



February 2012

On behalf of FAWCO (Federation of American Women's Clubs Overseas, Inc.), a network of 78 independent organizations in 36 countries around the globe, representing over 15,000 members, AARO (Association of Americans Resident Overseas) and ACA (American Citizens Abroad), and following the issuance of new regulations on FATCA compliance by foreign financial institutions, I urge you to consider the following three points that could greatly ease the FATCA burden on both bona fide residents abroad and the IRS, charged with enforcement.

⇒ **Raise the reporting threshold of TD F 90-22.1, the Foreign Bank Account Report (FBAR), for an American *Bona Fide Resident Abroad* to align it with the reporting threshold of new IRS Form 8938.** The current reporting threshold for the Foreign Bank Account Report is an aggregate amount held in foreign financial institutions of \$10,000. The FBAR was created in 1970 with a reporting threshold of \$5,000. Inflation over the last forty years justifies a substantial increase in this threshold. The basic IRS Form 8938 reporting threshold for Americans residing abroad is an aggregate amount held in foreign financial institutions of \$200,000.

The \$10,000 FBAR threshold puts a filing obligation on the vast majority of the 6,000,000 overseas Americans. It duplicates the reporting responsibility of those who must also file IRS Form 8938. Increasing the FBAR threshold to \$200,000 would permit the US Treasury FINCEN to better focus on its goal of combating terrorist financing, it would save the IRS money in compliance enforcement costs and it would save the US Treasury money in FBAR administrative processing costs.

⇒ **Invest in informing overseas Americans of their FBAR and other tax filing obligations.** As reported in the press, large numbers of overseas Americans are simply unaware of their obligations. In addition to creating a joint IRS website specifically for overseas taxpayers, a concerted effort should be made through US Embassy Town Hall meetings, passport renewal offices, the IRS, and citizenship services to inform all those who avail themselves of their US nationality or green card status. Additionally, a large-scale effort should be made in the media and even through social media. Finally, it is unreasonable for people who cannot be reached through these channels to be penalized for their ignorance.

⇒ **Grant individual filers a one-year grace period before application of Form 8938. The Form should take effect in 2013 for tax years commencing on or after January 1, 2012, or at the least, no penalties should be imposed in the first year.** The final version of the Form and Instruction were only released to the public at the very end of 2011. No time was allowed for individuals to study and learn the new requirements and prepare for compliance. The IRS has recognized the heavy burden it is imposing on foreign financial institutions with its new rules and has delayed the starting date for reporting by Qualified Intermediaries. It should now do the same for individual US taxpayers.

The information required on Form 8938 is extremely extensive and is complicated to collect in foreign countries where banks do not systematically provide the relevant end-of-year statements. Many overseas Americans maintain small accounts which are unnecessary and which they could aggregate into more comprehensive savings accounts, if given the time to do so. In the meantime, each small and insignificant account represents a 2-page Form 8938 reporting requirement involving unnecessary time on the part of the filer and the IRS reviewer. Our overseas organizations are concerned that, inadequately informed and faced with the new wide-ranging, time-consuming reporting requirements, many US taxpayers will throw up their hands and put their heads in the sand. Postponing the deadline for one year would greatly encourage and increase compliance.

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