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THE SKINNY ON OFFSHORE ACCOUNTS

You've likely heard the term "offshore account" — perhaps holding your money in one has been recommended to you before. The name may conjure images of the Swiss Alps or a sandy Caribbean beach since Switzerland and the Cayman Islands are two popular hubs for the financial vehicles. But what is an offshore account? Are they legal? And would it be a practical tool for an average person?

An offshore — or overseas — account isn't necessarily one to which your money has to cross an ocean to find. It's simply a bank account in a country where you are not a citizen. Having an offshore account isn't illegal but failing to report either the income or the account is.

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So why would you have an offshore account if not to stash cash secretly? Americans often do it to allow for easier international spending and investing (including in real estate) and money transfers, perhaps to friends or family abroad or for regular foreign business interactions or travel purposes. Those who work or have worked abroad (or even for a company based outside the U.S.) may have offshore retirement accounts like a foreign trust instead of an IRA or foreign annuities instead of a pension plan. These are also considered offshore accounts.

You may have heard the term “tax haven” in relation to places popular for offshore accounts but, for Americans, stashing assets overseas to avoid taxes is tricky business. The IRS would prefer that your assets are held stateside, of course, and has put extreme measures in place over the past decade to ensure that happens. Its weapon of choice? Paperwork.

First, it’s important to note that the U.S. is the only developed nation that taxes its citizens’ foreign income. So, if you work abroad or earn income through any economic activity abroad (such as interest, rents, etc.), you must file and potentially pay income tax with both the country in which the income was earned as well as with the U.S.

But that’s not all. A U.S. citizen holding more than \$10,000 abroad must file a separate FinCEN Form 114 (also called a Foreign Bank and Financial Accounts Report or FBAR) with the U.S. Treasury’s Bank Secrecy Act E-Filing System. If you have a retirement account abroad, like a foreign trust or annuity from a current or previous employer, you have even more forms to file. As with many other required declarations to the IRS, penalties for not filing are stiff — even if you don’t owe taxes. You can be penalized up to \$500,000 and sent to prison for up to 10 years for failure to file an FBAR, for example.

The paperwork doesn’t stop there. The countries holding your money now have their own reporting requirements that have ramped up in the past few years. Every major global economy except Canada is now subject to the U.S. Foreign Account Tax Compliance Act (FATCA), which requires foreign banks to report accounts worth over \$50,000 that are held by U.S. citizens. It’s come to the point at which many foreign banks are hesitant even to consider accepting deposits from Americans because compliance is difficult and the penalties can be devastating.

If you hold assets in foreign accounts or are considering doing so, it’s important to consult a professional knowledgeable about international tax laws. While the fantasy of hiding assets in a Swiss bank account is more far-fetched than ever, there are great reasons to hold offshore accounts, as long as you understand your taxpayer rights and obligations.

Steven Bankler has more than 40 years of experience in the accounting industry. Steven’s expertise lies in consulting, planning, tax, and asset protection as well as exit strategy services for closely held businesses. He also provides litigation support (both as a testifying expert witness and a consulting expert), business negotiations and estate planning. For past Shavano Living tax tips and to learn more about Steven Bankler, CPA, Ltd., visit www.bankler.com.