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Watch out!

FATCA requires disclosures of foreign accounts

If you hold assets such as bank and other financial accounts or securities from companies outside the United States, you may need to report them to the IRS. The Foreign Account Tax Compliance Act (FATCA) requires some U.S. taxpayers who have interests in "specified foreign financial assets," or SFFAs, to provide information on them to the IRS via Form 8938, "Statement of Specified Foreign Financial Assets."

Among the assets the IRS considers SFFAs are foreign financial accounts and instruments, as well as foreign stocks and securities held for investment rather than for use in a business.

Foreign financial institutions

FATCA was enacted in 2010 to make it more difficult for individuals to evade U.S. taxes by keeping assets in offshore financial accounts that aren't reported to the IRS. According to a 2014 press release from the U.S. Treasury that accompanied a package of FATCA regulations, "This international tax evasion is illegal, contributes to the federal debt, and creates inequity within the tax system."

Thus, as part of FATCA, foreign financial institutions, as well as some nonfinancial institutions, must provide information about their U.S.-owned accounts and assets to the IRS. This includes the identities of account holders.

Who needs to report

Not everyone with foreign financial assets needs to report them to the IRS, however. If you aren't required to file a U.S. income tax return for the year, you don't need to file Form 8938.

In addition, some types of foreign assets don't need to be reported. These include financial accounts maintained by U.S. payers, such as the U.S. branches of foreign financial institutions or the foreign branches of U.S. financial institutions. In addition, any interest you have in a foreign social insurance program doesn't need to be reported.

Even if you meet the other reporting requirements, you won't need to include Form 8938 with your tax return unless the following conditions apply:

- You're an unmarried taxpayer who held SFFAs of more than $50,000 on the last day of the tax year or more than $75,000 at any time during the tax year, or
- You're married, filing jointly and held SFFAs of more than $100,000 on the last day of the tax year, or more than $150,000 at any time during the year.

The thresholds are higher for U.S. taxpayers living outside the United States. For instance, single taxpayers living abroad must file Form 8938 if they held $200,000 in SFFAs on

Don't forget about FBAR

The Foreign Account Tax Compliance Act (FATCA) isn't the only regulation with which taxpayers with foreign assets may need to comply. Some will also need to report these assets on what's known as the "FBAR," or Form 114, "Report of Foreign Bank and Financial Accounts."

The FBAR typically comes into play if an individual or entity, such as a trust or estate, has a financial interest or signing authority over an offshore financial account(s), and the total value of all foreign financial accounts exceeded $10,000 at any time during the calendar year. What's more, an FBAR may need to be filed even if the account hasn't produced taxable income during the year.

It's possible that a foreign account will need to be reported on both Form 8938 and Form 114, though the information required on each may differ slightly. Form 114 should be filed electronically by June 30 — it's not filed with your federal tax return.

the last day of the year, or more than $300,000 in SFFAs at any point during the year.

Some foreign financial assets that are reported to the IRS on other forms also don't need to be reported on Form 8938. One example is interest in trust and foreign gifts reported on Form 3520 or Form 3520-A. However, the value of these assets *is* included when determining whether you meet the SFFA reporting threshold, and the number of these forms filed is listed on Form 8938.

If you hold financial assets outside the United States, it's worth reviewing them to determine whether the FATCA reporting requirements apply.

Form 8938 asks for the number and value of deposit and custodial accounts, as well as the interest, dividends and royalties attributable to these assets. It also requires that you indicate the currency in which the accounts are maintained.

To determine whether the reporting requirement applies, the value of the assets is calculated in U.S. dollars. Assets denominated in different currencies should be converted using the U.S. Treasury's foreign currency exchange rate. If the Treasury doesn't have such a rate, you typically can use another publicly available rate.

Outside holdings

If you hold financial assets outside the United States, it's worth reviewing them to determine whether the FATCA reporting requirements apply. After all, many financial institutions will be providing information on these accounts directly to the IRS.

In addition, the penalties for failing to report are steep, starting with a $10,000 failure-to-file penalty. An additional penalty of up to $50,000 can be imposed if you continue to not report after being notified by the IRS. The statute of limitations is lengthy, extending to six years if you don't include gross income from a foreign asset of more than $5,000 on your tax return.

Follow the rules

As you can see, it's important to follow the rules if you hold foreign assets. Your accounting professional can answer questions and provide guidance on FATCA's reporting requirements.

