

Americans Abroad Protest Offshore Reporting Regs

by Benjamin Guggenheim

Americans living overseas are unfairly targeted by a confusing array of tax reporting requirements, according to comments submitted to Treasury by American Citizens Abroad (ACA).

In February 14 comments to Treasury's Financial Crimes Enforcement Network for its review of Bank Secrecy Act regulations, ACA said the foreign bank account report and PATRIOT Act Customer Identification Program (CIP) regimes create a needlessly confusing array of reporting requirements for U.S. citizens in foreign countries.

While intended to combat international money laundering schemes and other financial crimes, the regulations frequently result in the assessment of hefty penalties for tax evasion against well-meaning U.S. citizens, the nonprofit group said.

Since Americans who live abroad have most of their financial accounts outside the United States, their holdings are disproportionately designated as offshore by Treasury, ACA said. That designation means those taxpayers must report a wide breadth of accounts, including not only checking and savings accounts but also tax-free pension-related, investment, and credit card-related accounts.

Americans living overseas are often unaware of such requirements and are hit with large penalties and fines as a result, the letter said.

ACA noted that the Foreign Account Tax Compliance Act, enacted in 2010, requires the reporting of accounts held outside the United States on Form 8938, "Statement of Specified Foreign Financial Assets." The law imposes a higher reporting threshold than FBAR on individuals with foreign accounts who make over a specified income, causing a duplicate reporting requirement for many taxpayers, the group said.

The group also said U.S. citizens living overseas are occasionally locked out of banking services by financial institutions trying to follow CIP guidelines. The program was implemented by the PATRIOT Act to prevent terrorist financing, money laundering, and drug dealing.

ACA suggested that FATCA and FBAR reporting be combined into one form and recommended a more lenient definition of a willful FBAR violation, as well as a reduction of maximum FBAR penalties.

The group added that accounts of Americans living abroad shouldn't be considered "offshore," but rather accounts required for everyday life.

It pointed out that both recommendations were recently made by the national taxpayer advocate.

The CIP should also change its "know your client" guidelines to ensure that Americans living overseas can access their accounts, pay their taxes, and receive Social Security payments, ACA said. ■