Tax Smart Training

Q&A

CPA Academy Webinar
December 10, 2021

Questions from CPA Academy Webinar - 12/10/2021

Thank you for attending the webinar. I appreciate the many lovely comments and feedback. When it comes to questions about foreign accounts, it can be a minefield, because, like everything else in tax, the answer can be "it depends". I believe a speedy answer can be misinterpreted, so always do your research! It's a busy year end, and I answered a number of questions. Please join me for additional dates starting in January at CPA Academy, and I'll try to get to more questions.

Abby

Disclaimer: The answers are my opinion. You are advised to do further research, as I may not have the full story and all details of your specific situation. This Q&A does not represent a professional engagement with Choice Tax Solutions Inc. or Tax Smart Network, LLC dba Tax Smart Training, and you are urged to seek tax and/or legal help for your specific situation.

Note: Questions are presented here with exactly as we received them—no changes have been made.

Q

If I had signatory authority as an officer for a bank account but left the position mid year, the company had many separate currency accounts as well. How is this reporting requirement met? As the information may not be available.

A

Because the FBAR requirement is for any time during the tax year, there is a filing requirement. Per FinCEN, the employer can file an FBAR on behalf of an employee. It may be a good idea to find out if your previous employer filed on your behalf. If they did not, you can file with the best available information. The FinCEN website references the reporting of corporate accounts here: https://www.fincen.gov/reporting-corporate-accounts

Q

Does a US person need to report form 3520 when receiving cash from an estate of a non-US person if the cash is from sale of US real property interest? Note the estate has been filing estate and income tax returns for past 2 year

A

Since the funds came from a foreign estate, I would certainly report the cash on Form 3520. In this area of practice, overreporting is better than underreporting, when it comes to these forms. When in doubt, file!

Q

Is the form 8858 for self proprietors relatively new and is this in conjunction with the Schedule C?

A

This required reporting for sole proprietors/disregarded entities was recently clarified by the IRS. Yes, the reporting is in conjunction with Schedule C filers. https://www.irs.gov/forms-pubs/about-form-8858

Q

Pensions that are managed and controlled by the employer is one of the exceptions.

A

Occupational pensions are reportable for FBAR and FATCA purposes. In certain cases, Forms 3520 and 3520-A may not be required.

Q

Do we need to report accounts of virtual currencies in Foreign Exchanges at FBAR/Form 8938?

A

I would definitely report them if they are held offshore, based on recent FinCEN guidance.

Q

For threshold amount of USD can an annual average conversion rate be used or must we use the conversion rate on the date of the highest balance for the year?

A

You cannot use the average rate or the rate on the day of the highest balance. You must use the year end rate and convert the highest balance of the year using that rate.

Q

I have a house in foreign country before I came to US. Should I report it?

A

Is the house owned in an entity? Is the house rented at any point during the tax year? If no to both questions -- it's just personal property -- then it's not reportable. But many people who own houses in a foreign country have a bank account to pay mortgage interest, real estate taxes, etc., so you need to watch for the high balances in all accounts in aggregate.

Q

How do you calculate the value of a private, defined benefit, foreign pension?

A

Are periodic statements received? If yes, use the values reported. Assuming there are no distributions, no statements received, and the taxpayer does not know or have reason to know the fair market value of the beneficial interest, the pension still gets reported on Form 8938, but the maximum value of the asset is zero.

Q

Are you saying that the mortgagor has a reporting requirement?

A

See the FATCA rules – foreign contracts are reportable. And mortgages are considered to be a foreign contract, so it's advisable to report.

Q

Could you please elaborate on foreign rental and Form 8858 filing requirement? Thank you.

A

Form 8858 was expanded to report foreign real estate and self-employment/business income. Foreign rental property may fall into the foreign branch rules. Many tax practitioners and attorneys are arguing this point, and all facts and circumstances need to be analyzed to determine whether your client's activities constitute a foreign branch. Review the instructions to the form and decide if your client's situation warrants the filing.

Q

If you had a foreign pension and moved to the us as a green card holder. You give up your citizenship in the foreign country and loss access to your foreign pension. Do they still have to report the pension even though they don't have access and don't expect to ever have access unless they returned home.

A

There are various types of pensions, and the answer could be different depending on each type. From your description, it appears the loss is temporary, and the taxpayer could receive money if they returned to their home country. Are there statements provided to the taxpayer? Again, there's no detriment in reporting it, and that would be the safest move. More information is needed about the type of pension in order for you to make the decision about whether or not to report it.

Q

Missionary who is US citizen who gets their income from a US source but who has been out of country all year, can the income be excluded.

A

Look to the bona fide resident test and physical presence test to see if the taxpayer is eligible to exclude income. Regardless, a Form 1040 is still required.

Q

Missionary income from us source who is in foreign country part of the year and then comes to US in same year, how do you determine the taxable income.

A

Same answer - look to the bona fide resident test and physical presence test to see if the taxpayer is eligible to exclude income, or part of the income. Review instructions to Form 2555.

Q

Is there any foreign reporting for a Louisiana resident that owns and rents a condo in Mexico? Taxpayer does not have any foreign checking or savings accounts.

A

Assuming they own it directly, Schedule E and Form 8858. Also, if a local accountant or property management has accounts to collect rent or pay Mexican taxes, that foreign account would be reportable as well.

$

Q

Is a beneficiary of a Foreign trust receiving No dist required to mark Question on Sch B as Yes?

$

A

Is the taxpayer a trust grantor? Does the taxpayer have an ownership interest in the trust? Does the taxpayer have a greater than 50% present beneficial interest in the trust assets or income? You need more information. Much safer to report than not!

Q

If a Foreign Individual gives a US Taxpayer a $125 K Loan - Does this need to be reported on Form 3520??

A

Loans are not reportable. But if the loan is forgiven, it becomes a gift and reporting is required.

Q

Does a foreign Cash Value Life Insurance policy count as a foreign financial account that needs to be reported?

A

Yes! Yes! Yes!

I will be recording a short training video on how I use the foreign financial account toolkit in my practice and will send a link. In the meantime, you can get the updated and revised done-for-you PDF templates, organizer, worksheets and cheat sheets for an insanely low price, visit www.TaxSmartTraining.com. Get the tools you need to report; due diligence – DONE!

Abby Eisenkraft

Any questions regarding our PDF toolkit? Contact Support@TaxSmartTraining.com

At last--the right tools to interview your clients for Foreign Financial Accounts!

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