

October 2017

## Important Guidelines on Non-U.S. Bank Accounts and Other Financial Assets

If you have a bank account or other financial assets outside of the U.S., we want to take a moment and remind you of two (2) different and important reporting obligations.

- A U.S. taxpayer must electronically file a Foreign Bank Account Report (FBAR) on Form 114 annually to report financial interests in, and signatory and other authority over, each foreign account - even if the account does not generate any taxable income - if the aggregate value of the accounts exceeded \$10,000 at any time during the calendar year. For this purpose, a foreign account includes an account located outside of the U.S. that is a bank (checking, savings, deposit, time deposit) account, a securities account, a brokerage account or a mutual fund, and certain other accounts. The FBAR is generally due by April 15 following the calendar year for which it applies. An automatic extension to October 15 each year is permitted.
- In addition to filing an FBAR, any individual who has an interest in one or more "specified foreign financial assets" whose value exceeds specified reporting thresholds must attach a completed Form 8938 (Statement of Specified Foreign Financial Assets) to his or her income tax return for that tax year for each asset.
  - An unmarried taxpayer (or a married taxpayer filing a separate return) living in the U.S. has to report the specified foreign financial assets if their total value 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. Married taxpayers filing a joint return living in the U.S. have to report if the total value of their specified foreign financial assets is more than \$100,000 on the last day of the tax year or more than \$150,000 at any time during the tax year.

For the purpose of Form 8938, a specified foreign financial asset includes an account maintained in a foreign financial institution and any stock, securities or financial instruments issued by a foreign person and held for investment. A specified foreign financial interest does not include foreign real estate, the direct ownership of foreign currency, shares in a U.S. mutual fund that owns foreign stock and securities, or brokerage accounts maintained by U.S. financial institutions.

- The penalties for failing to file the FBAR report or Form 8938 can be very severe. For failure to file the FBAR, the penalties for a non-willful violation are up to \$12,459 per violation. Penalties for a willful violation can be the greater of \$124,588 or 50% of the amount in the account at the time of the violation. A criminal penalty may be imposed for willful violations.
- For failure to file Form 8938, the penalty for failing to report specified foreign financial assets for a tax year is \$10,000. If this failure continues for more than 90 days after the day on which the IRS mails notice of the failure to the individual, additional penalties of \$10,000 are imposed for each 30-day period during which the failure continues, with a maximum penalty of \$50,000.

### Contact Us

Please contact us at your earliest convenience if you are uncertain whether you are required to file a FBAR or a Form 8938 for the current year or a past year.

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