

More on Offshore Account Reporting!

by Mark Christensen

Taxpayers are again reminded to comply with laws concerning the disclosure of financial accounts outside the United States. The first obligation is if you have a financial interest in or signature authority over a financial account located in a foreign country. Complete Line 7 of the Schedule B and file the schedule with your tax return.

Next, any U.S. person who has signature authority over non-U.S. financial assets must disclose the assets to the U.S. Department of the Treasury if the combined value of those assets converted to dollars exceeds \$10,000 at any time during the year. The disclosure is done using Department of the Treasury form TD F 90-22.1, available at <http://www.irs.gov/pub/irs-pdf/f90221.pdf>. This requirement does not apply to accounts held in U.S. financial institutions located on American military installations such as our credit unions or banks. The disclosure is due June 30, 2012 for calendar year 2011, and is not filed with a tax return. Instead, you must mail it directly to a U.S. Treasury office in Detroit—the address is on the form. Note that the form must be received in Detroit (not just postmarked) by June 30th, so the sooner you mail it, the better. There are criminal penalties for failure to file this form.



Finally (for now), certain U.S. taxpayers holding non-U.S. financial assets must report the holdings on the new Form 8938 with their tax return. Those taxpayers include the following:

1. Unmarried and separate filing taxpayers living in the U.S. if the total value of specified foreign financial assets is more than \$50,000 on the last day of the tax year or more than \$75,000 at any time during the tax year. For married taxpayers living in the U.S., the thresholds are \$100,000 on the last day of the tax year or more than \$150,000 at any time during the tax year.

2. Joint return filers living outside the U.S. if the value of your specified foreign asset is more than \$400,000 on the last day of the tax year or more than \$600,000 at any time during the year. For taxpayers living outside the U.S. who do not file a joint return, the thresholds are \$200,000 on the last day of the tax year or more than \$300,000 at any time during the year.

Look closely at the instructions for Form 8938 at <http://www.irs.gov/pub/irs-pdf/i8938.pdf> if you have questions about this new disclosure obligation.

There are no taxes or payment obligations associated with these disclosures; the requirement is simply to disclose. The disclosure requirements stem from government efforts to identify illegal offshore accounts held by U.S. persons. For purposes of the disclosure requirements, a U.S. person includes United States citizens and resident aliens. This includes those who possess lawful permanent residence status with the U.S. (green card holders).

Failure to disclose ownership or signature authority over specified accounts can result in financial penalties and criminal liability. The IRS opened another Offshore Voluntary Disclosure Initiative (OVDI) program this year, designed to encourage folks to get compliant. Under the OVDI, the penalties for nondisclosure can be reduced to 27.5% of the highest aggregate value of the non-U.S. accounts during the eight years these requirements have been in place. Some taxpayers may be eligible for penalties of 5% or 12.5%, depending on the nature of their disclosures.

If you have questions about these rules, contact the Kaiserslautern Legal Assistance Office at DSN 483-8848 or Civilian 0631-411-8848, and make an appointment to speak to a tax attorney.