

US Tax Basics for Americans in Canada

Below is a simplified explanation of some common situations that trigger an obligation to file documents with the IRS or US Treasury Department. This is not an exhaustive list of every situation that would cause a person to need to file- but merely a starting point for discussions with a Cross Border Tax Specialist. Please contact us if you think you may need to file, we are happy to help you discern what, if anything, you need to do. info@amexpattax.com

Who has to File?

US citizens and US residents (green card holders) must file annual income tax returns if they meet one of the requirements to file. Individuals who are present in the US for 183 days or more during the year, or who meet the substantial presence test (a day counting test) are deemed to be US tax residents. Filing requirements for these individuals can be complex and could include any, all or none of the items discussed here.

Green card holders must file just like US citizens even if their card has expired. They must formally turn in the card and “abandon their permanent resident status” before they no longer need to file.

Canadians with US source income may or may not have to file a return.

What to Report

US citizens and green card holders must report their income from all sources (worldwide income) just like on the Canadian T1 General. There is a set of rules in place that prevents you from being taxed twice on your income using credits and exclusions.

Canada and the US have very similar rules in some areas of taxation- but very different rules in others, so sometimes the US will tax some income that is not taxable in Canada.

What Forms to File

FBAR- Foreign bank Account Reporting

FBAR is not a tax form, but is required to be filed when a US person has more than \$10,000 USD held in accounts outside the US. You would add together the highest balance during the year in each account you have in Canada and/or any other country outside the US- if the total is greater than \$10,000 USD you must file by April 15 each year. This report includes all types of accounts- chequing, savings, investment, retirement, company, RESP, TFSA, cash value of life insurance to name a few. There are stiff penalties for not filing or for late filing this form.

Income Tax Returns

Income tax forms are required if your income is over a certain level, you have certain types of income, or you have certain types of accounts or business relationships.

Table 1-1. 2017 Filing Requirements for Most Taxpayers

| IF your filing status is... | AND at the end of 2017 you were...* | THEN file a return if your gross income was at least...** |
|------------------------------------|--|--|
| Single | under 65 | \$10,400 |
| | 65 or older | \$11,950 |
| Married filing jointly*** | under 65 (both spouses) | \$20,800 |
| | 65 or older (one spouse) | \$22,050 |
| | 65 or older (both spouses) | \$23,300 |
| Married filing separately | any age | \$ 4,050 |
| Head of household | under 65 | \$13,400 |
| | 65 or older | \$14,950 |
| Qualifying widow(er) | under 65 | \$16,750 |
| | 65 or older | \$18,000 |

¹

Even if you don't have enough income on the above table to require you to file, you may still have to if you have other types of income, such as:

- ✦ Self-employed individuals with net income of \$400 USD or more
- ✦ A person has taken money out of a US retirement account before the recognized age (most often 59 ½ years old)

Income tax Information Forms

Some situations will cause a person to have to file forms only to report information to the IRS, sometimes as part of the tax return and other times without the tax forms, but most often without any taxes being assessed. Failure to file the information forms can come with very steep penalties starting at \$10,000 USD each.

The most common other situations that will trigger a need to file are:

- ✦ Owns, contributes to or receives a distribution from any account set up as a trust (RPP, RRSP, RRIF, TFSA, RESP, DPSP, RDSP, etc.)
- ✦ Ownership (direct, indirect, or constructive*) of 10% or more of a non US corporation or partnership
- ✦ Inheritance of more than \$100,000 from a non US person-even if that person is their spouse

*Constructive ownership rules say that close relatives such as spouses, parents, children, and sometimes brothers and sisters are considered to own each other's shares. For example: an American wife owns 1 share of her Canadian husband's corporation (he owns the rest of the shares); under IRS rules she is considered to own 100% of the corporation for US tax reporting. It doesn't make the corporation taxable to her- but she is required to report that she has ownership in it.

¹ <https://www.irs.gov/pub/irs-pdf/p17.pdf?t=1511395200060>



Foreign Trusts

Some Canadian accounts that are tax deferred in Canada are not treated the same in the US, in fact they fall into a category called foreign trusts and need to file forms 3520-A & 3520 in addition to reporting the income on the tax return. The most common we see are TFSA and RESP accounts. The term foreign trust also includes non-US retirement accounts for which an election to put off taxation until the money is taken out has not been made on the tax return. Many other types of group benefit accounts you might have through your employer will require special attention, too.

Penalties

There is a great deal of talk over the potential penalties for people who have not filed their US returns. Some penalties for not filing can start at \$10,000 per year. The IRS has a program available right now that will not penalize people who come forward voluntarily to get into compliance.

What if you have never filed?

The IRS currently has two programs available to help people file their back tax forms and get into compliance. The Streamlined Program is commonly referred to as an amnesty program- it promises people who have unreported income and assets that they will not assess penalties and will not scrutinize the forms if the taxpayer sends in 3 years of tax returns, 6 years of foreign bank account reports, and a few other statements and letters. This has been an excellent option for most Canadians who are also US citizens or have green cards. [The IRS has recently confirmed that the Streamlined Program may end at any time.](#)

American Expat Tax Services is a boutique income tax preparation firm that specializes in US/Canada cross border taxation. Led by Mary Beth Lougen, who is Enrolled to Practice before the IRS and is a United States Tax Court Practitioner, AET is a team of highly trained and dedicated individuals who work exclusively in the realm of expat taxation. You will receive personal attention and the most up to date information and strategy for your individual situation. We stand behind our work.

Visit our website for more information www.amexpattax.com or to schedule an appointment with one of our tax specialists. We never charge for the initial conversation and we WILL answer your questions.