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The following is a general description of typical issues. It does not attempt to cover all situations, nor cover all the complexities of legislation and administration. Before making any decision you need to be advised on the full detail as it applies to your specific situation.

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## IS UNCLE SAM LOOKING FOR YOU?

The USA takes good care of its citizens and residents around the world, and in return those people have significant obligations. One of which is to pay US taxes.... on their worldwide income.

The IRS is aware that some US citizens have not been declaring all their income and are hiding the proceeds outside the US. They are also aware than many US citizens living outside the US are not reporting their income. Various procedures have been put in place over the last few years to identify these people, and these measures are beginning to bite.

The most comprehensive of these measures is called FACTA\*. It requires all non-US financial institutions, from the big banks to small investment trusts, to report to the IRS every year on accounts they have with US citizens. In the UK alone, over 31,000 institutions have been providing this information since 2015, which the IRS is now cross checking against the tax returns that have been filed, to identify those that are missing.

## HAS THE IRS CONTACTED YOU ... YET?

The IRS strongly prefers voluntary compliance and has a variety of programs to help people get back in compliance with limited demands and reduced penalties. However, these programs are only open to those who approach the IRS first. If the IRS discovers your non-compliance first, then you may be barred from these programs, and are at risk of the full range of potential penalties. Lying low and hoping they won't find you is no longer a viable strategy.

## HOW BAD CAN IT BE?

Although the concept of US tax on worldwide income sounds draconian, in practice the US Tax Code and network of Tax Treaties provide substantial protection against double taxation. For someone whose income has already been taxed in a European country like the UK, a properly prepared US Federal return will often result in no additional US tax being due. The pain comes from penalties for failing to file the necessary documents on time. However, not reporting substantial amounts of untaxed income could be treated as criminal evasion, potentially risking jail time.

## ARE YOU AT RISK?

The most vulnerable group are US citizens who have been living outside the US for many years. Employed or owning businesses, their earnings have been subject to tax in other countries, and they have built up savings and investments outside the

USA. Reporting by the non-US financial institutions will enable the IRS to see where they live, and some idea of what they might be worth. The time window to get in compliance before the IRS starts to demand penalties is shrinking rapidly for this group.

The next vulnerable group are the “accidental” Americans. People who were born in the US, or to a US parent, and who therefore have a right to US citizenship, even if they have never lived in the US, or only for a very short period as a baby. The US position is that if you have the right to US citizenship that you have not formally revoked, then you are a US citizen with the obligation to pay US tax. This group are most likely to come to attention if they want to take a holiday or business trip to the US and enter the US place of birth in the ESTA (visa waiver) system, to find that they are not permitted to enter the US on a non-US passport (The Boris Johnson problem).

The final group are those US citizens and Permanent Residents (green card holders) who have worked in the US and then moved abroad. They have a continuing obligation to file US returns but have still to learn to navigate to complex interactions between the US tax code and that of their new home country.

## **CAN I AVOID THIS BY GIVING UP MY US CITIZENSHIP / GREEN CARD?**

Yes, you can, but..... The but is that part of the process for revoking citizenship / residence is that you are required to file, and pay all taxes due, for the last five tax years, and declare income and pay tax for the year to the date of revocation. You also need to disclose all worldwide assets at the date of revocation. If you have been earning a high income or have assets with unrealized capital gains or that are held in tax deferred accounts, then you may have to pay an “Expatriation Tax”, which could be substantial. Only about 2,500 people a year find that it is worth doing. Using the various IRS programs to get back in compliance is usually less effort and cheaper.

## **WHAT SHOULD I DO?**

If you are:

- A US citizen or Green Card holder living outside the US
- Were born in the US, or to a US parent, but have another nationality
- A non-US citizen who receives income from a US source

Get a US tax status check-up to understand what your outstanding obligations are, the risks that you are running, and your best options to get back in compliance.

\*FACTA – Foreign Account Tax Compliance Act

**IF THIS LOOKS LIKE YOU [CONTACT US](#) FOR A CONFIDENTIAL REVIEW OF YOUR SITUATION, AND TO DEVELOP A PLAN TO MANAGE IT**