

US Taxation of US Citizens Living Abroad



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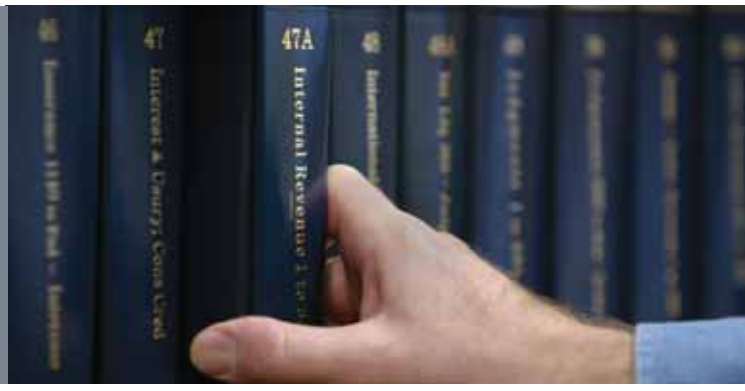


US Taxation of the Income of US Citizens Abroad

Unlike virtually every other country in the world, the United States levies income tax on the basis of citizenship. If you are a US citizen, regardless of how citizenship was obtained – by birth, naturalization, or through a parent – and regardless of how long you lived in the US, if ever, you are subject to US tax. This is true even if you are also a citizen elsewhere and live, work, vote and pay taxes in another country. US citizenship by itself subjects you not only to taxation in the US, but also to all other obligations imposed on US citizens.

Returning to the US citizen who married the French national and moved permanently to France; if she decides to open a business there and organizes it as a corporation under French law with herself as the sole or controlling shareholder, she will probably be surprised to learn that her corporation is, under the Tax Code, a “controlled foreign corporation” and subject to provisions that apply to such entities. Controlled foreign corporation status creates US tax filing obligations beyond those associated with Form 1040.

You can visit our website www.flottco.com and complete an analytic questionnaire which will help you establish your US tax compliance obligations.



Foreign Bank and Financial Account Reporting (FBAR)

For example, a US citizen who marries a French citizen and decides to move permanently to France will be subject to tax in France as a resident of France based on French tax law. She will also be subject to US tax on the same income even if none of it comes from US sources.

The US Internal Revenue Code (“Tax Code”) provides US citizens residing abroad some relief from double taxation. For example, the Tax Code allows for the exclusion of earned income (\$91,400 for 2009 - the limit is indexed annually for inflation). It also permits foreign tax paid to be credited against the US tax due on that income in the US. US citizens who reside abroad have until June 15th each year to file their US tax return on Form 1040.

Income that is tax exempt or receives other favorable tax treatment will be treated for US tax purposes as provided in the Tax Code. For example, if the US citizen's residence country does not tax capital gains or excludes income from certain business activities from taxation, the capital gains or exempt income remains subject to US tax as provided for in the Tax Code.

Every US citizen with an interest in a foreign bank or financial account must file Treasury Form TD F 90-22.1, *Report of Foreign Bank and Financial Accounts* (“FBAR”) with the IRS every year. The FBAR filing requirement was enacted by Congress in the early 1970's to help US government agencies detect and prevent money laundering. In 2008 FBAR filing compliance became a top IRS priority.

The FBAR must include any and all bank or financial accounts located outside the US in which the US citizen has an interest or over which the person has signature or other authority if, at any time during the year, the account (or any combination of such accounts) contained \$10,000 or more. Using current exchange rates, US citizens who live in the United Kingdom or a Euro zone country and have an interest in one or more bank or financial accounts in which the aggregate total balance at any time during the year is as little as £6,250 or € 7,150 must file an FBAR because the \$10,000 limit is defined in US dollars.

The FBAR is not a tax return and cannot be filed with the Form 1040. It is an additional filing with a different filing deadline, different filing location, and its own failure to file penalties.

It applies to all US persons whether they reside in the US or overseas. The FBAR reports bank and financial accounts that were open in the prior year. FBARs for 2009 must be filed by June 30, 2010. Consult our website for further FBAR filing information.

Who We Are

Flott & Co. PC is a specialized international tax law and compliance practice based in Arlington, Virginia, next door to Washington, DC, the home of the US federal government and headquarters of the Internal Revenue Service, commonly referred to as the IRS.

Our goal has been and remains to simplify US tax compliance for our clients and minimize their tax and compliance costs. The practical knowledge of IRS filing and returns processing procedures gained over the years has helped us ensure full adherence to IRS procedures while at the same time reducing the risk of IRS inquiries and challenges.

How We Work

Almost as soon as we began working with clients on US tax matters, we realized that many of the issues raised by specific facts in one client's case applied to other similarly situated clients.



Founded in 1990 by Stephen Flott, the firm is a leading expert in the field of US taxation of US source income earned by foreign individuals and corporations, especially those engaged in international transportation. Encounters with US citizens employed overseas by our foreign corporate clients during the early 1990's prompted us to develop an expertise in the US taxation of its citizens residing abroad.

