



# FLORES GROUP ATTORNEYS & ADVISORS

Member of



## TAX OBLIGATIONS OF U.S. CITIZENS LIVING IN FOREIGN COUNTRIES

### Introduction

There are many foreign persons who are not aware they are considered US citizens and tax residents of the US for tax and immigration purposes. These persons are also not aware they have tax obligations and reporting requirements to the US government for worldwide income, accounts and activities. This alert summarizes the rules and obligations of US citizens living in other foreign countries, it is based on the IRS statements and notices.

### Who Is Considered a US Citizen

Amendment XIV, Section 1, Clause 1 of the U.S. Constitution directs that all persons born in the United States are U.S. citizens. This is the case regardless of the tax or immigration status of a person's parents. Furthermore, a person born outside the United States may also be a U.S. citizen at birth if at least one parent is a U.S. citizen and has lived in the United States for a specified period.

## **Filing Requirements**

All U.S. citizens are subject to U.S. income tax on their worldwide income, regardless of where they reside. U.S. citizens residing abroad are subject to the same income tax filing requirements that apply to U.S. citizens living in the United States. All U.S. citizens must file a U.S. federal individual income tax return each year (Form 1040, U.S. Individual Income Tax Return) if their gross income from all sources meets the amounts in the filing requirement charts located in the form's instructions. If you are a U.S. citizen or resident living or traveling outside the United States, you generally are required to file income tax returns, estate tax returns, and gift tax returns and pay estimated tax in the same way as those residing in the United States. Your income, filing status, and age generally determine whether you must file a return.

## **Income Reporting to the US Tax Authorities**

Gross income includes all income you receive in the form of money, goods, property, and services that is not exempt from tax. In determining whether you must file a return, you must consider as gross income any income that you exclude as foreign earned income or as a foreign housing amount. If you are self-employed, your gross income includes the amount on the Gross Income line of Schedule C (Form 1040), Profit or Loss from Business (Sole Proprietorship). You must express the amounts you report on your U.S. tax return in U.S. dollars. If you receive all or part of your income or pay some or all your expenses in foreign currency, you must translate the foreign currency into U.S. dollars.

## **Financial Reporting Foreign Trust and Companies**

In addition, you may be required to file Form 8938, Statement of Specified Foreign Financial Assets, if you have an interest in specified foreign financial

assets with a value above the reporting threshold that applies to you. For trusts or gifts, you may have to file include Form 3520 or Form 3520-A if you made contributions to or received income from a foreign trust or received a gift from a foreign person. If you have foreign corporations you may have to file Form 5471 and be subject to the GILTI tax regime.

## **Report of Foreign Bank and Financial Accounts**

FinCEN Report 114, Report of Foreign Bank and Financial Accounts (“FBAR”) (formerly TD F 90-22.1), must be filed if you had a financial interest in, or signature or other authority over, any bank, securities, or other financial account(s) in a foreign country, the aggregate value of which exceeds \$10,000 at any time during the calendar year. You do not have to file the report if the assets are with a U.S. military banking facility operated by a U.S. financial institution or if the combined assets in the account(s) are \$10,000 or less during the entire year.

## **When to File**

For a calendar year filer with tax year ending on December 31, the due date for filing Form 1040, U.S. Individual Income Tax Return, is generally April 15 of each year. U.S. citizens residing abroad on April 15 are allowed an automatic 2-month extension to file their return. Alternatively, taxpayers can request an automatic 6-month extension of time to file. However, any tax due must be paid by April 15, without regard to any extension of time for filing the return, to avoid interest charges. If you have not filed your tax return and reports, you present them late under the amnesty program to avoid civil and criminal sanctions. An attorney is recommend for the amnesty program.

**Source:** [www.irs.gov](http://www.irs.gov)

We hope this alert has been informative to you.

We are Tax Attorneys and Advisors, we strive to provide our clients the highest quality of legal and tax representation in the complex area of tax law. This alert has provided only general information and specific factual scenarios may change any conclusions that would apply.

Please call to discuss your specific situation with our legal and tax advisors.

Should you need additional information it will be our pleasure to assist you.

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*Sincerely,*

*Ruben Flores, Attorney & CPA*

Disclaimers

*This alert contains general information and should not be used as supporting document in any case of any particular case. We recommend that you contact your Attorney or Tax Advisor for your specific situation. If you need additional information, we can gladly schedule a conference call.*

*As requirement of the United States Treasury Regulations, you should be conscious of the fact that this notice has not been written to be used and it should not be used by the recipient to prevent penalties that could be imposed by U.S. Federal Law.*