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Beware Longer IRS Statute Of Limitations On Foreign Accounts

If you thought the huge flap over the 6 year IRS statute was over when the Supreme Court decided _Home Concrete_, think again. See HUGE Taxpayer Win: Supreme Court Tells IRS 3 Years To Audit Is PLENTY! First, remember that omissions of 25% or more of your gross income still trigger the 6 years statute. Also, recall that the statute in criminal tax cases is generally 6 years. And the civil statute of limitations on Report of Foreign Bank and Financial

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Accounts (FBAR) missteps is also 6 years. See IRS Undeclared Foreign Bank Accounts, Trusts, Corporations, Oversease Income And The FBAR Penalties.

But like an infomercial, wait, there's more! In 2010, the tax code was amended so an omission of more than $5,000 in gross income from "specified foreign financial assets" extends the IRS time to 6 years. The law is clear that the 6 year statute applies even if you duly filed and disclosed under the Foreign Account Tax Compliance Act (FATCA). See FBARs & FATCA Form 8938: Maddening Duplication? What if instead of failing to report foreign income, you fail to furnish FATCA information?

The IRS statute of limitations stays open until you do. Could that be 10 years? Yes. See IRS Memo: Obtaining Tax Accrual Workpapers Related

[to Abusive Tax Avoidance Transactions](#). Here are examples of cases in which the IRS will get extra time.

In each example, assume the taxpayer failed to report $6,000 of taxable interest earned on a foreign account.

Example 1: Abe filed his 2006 federal income tax return on or before April 15, 2007. Since the 3 year statute of limitations had not expired on March 18, 2010 when FATCA was passed, the IRS can audit until April 15, 2013.

Example 2: Betty timely filed her 2005 federal income tax return by April 15, 2006. Unless the statute of limitations remains open on March 18, 2010, under some other exception, the IRS doesn't get an extra 3 years.

Example 3: Clive filed his 2005 federal income tax return by April 15, 2006. On December 31, 2008, Clive consents to extend the statute until April 15, 2010. Since that extended statute was open when FATCA passed on March 18, 2010, the IRS get until April 15, 2012 to audit.

Example 4: Deborah late-filed her 2005 Form 1040 on December 1, 2007. Since the 3 year statute of limitations had not expired when FATCA passed on March 18, 2010, the IRS has until December 1, 2013.

Example 5: Eddie late-filed his 2005 Form 1040 on December 1, 2006. Since the 3 year statute had already expired before FATCA was passed on March 18, 2010, the 6 year statute does not apply, unless some *other* exception to the 3 year statute applies.

Example 6: Fern filed her 2005 Form 1040 by April 15, 2006. Unfortunately, Fern omitted more than 25 percent of her income, more than $5,000 of which was attributable to a foreign financial asset. Because the statute is 6 years from filing for both the "more-than-25-percent omission" and the "omission of more than $5,000 of income attributable to a foreign financial asset," the statute expires April 15, 2012.

For more, see:

[10 IRS Rules for Stress-Free Foreign Accounts](#)

[Five More Tips For Amending Tax Returns](#)

[IRS Form 8938 Or FBAR?](#)

[More On IRS Form 8938 vs. FBAR](#)

[Is Closing Foreign Bank Accounts An Alternative To Disclosure?](#)

[Should You Grant IRS More Audit Time?](#)

[Are Irish Eyes Smiling On FATCA?](#)

[FATCA Makes Banks Shut Out Americans](#)

[Despite FATCA, FBAR Penalties Still Under Fire](#)

[Dual Citizens Worry: Will Israel Get A Special FATCA Deal?](#)

[Even The IRS Has Time Limits](#)

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