



Financial Reporting Requirements

Our organizations have always supported tax compliance and the elimination of tax fraud and therefore recognize the need for financial reporting. But, as the GAO's recent report on the impact of FATCA on Americans overseas makes clear¹, current requirements are poorly targeted and probably ineffective. In addition, the "challenges" identified by the GAO in 2018 with "...complying with US tax reporting requirements on their foreign retirement savings"² can be very onerous, often requiring expensive professional assistance, which further induces fear of punitive sanctions and stresses caused by forcing unwilling non-US spouses and business associates into US reporting further discourage compliance.

We recommend replacing the existing reporting regime with the Common Reporting Standard, now widely used internationally. Accounts located in overseas Americans' countries of residence should not be considered as "foreign" accounts and should be exempted from all reporting.

Reports on foreign financial accounts of American residents overseas are required on at least three separate administrative forms: FinCen 114 ("FBARs"), required by the Bank Secrecy Act; Form 8938 (required by FATCA as part of tax returns); and Form 8966 (required of foreign financial institutions by FATCA). Savings vehicles and retirement plans may additionally require Forms 8621, 3520 and 3520A as part of tax returns. Notwithstanding differences in thresholds and coverage, there is heavy overlap that invites simplification and consolidation.

Given 8966 reporting by financial institutions, it is not clear why individual filings are required at all. At a minimum, the two individual bank account filing requirements should be consolidated and shared by IRS and FinCen as need be. Either the threshold should reflect current FATCA rules or the 1970 FBAR threshold of \$10,000 should be indexed for inflation. All future thresholds should be indexed for future inflation.

In the absence of changes to the tax code which would eliminate Forms 8621, 3520 and 3520A, these should be drastically simplified.

When foreign financial institutions file Form 8966, the account holder affected should receive a copy, either from the filing institution or the IRS, just as they can now expect to receive Form 1099s from domestic US financial institutions.

Excessive fines and penalties for reporting errors, oversights or mistakes should be brought into reasonable proportion of the offense.

¹ *Foreign Asset Reporting, Actions Needed to Enhance Compliance Efforts, Eliminate Overlapping Requirements, and Mitigate Burdens on U.S. Persona Abroad*, [GAO-19-180], April 2019.

² *Workplace Retirement Accounts: Better Guidance and Information Could help Plan Participants at Home and Abroad Manage Their Retirement Savings*, [GAO-18-19], January 2018, "Highlights".