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U.S. Reporting of Foreign Assets

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Are you a U.S. citizen or green card holder living overseas? Did you know that the U.S. is one of the few countries in the world where taxes are based on citizenship rather than residency? U.S. citizens and green card holders are required to file annual U.S. income tax returns, reporting worldwide income and gains, no matter where they live in the world. Additionally, they may be required to report the value of foreign assets both with their tax return as well as in a separate report.

Below, you will find an overview of U.S. reporting requirements for foreign assets, highlights of the U.S. Streamlined Compliance Filing Procedures, and an update on the recent Internal Revenue Service announcement regarding the end of the 2014 Offshore Voluntary Disclosure Program (OVDP).

U.S. Reporting of Foreign Assets

U.S. persons with financial accounts maintained outside the U.S. must report these accounts to the U.S. Department of the Treasury annually if the balance exceeds a certain level during the year. The accounts are reported on Financial Crimes Enforcement Network (FinCEN) Form 114, Report of Foreign Bank and Financial Accounts (FBAR). Due to continuing media attention of efforts to improve compliance in this area, individuals are becoming more aware of the filing requirements.

While people often assume the foreign bank account reporting process is part of their U.S. individual income tax return preparation, it is actually a separate report. However, although the filing of U.S. Form 1040 does not satisfy the filing reporting requirements for foreign bank accounts, there is a connection. Earnings from foreign bank accounts must be reported and taxed on U.S. Form 1040. Additionally, the taxpayer is required to disclose, on Schedule B, whether they own any foreign bank accounts and they may be required to report the accounts on Form 8938, Statement of Specified Foreign Financial Assets.

The standard FBAR due date is April 15, similar to the income tax return, but can be extended automatically a maximum of six months (e.g., no later than October 15). Specific requests for this extension are not required.

We have compiled our most frequently asked questions and answers regarding Foreign Bank Account Reporting. [Click here](#) to download and read the FAQ document.

U.S. Streamlined Compliance Filing Procedures

If you only recently became aware of your filing obligations for foreign assets, the good news is that you're not alone and there is currently a special procedure to get delinquent taxpayers back on track.

The IRS recognizes that many U.S. taxpayers who may be overseas have not filed their U.S. income tax returns or FBARs in a timely manner. They understand that these taxpayers should not be exposed to harsh penalties for a non-willful failure to comply with these reporting requirements. As a result, the IRS introduced the Streamlined Compliance Filing Procedures to allow eligible U.S. taxpayers to file delinquent or amended U.S. tax filings and become compliant.

For each of the three most recent years for which the U.S. tax return due date (or properly applied for extended due date) has passed, the U.S. taxpayer must:

- File delinquent or amended tax returns, including all required information returns (e.g., FBARs) as applicable
- File delinquent FBARs (for each of the six most recent years which the due date has passed)
- Pay the full amount of tax and interest due per filed delinquent or amended tax return(s)
- Certify that failure to report all income, pay all tax, and submit all required information returns (e.g., FBARs) was due to non-willful conduct

If the IRS has initiated a civil examination of your returns for any taxable year, you are not eligible for the Streamlined Compliance Filing Procedures.

As foreign financial institutions continue to share more information with the IRS, it is only a matter of time before the IRS learns about your foreign accounts. We recommend taking advantage of this opportunity to get back on track while it is still available.

Another reason to get back on track is the **Fixing America's Surface Transportation Act (FAST Act)** which was signed into law in December 2015. The FAST Act provided a new means by which the IRS can enforce compliance with U.S. tax laws. Included within the FAST Act was a new provision authorizing the IRS to notify the State Department of any U.S. citizen who owes more than \$50,000 in federal tax, penalties, and interest. The State Department may then revoke the citizen's U.S. passport and deny issuance of any new passport until the outstanding debt is paid. Exceptions apply for taxpayers who are making timely payments to the IRS under an installment plan, and taxpayers whose debt collection is suspended pending a due process hearing or while seeking "innocent spouse relief." In addition, a passport will not be revoked by the State Department if it is required for humanitarian or emergency purposes, or for a direct return to the United States.

The law reinforces the importance of careful attention to U.S. tax compliance, including timely filing of tax returns, compliance with foreign financial asset and bank account reporting, proper reporting of income, and timely payments of balances due. It is also extremely important for taxpayers to keep their addresses current with the IRS, so that any tax notices are received and resolved promptly. These steps will reduce the risk of deficiency notices that could ultimately cause not only financial issues, but the denial or revocation of a U.S. passport.

ALERT – Potential closing of OVDP

The 2014 OVDP is another program available for taxpayers with undisclosed foreign financial assets. However, the IRS recently announced it will begin to ramp down and **close the program on September 28, 2018**. By alerting taxpayers now, the IRS intends that any U.S. taxpayers with undisclosed foreign financial assets will have time to use the OVDP before it closes.

The Streamlined Filing Compliance Procedures will remain in place and available to eligible taxpayers. However, as with OVDP, the IRS has said it may end the program at some point.

Read the full [IRS article](#).

If you have questions or would like further information, please contact me at chall@gtm.com or +1.917.470.9132, or visit our [services page](#) to see what assistance we can provide.

The information provided in this article is for general guidance only and should not be utilized in lieu of obtaining professional tax and/or legal advice.

