Post Financial Cliff Financial & Tax Planning for Overseas Americans in Switzerland

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Personal Financial Planning for Overseas Americans in Switzerland has not been easy for the last 5 years. You have been asked to leave your Swiss bank, close your investment accounts and you are worried about how your 2nd and 3rd pillar accounts should be treated on your tax return. Wil you still be able to get a Swiss Franc mortgage as an American and is that Insurance policy you signed up for really US compliant? You have new paperwork to sign for your banks who will keep you; your tax advisor won't sign the bank's forms because they put undue burdens on your CPA; your tax advisor's fees have gone up because they have a lot more work to do and your US tax return is now more than 100 pages long.

As an American you worry if your employer can afford that expat package and how will you pay for private school for kids; or will you take the plunge and enroll them in local schools. Now you have started to owe US taxes and if you have been unfortunate you spouse or your employer has started to question the value of your US passport and so you have even contemplated renunciation more than once. The Financial Crises and its aftermath have been tough enough for households to navigate but being an overseas American is a burden that your friends and family back in the US just don't seem to understand; and now you have heard of FATCA and the Fiscal Cliff you wonder could it possibly get worse?

For those of you who have read my articles in the past, you know that I like to include lots of useful details to help Americans in Switzerland navigate the minefields of personal financial planning and so the following points are meant to point you in the right direction and update you on some new and important planning points for 2013. [One note: If you earn between $200,000 and $450,000 more, then tax planning just became even more complex, try to follow well below:]

1. As an American living and working overseas unless your income level is close to zero, odds are you have to file a tax return and if you have had over $10,000 in non US accounts, you need to file your FBARs. If you have been overseas and not been filing, please contact a law firm or accounting firm that is familiar with how to get you back in the system. The 2012 FBARs are due at the Treasury by June 30th 2013. Any 2012 taxes owed are due by April 15th otherwise interest and potential penalties could start to accrue. You're 2012 tax return is generally due to be filed by April 15th, though extensions can be filed to later dates such as June 15 or October 15, or even December 15, 2013 if needed.

2. Switzerland and Japan are two of the most well-known countries to sign up for "model 2" under the **FATCA reporting requirements**. If you have any financial accounts in Switzerland and the bank knows that you are an American citizen, they will ask you to sign a form with your US tax id (social security) number and Swiss Financial Institutions will be required to report information directly to the IRS (as opposed to Model 1 whose countries would report information to their government and the government would report that information to the US). This means that if you have not been filing a tax return and all of the sudden your name ends up on a list, you may [I am speculating here] starting in 2014 received a letter from the IRS asking what you have been up to. I can virtually guarantee that getting compliant before the IRS finds you will be the least painful and least costly alternative. All news I read from the US Treasury department is that they are not letting up on their pursuit of non-compliant tax payers around the globe.

3. If you pay **US Social Security**, which most Swiss based Americans will not, then in 2013 you will go back to paying **6.2%** instead of 4.2% [after a 2 year holiday] on up to $113,700 of income, so you may see an increase of up to $2274 in FICA taxes; though unless you are self-employed, your employer should deduct these from your paycheck.

4. The **Foreign Earned Income Exclusion (FEIE) for 2013** has been increased to **$97,600**. If you qualified for this (most oversea Americans would) and your earned income [Generally estimated as Swiss Gross Income + Employer 2nd Pillar Contribution] was less than about 90,000CHF, then your main cost of Federal tax compliance is likely going to be the cost of having your tax return filed.

5. If you earned more than the FEIE, income the top four US Federal tax brackets are 28%, 33%, 35% and 39.6%. You can of course receive a Foreign Tax Credit for Swiss Income taxes paid and it will depend on which canton you live in and your personal situation how much you will pay in Swiss as opposed to US taxes. The **2013 US Federal tax table** for higher earnings looks like this:

Rate	Single Filers	Married Joint Filers	Head of Household Filers
28%	$87,850 to $183,250	$146,400 to $223,050	$125,450 to $203,150
33%	$183,250 to $398,350	$223,050 to $398,350	$203,150 to $398,350
35%	$398,350 to $400,000	$398,350 to $450,000	$398,350 to $425,000
39.6%	$400,000 and up	$450,000 and up	$425,000 and up

6. **US Long Term Capital Gains** rates will go from **15% to 20%** for top earners and for many people an additional **3.8% Medicare (Obamacare)** surcharge will be added making **23.8%** the new long term capital gains rate.

7. For tax payers below the top Federal Income tax bracket above, the long term rate will remain at 15% though for individuals earning over $200,000 (single) and $250,000 (married filing jointly) **net investment income** which includes: Capital gains (long and short term), interest, dividends, income from partnerships, some retirement income and some other misc. income **will be subject to the additional 3.8% Obamacare tax**.

