


**FATCA**  
Foreign Account Tax Compliance Act

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**What Does FATCA Do?**

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- The provisions commonly known as the Foreign Account Tax Compliance Act (FATCA) became law in March 2010
  - FATCA targets tax non-compliance by U.S. taxpayers with foreign accounts
  - FATCA focuses on reporting:
    - By U.S. taxpayers about certain foreign financial accounts and offshore assets
    - By foreign financial institutions about financial accounts held by U.S. taxpayers or foreign entities in which U.S. taxpayers hold a substantial ownership interest
- The objective of FATCA is the reporting of foreign financial assets; withholding is the cost of not reporting (applies to bank and taxpayer)

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**Three Prong Effort**

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- U.S. individual taxpayers must report information about certain foreign financial accounts and offshore assets on Form 8938 and attach it to their income tax return, if the total asset value exceeds the appropriate reporting threshold
- To avoid being withheld upon, a foreign financial institution may register with the IRS, obtain a Global Intermediary Identification Number (GIIN) and report certain information on U.S. accounts to the IRS
- If a jurisdiction enters into an Intergovernmental Agreement (IGA) to implement FATCA, the reporting and other compliance burdens on the financial institutions in the jurisdiction may be simplified
- Such financial institutions will not be subject to withholding under FATCA

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## FATCA Foreign Financial Institution Registration

Financial Institutions can register using this online FATCA Registration Tool.

<b>1</b>	<b>2</b>	<b>3</b>
<b>What is it?</b>	<b>What does it do?</b>	<b>How do I register?</b>
The FATCA Registration tool is a secure, web-based system that Financial Institutions (FI) can use to register under FATCA. See the <a href="#">FATCA Registration User Guide</a> for instructions on how to register online.	It establishes an online account with a home page and issues Global Intermediary Identification Numbers (GIINs) to FIs and their branches. See the <a href="#">GIIN Composition document</a> for an explanation of this 19-character number.	Use the tool now! <a href="#">Register or Login</a> >
<b>What happens next?</b> A registered and compliant Financial Institution that has been issued a global intermediary identification number (GIIN) will appear on a monthly published IRS FFI list. For an overview of the FFI List and how to access it, please see <a href="#">About the FATCA FFI List Search and Download Tool</a> . To learn more about the FFI List and coordination, including withholding and FATCA registration, please see information on <a href="#">FATCA compliance</a> .		

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## International Data Exchange Service

International Data Exchange Service

The International Data Exchange Service (IDES) is an electronic delivery point where Financial Institutions (FI) and Host Country Tax Authorities (HCTA) can transmit and exchange FATCA data with the United States.

<b>1</b>	<b>2</b>	<b>3</b>
<b>What is it?</b>	<b>What does it do?</b>	<b>How can I learn more?</b>
A secure web application for FIs and HCTAs to transmit FATCA data directly to the IRS. The data is in a standard XML schema format and captures the FATCA Report information. Download the schema at: <a href="#">Intergovernmental FATCA XML Schema</a>	It transmits data securely. The sender encrypts the data and IDES encrypts the transmission pathway to protect your transfers. It runs in all major browsers, including Chrome, Internet Explorer, Safari, and Firefox. You can also do bulk data transfers via SFTP.	Find out how to create an online account using the IDES Enrollment Site. <a href="#">Begin Enrollment</a> >

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## FATCA FFI List Search and Download Tool

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**FFI List**

- Under the Foreign Account Tax Compliance Act (FATCA), withholding agents must withhold tax on certain payments to foreign financial institutions (FFIs) that do not agree to report certain information to the IRS about their U.S. accounts or accounts of certain foreign entities with substantial U.S. owners
- A registered FFI to which IRS has issued a global intermediary identification number (GIIN) will appear on a monthly published FFI list
- What are the FFI List Search and Download Tool's Capabilities?
  - Enables the public to create and download a partial list of FFIs or to download the entire list in CSV and XML formats. No login or password is required to use this Tool
  - An updated FFI List is posted on the first day of each month, and will only include FFIs and branches approved 5 business days prior to the first day of the month

