

Frequently Asked Questions : Filing your US Expat Taxes Late

Are you an American living abroad who is behind on their US taxes? Have you failed to ever file a US tax return even though you are a US citizen?

We understand that it can be stressful to be behind on your US taxes. The announcement of waived penalties for those using the **Streamlined** Procedures program to “come clean” with the IRS is a huge relief for millions of US expats!

We can help in all aspects of tax compliance and our experts will ensure you have everything you need to come forward as quickly as possible. There has never been a better time to get back on track!

If you are thinking about working with a US expat tax professional but still have a few questions, get all the answers here.

How do the “Streamlined Procedures” work? When does it end?

Beginning September 1, 2012, the IRS announced a new initiative specifically for American expats who are behind on their required tax filings. This program allows taxpayers to get caught up by filing only the last three years of delinquent expat tax returns, as well as 6 years of Foreign Bank Account Reporting (FBAR) forms. All forms are filed together along with a “Certification of Non-Willfulness” and sent together to the Department of the Treasury. Taxpayers filing their delinquent returns and forms using the Streamlined Foreign Offshore Compliance Procedures will not be subject to penalties thus enjoy an amnesty for all compliance penalties. If tax is owed on any late-filed returns, the taxpayer must of course pay the taxes as well as interest charges.

You should be aware that the IRS can discontinue this program at any time and they may very well do so in the near future since the tax administrations feels like enough time has passed and enough information has been disseminated that there is no longer a possibility of ignorance of the tax rules for US citizens now that the foreign banks are in charge of collecting information from and informing the IRS about their US citizen clients.

IRS STREAMLINED PROCEDURES

<https://www.irs.gov/individuals/international-taxpayers/streamlined-filing-compliance-procedures>

I have not filed my US tax return in years; where do I start?

You should start by talking with a tax expert to confirm your eligibility to enter the Streamline Procedures. Your advisor will identify how many years of back taxes you are going to need to file and what documentation you need in order to complete the necessary reports and returns to become compliant with the US tax authorities.

How many years of late US tax returns do I need to file?

Calculating how many years of US expat taxes you need to file depends on your situation. Typically, three to six years will be sufficient for the IRS to consider you are “caught up.” Streamline Procedures only require 3 years of late returns. If you are trying to sponsor a spouse for US citizenship (immigration), up to eight years may be required in order to prove your ability to support your spouse as a US citizen. If you need to get caught up to prove financial merit, such as a loan application, three years is generally enough. That said, every situation is different; you should discuss your options with a tax professional to make sure you file the correct number of returns.

What documents do I need to have on hand to file my expat tax return?

Generally speaking, the most useful documents to have available are US tax returns from previous years and the local income tax returns for your host country. You will need statements of income, capital gains, interest earned, mortgage interest paid or student loan interest paid, your housing expenses, dependents, etc.

What are the penalties for filing late expat tax returns?

Prior to September 1, 2012, the IRS assessed penalties on late tax returns, no matter how they were filed. With the changes to the Streamlined Procedures, an IRS amnesty program to help taxpayers get caught up on US taxes, they waived all penalties for expats! If you are behind and need to get caught up, this is the very best way to do so. Apply for the Streamlined Procedures and follow the IRS program requirements carefully. While, previously, many Americans chose to do a “**quiet disclosure**” (and simply file back returns and hope they don’t get flagged for audit), we highly recommend going through this program and doing things properly – especially because there are no penalties to do so.

Note that FBAR penalties can still be assessed. The US Department of the Treasury reserves the right to seize up to 50% of the undisclosed assets in overseas bank accounts or \$100,000 per account, whichever is higher. However, this level of penalty is typically only assessed in cases where people are deliberately hiding assets overseas to avoid taxation. Expats are generally not penalized if they voluntarily come forward."

There is a new passport revocation law in place, which allows the government to seize your passport if you owe \$51,000 or more in back taxes. This means it's more important than ever to keep accurate records and stay on top of your expat taxes, in order to prevent a situation like this from occurring.

Is e-filing available for late expatriate tax return filers?

E-filing is available if you are filing 2015 and 2016 late tax returns, as long as you aren't filing under the Streamlined Procedure. If filing Streamlined, you will need to mail paper copies of the returns to the IRS.

What is the Offshore Voluntary Disclosure Program? When does it end?

The current Offshore Voluntary Disclosure Program ("OVDP") does not have a scheduled end date. This program was started in 2012, and the IRS has announced that it can close the program at any time. The IRS also launched a new set of programs, specifically designed for the unintentionally behind, known as the Streamlined Filing Compliance Procedures. While the OVDP is geared towards protecting individuals who have been intentionally avoiding taxes by hiding money overseas from criminal prosecution, the Streamlined Filing Compliance Procedures are designed for Americans who have unintentionally not been filing their taxes or reporting their foreign bank accounts. If you are behind on your taxes, you should consult with a tax expert to determine the best way to become compliant.

Do I need to file any additional forms such as the Foreign Bank Account Reporting (FBAR)?

The Foreign Bank Account Reporting (FBAR), officially known as FinCen Report 114, will need to be filed electronically for any year that a taxpayer had financial interest in or signature authority over accounts that totaled more than \$10,000 at any given time during a calendar year. This is an aggregate amount of all your accounts; for example, if you had \$4,000 in one account and \$7,000 in another, you would need to file FBAR. The US Department of the Treasury can impose significant penalties for failing to file, including the seizure of assets. If you are behind on filing FBAR, we recommend you get caught up as soon as possible.

I neglected to report my worldwide income on previous expatriate tax returns.

What can I do?

In the event that you have incorrectly reported information on prior years' tax returns, you should file an amended tax. Depending on the situation, you may not owe any additional taxes after the credits and deductions applicable to expatriates have been applied to your return.

I have not heard from the IRS; should I bother filing an expatriate tax return?

We have many clients who feel that they are under the radar when it comes to filing US expat taxes and other reports that are due to US authorities. While this may be the case, in the event you are caught by the IRS or the US Department of the Treasury (even if you are a "small fish"), the penalties could be exercised to the maximum amount, including steep financial burdens and potential jail time. Fortunately, the IRS seems to be more lenient toward those who come forward voluntarily but punish the people they catch. As a result, we strongly recommend any late filer become compliant with all US authorities as soon as possible.