

Last chance to take advantage of **IRS Streamlined Filing Procedures**



If you were born in the US, or one or both of your parents are American, you may owe the IRS taxes as well as hefty penalties.

Are you, or do you have a client that is, a US taxpayer who is not up-to-date on their Federal tax filings with the US Internal Revenue Service (IRS)? If so, a method that currently allows some US non-compliant persons to become compliant with their tax filings may be about to close, which could prove to be very expensive.

How do I know if I have an IRS filing requirement?

Many people don't even realise they have to file US Federal income tax returns. A US taxpayer includes:



What are the consequences of not filing?

Globally, only two countries have tax regimes which subject their non-resident citizens to full ongoing 'home country' taxation, despite such individuals living and/or working elsewhere in the world. The USA is one of those countries and all of its bi-lateral tax treaties contain a provision which enshrines its continuing right to tax worldwide income and gains.

For a variety of reasons, US taxpayers living outside the USA can become delinquent with their US Federal income tax and information reporting obligations. The IRS wants to bring these delinquent filers back into full compliance and since September 2012 has adopted a 'carrot-and-stick' approach in situations where an individual's default status is not deliberate.

The 'stick' involves the possibility of hefty penalties in addition to the tax at stake. The IRS publicises up to 50% penalties on undisclosed funds and up to 35% penalty on distributions from foreign trusts.

The 'carrot' is a scheme called Streamlined Filing Compliance Procedures.

What are Streamlined Filing Compliance Procedures?

The foreign streamlined procedure is a programme which allows US taxpayers to file the last three years of late US Federal income tax and information returns, six years of foreign bank account reports and settle any US tax payable with late interest, but not be subject to income tax and information return penalties.

To qualify for the foreign streamlined procedure an individual must meet the following criteria:



Their failure to file is due to non-wilful conduct. This includes negligence, inadvertence, or mistake or conduct that is the result of a good faith misunderstanding of the requirements of the law.



The IRS has not initiated a civil examination of a tax return



During the last three calendar years the individual must not have an abode in the US and have one year where they have been physically outside of the US for at least 330 days.

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Why should I act now?

The IRS have regularly stated that the programme is not an open-ended initiative. At some point, this 'carrot' will be removed, leaving only the 'stick'. At present, there is anecdotal evidence that the IRS may be about to announce the closure of this programme. Such a move might come with immediate effect, although there is some precedent to suggest that the closure would be at the end of a period of notice.

Preparing a submission through the current process takes time. Everything required by the IRS must be presented in a single package and submissions to the programme on an instalment basis are not allowed. If the closure of the programme is announced in the near future, and subject to only a short period of notice, it may well be impossible to assemble the necessary submission before the programme closes.

As such, any US citizen with a delinquent tax profile who satisfies the 'non-wilful' test, should take advantage of the streamlined route back to compliance now, before the opportunity disappears.

What is the Expatriation Initiative?

In addition to the Streamlined Procedures, the IRS introduced a new initiative in 2019 aimed at US taxpayers who had never filed US tax returns and who had either given up their US citizenship or were considering doing so.

The new procedures require the filing of six years of US income tax returns, but with the additional incentive that up to \$25,000 of tax liabilities will be waived.

In order to qualify for these procedures an individual must meet the following criteria:

-  They must have relinquished their citizenship after March 18 2010.
-  They must not have any tax filing history as a US citizen or resident.
-  They must have a net worth of less than \$2million at both the time of expatriation and the time at which they make their submission.
-  Their aggregate tax liability over the year of expatriation and the five years prior does not exceed \$25,000 (after considering foreign tax credits, exclusions and exemptions but NOT after any US Federal tax withholding).
-  They agree to complete and submit all required Federal tax returns (including Foreign Bank Account Reports and other information returns) for all six years.
-  Their failure to file required Federal returns (including income tax returns, gift tax returns, information returns) was due to non-wilful conduct.

Conclusion

This really is the 'last chance saloon' for delinquent US tax filers to take advantage of the Streamlined procedures, to become compliant and avoid expensive penalties from the IRS.

At Blick Rothenberg, our dedicated US/UK private client team is made up of experienced personal tax advisers who are passionate about their field of expertise and will work with you, your family and your business to minimise tax impact across both the US and UK jurisdictions.

If you believe you or any of your clients may be impacted, then please contact us as soon as possible.

Would you like to know more?

You can visit our [Streamlined Filing Procedures Hub](#) for more useful articles and information, including our 'Should I be paying US taxes?' tool.



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