more than I could in the U.S.

It also meant a richer life because I could not only save more (goosing my financial confidence, which, honestly, was shaken after a divorce several years ago). As well, it gave me greater financial flexibility to do what I enjoy most in life: travel.

Yes, the pandemic corralled that; still, I was able to slip away to Istanbul for 10 days, and then to Montenegro's Adriatic coast for more than a week, and those costs didn't cause any consternation. They were well within my financial comfort zone.

In my life abroad, I'm saving money. I'm traveling. I'm living in an apartment I love. Not that I'm a spendthrift, but I can pretty much buy whatever I fancy; I can travel without giving excessive thought to cost. I feel more secure financially.

Even if it's only for a year or two, I encourage anyone reading these words to follow in my footsteps. Live abroad for a while. Pretend it's one of those exchange-student programs from high school and you're gonna pack up a suitcase and live in a foreign country for a time. You won't regret it. More likely, you'll love the experience so much that you want to make it permanent.

Use this moment to think about where you might like to live. Figure out what it takes to obtain a temporary residence visa, and start looking ahead to a new adventure.

# Belize: Financial Privacy in this Caribbean Paradise

**By Robert Bauman**

©IL

*If you're looking for a place to plant your "residence" flag, Belize should be high on your list.*

Offshore, kayakers paddle among sandy, palm-dotted islets and snorkelers explore the second-largest coral reef in the world. A kaleidoscope of tropical fish, dolphins, turtles, and manatees all share this Caribbean coast, which boasts some of the best deep-sea diving in the world.

Away from the white-sand beaches, jaguars, monkeys, and 566 species of birds live among ancient Mayan cities, hidden in pristine forests.

In Belize, more than 40% of the country is protected as national parks, wildlife sanctuaries, and marine reserves.

But this lush ecological paradise is not just a haven for wildlife. Belize encourages offshore business and welcomes foreigners as local residents, too.

In fact, if you're looking for a place to plant your "residence" flag, Belize should be high on your list.

The only English-speaking nation in Central America, its offshore laws ensure financial privacy. These laws allow asset-protection trusts, maritime registration, and encourage international business and banking.

I've been to Belize twice. The people are friendly, oceanfront real estate is still relatively affordable, and Belize's parliament, courts, and government are pro-offshore.

Designed to attract foreigners as residents, Belize's "qualified retired persons" (QRP) program resembles Panama's popular *pensionado* program.

The QRP (administered by the Belize Tourism Board) offers tax incentives to those who become permanent residents of Belize, but not full citizens. The program is mostly aimed at residents of the U.S., Canada, and the U.K., but it's open to all.

When you qualify, you're exempted from all taxes on income from sources outside Belize. You can own and operate your own international business based in Belize, exempt from all local taxes.

Any local income (earned within Belize) is taxed at a graduated rate of 15% to 45% and you need a work permit in order to engage in purely domestic business activities. QRPs can import household goods tax free up to a total of $15,000.

You can also bring in a vehicle tax free, and that can be a car, light aircraft, or boat. Every five years you can import a new vehicle, also tax free. QRPs must, however, sell the original vehicle to a person who will agree to pay the import taxes on it.

There's no minimum time you have to spend in Belize and you can maintain your status so long as you maintain a permanent local residence, such as a small apartment or condo.

You must be 45 years of age or older to qualify and be able to prove personal financial ability to support yourself and any dependents. A dependent is anyone 18 years old or younger.

When you apply, you must submit a non-refundable $150 application fee plus a "program fee" of $1,000 for yourself and $750 for each dependent.

If you're accepted into the program, you'll owe an additional $200 for the actual Qualified Persons Residence Card. The minimum financial requirements include an annual income of at least $24,000 from a pension, annuity, or other sources outside Belize.

For more information about the QRP Program, contact the Belize Tourism Board.

# CHAPTER FOUR

## The Ultimate Guide to Puerto Rico's Tax Incentives

**By Simon Black**

When I wake up and see the ocean in front of me, I have to pinch myself.

Here I am, living in a beautiful place that's part of the United States… yet I pay zero U.S. federal income tax, only a 4% corporate tax for my businesses, and zero capital gains and dividends tax.

I'm still a US citizen, and this is all **perfectly legal**.

I'm simply using the existing rules to live a comfortable lifestyle in paradise.

You too can have this type of lifestyle and tax advantages—especially if you are one of the many people now working from home and realizing, you can work from anywhere.

**Impossible! How could these tax incentives be true?**

I'll be upfront. Sure, Puerto Rico has its share of challenges.

As COVID hit in March 2020, Puerto Rico issued one of the first, and one of the strictest, lockdowns in the U.S. And milder forms of draconian COVID measures continued to harm the tourism and hospitality industries.

And this isn't Puerto Rico's first rodeo.

As you probably recall, Hurricane Maria pummeled Puerto Rico in September 2017. It took a big toll on the island's infrastructure, tourism industry, and caused about 130,000 people—nearly 4% of the population—to leave.

But Puerto Rico's problems started well before Maria arrived.

The island has some serious economic issues. Puerto Rico has $74 billion in bond debt and another $49 billion in unfunded pension liabilities. Back in 2010, the unemployment rate was nearly 17%. And the unemployment rate didn't drop below double-digits until 2018.

To deal with these kinds of issues, other governments would probably follow the usual playbook, starting with oppressive tax hikes. They would try to squeeze the remaining residents for more revenue.

But not Puerto Rico. They got creative.

*The view from Simon's balcony…*

**Smart, local leaders have responded to these challenges in a unique, promising way:** They've created these amazing tax incentives to lure productive individuals and their successful businesses to the island.

Puerto Rico is a commonwealth of the U.S. That means that most things here fall under U.S. federal law, like immigration and customs and border enforcement.

**But Puerto Rico's tax system is independent from the U.S.** Puerto Rico has its own tax agency, like the IRS. That's what makes Puerto Rico unique. It's a part of the U.S., but tax-wise, it's not. And that's a big advantage…

The U.S. is one of only two countries in the world—the other being the tiny east African country of Eritrea—that taxes its citizens on their worldwide income even if they do not live in the United States.

But Puerto Rico, with its independent tax system, grants you an exception.

If Puerto Rico is the only source of your income, the U.S. government effectively says, "Okay. We won't touch any income in Puerto Rico. We won't even look at it."

And since the island has extended these generous tax incentives, business owners, self-employed individuals, independent contractors, traders and investors who relocate to Puerto Rico have the opportunity of a lifetime.

If you're a regular employee, don't be discouraged. If you can work anywhere—which is practically everyone since COVID shut down offices—see if you can switch to be a contractor for your company. You'll be able to enjoy the same tax privileges.

When successful businessmen and women, wealthy hedge fund managers, investors, etc. are running like mad to Puerto Rico, you know the government here is doing something right.

Let me share specifically what Puerto Rico is doing to attract these productive people.

But first let's talk about…

## What's new?

In late June 2019, Puerto Rico completed a massive overhaul of their tax incentives, enacting the Incentives Code.

The new law does NOT eliminate the existing incentives. It systematizes dozens of incentive acts—Acts 20 and 22 are just the most famous ones—that Puerto Rico has enacted over the years.

The law came into effect on January 1, 2020 and altered previous legislation.

Act 22 is now part of Act 60, Chapter 2, Incentives for Individual Investors.

Unfortunately, it became more costly to comply with.

The mandatory annual donation to Puerto Rican charity increased from $5,000 to $10,000. And within the first two years of living there you now need to buy a home in Puerto Rico.

Then in April, the Governor signed new legislation which raised the annual filing fee for Act 22 from $300 to $5,000.

On the bright side, conditions for Act 20, known as the Export Services Act—now part of Chapter 3, Incentives for Export Services—remained largely the same.

Under the new rules, if your Act 20 company churns $3,000,000 (or more) of revenue a year, you will need to employ a full-time employee in Puerto Rico. And that single employee can be you actively managing your business.

The Acts themselves are not even called Acts anymore: For example, Act 20 became Chapter 3 of Act 60 of the Incentives Code—Exportation of Goods and Services. And Act 22 is now Chapter 2 of Act 60 the Incentives Code.

In this article, we outline the new requirements, but for easier understanding will keep calling them Act 20 and Act 22.

## How to SLASH your taxes to just 4%…

Puerto Rico has introduced two pieces of legislations that allow you to reduce your corporate and investment income taxes…

But let's start with…

### Act 20 (Chapter 3 of Act 60, Incentives for Export Services): How to slash your company's tax rate to only 4%

The first is Puerto Rico's Act 20, known as the Export Services Act, available to citizens of any country.

It allows you to slash your corporate tax rate to only 4%.

Dividends paid to you personally from your Act 20 company also won't be taxed AT ALL— but only as long as you are a bona fide resident of Puerto Rico.

The Export Services Act is interesting, because of its extremely broad legislation.

Here's the idea behind it…

You incorporate a business in Puerto Rico that's providing a service. And that service is being sold to people outside of Puerto Rico.

Your service could be research and development, advertising, any kind of consulting, project management, accounting, legal services, information technology services, telemedicine, and much more.

Regardless of your particular specialty, your businesses' service—provided to clients anywhere in the world—is considered "qualifying activity" under Act 20. So, your business is eligible for a special corporate tax rate of just 4%.

The key to obtaining this 4% corporate tax rate is that you're providing a service or services exported outside of Puerto Rico.

A clinic providing healthcare services to only Puerto Rican residents wouldn't qualify. But if you're providing telemedicine consultations to patients in the mainland U.S., Europe, or Asia, then your business meets the "qualifying activity" criteria.

Even if your primary business doesn't fit within the "services" space, there's a way to qualify for the 4% corporate tax rate.

I know people here, for example, who sell products online through Fulfillment Amazon (FBA), where Amazon's customer service centers pack and ship their inventory.

Since marketing is a service, they set up a Puerto Rico Act 20 company to provide that marketing service. Their Puerto Rican Act 20 company exports its marketing services to their FBA business.

The marketing company in Puerto Rico only pays a 4% corporate tax rate, and their FBA business can write off these marketing expenses.

Other people I know have a manufacturing business incorporated overseas, and they also use these Act 20 companies to reduce their taxes.

Some of them use their Act 20 company to provide management services in Puerto Rico, or "shared services" like payroll, accounting, etc. to their manufacturing business overseas.

These management and shared service fees are completely legitimate services to provide.

And the setup is similar to the previous marketing services example. The Puerto Rican management company pays a 4% corporate tax, and the manufacturing business writes off the management expenses.

And remember, if you follow the proper rules, your Puerto Rican company won't pay any U.S. tax. So instead of a 21% corporate tax in the mainland U.S. plus another 20% dividend tax, all you'll be paying in Puerto Rico is a measly 4% corporate tax. And zero in dividend tax.

This is an absolutely incredible deal.

The Act 20 legislation is very broad. Again, regular employees cannot benefit, but if you can arrange to work remotely, then you can transition to being an independent contractor operating out of Puerto Rico.

And as an independent contractor, you'll now be exporting your services—whatever they may be.

If you have a skill where you can work anywhere—copywriting, digital marketing, telemedicine, investment management, consulting, design, coding, paralegal work, medical transcription, accounting, recruiting, etc.—then you owe it to yourself to check out Puerto Rico's Act 20.

Note that the new Incentives Code introduced an employment requirement to Act 20 in 2020.

If your Act 20 company churns $3,000,000 (or more) of revenue a year, you will need to employ a full-time employee—a resident of Puerto Rico—working a

normal 8-hour day. That single employee can be you, the business owner actively managing your business.

If your company earns less than that, there is no employment requirement at all, as before.

Keep reading to see how much it costs to set up and maintain an Act 20 company.

## Act 22
## (Chapter 2 of Act 60, Incentives for Individual Investors): How to reduce your capital gains tax to ZERO.

The second piece of legislation is Act 22, the Individual Investor Act.

If you're an investor based in the U.S., you're paying a top 20% tax on dividends and capital gains, potentially the 3.8% Obamacare surcharge tax (for those married filing jointly with over $250,000 in annual income) and a host of state and local taxes.

But if you pack up and move down to sunny and beautiful Puerto Rico, then all your ***future*** capital gains on stocks and bonds become tax free. And the new Incentives Code explicitly includes gains on crypto too.

Additionally, any dividends, interest, and royalties you may receive from Puerto Rican sources will also be tax-free.

That's right. The IRS won't touch any of your investment income.

If you're expecting big capital gains **in the future**, you need to seriously consider Act 22. Gains on stocks, bonds, crypto…you will have after your move to the territory, will be tax-free.

And if you are sitting on significant gains already, Puerto Rico may still help you. If you spend more than 10 years as a resident there, your tax obligation on the portion of capital gain you accrued while still living in the U.S. will also go down…to 5%.

That's an incredible deal.

Please note that the new Incentives Code made Act 22 more expensive in 2020.

First, in order to qualify for Act 22, you need to make an annual donation to official charities in Puerto Rico, and in 2020, the donation amount increased from $5,000 to $10,000.

And under the new rules, within two years of obtaining your Act 22 decree, you will need to buy a property in Puerto Rico and use it as your primary residence (you can't rent it out). You will need to keep it throughout the validity of your Act 22 decree.

(There is no minimum purchase price requirement.)

The annual filing fee also increased from $300 to $5,000.

### Traveling or moving to Puerto Rico is very easy…

Traveling to Puerto Rico is just like traveling from state to state. Let's say you get on a plane in Miami and fly to Puerto Rico's capital of San Juan. When you arrive, you don't have to go through immigration or customs. You just get off the plane and go on your way… because technically, you never left the U.S.

The same goes for moving.

Moving to Puerto Rico is just like moving from California to Texas or from New York to Florida. You arrange the movers and off you go. No customs or border patrol to deal with. No hassles or headaches like when you move from country to country.

Puerto Ricans also enjoy the same travel and moving benefits as Americans. Again, that's because they ARE Americans.

## Taxation examples in different scenarios…

Here are a few examples of how much tax you would pay in different scenarios.

### If you are living in the U.S. while operating your Act 20 company in Puerto Rico…

You'll pay a 4% corporate tax to the Puerto Rican government and a GILTI tax of up to 21% to the U.S. government. (Can be lowered to 10.5% in certain cases.)

GILTI is a new tax that came into existence with Trump's Tax Reform of 2018 and the IRS considers Puerto Rico a foreign country for GILTI tax purposes.

Since you are not a bona fide resident of Puerto Rico you also can't take advantage of the dividend tax exemption.