How to keep your spouse in the loop, financially

It's critical to ensure your spouse remains in solid financial shape should he or she outlive you. To make this happen, there are a variety of important areas to consider.

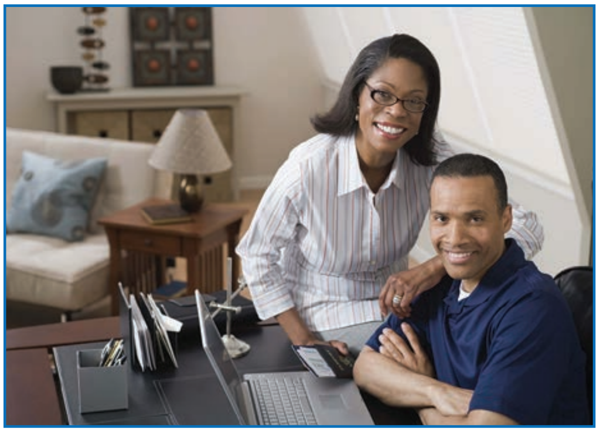
Social Security

Many people know that, if they start Social Security payments *before* they reach full retirement age, their benefits are reduced. What's less well known, but critical to understand, is the impact on your spouse's benefits: They're also reduced. And this reduction continues even if the primary beneficiary dies. The benefit to the surviving spouse (called "the survivor's benefit") remains lower.

This can be a particular concern for those spouses with little or no earnings record, who may need to rely more heavily on survivor's benefits in the event their spouse dies.

Pensions

Employees fortunate enough to participate in a defined benefit pension plan have several options to choose from when they retire. Federal law requires these plans to offer benefits to married participants through what's called a qualified joint and survivor annuity (QJSA). Under a QJSA, payments continue for the life of both the pension plan participant and his or her spouse — though the spousal payments may be reduced if the pensioned participant is the first to pass away.



It may be possible to choose another option, such as a lump-sum distribution or single-life annuity, if the spouse agrees in writing to the choice. These can be tempting, as they offer more money upfront.

It's critical that the beneficiary designations on all financial assets, such as checking, savings and investment accounts, as well as IRAs, be updated and correct.

But both carry risks. Choosing the lump-sum option means taking on the work and risk of managing the money. And, under the single-life annuity option, the monthly benefits stop when the participant in the plan passes away. Again, that can create a hardship for a surviving spouse.

Beneficiary designations

It's critical that the beneficiary designations on all financial assets, such as checking, savings and investment accounts, as well as IRAs, be updated and correct. That's because these documents typically override any provisions in your will. It's not uncommon for account holders to forget to update their beneficiary designations following a divorce to remove the ex-spouse's name and add the new spouse.

Interestingly, the rules differ with 401(k) plans. Spouses automatically receive this asset unless they waive their rights to it.

Some financial assets can be registered to transfer on death. This registration allows the assets to pass directly to the beneficiary on the death of the asset owner, without going through probate.

Dual participation

To ensure a surviving spouse doesn't face a paperwork nightmare if the first spouse dies unexpectedly, both partners should participate in managing the couple's finances. They should know how and when bills are paid, and have an idea of the typical amounts.

For those who handle accounts online, both partners should know the log-in criteria. Even if an account is in one spouse's name, the other should be aware of it and know how to cancel it.

Similarly, each partner should have information on such financial assets as checking, savings and investment accounts. This should include the financial institutions at which they're held, any log-in requirements and the balances.

Furthermore, both partners should know how to access their wills, tax returns and similar documents, as well as how to contact the couple's CPA, attorney and any other professional advisors.

Take care of each other

A little preparation now can save a surviving spouse worry and hardship during an already difficult time. Your financial advisor can help guide you through the important process of getting both parties up to speed and keeping both of you well informed about your mutual monetary interests. ◈

Close to retirement?

Then you need an exit strategy

If you own a business, your most valuable asset is likely your closely held interest in that company. And if you're nearing retirement, you need an exit strategy. The good news is that there are many options for you to consider. Here are just a few.

Find a strategic buyer

Owners nearing retirement often possess one singularly attractive trait — vast experience running the company in question. Such experience may help entice competitors, suppliers, customers or other investors to consider buying your business. In this scenario, the owner of the established business assumes a consulting role and then gradually transfers management to his or her strategic partner.

Some retiring owners eventually sell their interests. Others retain their interests in the combined entity but become silent partners or board members.

