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IRS Gives Big Tax Reporting Break To Foreign Trusts

Americans know all too well that the IRS has a global reach, one that brought down Swiss banking and led to FATCA's worldwide massive disclosure web. Foreign income, offshore accounts, companies and assets all carry IRS disclosure obligations, and the IRS takes these filings *very* seriously. There are FBARs for offshore bank accounts, FATCA forms to file for foreign assets, Forms 5471 for interests in foreign companies, and more. And the penalties for even technical infractions can be enormous if you mess up. Typically there's one level of penalty if you can show you were just ignorant but not willful. But the penalties can be much worse if you acted in ways that look *willful* to the IRS.

There are special rules for foreign trusts, too, and even more forms to file. In some cases, the filing requirements and the costs of missteps can make you want to avoid the entire situation. With the IRS, anything offshore can involve big penalties. It seems particularly aggravating that many legitimate foreign pension and retirement plans and trusts are caught within the same rules, even perfectly legitimate programs you may have participated in while you were working overseas.

That's why a recent IRS reprieve should come as particularly welcome news. In a new piece of IRS guidance, eligible U.S. citizens and residents are being exempted from reporting requirements for owning or transferring money to tax-favored foreign retirement trusts. The big reprieve is outlined in IRS Revenue Procedure 2020-17, which exempts from the foreign trust information reporting requirements certain U.S. individuals' transactions with, and ownership of, certain tax-favored foreign trusts. It applies only to trusts that are established and operated exclusively or almost exclusively to provide pension or retirement benefits, or to provide medical, disability, or educational benefits. Considering how many innocent taxpayers have been caught by these messy reporting issues in the past, this is a huge piece of relief for a situation the IRS is right to correct.

In fact, the IRS even tells impacted taxpayers how to get back IRS penalties they may have paid in the past. If the penalties have been assessed by the IRS but the taxpayer has not yet paid them, there's a way to ask for those penalties to be abated too. The IRS recognizes that many innocent taxpayers have faced the automatic and harsh application of penalties, but it's time for a new day. The bottom line is that the IRS now sees these foreign retirement and similar trusts quite differently than *other* foreign trusts. The IRS says that tax-favored foreign trusts are generally subject to written restrictions, such as contribution limitations, conditions for withdrawal, and information reporting, which are imposed under the laws of the country in which the trust is established.

Moreover, because U.S. individuals with an interest in these trusts may be required to separately report information about their interests in accounts held by, or through, these trusts, it would be appropriate to exempt U.S. individuals from burdensome trust reporting requirements. Taxpayers who are impacted by these rules should check out IRS Revenue Procedure 2020-17.

Check out my website.