So, if you pay out dividends they will likely be considered qualified dividends by the IRS and taxed according to your tax bracket. That can be up to 20%, plus the 3.8% Obamacare surcharge tax and a host of state and local taxes.

Because of the GILTI tax our opinion is that, for most people, an Act 20 company only makes sense if they actually become Puerto Rican bona fide residents.

### If you are a bona fide resident of Puerto Rico while operating an Act 20 company…

On the corporate side, you'll pay a 4% corporate tax to the Puerto Rican government and you will escape the GILTI taxation by the IRS for your Act 20 company. Dividends will also be tax-free.

On the individual side, you'll pay yourself a small salary that's taxable at normal Puerto Rican tax rates, comparable to mainland U.S. tax rates.

Don't think that you can pay yourself $1 per year. Your salary has to be reasonable.

But you don't have to pay yourself mainland U.S. wages, either. You'll find that wages in Puerto Rico are much lower than the U.S. mainland, so you can pay yourself a commensurate regular salary. We advise you to check with your accountant on this rate.

**And you can take the rest of your compensation as a qualified dividend, taxed at…0%.** Yes, imagine that. You can take all this money that you earned and put in your pocket tax-free.

But you'll continue to pay the usual U.S. taxes on investment income.

You can learn more about how to become a bona fide resident of Puerto Rico in the Act 22 section.

### And if you also take advantage of Act 22…

You'll pay the same taxes on your Act 20 company's profits and dividends as in the previous scenario.

But you'll also pay ZERO on your future capital gains on stocks, bonds, and crypto.

Any dividends, interest, and royalties you may receive from Puerto Rican sources will also be tax-free.

## How to qualify for Puerto Rico's tax incentives

### Why you need to apply for Acts 20 & 22 NOW

I cannot emphasize this enough…

That's because I don't expect Puerto Rico's incentives to last for much longer. The Bolsheviks that may come to power soon in Washington, DC hate win/win scenarios. They want "the rich" to lose, even if Puerto Rico loses too.

The good news is that Act 20 and Act 22 are essentially a contract with the Puerto Rican government that lasts 15 years.

So even if they shut down the programs to new applicants, people who already have their tax incentives established will be grandfathered under the old rules.

That should be a pretty strong motivator to get down here and at least check it out.

And if more Bolsheviks continue rolling into power, you can count on much higher taxes in the Land of the Free…which makes Puerto Rico even more compelling.

And even if you're not ready to move to Puerto Rico right now, if you think there's a chance that you might move there some time in the next few years to take advantage of these tax incentives, **you can still set up an Act 20 company today**.

The company can't be completely dormant. But as long as it has some basic commercial activity, you can lock in today's incentives, and then move down in a few years' time to really boost your tax benefits.

One thing to keep in mind—the IRS considers Puerto Rico a foreign country for GILTI tax purposes.

The tax came into existence with Trump's Tax Reform of 2018. If you stay in the U.S. while operating your Act 20 company in Puerto Rico, you will need to pay GILTI tax on your company's income.

## How to set up an Act 20 company

I've already covered that your Act 20 company must be a service-based business that exports some type of service to global customers…

Obviously, your first step is to have a business that meets this requirement.

If you don't have an existing business that meets the criteria, remember, you still have options to qualify under Act 20. For example, you can structure a marketing or management company that provides these services.

Then, you must apply for a decree. You do it by submitting an application at the Single Business Portal (*https://ogpe.pr.gov/freedom/?lang=en*) of the Office of Industrial Tax Exemption (OITE) of Puerto Rico to obtain a tax exemption decree, which will provide full details of tax rates and conditions.

All-in, it takes the Puerto Rican government at least four to five months (in normal, non-COVID times) to approve your tax exemption (which they'll retroactively date to when you applied).

Alternatively, you can use an attorney to help navigate Puerto Rican bureaucracy.

Expect the attorney fees to start at around $8,000, which includes incorporation and the Act 20 tax exemption filing. I paid around $15,000 for mine, using one of Puerto Rico's top firms.

And if you go with one of the official promoters of the Act 20 program, then you will essentially pay only the government-related fees of around $2,000. The promoters later get a small cut from the 4% corporate tax you will be paying to the government.

So if you are moving a simple business to Puerto Rico (and not some complicated international structure) then the cheapest way to open an Act 20 company would be through such an official promoter.

You can either set up an LLC or a corporation. I personally set up an LLC. But for tax purposes, it needs to be a corporation, so I elected my LLC to be treated as a corporation. To do this, you simply need to check the box on **IRS Form 8832** (*https://www.irs.gov/pub/irs-pdf/f8832.pdf*).

Additionally, you'll pay a few hundred dollars per year to maintain the company, between accounting fees and renewal costs.

## Looking for a reliable service provider in Puerto Rico?

If you are a member of our flagship international diversification service, Sovereign Man: Confidential, we can give you a reference for both an experienced attorney and a reliable, official promoter we have worked with.

Just get in touch with us through the member site.

And please keep in mind that **we take absolutely no commissions, kickbacks or anything of the sort** from the providers we refer our members to.

It's a huge part of my personal moral code, and I just think it's the right way to do it.

While this is extremely rare in the financial industry where commissions and kickbacks are the norm… I would never put myself in a position where my interests and the interests of our members are not 100% aligned.

Additionally, we always do our best to pass the commissions our referred providers ordinarily pay to promoters as additional discounts to our members.

For example, one of the service providers we have a relationship with usually charges $1,500 to file an Act 22 application, but our members get a $500 discount on that.

## How to file for Act 22's tax incentive

In 2020, the conditions to apply for Act 22 became more stringent.

In order to qualify for Act 22, you need to make an annual donation to official charities in Puerto Rico. And in 2020, the donation amount increased from $5,000 to $10,000.

And now it will be split into two parts: The first $5,000 will go to one of the charities specifically approved by the government, and the second $5,000 will still go to the charity of your choice in Puerto Rico (as before).

And under the new rules, within two years of obtaining your Act 22 decree, you will need to buy a property in Puerto Rico and use it as your primary residence (you can't rent it out). You will need to keep it throughout the validity of your Act 22 decree.

On the bright side, there is no minimum purchase price.

And as noted before another significant cost was added in April 2020 when new legislation raised the cost of the filing fee for Act 22 to $5,000 (previously just $300).

To get started, you can hire an attorney to file the paperwork for Act 22, or, you can file yourself through Puerto Rico's Single Business Portal.

I'm well-versed in legal matters, but I still used an attorney.

Expect to pay about $1,500 to $5,000 in legal fees (or just $995 if you are a member of our flagship international diversification service, Sovereign Man: Confidential, and use one of our trusted service providers).

It should take Puerto Rico at least three months to process your application, but it could take up to 10 months. When approved, they'll retroactively date your residency so you get the tax benefit from when you applied.

After you are approved you have one year to enter Puerto Rico, otherwise, you will lose the decree and will have to reapply.

And to be exempt from U.S. federal income taxes you have to become a bona fide Puerto Rican tax resident.

## The three tests to become a bona fide Puerto Rican tax resident

The Internal Revenue Code has specific guidelines for what qualifies individuals as bona fide residents of a U.S. possession.

And as a resident, you're eligible for the Act 22 exemption and you will escape the GILTI taxation by the IRS for your Act 20 company.

In Puerto Rico, the U.S. says you have to check the box in three categories. Or, in other words, you must pass three tests:

## 1. Personal presence test

To satisfy the first test, you must meet **any one** of the following five conditions:

1) **Be present in Puerto Rico for at least 183 days during the tax year.**

   These 183 days don't need to be consecutive, you can make multiple trips to the U.S. or elsewhere during the year. (To be on the safe side, we recommend you spend at least a few days more than 183 in Puerto Rico.)

2) **Be present in Puerto Rico for at least 549 days (aggregate) during a three-year period.** And during each year of the three years, you need to be present in Puerto Rico for at least 60 days.

   For the math to work, you will still need to spend at least 183 days during your first two years in Puerto Rico. However, this method potentially allows you to spend as little as 60 days in Puerto Rico in the third year.

3) **Be present in the United States for 90 days or less during the tax year.**

   At first, this condition seems easy to meet, but remember that you still must meet two other tests—tax home and closer connection (we explain both further down).

4) **Earn less than $3,000 in wages, salaries, or professional fees in the United States, AND spend more time in Puerto Rico than on the mainland during the tax year.**

   This option may not work for you if you will be traveling to the United States to meet clients, perform some work… meaning that you will have U.S.-based wages or professional fees.

5) **Have no significant connection to the United States during the tax year.**

   The IRS considers that you have a significant connection to the United States if you:

- Have a permanent home in the U.S. (rental property is OK), or
- Are registered to vote in the U.S., or
- Have a spouse or a child under the age of 18 whose main home is in the U.S. (unless the child is in school in the U.S. or has legally divorced parents).

## 2. Tax home test

This one, too, is relatively straightforward.

To pass the tax home test, your tax and business activities need to be located in Puerto Rico. If your primary business activities are located anywhere else in the world, you won't pass this test.

Now, the IRS defines "tax home" as your regular place of business or employment.

So by setting up an Act 20 company, you go a long way in proving that your primary business activity is in Puerto Rico.

You can still travel to the United States, or elsewhere, to attend conferences, meet your clients, etc. As long as your main business (or consulting) activity happens in Puerto Rico, then you should be fine.

## 3. Closer connection test

The final test is more qualitative, and it's similar to the "significant connection" criterion I mentioned with the physical presence test.

Remember, you're proving to the IRS that you're not liable for U.S. federal taxes on your qualified income.

So, consider these questions:

- Is your family with you in Puerto Rico or back home in the mainland U.S.?
- Are you renting an Airbnb in Puerto Rico or do you have an apartment or house?

- Are your personal belongings (car, furniture, jewelry) in Puerto Rico?
- Do you participate in social, political, cultural, charitable organizations in Puerto Rico?
- Where do you bank?
- Do you have a Puerto Rican driver's license?
- Are you registered to vote in Puerto Rico?

You don't have to do **everything** we outline in the table above, but you should do **as much as you reasonably can**. If the IRS runs an audit on you, they need to leave convinced that you treat Puerto Rico as your primary home.

While I search for a house or apartment to buy, I'm renting a beautiful place that's right on the beach.

I have a Puerto Rican driver's license and I bought a car here. And for the first time in my life, I'm actually registered to vote.

©TL

*Moving to Puerto Rico is just like moving from California to Texas or from New York to Florida. You arrange the movers and off you go.*

When I fill out an IRS Form 8898, all these things I've done count for the closer connection test. I can check those boxes on the form and say, "Yes, IRS. I'm living in Puerto Rico and it's my legitimate home base."

**If all this sounds too good to be true…**

It's not.

I'll admit that a few years ago when my friend and fund manager Peter Schiff mentioned Puerto Rico's tax incentives, I initially had my hesitations.

**Hesitation #1:** What if the government breaks its promises?

My primary concern was what would happen if the Puerto Rican government breaks its promises.

You, too, might have this concern. After all, we are talking about a promise made by a bankrupt government.

**But I assure you not to worry about the Puerto Rican government breaking its promise.** For one, the government needs productive people—and their tax revenue—more than productive people need Puerto Rico. So, there's an advantage there for individuals.

And second, Puerto Rico issues a binding contract between the government and individuals who qualify for the incentives. The government is contractually obligated to honor its commitments well out into the future.

There's also a growing case law that prevents the Puerto Rican government from breaking contracts.

For example, over the last few years, there was a famous case involving Walmart in Puerto Rico. Puerto Rico had extended a special tax incentive. But the government felt like Walmart wasn't keeping up its end of the bargain. So, the government sued Walmart for additional tax revenue that wasn't part of the contract.

The case went to court here in Puerto Rico. And the government lost. The Puerto Rican judge who ruled against the government said the government must honor the signed contract.

And if in the future Washington presses Puerto Rico to end the incentives altogether, all current participants will be grandfathered under the old rules according to the contracts signed.

So, with that hesitation answered, let's move on to the next one…

**Hesitation #2:** I'm not a multi-millionaire. Can I still qualify?

YES.

There are plenty of wealthy people here. But I also know people in Puerto Rico who make $60,000 per year and are doing well.

Also, there are expensive areas around the capital of San Juan. But there are also pockets of San Juan perfectly suited for middle class people.

And if you get out to the west and southern coasts or to the island's interior, your tax savings and a lower cost of living means a nice life here.

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*If you go to the west and southern coast (pictured) or to the island's interior, your tax savings and a lower cost of living means a nice life here.*

**Hesitation #3:** Is it worth it?

There's no better risk-adjusted return than saving money on taxes.

Otherwise, to achieve an extra 30% return on investment, you'll have to take some serious risk. Or break the law.

But saving on taxes means no investment risk. Instead of handing over that money earmarked for Uncle Sam, it's now earmarked for your pocket.

And if you compound tax savings over years and decades, that's a life-changing amount of money. For example, after several years, just your tax savings would be enough to buy a house.

And Puerto Rico's tax incentives are not just helping the Act 20 and 22 individuals get wealthier…

## You can help boost the Puerto Rican economy

All this capital injection is also doing wonders for the island's economy and for fellow Puerto Rican residents.

For starters, Puerto Rico is able to recapitalize its banks. The surge in deposits allows banks to make additional loans for long-term projects. And this translates into more economic activity and job creation.

Puerto Rico is also generating economic activity from its newcomers' spending.

For example, a new arrival needs a car, which means a sales commission for the car salesman. And this salesman celebrates by going to dinner with his or her spouse.

They may leave a big tip for the waiter or waitress, and so on down the line…

I saw a study that each individual who moved to Puerto Rico has created eight jobs.

I'm incredibly proud to be a part of Puerto Rico's turnaround story. It's a win-win. I get to keep the money I earned through hard work, and I can invest in Puerto Rico or spend as I wish.

And that's the power of just my tax savings. Multiplied by the number of newcomers, we've got the opportunity to really make an impact here in Puerto Rico.

## Puerto Rico is not the only way to save on taxes for Americans

***Consider this incredible incentive too…***

If you are sitting on unrealized capital gains—stocks, real estate, art, crypto—Opportunity Zones may offer amazing tax benefits.

It's a brand-new program that was buried inside President Trump's 2018 tax reform legislation.

Through the program, you can sell your appreciated assets, defer capital gains tax, and invest the proceeds into one of 9,000 designated distressed communities across America.

Most of Detroit and Baltimore is an Opportunity Zone…and even parts of Manhattan.

Your investment in real estate, an existing business, a new business, etc. located in an Opportunity Zone can grow completely tax-free for decades.

