

**Tax Information for
Americans and Green Card Holders
Living in Switzerland**

Issues	General comments & information
Who must file	All U.S. citizens and green card (GC) holders abroad. The majority is presently non-compliant, in the belief that they should only be taxed where they live.
Non-compliance	The "old" approach of ignoring the problem is not a viable solution. Now it is not a matter of "will the IRS find me," but "when the IRS will find me," such as with the renewal of a passport, or from a list obtained from the embassy, or a club.
What income needs to be declared?	The annual gross income, which triggers a filing requirement, depends on your age and your marital status, among other things. For ex., the personal exemption for an under-65 married individual who is not the head of the household is \$3,500*. See table 1-1 below. Income resulting from a real estate rental or sale of stock is also in this category. All income is taxable <i>unless specifically exempted</i> by U.S. tax law. This includes, for example, Swiss child allowances.
Double taxation	U.S. citizens and GC holders effectively face taxation in both the country of residence and the U.S., collectively paying the higher of the U.S. or the foreign tax on each type of income. The U.S. is the only industrialized nation that practices taxing its citizens based on nationality, rather than residency. In order to alleviate the situation somewhat, the U.S. has tax treaties with individual nations, including Switzerland, wherefrom the foreign tax credit.
Foreign Tax Credit	This is the income tax paid to any foreign country on income earned or investment income received in that country.
Foreign Earned Income Exclusion	You can exclude the first \$87,600* of foreign earned income from U.S. tax, but you still have to file a tax return ¹ . Many people assume that because they're under this threshold they don't have to file. The FTC and the FEIE accomplish the same thing (reducing US tax due), albeit by a different process.
Domiciliary states	Some states, like MA, VA, NJ and MD are domiciliary states; if you are a resident of one of those states, move overseas for a few years, and then move back to that state, <i>you may be subject to state income taxes for all of the income you earned while you were overseas.</i>
FBAR	In addition to tax returns, there are information returns such as FBAR, the Foreign Bank and Financial Account Report. This covers not only foreign bank accounts but also all foreign financial type of accounts, including investment and life insurance with cash value, etc. Disclosure is required if the aggregate balances of foreign accounts exceed \$10,000 at any time during the year. Tax experts used to fill these out for free, but not anymore, as they have become quite complicated and time consuming to fill out, depending on the amount of accounts and records provided by the implicated financial institutions. For ex, you have to know where account "peaked" during the year, convert into U.S. dollars and then use the exchange rate on 31 Dec. of the applicable year. This is not a simple undertaking. The basic penalty of \$10,000 has

¹ Form 2555

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	caused not a few red faces. Careful: if you have two or three accounts, and the IRS can prove that it was a willful violation, it can cost you up to 50% of the account balance, or \$100,000 depending. If it is criminal, it can be up to \$500,000 and ten years in prison. See www.irs.ustreas.gov .
Bank accounts	Whether a bank account is in the U.S. citizen's name or in the non-U.S. citizen spouse's name, if the U.S. citizen <i>has access</i> to that account, <i>uses a credit card on that account</i> , or <i>has power of attorney to that account</i> , it must be declared if all foreign financial accounts exceed \$10,000. This includes any assets such as stocks, bonds, and mutual funds.
Foreign mutual funds	Anyone who holds foreign non-US registered mutual funds has special filing requirements and likely needs professional assistance, at least initially, to understand the compliance issues. Failing to file ² can result in a minimum \$10,000 fine <i>per form per year</i> .
Capital gains	The IRS (Internal Revenue Service, U.S. tax authorities) taxes all U.S. citizens and GC holders on capital gain, <i>no matter where it comes from, even if it is exempt</i> in the foreign country where it was acquired.
Pension funds	When you pay into a Swiss pension fund voluntarily as a form of savings, you will have to pay taxes on this in the U.S. The IRS does not recognize these as retirement accounts. They are treated as an ordinary investment account, income earned in them must be declared every year. You can avoid potential problems by making certain provisions. Pension funds which you have through your foreign employer are not taxed directly, but depending on how they are declared can make a significant difference in how much tax you pay in the end. ³ A tax expert versed in this field is strongly advised.
Real estate	If, for example, a home is in the name of the non-American spouse but it was obtained using community property funds, the home may thus be considered community property and owned ½ by each spouse. When sold, gain above a \$500,000 exclusion for married couples (or \$250,000 for single individuals) is taxable. Currency gains are also taxable in the US, even if the home itself has not appreciated in value. Thus you could end up paying <i>no tax</i> on the gain from the property, but having tax to pay due to the appreciation in the Swiss franc.
Trusts	If you have a foreign trust, you have to be careful. Doesn't matter if you are the grantor (the one who sets up the trust) or the beneficiary. Using U.S. trusts greatly simplifies tax reporting as compared to using foreign or offshore trusts. Just need to make sure that the U.S. trust is recognized in the foreign jurisdiction, in this case Switzerland. In other words, you need expert help!
Beneficiary of foreign trust	Has to file every year to report income ⁴ .

