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THE TAX LAWYER

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### Like A Passport, The IRS Goes Everywhere

If you're a U.S. citizen or permanent resident you must annually file a tax return reporting your worldwide income. If you have "foreign"—meaning non-U.S.—accounts over \$10,000, you must annually file an FBAR. See [FBAR Penalties Just Got Even Worse](#). Starting in 2011, if your foreign financial assets exceed \$50,000 (subject to exceptions) your tax return must include a [Form 8938](#). See [IRS Form 8938 Or FBAR?](#)



You do get some special perks. For example, if you are a U.S. citizen or resident alien residing overseas or in the military on duty outside the U.S., you get an [automatic 2-month extension](#) (to June 15) to file your tax return. If you need still more time, you can get until October 15 by filing [Form 4868](#).

**Foreign Earned Income Credit?** This is another good deal, allowing you to not pay tax on up to \$95,100 of income for 2012. To be entitled to it, your "tax home" must be in a foreign country, you must have "foreign earned income," and you must be:

1. A U.S. citizen who is a bona fide resident of a foreign country for the entire year; or

2. A U.S. resident alien who is a citizen or national of a country with which the U.S. has an income tax treaty, and who is a bona fide resident of a foreign country for the entire year; or
3. A U.S. citizen or a U.S. resident alien who is physically present in a foreign country for at least 330 full days during any 12 consecutive months.

If you claim the foreign earned income exclusion you cannot claim a foreign tax credit (or deduction) on the same income. To decide if you get more mileage out of the exclusion or credit, crunch the numbers both ways. Here is a guide:

1. If you pay no foreign tax, claim the foreign earned income exclusion;
2. If your foreign tax rate is lower than your U.S. rate, you should usually claim the exclusion; and
3. If your foreign tax rate is higher than your U.S. rate, you should probably claim the foreign tax credit instead. See [Foreign Earned Income Exclusion](#) (for U.S. citizens/residents living and working outside the U.S.).

**Foreign Tax Credits?** Another perk allow you to claim foreign tax credits for taxes paid abroad. Just be careful as the rules are complex. See [Foreign Tax Credit](#) (for U.S. citizens/residents who paid or accrued foreign taxes to a foreign country on foreign source income).

**Didn't Comply?** If you haven't been filing, consider the newest IRS program discussed here: [Newest Offshore IRS Amnesty Not For Everyone](#).

Here are some useful IRS links:

- [International FAQs for U.S. Citizens/Residents Abroad](#)
- [Pub. 54, Tax Guide for U.S. Citizens and Residents Abroad](#)
- [Pub. 519, U.S. Tax Guide for Aliens](#)

- [Pub. 4588, Basic Tax Guide for Green Card Holders: Understanding Your U.S. Tax Obligations](#)
- [Pub. 4732, Federal Tax Information for U.S. Taxpayers Living Abroad](#)
- [Reporting Foreign Bank Accounts \(FBAR\)](#)
- [Tax Information for Members of U.S. Armed Forces](#)

*Robert W. Wood practices law with [Wood LLP](#), in San Francisco. The author of more than 30 books, including *Taxation of Damage Awards & Settlement Payments* (4th Ed. 2009 with 2012 Supplement, [Tax Institute](#)), he can be reached at [Wood@WoodLLP.com](mailto:Wood@WoodLLP.com). This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.*