The program is still new, but it is already a huge success with billions of dollars pouring into America's distressed communities.

You can learn more about Opportunity Zones and my personal experience with it in this in-depth article.

## Conclusion

Here's what I encourage you to consider…

Book a flight and get down here as soon as possible. Puerto Rico is only a short flight from cities on the U.S. east coast. So, you can even take a weekend trip.

(Although, if you can, I recommend spending several weeks on the ground before you move down.)

I frequently travel around the world to find exciting business opportunities, discover risks in our financial system and economies, and offer solutions, like Puerto Rico, that make sense no matter what happens next.

Puerto Rico is now my official home base, so I usually check in from Bahia Beac—just east of San Juan—and from time to time, I also write about what's developing here.

I'm really optimistic about Puerto Rico's future. And I'm excited that I can legally maximize my tax savings in such a beautiful place.

### A decree is a contract between you and Puerto Rico

We want you to understand an important thing—any decree that you obtain in Puerto Rico is essentially a legal contract between you (or your company) and the government of Puerto Rico.

For Act 20, the term is 15 years, which can be extended for 15 additional years (assuming the incentives will still be around).

The Act 22 benefits expire on December 31, 2035.

Puerto Rico can't just change its mind on the conditions of the contract.

And even if the government of Puerto Rico changes its mind tomorrow, the courts will enforce the contract and make the government honor the low tax rate written in the decree.

There is a sufficient body of case law that has developed to demonstrate that the contracts hold up in court.

As mentioned above, a few years ago Walmart won a major victory against the Puerto Rican government.

So, the government can't just change the conditions of the contact it signed. But you can…

The Act 60 explicitly states that if Puerto Rico changes incentives for the better in the future, then you have a right to negotiate with the government and ask to change the terms of your already-signed contract to match the changes.

So, for example, if the corporate tax rate goes down to 2% for Act 20 companies from the current 4% (we don't actually expect that to happen), then you should also be able to lower your tax burned to 2%.

## Join the 20/22 act society to stay informed and meet like-minded people in Puerto Rico

The Society is like a Rotary Club for ex-mainlanders. They provide support for people who are making the move to Puerto Rico or are considering doing so.

They are also a powerful lobbying group and have been actively fighting through some controversial changes in the latest laws (and have succeeded).

The Society is based in Dorado—a town popular with expats about 45 mins away from San Juan, Puerto Rico's capital. It regularly holds member events in Dorado and the San Juan area.

You will also find informal Act 20/22 meetups in most popular expat communities across the island.

In other words, if you are serious about Puerto Rico, you may want to consider becoming a member yourself. This way, you will be aware of every smallest change out there and will meet like-minded people.

The 20/22 Act Society is also an official Puerto Rican charity, and accepts donations which are mandatory under Act 22 conditions.

Among other things, they help poor students attend universities, help the homeless and the elderly of Puerto Rico, purchase computers for schools, and finance animal rescue operations.

# CHAPTER FIVE

## Structuring Your Foreign Property Purchase: Keeping the Tax Man Happy

**By Matthew Apodaca and Nick Hodges**

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*The simplest way to own foreign property is to title it in your own name.*

Whether you're interested in investment real estate, a second home in the sun, or your dream property for full-time life overseas, you will need to give some consideration to the tax and legal structures of the country you are buying in.

Owning real estate in a foreign country can actually be very simple from a U.S. income tax perspective. Generally, there is no U.S. tax difference between owning real estate in a foreign country and owning real estate in the U.S.

However, owning foreign real estate becomes more complex if you elect to own it in a foreign entity or rent it… Renting foreign property creates an additional level of tax complexity due to the generation of passive income… And selling or disposition of foreign property for estate purposes creates a tax and legal event that needs to be carefully planned with a U.S. tax professional and a foreign tax attorney, local to the area of the real estate.

## 20 questions to ask before buying foreign real estate

It is popular today for American expats to buy foreign real estate as they prepare for retirement abroad. Investing in foreign real estate is a fascinating opportunity to expand your horizons, experience other cultures, and possibly generate income.

With the many opportunities to invest abroad it is important to remember that investing in any real estate should be treated as a financial investment, not a tax write off.

There is no real tax benefit to owning rental property: Yes, you can offset rental income with expenses, but you cannot take deductions for losses. We often hear clients rationalize their choices with, "Yeah, but I can deduct the mortgage interest and property taxes."

Remember, tax savings are a percentage of your tax deduction. At a 30% tax bracket, a $10,000 deduction reduces your tax by $3,000. To put it in perspective, let me ask you this: Is it better to pay $20,000 in mortgage interest and real estate taxes to save $6,000 in taxes…or is it better to keep $20,000 and pay $6,000 in tax?

Avoid the false comfort of chasing tax deductions (spending hard-earned money to "save" on taxes) it is never a winning game.

We have all heard stories about folks that have become rich riding a foreign real estate boom. However, it is on the tax side that we see intelligent do-it-yourself investors go bankrupt investing in foreign real estate. It is easy to be swept up in

the dazzling glamour of investing in foreign real estate and miss some key issues that can make it the worst investment of your life.

In every real estate purchase, the financial benefit to you is made on the buy side, so make sure you are getting the best value for the property. In addition to searching for the very best real estate deal you can find, the following items should be carefully considered with your U.S. tax professional and a tax attorney in your foreign country of choice.

1. Am I making money on the buy (below market) or paying market price for the property?
2. What are my long-term plans for this property?
3. What are the U.S. and foreign tax ramifications of these plans?
4. How should the property be titled and why?
5. When/how long am I planning to live in this property?
6. Who will manage the property when I'm not there?
7. If I rent it, what is my return on investment after I factor in interest, taxes, insurance, and upkeep expenses?
8. What if I can't get a renter?
9. What if I need to evict a renter?
10. What if a tenant damages my property?
11. What are my tax responsibilities in the foreign country if I rent or sell the property?
12. Will real estate in my investment location continue to appreciate?
13. How will I know if another real estate bubble is building in this area?
14. What is my exit strategy if I need to get out of this property in a hurry?
15. How does holding this asset affect the diversity of my entire financial picture?

16. How liquid is this investment; what is the length of the current sales cycle?
17. Who will take care of the day-to-day maintenance needs?
18. What about repairs if something breaks?
19. What kind of insurance should I have? Do I need fire and flood insurance?
20. How does all this work if I am thousands of miles away from the property?

Remember, it is often much easier to get into a foreign property purchase than it is to get out of it. We always recommend that an investor spend at least a month renting a property in the region under consideration.

Staying locally allows you to interview and network with local professionals as well as inspect and experience the local culture. With every foreign contract, you want to be sure that you are working with a reputable foreign tax attorney in addition to a tax professional with experience in U.S. and foreign tax.

## Client story: Just because you can do something doesn't mean that you should

Dr. Ron Soldier was a Captain in the army when he was stationed in London many years ago.

He and his wife, Rachel, were so enchanted with the area they bought a townhouse in their own name. When Dr. Ron was assigned to other places in the world, he decided to retain ownership and rent it out. It's been 20 years now, and he likes the idea that he and Rachel can move there any time they like.

Dr. Ron has kept things simple through the years. The property is titled in their names, keeping U.S. reporting responsibilities to a minimum.

When he brought his family back to the U.S., they chose to live in Texas, a no-income tax state—so there is no state income tax return to be filed. He rents the London flat at a small premium to a long-term tenant that likes to keep the place looking nice, keeping maintenance costs low.

Dr. Ron utilizes the services of a London tax professional to file an annual British tax return. The most complicated aspect of owning this property has been tracking the depreciation and showing the rental activity on their Schedule E.

Dr. Ron does keep about $12,000 in a London bank account for the rental receipts and repairs, so he files a Foreign Bank and Financial Accounts (FBAR), Form FinCEN 114, with the Treasury Department each year.

Overall, Dr. Ron and Rachel are very content with their experience of owning and renting foreign real estate and look forward to spending extended time in London someday. We call this owning foreign real estate the easy way, and encourage other investors to always consider the advantages of direct title first.

Since the risks and legal issues associated with owning real estate in some foreign countries necessitates the establishment of a foreign entity to hold the property, we are including an example of that scenario as well. Because of the additional legal, tax, and reporting issues associated with holding foreign property in a foreign legal entity, we call this owning foreign real estate the hard way.

It's not really harder, but it is certainly more complex. If you elect to own your foreign real estate in a foreign entity, we want you to know that you have many moving parts to manage. We encourage you to enlist the professional help of a reputable foreign tax attorney and U.S. tax accountant with foreign tax experience.

## Owning foreign real estate "the easy way"

The simplest way to own foreign property is to title it in your own name.

Owning foreign property in your own name: For U.S. tax purposes, the purchase of land, a building, or a second home overseas, is going to be handled the same as owning U.S. properties.

Essentially, there is no tax distinction; the treatment is the same as for any mortgaged property. Mortgage interest is deductible, property taxes are deductible, and everything is the same as in the U.S. as long as you title that property in your own name.

From the U.S. tax perspective; this is the simplest way to own foreign property.

It is important to note that you may have other state or foreign tax responsibilities associated with owning foreign property. Your responsibilities will depend on your state of domicile and the country in which the property is located. Foreign tax credits may be available for foreign taxes paid.

In the event that you hold foreign real estate in your own name at the time of your death, it will likely be probated in the country of location. For that reason, we suggest that you make sure you work with a reputable tax attorney in the foreign country in which you have property.

Remember that it's often easier to buy into foreign real estate than it is to sell out of them. Be sure you know what your exit strategy is going to be before you buy foreign real estate.

## Owning foreign real estate "the hard way"

Ownership risk is the main reason to consider when owning foreign real estate, land, or buildings in the name of a foreign entity. For Dr. Ron, there was little risk to him as a property owner in London. British liability laws are very similar to the U.S. in this respect, so Dr. Ron carried a little insurance and a little cash in the bank as related to his property.

In many foreign countries, particularly those in Latin America, there is a very different perspective of ownership liability. Often, there is inadequate local insurance coverage available. Additionally, foreign courts may favor corporate protections over individual ownership rights. In these settings, it is vital that you mitigate your liability risks through the legal venue and know that you will face additional U.S. tax and reporting responsibilities.

## Owning foreign property in an entity

The type of foreign entity for the ownership of foreign property should be discussed at length with your foreign tax attorney. Based on the laws and

perspectives of the foreign country, you might hold your property in one of these types of foreign entities, which may be somewhat different from the U.S. counterpart. Remember, the name of the foreign entity may sound the same as the U.S. entity, but will likely operate according to the legal requirements of the foreign country.

- Corporation
- Partnership/Limited Liability Company (LLC)
- Trust

The legal counsel in the foreign country in which the property is located should drive the type of foreign entity you establish.

## Tax benefits of real estate in a foreign corporation

It is a popular opinion to always hold foreign property in a foreign entity. In general, using a foreign entity (corporation, partnership or other) to own real estate will NOT result in U.S. tax savings.

It can provide other legal benefits, and maybe local tax benefits, but not U.S. tax savings. There will be some additional costs to using a foreign entity:

- The cost of setting up a foreign entity.
- The yearly fees and/or taxes of maintaining a foreign corporation.
- The accounting/tax filing fees of a foreign corporation.
- Any other cost for maintaining/keeping/preserving a foreign corporation.

If the numbers add up, owning real estate with a high net profit inside a foreign entity may be the way to go. However, in our example of Dr. Ron Soldier, his net rental profit is just $2,760 per year. It does not make sense for him to form a foreign corporation, as the frictional cost of maintaining the entity would quickly exceed the tax benefit.

This is owning foreign property the "hard way" for Dr. Ron as he would incur additional costs, have additional filing requirements, and be subject to stiff penalties if he does not disclose his foreign corporation annually.

Owning foreign property is often less a U.S. tax issue and more of a legal issue, one that requires you to work closely with a foreign tax attorney in the foreign country of your desired property. This is especially true when you need to own the foreign property in a foreign entity.

Different foreign countries view property ownership liability in ways very, very different from the U.S. It is always our recommendation that you allow the foreign tax attorney in the location of your property to guide you in selecting how best to title that property, whether it is the easy way or the hard way.

It is beyond the scope of this article to make a favored entity recommendation to you on a purely tax basis. Your unique situation, the property and its intended use, and the legal structure of the foreign country must be considered.

## Additional reporting requirements for foreign entities

One of the issues facing U.S. citizens owning foreign property in the name of a foreign entity has to do with the additional disclosure reporting. Not filing the proper disclosure reports can result in steep fines from $10,000 to $100,000, depending on the omitted forms.

Because many U.S. citizens seek to place assets abroad to avoid what they consider to be invasive IRS tactics, we realize that advocating disclosure reporting touches a sensitive nerve.

We know that if Americans living in the U.S. were asked to disclose and report their assets like American expats are, there would be a major uprising. Even if this seems unfair or invasive, the requirement to disclose still exists. If you have assets overseas, if you're going to live overseas, if you're going to have anything to do with assets overseas, you're going to have to get used to disclosing to the IRS.

Many folks do not want to disclose because they think it means they have to pay more taxes. This is not necessarily so. First and foremost, you need to know what form to file and when to file it.

Here are some additional disclosure reporting forms you need to make sure are filed annually:

- Foreign Corporation (10% ownership or more)
  - o IRS Form 5471
- Foreign Partnership/Limited Liability Company (LLC)
  - o IRS Form 8865
- Foreign Trust
  - o IRS Form 3520 and 3520-A
- Foreign Financial Assets
  - o IRS Form 8938

If you work with a U.S. tax professional, these forms are typically prepared with your annual U.S. tax return.

## Buying foreign real estate in your self-directed IRA

There is a lot of buzz about using a 401k or IRA to buy real estate. While it may be a great tool for adding non-traded assets to your portfolio, it is important to note that it is very easy to make a tax or legal mistake if you attempt to do this yourself.

In addition to working with experienced tax and legal professionals, be sure to choose carefully the custodian or trustee of your self-directed IRA.

Here is a brief representation of the potential tax benefits and risks of using a self-directed account to buy real estate:

## What is a self-directed IRA?

With a traditional IRA or 401k, you have a limited choice of investment options. The custodians for these accounts select your investment choices by the universal "Prudent Man Rule."

You experience this as a limited list of mutual funds on your account paperwork. By converting a traditional IRA or 401k into a self-directed IRA, these restrictions are removed; you are now the decision-maker and your self-directed IRA can invest in a much larger selection of investments, including real estate.

A self-directed IRA is still a retirement account. All earnings, interest, dividends, or other profits must stay in the account. Any money taken out of the account is treated as a taxable distribution: just like if you took a distribution from your traditional IRA.

