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# Chat Session for Financial Reporting Requirements of Foreign Assets Seminar

The text from the chat session of the online Zoom  
seminar held 25 April 2023

The presenters were:

Zhanna A. Ziering

Member, Moore Tax Law Group LLC, New York

Jay Weill

Partner, Sideman, Bancroft, San Francisco

18:14:22 From william ulrich to Everyone:

Is it too early to ask a question? This concerns double counting on FBAR and 8938 — If you transfer funds to account A (non interest bearing) then transfer it to account B (interest bearing) then the rules seem to say you add the max amount for A and B — but it's the same money and you're reporting twice the amount you've actually moved

18:15:36 From Doris L. SPEER to Everyone:

I would like to hold questions until later on. Don't worry we will get to them

18:15:38 From Karl Jauch to Everyone:

I am a retired US citizen living in France. I receive a pension from a Swiss cantonal pension fund, a defined-benefit plan. I declare this fund on Form 8938 (FATCA) under Part VI. Line 36b on this form asks for "Type of issuer or

counterparty" and offers five boxes: Individual, Partnership, Corporation, Trust, or Estate. Which box do I check? If I check Trust, do I have to fill out a separate form for Trusts?

18:24:51 From Mark to Everyone:

I am the president of a non-profit association (club) which has about 5K€ in a bank account. Do I have to report this account on my FBAR report?

18:32:29 From william ulrich to Everyone:

thanks, good answer. New question: "interest" in a/c. Suppose spouse has account in his/her name, no power of attorney, no signature authority, but you live under community property law. You don't really know what would count as private assets and community assets. Do you have to file for all of them?

18:33:04 From william ulrich to Everyone:

Yeah, but what about community property law?

18:45:13 From Jeff Johnson to Everyone:

For the gift threshold of \$100K re: 3520 filing, is it clear what exchange rate should be used? eg, average annual rate, year-end, day of?...

18:46:53 From Zhanna Ziering to Everyone:

I am a retired US citizen living in France. I receive a pension from a Swiss cantonal pension fund, a defined-benefit plan. I declare this fund on Form 8938 (FATCA) under Part VI. Line 36b on this form asks for "Type of issuer or counterparty" and offers five boxes: Individual, Partnership, Corporation, Trust, or Estate. Which box do I check? If I check Trust, do I have to fill out a separate form for Trusts?

18:47:20 From Zhanna Ziering to Everyone:

My apologies but to answer this question a lot more information is needed.

18:48:00 From Karl Jauch to Everyone:

What sort of information is needed?

18:48:10 From Zhanna Ziering to Everyone:

Replying to "I am a retired US ci..."

I am sorry but to answer this question, a lot more information is required

18:49:01 From Zhanna Ziering to Everyone:

Replying to "Is it too early to a..."

I hope my response answered your question

18:50:45 From Karl Jauch to Everyone:

Replying to "I am a retired US ci..."

In general, is a defined-benefit plan reportable on Form 8938?

18:51:26 From william ulrich to Everyone:

Replying to "Is it too early to a..."

Yes, thank you. But new question: After x number of years of residence in France we come under the default marriage regime of community property — so my wife has accounts, I do not have a POA and I do not have signature authority. But we live under community property — I have no idea how I would incorporate this into any FBAR reporting

18:52:45 From Zhanna Ziering to Everyone:

Replying to "I am the president o..."

Do you have signature authority or other authority over the account? Please review the FBAR guide available at FinCEN. chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.fincen.gov/sites/default/files/shared/FBAR%20Line%20Item%20Filing%20Instructions.pdf if so, please use the guide to determine if the account value trips up the filing threshold?

18:53:18 From Zhanna Ziering to Everyone:

Replying to "I am the president o..."

<https://www.fincen.gov/sites/default/files/shared/FBAR%20Line%20Item%20Filing%20Instructions.pdf>

18:54:00 From Zhanna Ziering to Everyone:

Replying to "I am the president o..."

If you determine that you do, please use the instructions to determine if the account exceeds the threshold

18:54:23 From Mark to Everyone:

Replying to "I am the president o..."

OK. Thanks

18:55:40 From Zhanna Ziering to Everyone:

Replying to "thanks, good answer...."

This is a very complicated question that we grapple with all the time. Golden rule for me is when the issue is current compliance, if in doubt, report.

18:57:46 From william ulrich to Everyone:

Replying to "thanks, good answer...."

Wow. But then when I die the US can't claim that her assets (or her "half") are part of my estate, right?

18:58:50 From Zhanna Ziering to Everyone:

Replying to "For the gift thresho..."

There are more flexibility here then in the FBAR rules. General rule is date of gift, but it could be date of receipt, end year, quarterly, as long as it is reasonable approach

19:01:51 From Zhanna Ziering to Everyone:

Replying to "I am a retired US ci..."

More information about the fund to determine correct relationship to be reported. Generally a pension plan interest may be reportable

19:03:33 From Zhanna Ziering to Everyone:

Replying to "I am a retired US ci..."

Please see the form instructions

19:03:53 From Zhanna Ziering to Everyone:

Replying to "I am a retired US ci..."

<https://www.irs.gov/pub/irs-pdf/i8938.pdf>

19:21:22 From paulatkinson to Everyone:

How much was Bittner's tax evasion?

19:35:44 From Stephanie COOK to Everyone:

Replying to "I am a retired US ci..."

Thank you!!!

19:35:57 From Mark to Everyone:

Very interesting. Thank-you very much

19:37:33 From peggy's iphone to Everyone:

How to find a professional specialized in US-France laws to advise and prevent problems?

19:39:24 From peggy's iphone to Everyone:

Thank you!

19:42:41 From Jim Bullock to Everyone:  
Thank you !