8. Individuals making $250,000 or more and Couples earning $300,000 or more will have their **itemized deductions reduced** by 3% of the amount by which their adjusted gross income (AGI) exceeds the above limits: So, for an AGI of $100,000 above the limits with $50,000 in deductions, the deductions would be $47,000 = $50,000 – ($100,000 * 3%).

9. Individuals making $250,000 or more and Couples earning $300,000 or more will have their **personal exemptions reduced by 2%** for every $2,500 their AGI is above the threshold amounts. A taxpayer earning over $425,000 and filing married filing jointly would lose their entire personal exemption deduction. Points 8 and 9 have the effect of making the marginal tax rate go higher than the "bracket" rates.

10. The **US Federal Estate Tax will rise to 40%** (from 35%) though surprisingly for US Citizens **there is now a $5.25 million exemption and $10.5 million for married couples** and this is indexed for inflation so it will continue to increase. For non US persons (e.g. Swiss citizens) owning US assets (e.g. real estate or stocks of US companies even if held at a Swiss bank) the Estate tax rate also goes up to 40% and their exemption remains at a stingy $60,000.

11. The Annual Gift tax exclusion has increased for 2013 to **$14,000** from $13,000.

12. The **US Alternative Minimum Tax has now been "permanently" inflation adjusted** so this provision should sting fewer tax payers in the future, and for many people the AMT will not be as high as it has been historically.

13. **Annual IRA contributions**, which are possible for many US tax payers (and their spouses) living and working in Switzerland (because their employer sponsored plans are not tax

qualified in the US) can be made up until **April 15, 2013** for the **2012 tax year**. For 2012 $5000 can be contributed to an IRA, though the limit is $6000 if you are over 50 years old. The annual IRA contribution limits increase to **$5500 or $6500 in 2013** if you are over 50 years old.

14. There are many different types of IRA accounts and if you are a lower earning tax payer, you may be able to contribute to a ROTH IRA (which can grow US tax free for the rest of your life). If you are self-employed, you can contribute up to 25% of your income or $50,000 in 2012 ($51,000 in 2013) to a SEP IRA. It is best to work with a professional or do some research online to make sure you are making the most of your contributions and are reporting them properly. This link has a lot of useful information: http://www.retirementdictionary.com/articles/847/irs-announces-ira-and-plan-limits-2013

15. It is possible to buy many **Swiss listed stocks** (or their US listed equivalent American Depository Receipts, ADRs) in US Investment Accounts (including in IRA accounts) and even to buy Swiss Francs, Euros or many other global investments if you are so inclined. Incidentally ADRs are not considered US-situs assets and are not subject to US Estate Taxation for non US persons.

16. If you are a non US person (for tax purposes) and you do have an IRA account in the US, you are likely to be able to get Swiss lump sum taxation treatment in Switzerland, and not be subject to US income taxes on the withdrawal. I would recommend discussing this with both a US and Swiss income tax professional before proceeding here with any distributions; also not a bad idea to check with your custodian with respect to choosing 0% withholding taxes in the US.

17. Now that US estate limits are clearer going forward, if you are an American and don't also have a Swiss passport, you may find it useful to update your US estate planning documents. If you want the US rules to apply instead of the Swiss ones (e.g. for forced heirship) you want to make sure to contact a Swiss lawyer or notary to get the right Swiss documents in place.

18. If you own **US based Mutual Funds**, consider swapping them for an equivalent **Exchange Traded Fund** for tax benefits. Mutual Funds do a lot more trading which generates capital gains distributions (which are taxable as long or short term gains and are subject to Obamacare tax if you earn enough). Exchange Traded Funds trade more like stocks, between individual investors and so for the most part generate less taxable income until they are sold.

19. If you are saving up for you or your children to attend a college or University in the US (or one of the over 100 non US approved institutions) you can now (in 2013) contribute up to $70,000 per child/per donor ($140,000 per couple) US tax free to a 529 plan in the US and all growth will be US tax free as long as the funds are used for qualified education.

In summary the US tax rates will go up for many higher earning tax-payers in Switzerland, especially if you are living in a lower tax Canton and if you have any significant investment income. Now more than ever it is important to make **a solid financial plan** to take advantage of the many modest and legal tax deferral methods available to all US tax payers. IRA accounts, 529 plans, gifting to children who are in lower tax bracket etc. will be some of the easiest ways to lower your US tax liabilities in the future.

The information in this article is thought to be correct at the time of publication and from reliable sources though not all guidance and information have been released publically. It is best to check with your tax advisor, the IRS website and/or your financial advisor about your own situation as individual circumstances may be different in the application of the US tax rules. Circular 230: The information in this communication should not be used by any taxpayer for the purpose of avoiding any federal, state or local tax penalties.

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