Example: I buy a property with a self-directed IRA. I collect all the rents and deposit them to my personal bank account. These rents are considered taxable distributions (not rental income). I may have an additional 10% penalty if I am under 59.5 years of age.

On the other hand, if I deposited those rents back into my IRA and paid rental expenses from within the IRA, I would not have any taxable distributions.

## What are the benefits of using a self-directed IRA to buy real estate?

*Tax deferral!*

Example: Todd has $300,000 in his traditional IRA. He wants to buy a condominium in Costa Rica. If he takes a cash distribution from his traditional IRA to pay for it, he will have to pay IRS income tax (and a potential 10% penalty if he is under 59.5 years of age) and potential state income tax before he can purchase his condominium.

Rather than incur all of this tax, Todd can roll his money over to a self-directed IRA, buy the condominium, and pay tax when he takes the money or property out of his self-directed IRA.

Todd can also defer tax on rental income by keeping the money in his self-directed IRA. Further, when Todd sells the property, he will not owe tax if he keeps the money in his self-directed IRA.

Remember, deferral does not make tax disappear. It just delays paying tax until the money or property is withdrawn by you (or your beneficiaries if you pass the account on to them).

## What are the disadvantages of using a self-directed IRA to buy real estate?

There are some limitations and disadvantages of a self-directed IRA. It is important to understand these before using a self-directed IRA to make a major purchase of real estate.

*No preferential capital gains tax treatment.*

Just like your traditional IRA or 401k, any amount you withdraw from the account is considered ordinary income, which is generally taxed at a higher rate than capital gains. When holding real estate in a self-directed IRA all gains are considered ordinary.

*Borrowing is not allowed.*

Borrowing is not allowed with a self-directed IRA. Any amounts borrowed are considered a taxable distribution.

*It cannot be used as security for a loan.*

If it is, it becomes taxable.

*Be careful what investments you choose.*

As you can see from the following prohibited investments list, the IRS guidance leaves you with a lot of things you can invest in, including a local business and real estate, just to name a few.

| Prohibited Investments |
| --- |
| Collectibles (exceptions for certain coins) |
| Life Insurance |
| Stock in a Sub-Chapter S Corporation |

*It cannot be used to buy property for personal use (present or future).*

This is the biggest hindrance: You cannot buy your next house (primary residence in tax terms) with a self-directed IRA. Well you can, if you want to pay tax on the value of the house as a taxable distribution.

*Be careful who does business with your IRA.*

As you can see in the list below, the IRS is very clear about the entities that can have no dealings with the IRA. This includes borrowing from it, selling property to it, or buying property for personal use, either present or future.

| Disqualified Persons |
| --- |
| IRA Owner |
| IRA Owner Ascendants |
| IRA Owner Descendants |
| Spouses of IRA Owners |
| Spouses of IRA Owner Descendants |
| Fiduciary of the IRA |
| Certain Related Businesses and Trusts |
| Service Providers of the IRA |
| Custodians of the IRA |
| Backers of the Investment in the IRA |

*An IRA is not recognized as a separate entity in most foreign countries.*

If the real estate you are looking to purchase needs to be held in a corporation (foreign or U.S.) you need to make sure that you understand the additional levels of legal and tax complexity (foreign and U.S.) in order to protect the tax-deferral status of your investment.

*You need to make required minimum distributions at age 70.5.*

The IRS states that you must take required minimum distributions based on the value of all your IRA accounts. Determining this amount and taking the distribution can be a real issue if you have invested all your IRA monies in real estate.

## Renting out your foreign property for profit

The IRS generally considers renting your foreign property to be a passive income event.

Typically, this means that losses from your passive rental activity can only offset income from other passive sources; losses cannot be used to offset ordinary income. If you do not have other passive income, these passive losses are suspended until you have passive income or sell the property.

Here are a few key points to remember:

- Rental income is not excludable under the Foreign Earned Income Exclusion.
- You can reduce rental income with expenses, but cannot create deductible losses (these losses are carried forward to profitable years, or used when the property is sold).
- Only in rare instances may your rental income be considered "active" income, allowing you to take losses against other active income:
    - You must actively manage the maintenance of the property.

- You must actively make the day-to-day property management decisions.
- You cannot be a limited partner.
- You must own more than 10% of the property.
- You must take straight-line depreciation.
- You must be an active participant in the year the losses are taken, subject to phase-outs on your adjusted gross income.

- Qualifying your rental income as "active" is nearly impossible for foreign property. Make sure you understand the requirements by working with a U.S. tax professional with experience in this arena.

## Renting property held in your name

For U.S. tax reporting purposes, foreign property titled in your name and rented out for profit is reported and taxed the same as for U.S. rental properties. Gains and losses, subject to U.S. active and passive rules, are recognized on your U.S. tax return when the mortgage is paid in full.

It is important to note that you may have other state or foreign tax responsibilities associated with renting your foreign property. Your responsibilities will depend on your state of domicile and the country in which the property is located. Foreign tax credits may be available for foreign taxes paid.

## Renting property held in a foreign entity

When real estate is held in a foreign entity (corporation, partnership, trust, LLC, or other) it is reported with your disclosure reporting of ownership in a foreign entity. Annual net rental gains are usually taxable on your individual U.S. tax return, despite being in a foreign entity. We strongly suggest working with a tax professional if you are using a foreign entity, it's too easy to make a very costly mistake.

There are a few differences in this scenario that you need to be aware of:

- If you pay a foreign tax on your gross rental income, the tax is considered a rental expense on your U.S. tax return.
- If you pay a foreign tax on the net rental income, the amount may be eligible for a foreign tax credit.
- Net rental profits will have to follow the Subpart F income rules of foreign corporations and may have a deferred tax status. Generally, any net profit will be taxed on your return.

## Selling foreign property

When selling foreign real estate titled in your own name, it is treated as capital gains (deprecation recapture is ordinary income) just as it would be in the U.S. Depending on the country of sale, foreign taxes paid on the sale of foreign real estate may be available as a Foreign Tax Credit on your U.S. tax return.

If you own foreign property as a second home for personal use, you may pay U.S. tax on gains when you sell the property. If you hold the property for more than one year, any U.S. capital gains will be taxed at the long-term rate, the highest of which is about 20%. In the unlikely event that you hold the property for less than one year, any profits will be taxed at the short-term capital gain rates, which are the same as ordinary income tax rates.

It is important to note that there may be other tax responsibilities associated with the sale of foreign property. You may have other state or foreign tax responsibilities associated with selling foreign property. Your responsibilities will depend on your state of domicile and the country in which the property is located. Foreign tax credits may be available for foreign taxes paid.

## Selling property held by a foreign entity

Generally, when selling property owned by a foreign entity, the entity itself is sold (i.e. you sell the corporate stock) and the capital gain or loss is reported on

your U.S. tax return. If a property is sold within a foreign entity, it is reported on your foreign entity disclosure and may become taxable under the complex Subpart F rules. Whenever you may fall under Subpart F rules, you must seek professional tax help.

## If, ands, and buts of foreign property ownership

What if your foreign property is your primary residence? From a U.S. tax perspective, if your foreign property is your primary residence, you qualify for a primary residence exclusion on the sale of the property.

This allows you to exclude $250,000 ($500,000 for married couples) of gain on the sale of your primary residence from U.S. taxes. To qualify as a primary residence, you must have lived in the property for two of the past five years. This is one of the most generous sections of the IRS code. As of this writing, it also applies to a primary residence in a foreign country.

From a foreign tax perspective, the local foreign tax definition of primary residence or tax home comes into play.

The U.S. definition of primary residence or tax home is not universal. Some countries define it differently, and when they do, there are additional foreign tax implications that need to be managed. Each country has different descriptions and taxation features associated with selling your tax home/primary residence.

## The deductibility of "away-from-home" living expenses

Maintaining just one tax home, whether in the U.S. or abroad, is a fairly straightforward tax experience. For U.S. citizens maintaining multiple homes associated with multiple business ventures, tax strategies and scenarios become much more complex.

At the heart of this complexity is the tax deductibility of away-from-home living expenses associated with the pursuit of business income related to foreign property.

In the case of Bowles vs. United States, the taxpayers sought to deduct travel, meals, utilities, and incidental expenses against the income associated with their grape-growing business. This was a very aggressive tax reduction strategy, one that was disallowed by the IRS and the courts because the Bowles spent most of their time at the vineyards, thus establishing the vineyards as their tax home.

This tax strategy requires a facts and circumstances proof-text of tax home that most individuals fail to document. It is determined on a case-by-case review that will include:

- Total time spent at both locations, where you're spending most of your time.
- The total amount of business and income activity at both locations.
- A comparison of the total business and income activity at both locations.
- The percentage of relative income from each location.
- How much of your actual time is spent conducting business associated with each location?

Additionally, there is an important distinction between deducting "away-from-home" expenses and utilizing the Foreign Earned Income Exclusion and/or the Foreign Housing Allowance deduction. It is a distinction that should be made and managed with an experienced tax professional.

## The 1031 exchange exception

As mentioned earlier, owning foreign real estate directly is not treated differently on a U.S. tax return except for one important exception: the 1031 exchange.

A 1031 exchange is a tax-free transaction wherein money is taken from the sale of one asset and invested in another "like-kind" asset as defined by the IRS:

"Properties are of like-kind, if they are of the same nature or character, even if they differ in grade or quality. Personal properties of a like class are like-kind properties.

"However, livestock of different sexes are not like-kind properties. Additionally, personal property used predominantly in the United States and personal property used predominantly outside the United States are not like-kind properties.

"Real properties generally are of like-kind, regardless of whether the properties are improved or unimproved. However, real property in the United States and real property outside the United States are not like-kind properties."

For example: Bob bought a condo 30 years ago for $50,000 and it is now worth $250,000.

If Bob sells the condo now, he will have to pay capital gains tax on $200,000 of appreciation.

If Bob doesn't want to pay taxes on this appreciation, he can initiate a 1031 exchange. He sells the condo for $250,000 and buys a "like-kind" investment rental property for $250,000. He would pay no tax on the transaction and keep his original tax basis of $50,000. A 1031 exchange is a very useful tool for investors who do not want to "cash out" of their property, but want to roll their appreciated equity into another asset.

When attempting to conduct a 1031 exchange when selling foreign real estate, make sure you avoid this tax trap:

Real estate in a foreign country cannot be used in a 1031 exchange for U.S. real estate, and U.S. real estate cannot be used in a 1031 exchange for foreign real estate.

For example: If you have a townhouse in Germany, you cannot do a 1031 exchange into a townhouse in the U.S. You can do a 1031 exchange from a townhouse in Germany to a townhouse in France (foreign to foreign is ok).

This limit on 1031 exchanges reduces the available options for those who invest in foreign real estate. To move the gain on the sale of the asset back into the States, U.S. capital gains tax would need to be paid.

Many families use U.S. 1031 exchange rules as a core estate planning strategy, allowing asset values to increase while paying no tax on the sale/exchange. This allows families to pass large assets with low basis to children tax free.

However, when one is using foreign properties in a 1031 exchange process, one must also consider all the foreign tax issues associated with the properties and the exchange. The foreign tax implications may be very different from the U.S. tax benefits.

What may seem to be a good decision on the U.S. side may turn out to be a costly decision on the foreign tax side. Always work with tax and legal professionals in both countries of interest.

# CHAPTER SIX

## Filing a U.S. Tax Return as an Expat: What You Need to Know

**By Paul Carlino**




*The requirement to file a tax return depends on your age, the amount of gross income you receive in the year, and your filing status.*

Before I moved to San Miguel de Allende, Mexico, I worked as an attorney with the Internal Revenue Service. It was not unusual for me to think about taxes during idle hours on the weekend, at a Fourth of July fireworks display, or at other family events. For me, it was always tax filing season.

While this struck my wife, Rebecca, as odd at times, she always appreciated the money we saved in April because of my tax planning. Now that we have moved abroad and are on a more limited budget, it's even more important to be thoughtful about the tax consequences of our actions.

Here are some things that we have done to prepare as the current tax return-filing season approaches. You should discuss these points with your tax professional if you live overseas or are considering moving outside the U.S.

## The need to file a tax return

The U.S. taxes its citizens on their worldwide income, regardless of where they live. So, even if you live in Mexico, Thailand, Roatán, or Bali, you are still expected to file a U.S. tax return. Don't despair, though. There are exemptions and exclusions that can lighten your tax burden significantly, and that can make moving abroad a smart move, tax-wise. First off, though: Filing your annual tax return.

The requirement to file a return depends on your age, the amount of gross income you receive in the year, and your filing status (single, married filing a joint return or separate return, or head of household). Charts in the **Instructions for Form 1040** set forth all the income thresholds, based on age and filing status, to determine whether you need to file a return.

A married couple over age 65 that plans to file jointly must file a return if their gross income is greater than $28,700. As Rebecca and I are under age 65, our income threshold for a joint return is $25,900.

Even if you're not required to file a return based on the income thresholds, you should still file to get a refund of any tax withheld, or to obtain any tax credits—such as child tax credits, or healthcare-related credits—that you're entitled to.

## Due date to file a tax return

The due date to file a U.S. tax return and pay tax is April 15. An automatic six-month filing extension will be granted if **Form 4868** is filed before April 15. Filing Form 4868 does not extend the due date to pay the tax. That date remains April 15.

What does that mean, exactly? Well, it means you've got extra time to file your return. But if you owe taxes, you still owe them on April 15, regardless of when you file your return. U.S. citizens who live outside the United States get an automatic two-month extension to file their return. This automatic extension also applies to the due date to pay any tax due, but the interest owed on any tax due will be calculated from the original due date of April 15.

Do you owe tax or are you due a refund? If you expect a tax refund, you should file your return by April 15. There is no reason to let the government hold your money longer than necessary. If you will owe tax, you may want to file by one of the extended due dates. But be sure to pay the tax you owe by the appropriate date to minimize the interest due.

## Foreign Earned Income Exclusion (FEIE)

One of the biggest tax benefits for expats living and working abroad is the FEIE, which I will go into more detail about below. Under this rule, a U.S. citizen can exclude up to $112,000 of earned income for 2022. (The amount changes slightly each year.)

Earned income includes payments for services performed in a foreign country. The income must be earned outside the U.S., and your tax home must be outside the U.S. too. To qualify, you need to meet either the bona fide residence test or the physical presence test.

