

SMITH CARMICHAEL CONSULTING

MEMORANDUM

Date: December 27, 2010
To: Mr. Gerald Shields
From: Gregory Smith

Dear Mr. Shields,

As requested, please find below comments on the draft Form 8938.

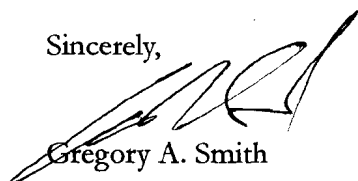
1. The form has a lot of potential for identity theft if put in the wrong hands - **Suggestion - only report the last 4 digits of the bank account number.**
2. Part B - Are you saying to report an inventory of all stocks held in foreign brokerage accounts? If so, this would cause undue hardship in the amount of time it would take to gather this information and report it on this form, whereas the maximum value amounts would all ready presumably be reported in Part A. **Suggestion - Remove Part B**
3. The \$50,000 threshold is too low and would require far too much work for too many taxpayers not to mention the resources required by the IRS to administrate the forms. Raising the threshold would reduce the burden on the taxpayer and the IRS without any material loss in benefit or information. **Suggestion - Increase the \$50,000 aggregate value to something more material e.g. \$500,000.**
4. Since all of this information can be obtained by the IRS through diplomatic channels with countries that have signed bi-lateral income tax treaties, the form should only need to be completed for financial accounts in jurisdictions that have not signed a bi-lateral income tax treaty. **Suggestion - eliminate the requirement of filing this form if all bank accounts are held in the taxpayers country of residence and the resident country has entered into a bi-lateral treaty arrangement for the sharing of information.**
5. Reporting the maximum value in each account represents an inordinate amount of research time for the taxpayer with no real value to the number reported, since the maximum value during the year could include transfers from various accounts. **Suggestion - to replace the maximum value with thresholds of maximum value. For example check the box: \$500,000 - \$1,000,000 - \$1,000,000 - \$1,500,000 over \$2,000,000 etc**

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6. The redundancy in the questions on the form is shocking. Nearly every question on the form is a duplicate to a question or information already required to be filed by a taxpayer. **Suggestion - Eliminate the FBAR (TD F 90-22.1) form and let this form replace it since it will be part of the tax return with presumably the same due date as the tax return which will allow tax preparers to help clients report accurate information in a timely manner. Remove Part D since this is already required on Forms 5471 and Forms 8865.**

Please feel free to contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Gregory A. Smith', is written over the printed name.

Gregory A. Smith