Public Comments for ICR 202403-1506-001

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Comments Received :

I have been living abroad since 1993. As a compliant US citizen abroad with limited financial means, I do my own FBAR reporting, but pay a CPA to prepare my taxes (all but two years of that time have seen zero taxes due). In light of several recent court cases regarding FBAR filing and penalties, filing an FBAR on my own has become a source of anxiety completely disproportionate to the modest sums declared. Given that the minimum $10,000 penalty is completely uncorrelated to amounts declared, a simple and honest mistake might mean the difference of being able to pay university fees for one of my kids or not.

Trying to determine highest account balances is nearly impossible, as monthly statements do not show this information. Statements often show balances for beginning and months end. Amounts are constantly shifting over the month: salary comes in, transfers are made between accounts (which require double reporting in some cases), rent, taxes and school fees go out, etc. Trying to calculate the highest balance is a time-consuming, hair-pulling exercise.

FinCEN estimates that the approximate FBAR reporting burden will vary depending on the number of reportable financial accounts, and will range from approximately 20 minutes to 90 minutes. I would invite members of the House and government employees to prepare a “mock” FBAR based on their domestic accounts (because FBAR reportable accounts for an American abroad are just that: domestic accounts necessary to function in society). I would be surprised if anyone were able to finish it in under 90 minutes. FBAR reporting for myself is a two day process, perhaps 6 hours in total, for a total of 14 financial accounts. The first day is spent researching: noting balances, accounts opened, accounts closed etc. The second day the sums are converted into dollars and then entered into the FBAR form. My hands are usually trembling when I hit the “submit” button: for fear of rejection, for fear of a potential error. I am 54 years old and wonder how older taxpayers, many of whom lack the technical skills, manage to file an FBAR. My guess is that they have no choice but to pay for this service. And even then, it may be approximative at best.

Americans such as myself should be exempt from FBAR reporting. We need bank accounts to function in our resident countries. Our bank accounts are already subject to FATCA reporting and anyone with significant wealth would be filing form 8938 along with their federal return. Government resources would be better spent looking for actual tax-evaders, who are likely not filing at all.

Additionally, it is unfair that the $10,000 filing threshold has not been revised since it was put in place in 1970. It is overdue for an update to at the very least be indexed to inflation, which would be $79,000 for 2024.

In short, FBAR reporting results in unfair and highly discriminatory treatment towards Americans abroad. The mere fact that we must report to FinCEN (Financial Crimes Enforcement Network) implies that we are guilty until we can prove ourselves innocent. Psychologically, it is difficult to remain a proud American when you feel so undervalued.

Archaic FBAR reporting must be abolished for Americans abroad. It is untenable in its current state. I would encourage the Department of Treasury to work with Congress to bring the US into line with the entire rest of the world in the way it taxes its expats.