To satisfy the bona fide residence test, you must reside in a foreign country for an entire tax year—which is January 1 to December 31 for calendar year taxpayers. Being resident in a foreign country for an entire tax year does not mean you can't visit the U.S. It's fine to do so, so long as you intend to return to your foreign residence.

If you were in the U.S. on January 1, you may not satisfy the bona fide residence test. In that case, you can still qualify for the FEIE by satisfying the physical presence test. To meet this test, you must be physically outside the U.S. for at least 330 days in a 12-month period of your choosing. This is the test that Rebecca and

I needed to satisfy, and we had to cut short our summer visit to the U.S. to see family and friends and return to Mexico in order to do so.

However, if you are in your country of foreign residence on January 1, and if you otherwise satisfy the bona fide residence test, you will not be limited on how long you can spend in the U.S. for vacation or business during the year, so long as you intend to return to your foreign residence.

Under either of the tests, earned income does not include the interest and dividends you receive from your investments, or any pension or Social Security distributions.

## Gain on the sale of your home

If you own a home in the U.S. that you rent out, you may want to consider selling it to exclude some or all of the profit on the sale.

Under U.S. tax law, up to $250,000 ($500,000 for a married couple) of gain from the sale of a home may be excluded from income (and therefore, from tax) if certain conditions are met.

The most important condition to satisfy if you are to qualify for this exclusion is that you owned the property and used it as your main home for two of the previous five years. This can be significant in terms of your financial planning.

The five-year look-back period is determined by the date of sale. Here's an example. You and your spouse lived in a house as your main home for 10 years ending on January 6, 2020, when you moved to Mexico. If you sell the house on November 4, 2022, the five-year period would look back to November 4, 2017. Since you used the house as your main home from November 4, 2017 to January 6, 2020 (more than two of the last five years), you could exclude up to $500,000 in gain from the sale.

You would not satisfy the requirement if you have lived in the house for fewer than two of the last five years. In this case, you would have to pay capital gains tax on the entire gain. Rebecca and I own a home in Virginia that we rent out. The monthly rental income covers most of our living expenses in Mexico.

However, we could make a substantial profit on the sale of the house. While it's nice to receive the rental income to cover our day-to-day expenses, over the next year, we will have to determine whether it is more beneficial for us to continue renting the house, or to sell it, instead, exclude the capital gain from income, and invest the profit.

## Foreign bank accounts

Rebecca and I are careful to manage all our finances and assets from U.S.-based accounts, so that we can avoid having any foreign bank and financial account reporting obligations. Under U.S. rules, foreign accounts that hold more than $10,000 at any point during the year must be reported on **Form 114** (filed through an online Treasury Department portal).

This form is often referred to as the **FBAR**. If non-U.S. assets held for investment exceed $50,000, **Form 8938** must be filed in addition to the FBAR.

If you have a foreign business or other non-U.S. assets that must be held in foreign accounts, you should be aware of these reporting obligations. Substantial penalties apply for failing to file these forms, even if that failure was unintentional.

## Filing a non-resident state income tax return

One of the biggest mistakes expats make in filing their taxes is continuing to file state tax returns as residents, even though they no longer live in the state. By filing as a non-resident, or part-year resident, you generally only have to pay tax on state-sourced income and can often save paying taxes on interest, dividends, and pensions.

Most states tax an individual's gross income, just like the U.S. government. Generally, however, states tax non-residents and part-year residents only on income that is sourced in the state. Examples include income from services performed in the state or rental income from a house located in the state.

Social Security benefits, pension distributions, and interest and dividends from assets held in a brokerage account are often not considered state-sourced income.

Can you file a part-year resident or non-resident return? You may think that maintaining ties in a state where you used to live means you must continue to file a state tax return as a resident. But many states do not look at easily manipulated factors such as where you vote or hold a driver's license to determine residence.

For example, New York determines resident status by factors such as where you spend the majority of your time, the location of items of value, and your intent.

Under these factors, renting an Airbnb on the beach in Costa Rica during the winter probably won't qualify you as a Costa Rica resident for New York state tax purposes. But owning a house in Costa Rica and only visiting New York for brief periods could allow you to file a non-resident return if you had state-sourced income to report.

Rebecca and I will save a considerable amount in state taxes by filing a Virginia non-resident tax return. Based on Virginia's tax rules on non-resident status, we will only need to report and pay tax on the rental income from the house we own in Virginia. We do not need to pay tax to the state of Virginia on the dividend and interest income we receive.

Although we are fond of Virginia, we are happy with this result. As the esteemed Judge Learned Hand wrote in the famous tax case of *Gregory v. Helvering*, no man is "bound to choose that pattern which best pays the Treasury."

# How to Claim Your "Foreign Earned Income Exclusion" and Save Thousands of Dollars

**By Paul Carlino**


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*Only earned income from foreign sources can be excluded under the FEIE.*

Now let's consider in more detail one of the major benefits available to you when you file your U.S. tax return as an expat—the Foreign Earned Income Exclusion (FEIE).

The FEIE and Foreign Housing Allowance Exclusion have remained relatively unchanged since the latest round of tax-law amendments. That's definitely good news, since the criteria to be eligible to use these benefits are the same as they were previously.

The bad news is that, even though they're relatively unchanged, the rules remain complicated to the untrained eye.

In 2022's tax declaration (remember, the return you file in 2023 applies to last year's earnings), U.S citizens who live overseas and meet certain other conditions can avoid paying U.S. federal income tax on up to $112,000 of earned income. What's more, if your circumstances qualify you, you may be able to exclude or deduct certain housing expenses from income.

The FEIE and foreign housing amount will continue to be calculated on **Form 2555, Foreign Earned Income**. However, the amounts from Form 2555 will now be reported on new **Schedule 1 (Form 1040)**, rather than directly onto Form 1040 as they were in prior years.

Listed below are some basic queries to help you determine whether you need to speak with a tax professional about claiming the FEIE or foreign housing amount.

### Did you have foreign earned income?

Only earned income from foreign sources can be excluded under the FEIE. Earned income is income that is paid to you for your personal services—such as from your work as an employee or from self-employment. Professional fees you receive for performing services as an architect or lawyer, or proceeds from the sale of art you created, are examples of earned income.

Foreign sources mean the earned income is for services performed in a foreign country. Thus, if you work as an employee in Mexico for a U.S. company, the wages your employer deposits to your U.S. bank account for services you performed in Mexico count as earned income from foreign sources.

If the services are performed in the U.S., the income is not from foreign sources, even if you are paid while in the foreign country.

Income such as dividends, interest, Social Security benefits, or pensions are not earned income.

Rental income is not earned income unless personal services are performed in connection with the rental. Minor services performed by

the property owner, such as maintenance and collecting rent, are not classed as “personal services.”

Thus, listing a home you own in a foreign country on Airbnb, checking guests in, making recommendations to guests about where to eat or what to do in the locality, or resolving maintenance problems, are likely not going to transform the passive rental income to earned income.

However, if you use your personal skills to operate the property in the manner of a hotel or traditional B&B, a percentage of the property’s rental income may be considered by the Internal Revenue Service as earned income.

### Did you have a tax home in a foreign country?

Think of your tax home as the place where you regularly work. Temporary overseas assignments for your employer will not establish your tax home in a foreign country if it’s expected that you will return to live and work in the U.S. Generally speaking, assignments expected to last one year or less are considered temporary.

Employees who are permanently or indefinitely assigned overseas, or self-employed persons who live and work in a foreign country, will be considered to have a tax home in that foreign country. Generally, assignments that are expected to last more than one year are considered indefinite.

### Did you meet the bona fide residence test?

Bona fide residence is determined by the IRS on a case-by-case basis. You can only meet the bona fide residence test if:

1. You have a tax home in a foreign country;
2. You were outside the U.S. on January 1, of the previous year you’re filing for; and
3. You lived outside the U.S. for a full calendar year (January 1 to December 31).

In addition, the IRS will consider factors like your intention regarding the length and purpose of your trip, whether you have established a home in a foreign country, and your involvement with activities in the community. Things like whether you open an account with a local bank, get a driver's license or library card, or volunteer with a local charity can be relevant as proof of intention.

Short trips that you take to the U.S. during the year for vacation or business do not imperil your bona fide residence, so long as you intend to return to your foreign home and do so without unreasonable delay. Voting in U.S. elections does not endanger your bona fide resident status, either.

### Did you meet the physical presence test?

If you have a tax home in a foreign country but don't satisfy the bona fide residence test, you can still meet the physical presence test. This test requires you to be physically present in a foreign country or countries for at least 330 full days during a 12-month period.

For the physical presence test, the IRS does not consider factors like intent, residence, and purpose, which are important to bona fide residence. The physical presence test is based entirely on how long you stay outside the U.S., no matter the reason.

A full day means a 24-hour day. Thus, days that you arrive or depart from a foreign country generally don't count as part of the 330 days.

The 12-month period must consist of 12 consecutive months. It can begin on any day of the week and does not have to begin with the first day you were in a foreign country or end on the day you leave that country.

Here is an example to illustrate how to apply the above steps:

Joe arrived in Mexico from the U.S. on January 6 to perform an indefinite work assignment for his employer. The expectation was that the job would last 18 months or more. Joe rented an apartment, purchased a

car and got a driver's license, and began to participate in a local civic association.

For health reasons, Joe spent 28 days in February and 31 days in March in the U.S. He returned to Mexico on March 31 and spends the rest of the year and all of the next year in Mexico.

Based on Joe's intention and related factors, his tax home is Mexico. Joe cannot meet the bona fide residence test for the first year because he was not outside the U.S. on January 1 and did not live in a foreign country for the entire calendar year (he arrived in Mexico on January 6).

He also cannot meet the physical presence test if the 12-month period he chooses begins on the day he arrived in Mexico (January 6). In that case, he spent less than 330 days in the 12-month period in a foreign country (366 days from January 6 to January 5 the following year, less 59 days in February and March spent in the U.S. equals 307 days).

He can meet the physical presence test if the 12-month period he chooses begins on April 1 and ends on March 31 the following year. In that case, the difference is that he spent more than 330 days during the period in a foreign country.

### Other things you should consider

**To file or not to file?** It is not mandatory to file Form 2555 if you are eligible. Understandably, the IRS does not allow excluded income to be used to calculate credits based on total income. Thus, electing the FEIE may limit your ability to take foreign tax credits, or the additional child tax credit, and earned income credit.

You should speak with a tax professional to determine whether excluding income or taking credits provides the most tax benefit in your situation.

**Revoking an election.** If you do elect to file Form 2555, the election remains in effect for future years unless revoked. To revoke, you must attach a statement of intent to your tax return.

You may want to revoke an election if you have foreign earned income and want to apply that income to increase one of the credits mentioned above. However, once you revoke an election, you must seek IRS approval to re-elect the FEIE within five years of the revocation. Again, it's a good idea to discuss with your tax professional your projected foreign earned income if contemplating to elect or revoke an election.

**Social Security tax.** Filing Form 2555 does not reduce or eliminate any Social Security tax due on your foreign earned income. This tax should still be withheld by your employer or reported by you on **Form 1040 (Schedule SE)** if you are self-employed.

### One more thing: The foreign housing amount

If you qualify to exclude income under the FEIE, you may also be able to exclude or deduct your foreign housing amount. The housing amount is the total of your reasonable housing expenses, including rent, utilities, insurance, and residential parking. The cost of buying or improving property, mortgages, or domestic labor—such as house cleaning or cooking—are not eligible expenses.

The limit on expenses used to calculate the foreign housing amount changes each year and can be computed on a worksheet in the instructions to Form 2555, Foreign Earned Income. The location where you live, whether you receive employer-provided housing or are self-employed, and the number of days you maintain a foreign home, all affect the amount that can be excluded or deducted as the foreign housing amount.

# Understanding Tax Reporting for U.S. Citizens Living Abroad

**By Allyson Lindsey**

©TL

*A move to Greece won't leave you liable for double taxation on your Social Security income.*

U.S. citizens move abroad for lots of different reasons—a better quality of life in retirement, a career opportunity, to explore, or for love of a particular person or place—but all expats share one very important trait: a sense of adventure.

However, moving abroad involves lots of logistical planning, and financial considerations should always feature near the top of the list, including the requirement that U.S. citizens must still file U.S. taxes after their move overseas.

## U.S. tax rules for U.S. citizens living abroad

The U.S. has a citizenship-based taxation system. It's the only developed nation that has this sort of tax system, rather than a residence- or territorial-based system.

Residence-based tax systems tax only residents in that country, while territorial-based systems tax only income and economic activity within that country, whether the income is earned by a resident or not.

The U.S., on the other hand, taxes all U.S. citizens, wherever in the world they may be.

This raises multiple questions for U.S. citizens abroad: What happens if they have to file foreign taxes in their host country, too? Will a tax treaty protect them from double taxation? What about Social Security taxes?

U.S. citizens living abroad do have to file two tax returns if their host country requires them to file, and, while the U.S. does have tax treaties with over 60 other countries, they don't prevent U.S. citizens abroad from having to file.

They do, however, contain ways in which U.S. expats can avoid double taxation. The most common way is by claiming tax credits when they file their U.S. tax return in lieu of foreign taxes they have to pay abroad.

The most common way to do this is for expats to file their foreign taxes first and then their U.S. taxes. When they file their U.S. taxes, they file an additional form (Form 1116) to claim the U.S. Foreign Tax Credit.

In some circumstances, U.S. citizens abroad would file their U.S. taxes first and then claim tax credits abroad, if their income is considered U.S.-sourced, for example.

Specific tax treaties do allow for some types of income to be exempted from U.S. tax in certain circumstances, most often pension, dividend, or income from royalties, depending on the tax treaty. Expats who wish to take advantage of a specific tax treaty provision must claim it on Form 8833 when they file their U.S. tax return.

Alternatively, the U.S. has a provision called the **Foreign Earned Income Exclusion**, as explained above.

In terms of Social Security taxes, the U.S. has treaties called totalization agreements in place with a number of countries that mean U.S. citizens living in one of these countries will only pay Social Security tax to either the U.S. or their host country, depending on how long they plan to live abroad. U.S. citizens in other countries who are either self-employed or who are employed by a U.S. company may find themselves at risk of double Social Security taxation.

Countries with which the U.S. has signed a totalization agreement are Australia, Austria, Belgium, Brazil, Canada, Chile, the Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Luxembourg, the Netherlands, Norway, Poland, Portugal, the Slovak Republic, Slovenia, South Korea, Spain, Sweden, Switzerland, the U.K., and Uruguay.

U.S. citizens abroad also have to report their foreign registered business interests.

