

Mr. Gerald Shields
IRS, Washington, DC

OMB# 1545-2195

4137 Oxford Ave
Montreal, QC, Canada H4A 2Y5
Nov. 30, 2010

Dear Mr. Shields,

This letter is in response to the IRS request for comments on the proposed draft of Form 8938, *Statement of Foreign Financial Assets*.

I am a college physics teacher. My wife and I are US citizens who have lived and worked in Canada for over forty years. We have scrupulously complied with the increasingly onerous US tax reporting and filing requirements, including the new FBAR forms, Forms 8891, etc. Since our assets in Canada exceed \$50,000, we will now have to complete the new Form 8938.

As I'm sure you realize, Form 8938 is largely (though not entirely) a duplication of the FBAR form. Moreover, 8938 asks for essentially the same information as Form 8891 (relating to Canadian retirement plans, and already redundant with FBAR), and there is much overlap with Form 3520 (foreign trusts). I am beginning to wonder if Congress and the IRS mean to smother overseas Americans with so much paperwork that they will either have to return to the US, or give up their citizenship. To quote one lawyer's reaction, "Redundancy redundancy is is good good". In this light, it is astonishing to see so much additional redundancy within Form 8938 itself.

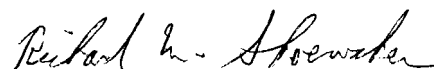
Specifically:

- a) Part A refers to "financial assets", but also to "financial accounts". What about securities accounts? These accounts may contain foreign stocks and bonds. Are we to report the accounts, and then report as well the assets within those accounts? And that's just in Part A. Part B asks for a list of separate stocks and bonds. If these are contained within the accounts reported in Part A, must they be listed again in Part B?
- b) In part C, what exactly is an "other instrument, contract or interest"? I trust that clear instructions are forthcoming. And in Part D, an "interest in a foreign entity" could, it seems to me, include everything already reported in Parts A, B and C! Are we to report these all a second or third time?

The FATCA law is a perfect example of unintended consequences. It's supposed to crack down on tax cheats, but I suspect most of those cheats are far too smart to be caught. The real burden of the law will fall on the millions of honest Americans who live and work overseas, and who have foreign accounts and assets as an ordinary part of their daily lives. I see no evidence that IRS understands their problems, nor that it is making any effort to alleviate their outsized paperwork burden.

Specific recommendations:

- 1) Get rid of the FBAR, Form 8891 and possibly also Form 3520, and fold them into Form 8938. Form 8938 could have extra schedules, to be used by those having unusual or complex assets.
- 2) Get rid of the confusion and redundancy within Form 8938 by writing clear and simple instructions.
- 3) Bring in regulations that significantly reduce the filing burden for those Americans who live abroad, and who have accounts in the foreign countries where they reside. There could be a requirement of residence for some specified number of years before filing relief kicks in. Plainly, there is little likelihood that such accounts would have been set up to evade taxes.



Richard M. Shoemaker