

## **US Nationals living in the Netherlands cannot cancel their IRS subscription**

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To live and / or work in the Netherlands and make use of its infrastructure, facilities and benefits comes at a price and, therefore, most people understand the need to pay Dutch tax and file a Dutch tax return with the Belastingdienst.

However, if you are a United States (US) citizen or resident alien (a so-called Greencard Holder) living in the Netherlands, the fact that you no longer live in the US does not mean that you are free of your US tax obligations towards the Internal Revenue Service (IRS),.

In this respect, cartoonist Charles M Schulz once quoted:

*Dear IRS, I am writing to you to cancel my subscription. Please remove my name from your mailing list. ~ Charles M. Schulz*

Unfortunately, getting out having to file a US Federal tax return is not that easy. Regardless of whether one or twenty years have passed since you left the US; you will still need to continue filing a US Federal tax return and sometimes pay US Federal tax. Not even arguing that you are already filing a Dutch tax return and paying Dutch tax will convince the IRS to cancel your 'subscription'. Short from relinquishing your US citizenship or your Greencard, the only exception to having to file a US Federal tax return is if your worldwide gross income does not exceed the filing threshold (for 2012 e.g. \$ 9,750 if you are filing as a single or \$ 19,500 if you are married and filing jointly). In this respect, worldwide income means just that: the income you earn worldwide. So not only income from US sources, but also your Dutch employment income, Dutch interest, Dutch capital gains, that UK offshore pension account, rental income from your French vacation home, etc., etc. You get the picture.

Assuming that you do not wish to relinquish your US status and that your income exceeds the limits mentioned above, you will need to file a US Federal tax return and report your worldwide income to the IRS. However, the Belastingdienst also requires you to report your worldwide income and will want to tax that as well. This could lead to double taxation of the same income in both countries. To avoid this, the US and the Netherlands have entered into the Income Tax Treaty which allows certain credits and exclusions.

Most Americans living in the Netherlands are already familiar with the above. However, every year we still run in to Americans (and also sometimes even US based professional tax preparers) who are not aware of this or who ignore their US filing obligation because they believe it to be too difficult. Therefore, we have prepared the following guide to help you prepare your US tax return. We will deal

with the general topics in this edition. More editions will follow dealing with specific information on the interaction between the Dutch and the US Federal tax system. Please note that the following only covers US Federal taxation and does not cover State taxation rules or State tax returns.

## Forms

Below is a list of most common Forms that you will need to file with the IRS:

- **Form 1040** – like US taxpayers living in the US, you will also need to file Form 1040 to report worldwide income (*Dutch and US*) which includes Dutch and US salary, Dutch and US interest, Dutch and US dividends, Dutch and US income from self-employment, Dutch and US capital gains and also Dutch and US rental income;
- **Form 1040 Schedule A** – use this Form to claim a deduction for allowed Dutch and US Itemized Deductions. For example, if you purchased a home in the Netherlands you are allowed to claim a deduction for the mortgage interest paid on this home (for mortgages up to \$1,000,000) and Dutch real estate tax (so-called Onroerendzaakbelasting or OZB).
- **Form 1040 Schedule B**– use this Form not only to report your US, but also your foreign (*Dutch*) interest and dividend income (Part I and Part II). If you have no interest or dividend income to report, the fact that you have a bank account outside the US still requires you to prepare Part III of this Form.
- **Form 1040 Schedule D and Form 8949** –use this Forms to report both your US capital gains or losses. In addition, if you sell any shares (or other capital assets) through your foreign (*Dutch*) investment account, the transactions need to be reported on these Forms as well. This also applies to funds held in mortgage linked investment accounts or offshore pension investment funds.
- **Form 2555** – US taxpayers living and working abroad are eligible for an exclusion of their foreign earned income up to the prescribed amount (for 2012 this amount is \$95,100) and an exclusion based on their foreign housing expenses. Use this Form to figure the foreign earned income (*the income earned in the Netherlands through active duty*) which is allowed to be excluded and your maximum exclusion amount. Note that the exclusion is not allowed against amongst others investment income, social security benefits, pension or severance payments.
- **Form 1116** –To avoid double taxation of the same income in the Netherlands and the US, you are allowed to claim a deduction in either country depending on directions from the Income Tax Treaty. You can take a credit for Dutch tax paid or accrued on your Dutch sourced income by filing this Form. Such income includes amongst others:
  - a) **general category income** – amongst others, employment income above the amount excluded by filing the Form 2555 (the credit cannot be used for the amount which was excluded), pension distributions, severance payments, unemployment benefits. You can only use your Dutch Box-1 tax for this income category;

- b) **passive category income** - interests, dividends or other investment income. You can only use your Dutch Box-3 tax for this income category;
- **Form 8621** – use this Form to report your income from Passive Foreign Investment Companies (PFIC). This relates to investments in mutual funds through foreign (*Dutch*) investment accounts. This could be an so-called ‘Kapitaalverzekering’, a mortgage linked investment account or a non-qualifying retirement account. The rules relating to PFIC reporting are complex and require careful review so consulting an experienced tax preparer is recommend.
  - **Form 8833** – use this Form to disclose any treaty based position that you are taking in the tax return, such as treaty allocation of income or claiming treaty qualification of your Dutch employee pension plan.
  - **Form 8938** – file this Form if you are filing as a Single and the total value of all your foreign (Dutch) assets exceeds \$200,000 on the last day of the year or \$300,000 at any time during the year, respectively \$400,000 and \$600,000 if you are married and filing jointly. Financial assets can be bank accounts, investment accounts, non-qualifying pension, loan agreements, etc.. Note that if you do not have to file an income tax return for the tax year, you do not have to file Form 8938.
  - **TD F 90-22.1 (FBAR)** – US nationals also need to disclose their foreign Bank accounts directly to the US Department of the Treasury if the total of all accounts combined exceeded \$10,000 at any given moment during the year. The Form is not filed with the Tax return but is directly filed with the US Department of the Treasury and it has to be filed before 30 June 2013. Note that filing the Form 8938 does not relieve you of the requirement to file the Form TD F 90-22.1 FBAR.

### **TAX RETURN SOFTWARE**

You can visit the website of the IRS and find pdf. copies of the Forms mentioned above to print and complete. However, it does require you to do the math and all related research.

We therefore recommend using tax preparation software which do the math for you and provide guidance as well. In our experience, the bigger software houses such as TurboTax and H&R Block provide the best value.

### **DEADLINES FOR FILING YOUR US FEDERAL TAX RETURN**

Provided that you are filing on a calendar year basis, the due date to file your tax return for 2012 is **15 April 2013**. However, if you are living outside the US on that date you are entitled to an automatic extension for 2 months in which case the deadline is **17 June 2013** (as 15 June 2013 is Saturday).

If the tax return is mailed using a qualifying Foreign Delivery service then the postmark date is considered as the date the tax return was filed. We recommend using registered mail, especially when there is a balance due as you will then have a proof of mailing.

## **NEED HELP**

The bigger software houses provide useful and / or step by step tutorial to guide you through the Forms.

If you are on a budget then you can also visit [www.irs.gov](http://www.irs.gov) for information. The IRS has published a number of Publications to help you better understand your situation (start with Publication 54). In addition, every Form you need to file can be found on the IRS website and is accompanied with detailed instructions on how to complete each form. Or, simply *google* key phrases and you will find a ton of free information.

In case you find it too much time consuming, complicated or even boring to do it all by yourself, there are a number of tax advisors with international experience who can help you to fulfill your obligations in the Netherlands.

<http://www.onestoptaxprep.nl/>