U.S. citizens living overseas receive an automatic filing extension until June 15, although any tax they do owe still needs paying by April 15. Those who require additional time to file after June 15 can also request an extension to Oct. 15 by filing Form 4868.

## FBAR reporting

FBAR is an acronym for Foreign Bank Account Report. Filing an FBAR is an additional U.S. reporting requirement for many U.S. citizens who live abroad.

FBAR reporting affects U.S. citizens who have foreign registered financial accounts, whether they live in the States or abroad. Foreign financial accounts include any type of account with a positive balance, including all bank accounts and most types of investment and individual pension accounts.

Whether U.S. citizens with foreign registered financial accounts have to file an FBAR or not depends on whether the aggregate total of all of the balances of all of their qualifying accounts exceeded $10,000 in total at any time in the year.

So, an American with 10 qualifying accounts that all had $1,001 in them—even if just for a few minutes—would have to file an FBAR to report all of their foreign financial accounts.

Qualifying accounts also include any account that a U.S. citizen has signatory authority over, such as joint accounts and business accounts, even if the account isn't registered in their name.

The requirement to file an FBAR was introduced as part of the 1970 Tax Secrecy Act to help prevent offshore tax evasion. Somewhat controversially though, the $10,000 threshold has never been increased in line with inflation.

FBARs are filed to FinCEN, the financial crimes authority, rather than to the IRS, which means that penalties for not filing an FBAR are much higher. These start at $10,000 a year for unintentional missed filing or unintentional omissions or errors on the form.

Penalties for intentional, willful evasion of FBAR filing can rise to $100,000 a year or half of the balances of all the foreign accounts. There have been cases of FBAR penalties reaching millions, notably that of former presidential advisor Paul Manafort.

The FBAR form itself is FinCEN Form 114, and it should be filed online by April 15. However, there is an automatic filing extension until Oct. 15 to bring the FBAR filing date in line with the wider U.S. tax return filing extension date.

FinCEN Form 114 is filed on the FinCEN website through the BSA filing system. It's not an overly complex form to file, so long as you have the relevant financial account statements on hand.

The information the form requires includes the financial institution name and address, account name and number, and maximum account balance in the year for each qualifying foreign financial account.

## Seek advice

U.S. citizens living abroad almost always benefit from seeking advice from a U.S. expat tax specialist to ensure that they not just get and stay compliant but also file in their best interests.

With additional forms involved (and often currency conversions too), filing from abroad is more complex than filing in the States.

U.S. citizens who live abroad and who haven't been filing U.S. taxes because they weren't aware that they had to, may be able to catch up without facing penalties under an IRS amnesty program, so long as they do so before the IRS contacts them about it.

# Tax Tips for the Seasonal U.S. Expat

**By Katelynn Minott**



*Get your tax return done, then take off somewhere warm for a few months.*

Living abroad can be the experience of a lifetime. There's the appeal of a new culture, a climate that better suits your tastes, meeting people with new and different perspectives, learning another language, and the sense of adventure.

Permanently relocating abroad, though, is a big decision, and many would-be expats choose to approach it cautiously—deciding to test the waters by living part-time in the country (or countries) that have made their shortlist. Others are happy to continue living in their home country but spend the cold winter months in a warmer location overseas.

A partial or seasonal move abroad can be a "best of both worlds" compromise, and it lets you dip a toe in the water of expat life before committing to moving abroad more permanently.

## U.S. tax requirements for seasonal expats

For seasonal expats, those who perhaps spend winter abroad or come and go between a U.S. and an overseas home over the course of each year, the devil really is in the details.

Which foreign country they spend time in and the tax rules there, exactly how many days they spend in each country, and whether they work or have other income, own property or a business, or have financial (e.g. bank and investment) accounts can impact their U.S. tax filing obligations. As such, seasonal expats should always seek advice from an expat tax CPA, rather than from a regular CPA who doesn't specialize in expats.

For example, spending more than a certain number of days (often 180) in many countries can trigger a tax liability in that other country, as can owning a home or working (whether in a self-employed capacity or working full- or part-time).

At this point avoiding double taxation (paying tax both to the U.S. and to the other country) becomes an issue. Doing so may involve claiming foreign tax credits in one or both countries, claiming a tax treaty provision, or claiming another type of provision like the Foreign Earned Income Exclusion.

Having financial accounts which generate investment income (for example, interest, dividends, or capital gains) may also trigger a tax liability in that country, as well as a U.S. foreign account disclosure (more on this below).

U.S. citizens have to report foreign business interests, trusts, and sometimes properties (if they produce rental income or a taxable capital gain).

So, while all U.S. expats have to file U.S. taxes, whether they live full- or part-time abroad, the tax rules in the other country (or countries) where they spend time will influence how exactly they file their U.S. return.

One of the first tasks then, ideally before even moving abroad, is to research the foreign tax rules to determine whether spending a certain amount of time, owning (rather than renting) property, or working there will trigger tax liability. The answers to these questions may then influence an expat's lifestyle, destination, and expatriation choices.


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*Get the details right, know your facts, and you can avoid the sting of double taxation.*

## Preventing double taxation

Seasonal U.S. expats who do pay foreign taxes, perhaps because they work in another country while they're there, own property there, or spend enough time there to qualify as a tax resident, will need to work out how avoid paying taxes on their income twice.

Most U.S. tax treaties don't innately prevent U.S. expats from filing or paying U.S. taxes (although some do contain provisions preventing double taxation of retirement income). Tax treaty provisions can be claimed on IRS Form 8833 when expats file their federal return.

Instead, U.S. citizens who pay taxes in a foreign country too normally have to claim the U.S. Foreign Tax Credit by filing IRS Form 1116 when they file their federal return.

The Foreign Tax Credit lets Americans claim a $1 U.S. tax credit for every dollar equivalent of tax that they've paid in another country. Sometimes, U.S. taxes should be paid first, and then tax credits claimed in the other country. It will depend on where the income is considered taxable first, which is normally set out in a tax treaty.

This way, expats never pay more than the higher of the tax rates in the two countries where they file and pay.

## Foreign account reporting

As mentioned already, Americans who have over $10,000 in total in foreign accounts at any time during the year are required to report them by filing an FBAR (Foreign Bank Account Report).

Qualifying foreign accounts include any account with a positive balance that an expat has signatory authority or control over, even if not in their name, including bank accounts, investment accounts, joint accounts, and business accounts.

FBAR filing doesn't imply any additional tax liability; it's simply a reporting exercise.

The IRS is receiving the same information from foreign banks due to FATCA, so they can then compare the information received from banks and on FBARs to ensure no one is avoiding taxes by hiding funds offshore.

Fines for not filing an FBAR are steep, starting at $10,000 a year for unintentionally not filing or errors, so it's definitely one not to neglect. U.S. citizens with foreign accounts who aren't sure or who have any questions should seek advice from an expat tax specialist.

FBARs are filed to FinCEN (rather than to the IRS) online and should be filed by October 15th following the end of the relevant tax year.

## State taxes

Whether seasonal expats have to file state taxes depends on the rules in each state. However, most states keep taxing anyone who retains ties in the state, meaning that most seasonal expats will continue filing.

The best piece of advice of all, though, for seasonal expats, is to seek advice from an expat tax expert. He or she will be able to not only advise but help you to avoid future issues and minimize taxes payable.

# Reduce Your Tax Liability With Non-taxable Income

**By Paul Carlino**




*The stability of fixed income instruments like bonds make them an ideal alternative to a riskier stock investment.*

As a former IRS tax attorney and current income tax return preparer, I often have to remind my U.S. citizen clients who live overseas that they still have an obligation to file a U.S. tax return.

While it seems illogical that money earned abroad is taxable by the U.S., that is the consequence of the U.S. system of taxing worldwide income (and don't expect it to change). But the good news is that there are sources of income that you may receive that you don't have to put on your tax return.

Now, I'm not suggesting failing to report taxable income such as salary or retirement payments, dividends, interest, or other investment gains, which could result in one being found guilty of tax fraud.

Rather, by simply knowing whether what you receive is taxable income versus non-taxable income, you may be able to reduce your tax liability without reducing your income.

Here are some common income items that are not taxed by Uncle Sam:

## Interest from municipal bonds

When it comes to investment opportunities, most people immediately think of the stock market. However, the stability of fixed income instruments like bonds make them an ideal alternative to a riskier stock investment.

An advantageous feature is that interest paid on bonds issued by a state, city, or county government to subsidize the costs of public works (typically called a municipal bond) is tax-free at the federal level.

That is, the U.S. government does not require you to pay tax on the interest payments made to you by the issuer of the municipal bond.

Additionally, if you invest in a bond issued by an agency of your home state, it will likely be free from state tax as well. If you buy the bonds of another state, your home state may tax the interest income from the bond.

If you live overseas and don't have a requirement to file a U.S. state tax return, municipal bond interest would be completely tax-free for U.S. purposes.

## Gifts of cash or property

In general, a gift of cash or property (for example, an investment asset) requires the recipient of the gift to include the fair market value of the gift as taxable income. However, there are many exceptions to this rule.

The most common exception is for gifts that are less than what the IRS terms "the annual exclusion amount." In 2022, the annual exclusion amount is $16,000, and applies to each donee. In other words, a parent could give a cash gift of $16,000 to each of her or his children and the amount would not be taxable to the children.

In addition, each person making a gift qualifies for his or her own annual exclusion amount.

This means that in 2022 each parent could give $16,000 to a child (or to a friend) and the total gift of $32,000 would not be taxable to the child (or friend).

## Child support and alimony

Under no circumstances are child support payments taxable to the recipient.

Alimony payments, however, may be taxable if the divorce or separation agreement that requires the payments to be made was finalized on or before December 31, 2018. If the agreement was entered into on or after January 1, 2019, then the alimony is not taxable to the recipient.

Note that when the child support or alimony payment is not taxable to the recipient, it is also not deductible by the person making the payment.

## Inheritances and life insurance

If a friend or family member passes away and leaves you money or property through his or her will, you do not have to pay tax to the U.S. government on the value of the inheritance.

If you inherit property and then sell it for a profit, you would only pay tax on the difference between the fair market value of the property when received and the sales price.

Similarly, money you receive from a life insurance policy when someone dies is not taxable.

## Court awards and settlements

Whether you are required to pay tax on money that you receive from the settlement of a lawsuit depends on the facts and circumstances of the court proceeding.

The important question to ask is, "What are the payments intended to replace?"

Employment-related lawsuits (for example, involuntary termination or unlawful discrimination cases) typically include payments meant to replace lost wages or severance pay. Court awards of this nature are treated as similar to a salary payment and are taxable.

On the other hand, awards that compensate for a personal physical injury such as would be sustained in a car accident, or for emotional distress related to the physical injury, are excluded from income. Punitive damages and any interest accrued while payment of the settlement is pending, even if originating from a personal injury lawsuit, are generally taxable.

*IRS Pub. 4345, Settlements Taxability*, provides a good summary of these complex rules.

## Social Security benefits

U.S. citizens who live overseas can receive social security benefits (including retirement, survivor, and disability benefits) just as if they lived in the U.S.

In each situation, the same rules apply to determine if any portion of the benefit is taxable.

Generally, a portion of your social security benefit (but never more than 85%) will be taxed if your "combined income" is above a certain amount.

The Social Security Administration website has information about how to compute combined income and the different dollar thresholds that apply depending on your filing status to determine if your benefits are taxed.

## Tuition reimbursement from employer

While there are many different types of fringe benefits employers might offer their employees, the rules regarding taxability are often complex.

One benefit that is fairly straightforward is the exclusion from income of up to $5,250 in education assistance received from your employer. That is, your employer may reimburse up to that amount for tuition, fees, books, and other supplies or equipment required for an undergraduate or graduate level course in which you are enrolled.

The employer payments do not have to be reimbursements for work-related courses, but generally the class cannot be for sports, games, or hobbies. Additionally, the equipment eligible for tax-free reimbursement cannot be an item that would have a useful life after completion of the course (for example, a laptop).

Talk to your human resources department to find out if your employer has a qualifying education assistance program and what it would cover.

You can receive educational assistance payments in excess of $5,250 from your employer, but those excess payments are generally considered wages and should be included on your *Form W-2, Wage and Tax Statement*, at year end.

## Employer-provided adoption assistance

According to a U.S. Department of Health and Human Services study, an increasing number of employers are providing adoption assistance payments in an effort to retain good employees and provide equity in benefits across their workforce.

Employer-provided adoption assistance programs may range from a lump sum payment when an adoption is finalized to reimbursement of itemized costs (such as foreign adoption fees and medical expenses) while an adoption is in process.

The amount of a payment can vary, but under IRS rules for 2020, a maximum of $14,300 per child received from your employer as qualified adoption assistance may be excluded from your income.

This amount is reduced or eliminated if you are considered a high-salaried employee whose income exceeds certain thresholds.

# How to Deal With the IRS If You Owe Them Money

**By Bright!Tax Expat Tax Services**




*If you owe money, and can't afford to pay, a tax attorney can negotiate a settlement that both you and the IRS can live with.*

Failing to file the correct tax returns or filing incorrectly can lead to an appointment with the IRS. They have a number of procedures when it comes to collecting taxes owed to them. Below, we'll take a look at those procedures and the ways in which you can deal with the IRS if you owe them money.

## Step one: Know your risks

First, you must understand that the IRS can levy your U.S. bank account, and possibly your foreign bank accounts, put a lien on any real estate in the United States, and possibly take your real estate outside of the U.S.

*Levy: A tax levy, under United States Federal law, is an administrative action by the IRS under statutory authority, without going to court, to seize property to satisfy a tax liability. A levy is generally used to take money out of your bank account.*

*Lien: A tax lien is a lien imposed by the IRS upon real estate or other property to secure the payment of taxes. It may allow the IRS to seize your property. If you sell the property, the proceeds from the sale go first to the IRS to settle your debt, and then the remainder comes to you. An IRS lien comes after any pre-existing liens, such as a first or second mortgage.*

Here are several questions to consider if you owe money to the IRS:

- Did you know that the IRS can levy your foreign bank account if your bank has a branch in the U.S.?
- Did you know that the IRS may be able to levy your paycheck if your parent company is a U.S. entity?
- Did you know that the IRS can seize real estate in certain countries, such as France?
- Did you know that moving money out of the U.S. to avoid an IRS levy, even if you live abroad, can be a crime?
- Did you know that failure (refusal) to pay taxes can be a crime, in very specific circumstances?

Once your debt to the IRS becomes final and payable, the Service will attempt to mail four collection letters demanding payment. After sending those letters, whether or not you received them, the IRS can levy any U.S. bank account. This means they can take up to the amount of the debt out of your account(s).

