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24 December 2010

Gerald Shields IRS  
Room 6129  
111 Constitution Ave NW  
Washington DC 20224

Dear Mr. Shields,

I am writing to comment on the proposed form 8938, "Statement of Foreign Financial Assets". I have downloaded a copy of it.

I do not believe the collection of information in this detail will be necessary for you to find out about taxpayers' foreign assets. You already have a form collecting this information, 90-22-1. That form, although not going into detail that is asked for in the proposed 8938, provides the Agency with almost everything it needs to find out more about foreign assets of a taxpayer. As I will describe below, there is a real problem in asking for the detail you are proposing to ask for.

Your estimate of the burden of collection of information on the respondents is extremely low. The detail requested in section B of stock or security issued by non-US persons alone would take hours, especially if the respondents had to delve into retirement funds to find out what securities were in there. Imagine all the different holders of a large company like BP would have to go through! The same goes for your section C, which could take hours to find out about and list leases, financing of automobiles, and other simple financial instruments.

To maintain the efficiency you are seeking, I recommend deleting the entire sections B and C from the proposed form.

As for the intent of section D, "Schedule of any interest in a foreign entity", there must be a better wording for this. The same problem with holders of BP stock I alluded to above arises. What you probably mean is "controlling interest" in a foreign entity. Then you have to describe what controlling interest means in the instructions.

In conclusion, I do not think the form as you have proposed it will accomplish what you are trying to do. On the contrary, it will submerge your agency in a mountain of forms and data for the millions of Americans (not hundreds of thousands, as was erroneously reported) holding such assets, cause the taxpayers millions of hours of extra work – all of which could have been avoided by simply enhancing the existing data collection form 90-22-1.

Yours truly,

D. Hugh Rosenbaum, SS number [REDACTED]

*D. Hugh Rosenbaum*