² form 8621

³ for more information follow this link <http://www.irs.gov/pub/irs-pdf/i8621.pdf>

⁴ on form 3520 and possibly on form 1040, depending

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Grantor of foreign trust	Trust income is generally taxed to the grantor. If grantor is U.S. citizen he needs to file ⁵ by March 15 each year.
Businesses or Foreign partnership	If you have a business or partnership abroad, you need to declare. Failure to file the proper form may result in a penalty of \$10,000 per year. Professional help is imperative here.
Gift to spouse	Can give unlimited gifts to your spouse if you and your spouse are both US citizens ⁶ . If you are American and your spouse is a non-American, the 2009 gift tax-free limit is \$133,000 a year to your spouse. Above this you will be taxed. Other rules if the gift is appreciated property.
Gift to children	Annual tax-free gift up to \$13,000* a year in 2009. Nationality of child plays no role here.
Gift to others	Annual tax-free gift up to \$13,000 * a year in 2009. Nationality of receiver plays no role here.
Receiving foreign gift/inheritance	Generally, there is no U.S. tax on receipt of a foreign gift from a non-U.S. citizen. Receiving gifts or inheritance from expatriates is a different matter. ⁷
Estate taxes for U.S. citizens and GC holders	A U.S. citizen currently has a \$3,500,000 exclusion on which no estate tax is due on his accumulated assets (U.S. and abroad). For GC holders living abroad, they only owe estate taxes on U.S. assets over \$60,000.
Estate taxes for U.S. citizens who have expatriated	When an expatriated U.S. citizen or GC holder dies, the beneficiaries, <i>if they are U.S. citizens</i> , will be taxed at 45% if the collective value of the estate is over \$2,000,000. ⁸
Inheritance of U.S. assets from U.S. citizen abroad	This can take months and in some cases years to get the estate settled. Inheritors have to prove to the IRS that no taxes are owed before funds can be unblocked and distributed.
Life insurance	Under circumstances, may be taxed as a foreign investment. To be considered as insurance policy instead of a taxable fund, it must comply with U.S. tax law. Ask your foreign insurance company if they comply (most do not).
IRS serious	Has said it is hiring 1,500 new auditors to go after foreign accounts.
Rewards to whistleblowers	The IRS is offering a bounty of up to 30% of funds obtained as a result of informants who provide the IRS with information concerning non-compliant taxpayers.
Full Voluntary Disclosure Program	If you have an undeclared bank account or income, you may elect to undertake the IRS's "Full Voluntary Disclosure Program". This entails a 20 % penalty on the highest balance of all foreign financial accounts during the previous six years <i>in lieu of potential criminal prosecution</i> , plus the tax due, plus interest, plus 20 % penalty on the tax due.
Sept. 23 2009 amnesty	Usual date for filing is June 23. This year the IRS has established an amnesty for those who have not been filing FBAR's and/or other account disclosures.

