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THE TAX LAWYER

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### Living Abroad Sounds Idyllic—Until You Consider Taxes

**Ah, Paris.** Or Ireland, Bali or New Zealand. Wherever you dream of calling home, you are probably **not** thinking primarily about tax forms. It's hard to complete them in a hammock, and they don't fit neatly on a bistro table.

Yet if you're an American, living abroad has tax compliance aspects that can derail the idyll you hope to cultivate. See [FATCA Makes Banks Shut Out Americans](#). At least that's what American expats are saying and writing. Just stop into an overseas watering hole frequented by Americans at quit-work time in any corner of the world. You're likely to get an earful. See [Expats Lobby For Tax on Residence, Not Worldwide Income](#).

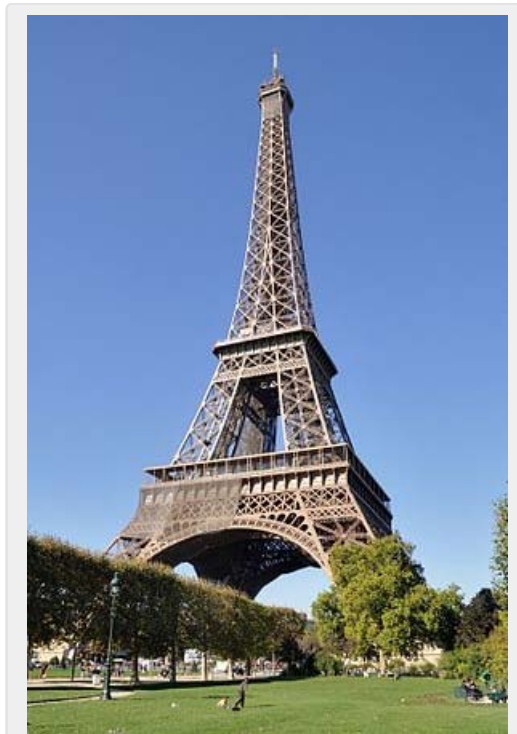


Photo credit: Wikipedia

U.S. citizens and permanent residents must report their worldwide income to the IRS **even** if they are paying taxes somewhere else. Paying

tax in other countries may earn you a foreign tax credit on your U.S. return. But the rules are complex and you rarely are made perfectly whole.

Fortunately, the U.S. tax burden for many people is softened by the foreign earned income exclusion (\$92,900 for 2012). Still, even this rule has qualifications and nuances to observe. See [Dual Citizen Tax Relief From IRS](#).

Beyond worldwide reporting, there is reporting foreign bank accounts and other assets. If you have more than \$10,000 at any time during the year overseas, you must file a Form TDF 90-22.1, Report of Foreign Bank and Financial Accounts ([FBAR](#)).

**New Form.** This year, FATCA, the [Foreign Account Tax Compliance Act](#), unveils IRS [Form 8938](#), required if your foreign assets meet certain criteria. The FBAR now seems mostly accepted, but Form 8938 is causing waves of discomfort. See [IRS Form 8938 Or FBAR?](#)

**Timing.** This new reporting rule kicks in for calendar year 2011 and thereafter. Unlike the FBAR, this form is attached to your Form 1040. If your return is on extension you still have time. If you already filed your 2011 tax return, were required to file an 8938 but failed, you should amend your return.

This new rule **does not** obviate the FBAR. In fact, you could be **required** to make a FATCA disclosure but **not** have an FBAR filing obligation. For example, if you have an investment in a foreign hedge fund or private equity fund, it would be subject to FATCA but should not require an FBAR.

**What Assets?** The shorthand for an FBAR filing is a “foreign bank account worth over \$10,000.” What’s the shorthand for FATCA filings? Report “specified foreign financial assets” with an aggregate value exceeding \$50,000. A “specified foreign financial asset” includes ownership of:

- Any financial account maintained by a foreign financial institution;
- Any stock or security issued by a non-U.S. person;

- Any financial interest or contract held for investment that has a non-U.S. issuer or counterparty; and
- Any interest in a foreign entity. That means taxpayers who purchase foreign real estate through an entity are covered.

**Penalties.** It's hard to talk of filing and disclosure obligations without talk of penalties. The minimum FATCA penalty for failing to make the required disclosure is \$10,000.

For more, see:

[More On IRS Form 8938 vs. FBAR](#)

[FBARs & FATCA Form 8938: Maddening Duplication?](#)

[IRS Exempts Many Expats From FACTA](#)

[10 IRS Rules for Stress-Free Foreign Accounts](#)

[Celebrity Leavings: Bidding Stars Adieu](#)

[Ten Facts About Tax Expatriation](#)

[Primer For First Time FBAR Filers](#)

[Who Pays Tax On Joint Bank Accounts?](#)

[Is Closing Foreign Bank Accounts An Alternative To Disclosure?](#)

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