

Do You Need to File a U.S. Tax Return?

Your requirement to file a U.S. return and/or other informational forms depends if you are a U.S. citizen, resident (Green Card holder) or non-resident alien. It can also depend on your level of income, your age and the source of your income. Even if you do not owe any U.S. taxes, there may be additional forms you are required to submit, such as forms related to your non-US investments/account or, non-US retirement plan, Foreign Grantor Trust returns in relation to your Tax-Free Savings Account (TFSA), Registered Education Savings Plan (RESP), Superannuation, Individual Savings Account (ISA) or forms such as Report of Foreign Bank and Financial Accounts (FBAR) to report ownership of financial accounts located outside of the US. The following information provides some general guidelines for who must file, but as with many Internal Revenue Services (IRS) rules, there are always exceptions. The rules and regulations can and do change frequently as well. Be aware that for many persons residing outside of the US, the income threshold is not the only reason you may be required to file a tax return or other tax forms. Most U.S. persons residing outside the US need to file something with the IRS or U.S. Treasury.

Determining your U.S. Status

The first step to discerning your U.S. filing requirements is determining your U.S. status. Once you have made a determination, refer to the applicable section below to see if you meet any of the criteria, which would require you to file. Please note these criteria are not exhaustive, it merely captures the most frequent reasons for filing.

U.S. Citizen:

Generally, you are a U.S. Citizen if you were born on U.S. soil (including U.S. possessions) or one or both of your parents are U.S. Citizens and resided in the US for a period of time. If you think you may be a U.S. Citizen, you can contact [American Expat Tax Services](#) for information or contact the [U.S. Embassy or Consulate](#) for a determination.

Permanent Resident (Green Card Test):

You are a U.S. resident alien for tax purposes if you are a lawful permanent resident of the United States at any time during a calendar year. This is considered the 'Green Card' test. You will continue to have resident status, under this test, unless the status is taken away from you or is administratively or judicially determined to have been abandoned. Expired green cards are **NOT** considered abandoned. Until proof that status has been removed (Form I-407), you will continue to remain a resident alien for tax purposes.

Resident Aliens (Substantial Presence Test):

You will be considered a U.S. resident alien for tax purposes if you meet the substantial presence test for the calendar year. To meet this test, you must be physically present in the United States for at least:

31 days during the current year, **and (+)**

183 days during the 3-year period that includes the current year and the 2 years immediately before that, counting:

- ✳ All the days you were present in the current year, and (+)
- ✳ 1/3 of the days you were present in the first year before the current year, and (+)
- ✳ 1/6 of the days you were present in the second year before the current year.

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Determining your Filing Requirements

Here are some situations to help determine whether you need to file a return and/or submit other tax forms. Please note this is **NOT** a comprehensive list.

U.S. Citizens, Permanent Residents and Resident Aliens

- ✦ If you are a U.S. citizen or resident alien, the rules for filing income, estate and gift tax returns and for paying estimated tax are generally the same whether you are in the United States or abroad.
- ✦ Your [income, filing status and age](#) generally determine whether you must file an income tax return. Your worldwide gross income includes all income you receive in the form of money, goods, property and services that is not exempt from tax.
- ✦ You are being claimed as a dependent on another person's U.S. tax return.
- ✦ Your net earnings from self-employment are \$400 or more.
- ✦ Your home was sold, even if you can exclude the capital gains (including your principle residence).
- ✦ You (or your spouse if filing jointly) received Archer Medical Savings Account, Medicare Advantage Account or health savings account distributions.
- ✦ You own certain non-US investments (retirement accounts, non-US mutual funds/ETFs, TFSA, RESP, ISA)
- ✦ You have taken money out of a U.S. retirement account before the recognized age, generally 59 ½ years old.
- ✦ You own (direct, indirect or constructive) 10% or more of a non-U.S. Corporation or Partnership (including your spouse's).

Non-resident Aliens (anyone not included above)

For non-U.S. citizens or residents, filing is generally based on U.S. sources of income and on U.S. based assets, including but not limited to the following:

- ✦ You earned U.S. wages over \$4,050 USD(2017).
- ✦ You had income from the U.S. or U.S. possession and tax was not withheld at the proper rate.
- ✦ You own U.S. property and use it as a rental.
- ✦ You represent a deceased person, trust or estate that is required to file in the U.S.
- ✦ You are married to a U.S. person and have elected to file as a U.S. resident.
- ✦ You are a teacher, trainee or student, present in the U.S., possessing an F, J, M or Q visa.
- ✦ Snowbirds meeting the substantial presence test while vacationing annually.

**✦ You can always contact American Expat Tax Services
to help guide you through this maze of rules and regulations. ✦**