⁵ form 3520-A

⁶ may not have future interest or "strings" attached

⁷ has caveats. See link <http://www.irs.gov/pub/irs-pdf/i8854.pdf> (instructions of form 8854)

⁸ 2009 limit; changes every year. See also link footnote 7

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First time FBAR filer	Write a letter and send along with last 6 years of FBAR's to: U.S. Department of the Treasury, P.O. Box 32621, Detroit, MI 48232-0621, saying you had no idea you had to file. Need to file before extension date of Sept. 23, 2009 (this is date report must be received by Dept. of Treasury, not the postmark date!)
Expatriation (giving up your U.S. citizenship)	If you expatriate or give up green card, you must file for ten years afterwards, and pay an exit tax if your net worth is \$2,000,000 or more on the date of expatriation. If you have never filed, you must file for the five years preceding. The amount of the exit tax differs according to facts and circumstances. It depends, for example, on the gain realized on the deemed sale of assets.
IRS general info	Publication 54 http://www.irs.gov/publications/p54/index.html
IRS International Section	http://www.irs.gov/businesses/small/international/index.html

*The numbers mentioned in this compilation are regularly adjusted for inflation, or indexed.

The above information was gathered by Susan Stuber from interviews and information evenings on 31 August and 2 September 2009 with:

Geoffrey DeHaven, MBA, CFP® (US), EA www.USTaxAbroad.com
 David Hirsberg, Partner of Withers LLP www.withersworldwide.com
 Jonathan Lachowitz, Financial Planner CFP(R) (US and Switzerland)
www.white-lighthouse.com

Please note: The information in this compilation is general in nature. It is meant as a guideline and to make you aware of eventual pitfalls. DACH strongly recommends that you get the support of a tax advisor that is well-acquainted with U.S. tax laws if you decide to take part in the voluntary disclosure program, in the amnesty, or if you are not entirely sure about your pension funds, life insurances, funds, etc.

Temper any conclusions you draw from someone else's situation by taking into account that results may differ because of variables such as marital status, dependents, level of salary or investment income, etc. Clearly, "no one shoe size fits all sizes" when dealing with international tax issues.

This compilation reflects the present tax laws; be aware that these laws will most likely change.

As provided for in Treasury regulations, advice (if any) relating to U.S. federal taxes that is contained in this communication is not intended or written to be used, and cannot be used, for the purpose of (1) avoiding penalties under the U.S. Internal Revenue Code or (2) promoting, marketing or recommending to another party any plan or arrangement addressed herein.

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Table 1-1. 2008 Filing Requirements Chart for Most Taxpayers

Note. You must file a return if your gross income was at least the amount shown in the last column.

IF your filing status is . . .	AND at the end of 2008 you were *	THEN file a return if your gross income ** was at least. . .
Single	under 65	\$8,950
	65 or older	10,300
Head of household	under 65	11,500
	65 or older	12,850
Married filing jointly ***	under 65 (both spouses)	17,900
	65 or older (one spouse)	18,950
	65 or older (both spouses)	20,000
Married filing separately	any age	3,500
Qualifying widow(er) with dependent child	under 65	14,400
	65 or older	15,450
*	If you were born before January 2, 1944, you are considered to be 65 or older at the end of 2008.	
**	Gross income means all income you received in the form of money, goods, property, and services that is not exempt from tax, including any income from sources outside the United States (even if you can exclude part or all of it). Do not include social security benefits unless (a) you are married filing a separate return and you lived with your spouse at any time in 2008 or (b) one-half of your social security benefits plus your other gross income is more than \$25,000 (\$32,000 if married filing jointly). If (a) or (b) applies, see the instructions for Form 1040 or Publication 915, Social Security Benefits and Equivalent Railroad Retirement Benefits, to figure the taxable part of social security benefits you must include in gross income.	
***	If you did not live with your spouse at the end of 2008 (or on the date your spouse died) and your gross income was at least \$3,500, you must file a return regardless of your age.	