

## IRS Offers Relief Procedures To Some U.S. Expats

by Annagabriella Colón

Following the IRS Large Business and International Division's recent announcement of a raft of international compliance campaigns, the agency has published new procedures for some expats that practitioners say are generous and taxpayer-friendly.

In a September 6 release, the IRS outlined procedures that will allow some individuals who relinquished their U.S. citizenship after March 18, 2010, to come into compliance with their taxes and filing obligations and receive relief for back taxes. "The Relief Procedures for Certain Foreign Citizens apply only to individuals who have not filed U.S. tax returns, either as U.S. citizens or residents, owe a limited amount of back taxes to the United States and have net assets of less than \$2 million," the release says. Only individuals whose past noncompliance was non-willful are eligible, it adds.

"Eligible individuals wishing to use these relief procedures are required to file outstanding U.S. tax returns, including all required schedules and information returns, for the five years preceding and their year of expatriation. Provided that the taxpayer's tax liability does not exceed a total of \$25,000 for the six years in question, the taxpayer is relieved from paying U.S. taxes," the release says. "Individuals who qualify for these procedures will not be assessed penalties and interest."

Guidance provided on the IRS's website explains that individuals who submit the proper information and meet the requirements will not be "covered expatriates" under section 877A and will no longer be liable for any unpaid taxes and penalties.

Section 877A, which was added to the tax code under the Heroes Earnings Assistance and Relief Tax Act of 2008, imposes a mark-to-market exit tax for citizens and long-term residents expatriating on or after June 17, 2008.

The update comes months after LB&I announced six compliance campaigns focusing on international issues such as expatriation, S corporation abuses, and deferred compensation. After that July 19 announcement, practitioners

said they wanted more information regarding the expat campaign.

"I think this is a direct result of that, and working to get taxpayers who are not compliant vis-à-vis expatriation into compliance. These release procedures for former citizens are extremely generous and taxpayer-friendly," Guinevere Moore of Johnson Moore told *Tax Notes*. Noting that the procedures are available only to individuals who have no U.S. filing history, either as citizens or residents, she said that criterion will take a lot of people who are in the crosshairs of the expat compliance campaign out of the running.

However, "if an individual qualifies for this program and they owe less than a cumulative [\$25,000] in tax, they don't need to make payment in order to expatriate under these procedures, and that is quite extraordinary," Moore said, noting that the decision to use the new procedures is irrevocable. "I think that this is step one, and I think step two is likely going to be soft letters and examination," she said. "I think that this relief is a very direct form of notice to . . . people who have expatriated but haven't met their tax obligations that [the IRS is] looking at this, and how they're going to be addressing it."

"I think it's good for this population of small taxpayers, and in a sense good for the IRS, that the population be relieved from some of the rules. It's good for everybody," said Charles Bruce, legal counsel for American Citizens Abroad (ACA). However, "all of this only runs to people who stop being U.S. citizens, and ACA is very interested in improving the lot of people who continue to be U.S. citizens. ACA thinks that deserves congressional attention," he said. ■