For example, if you owe $30,000, and you have $20,000 in the bank, they get $20,000. If you owe $30,000, and have $35,000, they get $30,000.

In addition, the IRS can levy any foreign account, so long as your bank has a branch in the U.S. For example, if you are living in Mexico, and banking with HSBC, the IRS can issue a levy to a U.S. branch of HSBC, and it must be honored by the branch in Mexico…and your money is gone.

In the past, it was possible to avoid this by having accounts in banks without any branch offices in the U.S. (not recommended). However, with advances in technology, and many landmark international cases won by the IRS, it is only a matter of time until they get their hands on any foreign accounts.

Second, the IRS can take real estate in the U.S. or real estate in certain foreign countries. The IRS can seize property in any country where such a taking is provided for in the treaty, known as a Mutual Collection Assistance Requests (MCARs) clause. There are currently five treaty countries with which the IRS has ongoing programs for MCARs that may involve seizure and sale.

Third, the IRS can levy a bank account, or garnish your wages (take money out of your paycheck) in most countries with which it has an MCARs.

This means that anyone living in an MCARs country is at risk of having their assets seized, just as if they were living in the United States. The treaty partners and types of taxes covered for collection are as follows:

- Canada: All taxes
- France: Income, Estate and Gift, Wealth, and other specified taxes
- Denmark: Income and other specified taxes
- Sweden: Income and other specified taxes
- Netherlands: Income and other specified taxes

**Note:** It is very rare for the IRS to seize real estate, especially one's primary residence. This only happens after the IRS exhausts every other collection alternative, and the taxpayer refuses to cooperate.

If you owe money, and can't afford to pay, a tax attorney can negotiate a settlement that both you and the IRS can live with. As long as clients are honest and cooperate, the process is surprisingly painless. It is those who are unwilling to cooperate, or are too scared to do so, that get hit the hardest by the IRS.

## Step two: Negotiate

There are two basic options for those who owe the IRS, and are unable to pay:

1) An installment agreement; or

2) Offer in Compromise.

In an **installment agreement**, you agree to pay what you can afford each month, and the IRS agrees to stop collection actions while you make these payments. The IRS has 10 years to collect from you, thus your installment agreement can go on for several years.

In an **Offer in Compromise**, or OIC, you and the IRS agree to settle your debt for one lump sum, or payments over a few months. Let's look at the OIC process in detail.

## Offer in Compromise

Put simply, an OIC is an offer to settle your IRS tax debt for less than the total obligation because you cannot pay the debt in full over the "collection period." Before you can request an OIC, all of your tax returns must be filed and you must pay a deposit of 20% of your offer amount (see the examples below to determine your offer amount).

Collection period: In most cases, the IRS has 10 years to collect on a tax debt after it has been assessed. A debt is assessed when you file your returns, the IRS files returns for you, or an audit is finalized.

A settlement can be made in one lump sum, or over a number of months. However, it is more difficult and costly to get OICs approved that will pay over time, so a lump sum payment is the most practical option for most taxpayers.

During the OIC process, your objective is to convince the Service that you are paying them something that they would not otherwise get. To prove this claim, you are required to complete a detailed financial statement, listing all of your income, bank accounts, and assets. If your assets exceed your debt, your offer will not be accepted.

If you do not have sufficient assets to satisfy the debt, your income is compared to your allowed expenses to calculate your offer amount. Allowed expenses are published by the IRS each year and depend on where in the U.S. you live.

If your income exceeds your allowed expenses, the difference, times 48 months, is added to your assets to determine your total offer amount.

For example, if you owe $100,000 to the IRS, the equity in your home, your only asset, is $20,000, and your net income after allowed expenses is $1,000 per month, your total offer amount is $68,000 ($1,000 x 48 = $48,000 + $20,000), or 68% of the debt.

**Expats and Allowed Expenses:** When negotiating with the IRS, you are allowed to spend fixed amounts on housing, utilities, automobile, healthcare expenses, food, clothing, and other living expenses. Collection Financial Standards are published for U.S. residents, but none have been created for those living abroad. Therefore, every aspect of an expat's financial statement must be negotiated.

## Don't get scammed

The Offer in Compromise is not a magic bullet to get rid of back taxes. This program is used for people who have:

1) Fallen on hard times; and (not or)

2) Are living within expense guidelines set by the IRS.

Be wary of commercials promising that you would only have to pay "pennies on the dollar."

Here is an example of what is routinely rejected:

A few years ago, I had a client who owed about $60,000 in back taxes to the IRS. This client always spent every dollar that was in his hands. Unfortunately, and despite our advice, he stopped making estimated tax payments and spent the money—drastically lowered his tax withholdings off his six-figure salary and spent the money. Over two years he racked up a very high tax debt.

The client insisted we do an Offer in Compromise. At the time, his personal finances and life looked like this:

- Salary of about $150,000 a year.
- Two college-age children; he was paying for their tuition at community colleges.
- His wife was not working.
- Beautiful house in Orange County, CA, worth at least $600,000.
    - Through equity lines and other loans, he had almost as much debt as the value of the home; however, he was not "underwater."
- He was driving a high-end Escalade and Mercedes.
- He had a few toys: a speedboat, some off-road motorcycles, etc.
- Credit card debt was about $100,000.
- He was insolvent: debt was nearly 100% of available assets.

The IRS soundly rejected his offer (we told the client this would happen). Why? Even though the taxpayer was insolvent and unable to pay his tax debts, his living expenses were significantly above the allowed government amounts. The IRS considered his housing and vehicle expenses "excessive," and re-calculated what he would be able to pay if they used the minimum government standards for a family of four.

The IRS will collect every dollar it can through liens, levies, and garnishments. The IRS considers themselves the highest on a list of creditors; they would rather other bills (besides basic necessities) not be paid, rather than accept an Offer in Compromise.

Now let's say a family owes $200,000 to the IRS, and has lost their home. They are living out of a low-cost apartment and using one economy car for the family. The breadwinner makes significantly less these days compared to a few years ago because of changes in the industry. They have very little in assets to their name, and plenty of credit card debt to cover basic living expenses.

This kind of scenario has a higher chance of getting accepted for a pennies-on-the-dollar OIC because the IRS knows they are less likely to get paid under current regulations. This is a dream scenario for any national Offer in Compromise marketing firm. They can advertise they saved the taxpayer "hundreds of thousands of dollars" if a fair plan was accepted by the IRS.

The Offer in Compromise is a useful tool, but it is not an easy one. This is for individuals who have depleted most of their assets and are only retaining minimum acceptable income and asset amounts (based on government calculations).

Government figures show that 75% of Offers in Compromise are returned due to forms being filled out incorrectly; and of the 25% that are processed, approximately 50% of them are rejected. Add to this the complexities of expat negotiations, and it is clear that quality representation is required…just be careful!

# CHAPTER SEVEN

## Expatriation: The Ultimate Estate Plan

**By Robert E. Bauman, JD**

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*You could potentially have blood ties with another nation via your parents or grandparents, which could make you eligible for citizenship in their native country.*

Marshall Langer, a distinguished author on asset protection issues, is one of the world's leading international tax lawyers. In explaining why expatriation is so attractive to wealthy Americans, Mr. Langer argues from his own practical experience: "Expatriation is the ultimate estate plan."

Admittedly, the concept of giving up your citizenship for that of another country sounds rather drastic, especially if you're a patriotic American.

But there's at least one compelling reason to consider the idea: by giving up U.S. citizenship, you may be able to live or retire in a paradise of your choice and avoid all, or nearly all, U.S. taxes on personal and business income, including most capital gains and estate taxes.

In other words, you could pay nearly zero U.S. taxes—as in never having to pay taxes to the IRS again! The United States is one of the only major countries that impose taxes based on citizenship alone. So, no matter where you live, or where you earn your money, as long as you're a U.S. citizen, (or a resident alien with a "green card"), the IRS is going to demand its share.

Most other countries with territorial tax systems, such as Panama or Uruguay, only want to tax what you earn within their borders if you live there.

Bottom line: Unlike most other countries, a U.S. citizen cannot escape taxes by simply picking up and moving to another country.

## Path to tax freedom

The only way to truly free yourself from your obligations to pay taxes to the U.S. Internal Revenue Service is by formally surrendering your U.S. citizenship, a right that has been upheld by the U.S. Supreme Court.

And for many people, the cost-benefit analysis of staying or ending citizenship may conclude that the cost of being a citizen in the United States is just too high.

Here's some compelling math to consider. Under the so-called "American Taxpayer Relief Act of 2012" enacted by the U.S. Congress on January 2, 2013 at the last minute to avoid the "fiscal cliff," the estate tax exemption amount of $5 million, indexed from 2010, was made permanent, and the maximum estate tax rate was increased from 35% to 40% for those dying after December 31, 2012. The gift tax and the generation-skipping transfer tax (GST tax) were also permanently allowed and exemption amount of $5 million.

But let's compare U.S. estate taxes to what a wealthy citizen of The Bahamas is required to pay.

In The Bahamas there is no income tax, capital gains tax, purchase or sales tax, value added tax (VAT) or capital transfer tax. Citizens there pay zero estate taxes. Additional benefits—the weather, golf, sailing, swimming, and fishing are excellent year round, bar an occasional hurricane or two.

Now that you know what the rules on this international playing field are, let's talk about what it actually takes to become an expatriate.

One of the most important things to realize is that before you surrender U.S. citizenship you must already have obtained an official citizenship of another country.

## Acquiring dual nationality

Even if you are not ready to end U.S. citizenship immediately you may want to acquire a second citizenship, (also called "dual nationality") just in case.

Dual nationality occurs when a person is a citizen in two different countries at the same time, and that dual status allows the person to hold and use two separate official passports. The U.S. Supreme Court has upheld the right of Americans to enjoy dual citizenship—and to end their U.S. citizenship if they so choose.

Obtaining citizenship in another country can be a prolonged process. Taking steps to gain dual nationality early on can greatly speed the transition time if and when you decide to actually become an expatriate. And if you never decide to take that leap, there's no harm in holding a second citizenship.

In considering dual citizenship, you should know that if you marry a spouse who is a citizen of some foreign nations, you may be able to acquire dual nationality through them.

A similar opportunity applies in the case of family lineage. You could potentially have blood ties with another nation via your parents or grandparents, which could make you eligible for citizenship in their native country. Nations that may allow citizenship based on family ties include Ireland, Italy, Poland, Greece, and Lithuania.

However, before making any decision to act on obtaining another citizenship, make sure you are comfortable with the nation and that you would incur no negative obligations, such as military or national service requirements.

If you have no pre-existing foreign ties through marriage or family lineage, you might consider economic citizenship. That can be gained through making certain investments in the only countries that now offer "citizenship for sale"—Ireland, St. Kitts & Nevis, and the Commonwealth of Dominica, the latter both island nations in the eastern Caribbean.

Another more common route is citizenship by naturalization, the formal method of applying for, and being granted citizenship after living in a country. Before most countries grant naturalization they require actual physical residence in the country for from three to five years. However, in some of these countries you don't have to stay there all the time before or after you gain your new citizenship.

With that second passport in hand, if the worst comes to pass, you will be ready for expatriation.

# The Day I Renounced My U.S. Citizenship

**By Donna-Lane Nelson**



*Donna-Lane Nelson remembers every detail of the day she divorced her country at the Bern consulate in Switzerland…and doesn't regret her choice.*

The letter from my insurance company said because I was American, I could no longer be their client. I had renounced a number of years before and by producing my Certificate of Loss of Nationality again and signing a declaration of non-American status, I kept my policy.

My Swiss bank, every couple of years calls me in to reaffirm I am no longer American, so I can continue my account. I reassured them I have not reapplied for U.S. citizenship.

Between the time before I renounced and now, I've fought both citizen-based taxation and FATCA. I was part of a lawsuit that included five other American expats and Senator Rand Paul. It died when the Supreme Court refused to hear it.

I went to a congressional hearing along with the other people in the lawsuit. This testimony was shown at the beginning of the hearing: *www.youtube.com/results?search_query=donna-lane+nelson+rick+adams*.

It was shocking to how little the congresspeople were aware of the problem.

Elise Bean, the woman who wrote much of the FATCA legislation, sat next to an ex-American soldier who had fought for the U.S. and who had to renounce to keep his mortgage in Switzerland. She said how expats were tax cheats, money launderers, and sex traffickers.

His uniform was on the table between the two of them.

This sentiment was echoed by Congresswoman Carolyn Mahoney, 12th district of New York.

I later confronted Bean, telling her how many ordinary American lives FATCA was destroying. She turned her back.

I've been interviewed by many reporters for most major U.S. newspapers who are writing about the problems of expats. It hasn't done any good. I'm convinced no one in Congress cares.

I remember each painful detail of the day I divorced my country at the Bern consulate. The rain on my umbrella drowned out normal street sounds. I was told I could tap on the door. A guard came out and growled that I couldn't bring in my pocketbook. When I told him I didn't have a car and that I'd come by train, he said I could leave it at the bakery down the street for three Swiss francs.

The woman at the bakery was friendly and told me I also had to leave my phone, my camera, and my medicine. I could take my wallet and my passport.

Back at the consulate there was an airport-type examination, and then I went downstairs for a second examination. This man was friendly. We chatted as I waited my turn.

A woman called my name and asked for verification on the information I had already provided.

Then the person who would free me from my nationality came out, a thin man with glasses. He told me that my decision was irrevocable—I could never live or work in the U.S. again. I could never get my citizenship back—not tomorrow, not in 30 years. I signed a document saying that I understood.

He asked me to raise my right hand and swear that I was renouncing. My eyes blurred. "Are you certain you want to go through with it?" he asked.

"What if I change my mind now?" I said.

"Then I would take this back and we could probably…"

I shook my head. I didn't want to change my mind. I was just curious. "It hurts, but I'm sure."