Careful selection of a strategic partner promotes business continuity and maximizes return. A strategic buyer might be willing to pay a premium over fair market value if the business interest contributes value-added synergies.

Look in-house for buyers

Before soliciting outside investors, business owners should look at existing managers and co-owners. These are potential buyers who already know how the business runs, thus

easing the transition to new ownership and minimizing the hassle of due diligence performed by an outside party.

Some management buyouts are financed via an employee stock option (ESO) program, which in some companies supplements management compensation packages. Other buyouts occur through buy-sell agreements, whereby other shareholders buy out a departing owner's interest under a formal contract.

Yet another approach is an employee stock ownership plan (ESOP) — a form of defined-contribution retirement plan in which employees become owners over time. To qualify for favorable tax treatment, ESOPs can't discriminate in favor of highly compensated employees or owners. Most ESOPs allow all full-time employees with at least one year of service to participate.

How does an ESOP work? You set up an employee benefit trust, which it funds with company stock or with cash to buy the stock. Sometimes the trust borrows money to buy it. The trust can buy stock from shareholders, thereby creating a market for their shares and thus providing them liquidity. Because qualifying contributions are a tax-deductible expense for the company, ESOPs offer many tax advantages. But they're complex and highly regulated.

Keep it in the family

If family members are qualified and willing to assume ownership of the business, they're an option, too. But good succession and estate planning is critical. So be sure to work with a qualified estate planner.

Estate planning vehicles — such as grantor retained annuity trusts (GRATs) and family limited partnerships (FLPs) — can enable owners to gift business interests at substantial discounts from the net asset values of the entity's underlying assets. These discounts arise because recipients lack control over decision-making, as well as a ready market for selling their gifted interests. The size of lack of control and marketability discounts varies depending on factors such as transfer restrictions, trust or partnership agreements, the nature of the underlying assets, and state law.

Get and stay "sale ready"

Not all business exits are planned. Owners may die, shareholders may part ways or financial failure may necessitate liquidation. Operating in a "sale-ready" state will help maximize returns should the unexpected strike.

To qualify for favorable tax treatment, ESOPs can't discriminate in favor of highly compensated employees or owners.

"Sale-ready" refers to clean, transparent business operations with assets in good working condition and minimal reliance on key people. So, put yourself in a potential buyer's shoes and evaluate what could make your business a more attractive acquisition candidate.

Gather your team

There are many ways to structure an exit strategy. To get the most bang for your buck, you'll need the right team. It's critical to involve your financial and legal advisors, as well as a qualified appraiser. They can help you get a fair price for your business. ◈

SECTION 125 CAFETERIA PLANS

Take note of recent IRS changes

If you offer employees health care coverage under a Section 125 cafeteria plan, be aware that the IRS has made some recent changes. New rules now expand an employee's ability to revoke coverage during the plan year. The rules are intended to make it easier for them to adjust coverage to better meet their needs.

Why the change?

Until this change, employees in cafeteria plans had to choose their coverage options at the beginning of the plan year. Then, they were allowed to change them only under certain circumstances. For example, one change involved employment status — going from full-time to part-time — and resulted in the employee losing eligibility for coverage under the group health plan.

2 other ways to revoke

In September 2014, the IRS identified two more circumstances under which employees can revoke their group medical coverage during the plan year:

1. The employee's expected hours of service will drop from at least 30 hours per week to less than 30 — even if he or she remains eligible for coverage under the company's group health plan. However, the employee and any relatives who will lose coverage must intend to enroll in another health care plan that provides minimum essential coverage, as required by the Affordable Care Act (ACA).

In administering the change, employers can rely on the employee's statement that he or she has enrolled or will enroll in another plan. The new coverage must be effective by the first day of the second month following the month in which the employee drops employer-sponsored coverage.

2. The employee is eligible and plans to enroll, along with any relatives who also will lose coverage, in a qualified health plan offered through a Health Insurance Marketplace established under the ACA. The employer can rely on the employee's statements that he or she either has or will enroll in such a plan. In this case, coverage must begin no later than the day immediately following the last day of the coverage that's revoked.

Plan amendments

The new rules don't *require* employers to amend their cafeteria plans to allow these changes, but they allow them to do so. Moreover, employers who decide to amend their plans must complete the process by the end of the plan year in which the elections will be allowed. Employers also need to notify plan participants of the changes.

Work with a trusted advisor

These regulations, as well as others involving health care plans, are complex. Your benefits advisor can provide guidance on the rulings and their implications for your organization's benefit plans. ◈