

## BASIC DESCRIPTION OF U.S. TAX LAWS INVOLVING FOREIGN INCOME ASSETS AND FINANCIAL ACCOUNTS

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1. U.S. Taxpayers (generally individuals physically present in the U.S. 121 days or more during a calendar year, long-term residents and citizens) must report their world-wide income, credits and deductions on their U.S. tax returns (Form 1040), and, in general, are entitled to foreign tax credits for taxes income taxed to a foreign country.
2. Non-residents, non-citizens are subject to U.S.: (i) income tax on their U.S. source income; and (ii) estate tax on their U.S. property, including real estate and securities (stocks, bonds and debt instruments of U.S. companies and individuals).
3. U.S. Taxpayers with an ownership interest or signature authority over foreign financial accounts (bank and brokerage accounts, corporate, trust and other entity accounts, certain retirement plans and life insurance with a cash value) are required to electronically file an annual Foreign Bank and Financial Account Reports (FBARS) on or before the due date of their income tax return for the following year. The maximum fine for the non-willful failure to timely file an FBAR is \$10,000 and there is a six-year statute of limitations for assessment of the penalty. The penalty may be reduced or eliminated upon a showing of “reasonable cause.”
4. U.S. taxpayers with foreign financial account and certain other financial assets (generally, stock or securities, including certain employee stock benefit plans) must report those assets on Form 8938, which is filed with the Form 1040. The threshold filing requirements start at \$50,000 for single taxpayers (\$100,000 for married couples filing joint returns) living in the U.S.
5. U.S. Taxpayers who have a 10% or greater interest in a foreign corporation must file Form 5471 with the Form 1040. There are equivalent filing requirements for 10% or more ownership in a foreign partnership.
6. U.S. Taxpayers who receive a foreign gift or inheritance from an individual of more than \$100,000 during the calendar year must file Form 3520 to report the gift or inheritance. The due date of Form 3520 is the same as the Form 1040, and is extended if a valid extension is filed for the Form 1040. The threshold reporting requirement for a gift from an entity or trust is much lower.
7. U.S. Taxpayers who earn wages or self-employment income while residing outside the U.S. may be entitled to a foreign earned income exclusion if they are considered residents of a foreign country or remain outside the U.S. for a period of 330 days during any 12-month period. The maximum income exclusion is \$120,000 for 2023. The exclusion, however, must be claimed on a timely filed U.S. tax return, it is not automatic. There is also a partial exclusion for housing costs, if they exceed a certain minimum.