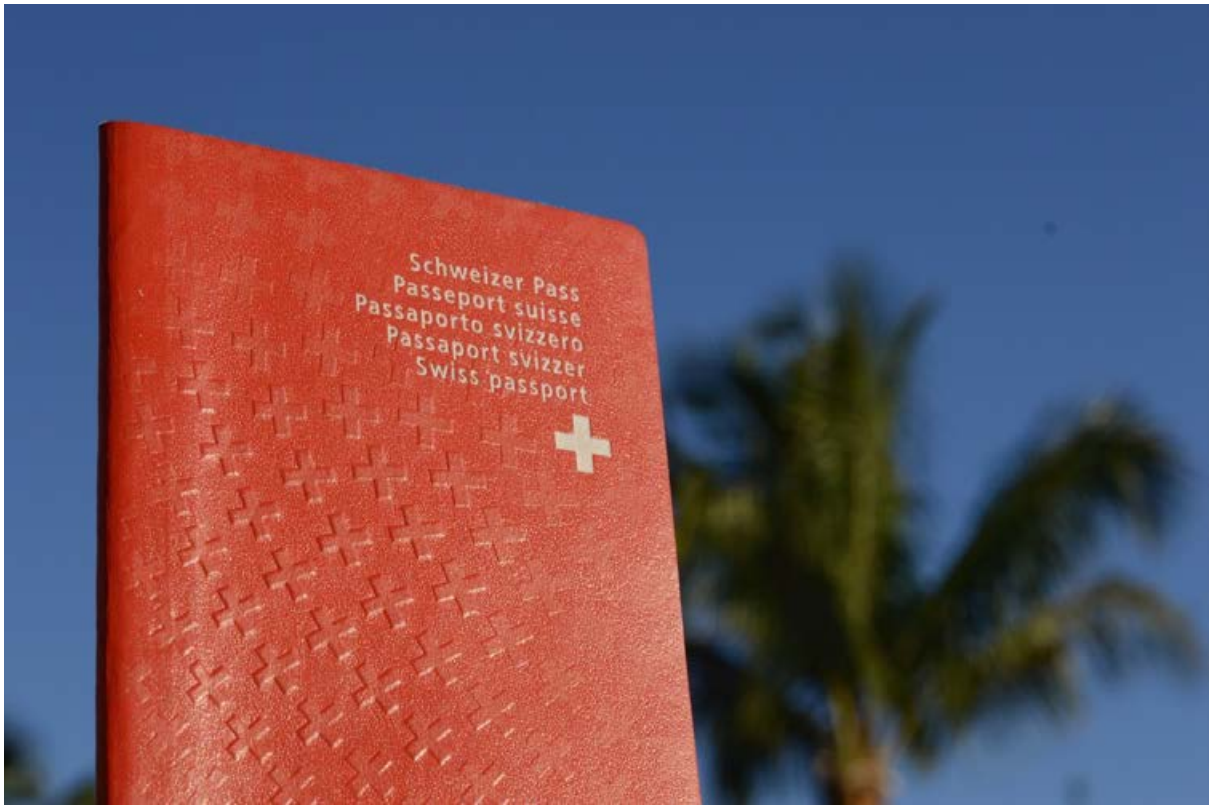
I took the vow.

I compare that day to the day of my divorce from a man I thought I loved. I call that the saddest day of my life. Renouncing was the second saddest day.

In retrospect I don't regret either choice. In both cases, my life has been easier.

# Six Reasons Why I Renounced My U.S. Citizenship

**By Scott Schmith**

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*With Scott's Swiss passport, he has been able to see many places that otherwise would not have been possible, or safe at the least.*

I renounced my U.S. citizenship in Bern, Switzerland in 2012. The reasons are more than one. The process went rather quickly, and now I can experience true freedom.

First a quick note: U.S. persons are those who have citizenship for any reason (birth or naturalization) and so-called Green Card holders.

Some people living outside the U.S. have been issued U.S. citizenship at birth (to a parent of U.S. citizenship or birth location within the U.S.) and are not aware of this and other laws that are in effect—these persons are called "Accidental Americans."

Here are my reasons for renouncing my U.S. citizenship:

1. I have built my life in Europe since 1984, first in Germany with the U.S. Army (Desert Shield/Storm Veteran) and since 1994 in Switzerland. My business, my heart, and my dedication is here in Switzerland. Sure, I have been back to the States for vacation, but do not wish to live there.

2 For tax reasons. Income is double taxed for U.S. persons living abroad. I am not rich and I already pay plenty to the Swiss system (no complaints here). However, it is not worth keeping my U.S. citizenship to pay double taxes on my income.

3. The U.S. government has their fingers in my life, which I do not deem necessary. FBAR requires me to report my bank accounts and the maximum balance during the calendar year.

And the FBAR allows U.S. authorities to inquire about my account balance at any time.

Basically, that is none of their business.

Note: There are many U.S. citizens who live in the U.S. who have no idea of FBAR. This also applies to any U.S. person living in the U.S. with a bank account outside the U.S. The U.S. government is not going to hold your hand and tell you about these things—you have to find them on your own. If you don't report… it is your fault and you get fined or could even go to jail. In my opinion, the U.S. government is setting their own folk up for a fall (as we are seeing more and more every day).

4. Parallel to FBAR, banks worldwide are required to report the balances on U.S. persons that may have accounts within their institution. Even if this is against local laws. This is called FATCA.

FBAR and FATCA work hand in hand as a check-sum advantage for the U.S. government. If an account is reported by a bank in FATCA, that same account should be reported in FBAR.

If not, then alarms go off and one of two things happen.

A) Either the U.S. person is audited

or…

B) The bank is taxed 30% on all transactions with U.S. financial institutions.

Note 1: I lost two bank accounts in Switzerland due to the FATCA crackdown.

Note 2: Beware, this also applies to U.S. persons who live within the 50 states and Puerto Rico who have accounts outside of the U.S.

5. In the past there has been serious discussions in Washington DC to apply a "Health Care Excise Tax" to U.S. persons living abroad. With close to 9 million U.S. citizens living abroad and at the tune of (proposed) $1,900 per person and each year, this tax was planned to finance Obama-Care… Like I would have any benefits from that. Now, if this tax to support Obama-Care had passed, the government will use their calculators and figure that the approximately 17 trillion dollars could come in handy each year.

Taxed for nothing, just because I have U.S. citizenship?

No thanks.

There are five solid and verified reasons that I made the decision.

Most important of the five is the first.

There is a sixth reason.

It is not as vital as the first five.

Travel.

There are places on this planet where a U.S. passport is not welcomed. I have been to a few of these over the years. When traveling alone, my U.S. passport was well hidden. With my Swiss passport, I have been able to see many places that otherwise would not have been possible, or safe at the least.

After renouncing at the U.S. Embassy in Bern, I took a deep breath and the thousands of pounds that have been on my shoulders and dragging behind me like a ball and chain was gone.

I finally experienced freedom.

# AUTHOR BIOS

## Matthew Apodaca

Matthew is a Managing Partner and Tax and Wealth Advisor at Northpoint Wealth. Northpoint Wealth provides a comprehensive range of accounting, taxation, financial planning, and wealth management services.

For more, see: *https://northpoint-wealth.com/*

## Robert E. Bauman JD

Bob Bauman, legal counsel to Banyan Hill, served as a member of the U.S. House of Representatives from 1973 to 1981.

He is an author and lecturer on wealth protection and foreign citizenship and residence. A member of the Washington, DC Bar, he received his juris doctor degree from the Law Center of Georgetown University in 1964; a B.S. degree in International Relations from the Georgetown University School of Foreign Service in 1959, and was honored with GU's Distinguished Alumni Award.

He is the author of *The Gentleman from Maryland* (Hearst Book Publishing, NY 1985); and these books, published by Banyan Hill Publishing: *The Passport Book: The Complete Guide to Offshore Residency, Dual Citizenship and Second Passports*; *The Offshore Money Manual*; editor of *Forbidden Knowledge; Where to Stash Your Cash: Offshore Financial Centers of the World*; *How to Lawyer-Proof Your Life*; *Panama Money Secrets*, and *Swiss Money Secrets*.

His writings have appeared in *The Wall Street Journal*, *The New York Times*, *National Review*, and many other publications.

## Ted Baumann

Ted has spent his entire life helping people secure and keep their wealth…and their freedom and independence…starting with himself.

Born in Washington, D.C. and raised on Maryland's Eastern Shore, Ted emigrated to South Africa as a young man in search of adventure. He graduated *summa cum laude* from the University of Cape Town with postgraduate degrees in economics, economic history, and politics.

During his 25-year career in South Africa, Ted served a variety of executive roles in the non-profit sector, primarily as a fund manager for low-cost housing projects. One effort he helped found, Slum Dwellers International, has gone on to help over 14 million people in 35 countries.

During the 2000s, Ted worked as a consultant, researching and writing extensively on finance, housing, and urban planning issues for clients as diverse as the United Nations, the World Bank, the South African government, and European grant-making agencies. In 2008, he returned to the U.S. where he served as Director of International Housing Programs for Habitat for Humanity International. He left in 2013 to work full-time as a researcher and writer.

Ted's career has taken him all over the world. He has visited more than 80 countries in Africa, Asia, Europe, Latin America, and the Caribbean. These experiences have taught Ted that it's possible for anyone to grow their wealth and live the life they've always dreamed of.

He brings his commitment to this goal as *International Living*'s Global Diversification Expert.

He is regularly quoted in financial publications including *Barron's*, *Forbes*, *MarketWatch*, and *Benzinga*, as well as on financial TV. He has also published articles in international journals including the *Journal of Microfinance*, *Small Enterprise Development*, and *Environment and Urbanization*.

In addition to his own book, *Endless Income*, he also co-authored the book *Where to Stash Your Cash Legally* with his father and former U.S. Congressman, Robert Bauman.

For more, see: *https://internationalliving.com/category/second-passport/*.

## Simon Black

Simon Black, as James Hickman is more commonly known, is the Founder of *Sovereign Man*.

He is an international investor, entrepreneur, and a free man. His daily e-letter, *Notes from the Field*, draws on his life, business, and travel experiences to help readers gain more freedom, more opportunity, and more prosperity.

Hickman is a lifelong entrepreneur and investor who has traveled to more than 120 countries on all seven continents. In addition, he's started, invested in, or acquired businesses all over the world.

He is a graduate of the United States Military Academy at West Point and served in the US Army as an intelligence officer during Operation Enduring Freedom and Operation Iraqi Freedom.

Hickman founded a South America-based agriculture company that has become one of the leading producers in its industry. A few years ago, he acquired a prominent retail brand in Australia, purchasing the business from the former 1980s era rock star who founded it.

His other business ventures have included starting a boutique, private investment bank that boasts some of the highest levels of liquidity and solvency in the world, and investing in companies from Colombia to Uzbekistan. He also serves on numerous Boards of Directors, and previously served as Chairman of company listed on a major stock exchange.

He is also the co-founder of the Sovereign Academy, a non-profit organization that has been providing annual entrepreneurship bootcamps for young people since 2010.

Writing under the pen name Simon Black, he has also written extensively on business incorporation and tax residency establishment in Puerto Rico, and is a proponent of investing in gold and silver as a hedge against inflation.

He is a also a prolific writer on topics ranging from second residency and citizenship, Golden Visas, and portfolio diversification, to estate and retirement planning, asset protection, tax optimization, and U.S. Opportunity Zones.

For more, see: *https://www.sovereignman.com/*

## Paul Carlino

Before moving to San Miguel de Allende, Mexico with his wife and two teenage children in 2018, Paul Carlino was a supervising tax attorney with the Office of Chief Counsel of the Internal Revenue Service in Washington, D.C., where he worked for 20 years.

When he's not playing pickleball, he still likes to read the Internal Revenue Code and prepare tax returns.

## Nick Hodges

Nick Hodges, CPA/PFS, MBA, CFP® has a specialty-niche tax and financial-planning practice working with Americans who hold an international perspective.

For some 30 years, he has helped his clients handle their tax and financial affairs Stateside and overseas, mitigating taxes and maximizing opportunity.

## Allyson Lindsey

Allyson Lindsey is a Managing CPA and Partner at Bright!Tax and a leading expat tax expert. Bright!Tax is a leading provider of expat tax services for U.S. citizens living abroad.

## Katelynn Minott

Katelynn is the lead CPA and a partner with Bright!Tax, a leading provider of expat tax services for the estimated nine million Americans living abroad.

With clients in over 150 countries worldwide, Bright!Tax is the go-to cloud based U.S. income tax preparation firm most loved by Americans living overseas.

For more, see: *https://brighttax.com/*.

## Donna-Lane Nelson

Donna-Lane Nelson fought both citizen-based taxation and FATCA before ultimately renouncing her U.S. citizenship. Today, Donna works as a writer and lives in Geneva, Switzerland and Argelès-sur-mer France with her husband Rick, an aviation journalist, and her dog Sherlock.

For more, see her website *www.dlnelsonwriter.com* or her blog *http://theexpatwriter.blogspot.com*.

## Mark Nestmann

Mark Nestmann is the founder of The Nestmann Group, a U.S.-centric consultancy that helps mostly American clients protect their assets, preserve their wealth, and safeguard their future.

His work has been featured in well-known media outlets including *The Washington Post*, ABC News, *The New York Times*, Bloomberg News, *Business Week*, and *Forbes*.

He holds a Masters of Law (LL.M) in international tax law from the University of Vienna.

For more see: *https://www.nestmann.com/*.

## Jeff D. Opdyke

Jeff Opdyke was born and raised in South Louisiana in 1966 and has been traveling the world ever since.

He spent 17 years covering personal finance and investing for *The Wall Street Journal* in Dallas, Seattle, and New York, and for seven years wrote the *WSJ*'s nationally syndicated *Love & Money* column that chronicled the real ways personal finances and personal relationships clash.

As executive editor for *The Sovereign Investor* and *Total Wealth Insider*, Jeff traveled the world meeting with politicians, economists, institutional investors, taxi drivers, waitresses, hotel bellhops, and supermarket checkout clerks to better understand local economies and local consumers in a quest to find investment opportunities outside America. His book, *Replay: Your Second Chance to Invest in the American Dream*, was a direct result of those years of global encounters.

After spending five years living in Prague in the Czech Republic from 2018, Jeff recently relocated to a small beach community on the outskirts of Lisbon, Portugal, where he serves as editor and columnist for the monthly *Global Intelligence Letter*, and *Field Notes* daily e-letter, writing about retirement lifestyle, travel, and global investing. He also regularly contributes to *International Living* magazine.

## Scott Schmith

Scott Schmith renounced his U.S. citizenship in Bern, Switzerland in 2012. Currently, he is traveling worldwide, sharing his technical knowledge, employed with a leading international thin-film coating manufacturer.

Though enjoying his visits to different cultures and trends during his travels, Scott is always happy to return home to the familiar environment of the Swiss Alps.

The Facebook group "Renounce US Citizenship—Why and How," initiated by Scott, is available for those qualified. Offering the best first-hand experienced information from over 1,000 active members located in all corners of the globe.

For more, see: *https://www.facebook.com/groups/370118469739586*.