The same is true for interpretations of IRS regulations or requirements or insights into IRS filing practices. Thus, from very early on we elected to treat our individual tax practice clients as a group and developed a billing approach that spreads the costs of representation over the group. The group approach to our tax representation has enabled us to keep our fees modest.

This fee arrangement has allowed Flott & Co. to devote more resources to tracking tax developments and other tax changes that may affect many or all of our clients. We are advocates for our clients and take pro-active steps to influence tax policy and practice. Examples of our work in this regard can be found on our website.

We also understand the importance of face-to-face contact when dealing with the sensitive matters that arise when discussing tax matters. That is why we make it a practice of visiting our clients where they live and work on a regular basis. The group approach allows us to do this at modest cost to the clients.

What We Do

We have been assisting US citizens living overseas with their US tax compliance obligations and with tax planning advice and counsel for over 15 years. Tax planning includes helping clients meet the income exclusion rules of Section 911 of the Tax Code which covers only "earned" income. Bank interest, dividends, rents, etc. are not covered by that exclusion.

We assist our dual national clients with structuring their affairs to take advantage of any favorable tax results that can be achieved from the differential tax treatment certain types of income receive in the "home" country compared to the United States or to avoid inadvertent actions which may be disadvantageous to the US citizen under the US Tax Code. We also prepare and file all US tax forms required to comply with US laws.

The Flott & Co. Team

Stephen Flott has been a lawyer for thirty-five years. In addition to business and tax advice applicable to many different types of businesses, he focuses on transportation, primarily advising transport companies based outside the United States.

Mr. Flott began his transportation career in Toronto with Ontario Trucking Association (OTA) during law school. After graduating with his law degree from York University in 1973, he was admitted to the bar in Ontario in March 1975 and developed a business and transportation practice principally serving motor carriers.



Stephen P. Flott, Esq.

In May 1978, he was appointed Executive Vice President and General Manager of OTA where he served for five years as chief operating officer with responsibility for policy, political activities and business operations. He joined the University of Toronto's Joint Program in Transportation as a Senior Fellow in 1983, and opened his own consulting firm, specializing in transportation and international trade.

In 1986, he returned to the practice of law, working on shipping matters for domestic and international clients first at Lillick, McHose & Charles and later at Lane & Mittendorf, both in Washington, DC. In 1988, he began working on the US taxation of foreign shipping companies. In January 1990 he founded the firm that is now Flott & Co. pc. In addition to his law degree, Mr. Flott holds an honors undergraduate degree in history and economics from St. Jerome's College, a Masters Degree in History from the University of Waterloo, and a post-graduate degree in law from George Washington University. He is a member of the American, District of Columbia and Virginia Bar Associations



Benjamin G. Snipes, Esq.

Benjamin Snipes has been advising clients with international tax and commercial matters for six years. Prior to joining Flott & Co. in 2007 Mr. Snipes worked as corporate counsel for the Orange Business Services division of France Telecom S.A., a global telecommunications provider and Fortune 100 company. At Orange Business Services, Mr. Snipes worked primarily in the areas of international commercial transactions, global regulatory compliance, mergers and acquisitions, and international tax.

Mr. Snipes is currently pursuing a Master of Laws in Taxation (LL.M.) and a Master of Business Administration (M.B.A.) in the evenings at Georgetown University in Washington, DC. Mr. Snipes received a Juris Doctor (J.D.) with International Law Certification from the Florida State University College of Law in 2003. While in law school, Mr. Snipes also received a Certification in International Arbitration and Mediation at Humboldt University, Berlin, Germany, and was awarded a fellowship with the Florida Legislature where he drafted and advised on proposed legislation under the supervision of staff attorneys. Prior to earning his law degree, Mr. Snipes received his Bachelor of Arts (B.A.), High Honors, from the University of Florida in 2000.



Jeanne Franklin, Esq.

Ms. Franklin advises foreign persons and companies with US source income and US citizens residing abroad on the application of US tax law. Ms. Franklin received her Masters of Law (LL.M.) with a specialty in Taxation from New York University School of Law in 2009. She graduated cum laude with her Juris Doctorate (J.D.) from Mississippi College School of Law in 2008. Prior to earning her law degree, Jeanne received her Bachelor of Science (B.S.) and her Masters of Professional Accountancy from Louisiana Tech University. Jeanne is an actively licensed Texas Certified Public Accountant (C.P.A.).

Prior to returning to attending law school, Jeanne's work experience includes preparing tax returns and performing external audit reviews for Ernst & Young, LLP. She served as a Manager of Gas Accounting for Duke Energy Trading and Marketing Company, based in Houston, Texas, a Fortune 500 Company; and as Manager of Business Compliance for Consolidated Graphics, Inc. While at Mississippi College School of Law, Jeanne also served as co-coordinator of Mississippi College School of Law-Mission First Legal Aid Office's Tax Clinic, assisting lower income residents of Jackson, Mississippi with their federal and state income tax returns.



Expert, personal and economical individual tax planning advice and compliance assistance are only as far away as a telephone or a computer. Call or email us and learn what other US citizens living abroad have already discovered.



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