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**Form 8938**

- U.S. citizens, U.S. individual residents, and a very limited number of nonresident individuals who own certain foreign financial accounts or other offshore assets (specified foreign financial assets) must report those assets using Form 8938
- Form 8938 must be attached to the annual income tax return (usually Form 1040)
- Taxpayers with a total value of specified foreign financial assets below a certain threshold do not have to file Form 8938

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**Special rules for Resident Aliens**

- You are a resident alien if you are treated as a resident alien for U.S. tax purposes under the green card test or the substantial presence test
- If they qualify as a resident alien under either rule, you are a specified individual even if you
- elect to be taxed as a resident of a foreign country under the provisions of a U.S. income tax treaty

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Form 8938
<ul style="list-style-type: none"><li>• The threshold is higher for individuals who live outside the United States</li><li>• Thresholds are different for married and single taxpayers</li><li>• Taxpayers who do not have to file an income tax return for the tax year do not have to file Form 8938, regardless of the value of their specified foreign financial assets</li><li>• Penalties apply for failure to file accurately</li></ul>

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Specified Domestic Entity
<ul style="list-style-type: none"><li>• The IRS anticipates issuing regulations that will require a domestic entity to file Form 8938 if the entity is formed or availed of to hold specified foreign financial assets and the value of those assets exceeds the appropriate reporting threshold</li><li>• Until the IRS issues such regulations, only individuals must file Form 8938</li></ul>

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Who must File?
<ul style="list-style-type: none"><li>• Unless an exception applies, your client must file Form 8938 if they are a specified individual that has an interest in specified foreign financial assets and the value of those assets is more than the applicable reporting threshold</li><li>• If they are required to file Form 8938, they must report the specified foreign financial assets in which they have an interest even if none of the assets affects their tax liability for the year</li><li>• If they do not have to file an income tax return for the tax year, no Form 8938 is required to be filed, even if the value of your specified foreign financial assets is more than the appropriate reporting threshold</li></ul>

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**More About Who Must File?**

- This FATCA requirement is in addition to the long-standing requirement to report foreign financial accounts on FinCEN Form 114, Report of Foreign Bank and Financial Accounts (FBAR) (formerly TD F 90-22.1)
- FATCA will also require certain foreign financial institutions to report directly to the IRS information about financial accounts held by U.S. taxpayers or by foreign entities in which U.S. taxpayers hold a substantial ownership interest
- The reporting institutions will include not only banks, but also other financial institutions, such as investment entities, brokers, and certain insurance companies
- Some non-financial foreign entities will also have to report certain of their U.S. owners

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**More About Who Must File?**

- If the client sets up a new account with a foreign financial institution, the institution may ask the client for information about their citizenship
- FATCA provides special reporting requirements about the U.S. account holders of certain financial institutions that do not solicit business outside their country of organization and that mainly service account holders resident within it
- In order to qualify for this favorable treatment, however, the local foreign financial institution cannot discriminate by declining to open or maintain accounts for U.S. citizens who reside in the country where it is organized

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**Taxpayers, Where are they Living?**

- Reporting thresholds vary based on whether the client files a joint income tax return or lives abroad
- You are considered to live abroad if you are a U.S. citizen whose tax home is in a foreign country and you have been present in a foreign country or countries for at least 330 days out of a consecutive 12-month period

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### Taxpayers Living in the United States

- The client is unmarried and the total value of their specified foreign financial assets is more than \$50,000 on the last day of the tax year or more than \$75,000 at any time during the tax year
- The clients are married filing a joint income tax return and the total value of their specified foreign financial assets is more than \$100,000 on the last day of the tax year or more than \$150,000 at any time during the tax year.
- The client is married filing separate income tax returns and the total value of their specified foreign financial assets is more than \$50,000 on the last day of the tax year or more than \$75,000 at any time during the tax year
  - For purposes of calculating the value of your specified foreign financial assets in applying this threshold, include one-half the value of any specified foreign financial asset jointly owned with your spouse
- However, report the entire value on Form 8938 if you are required to file Form 8938.

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### Taxpayers Living Abroad

- The client must file a Form 8938 if they are required to file an income tax return :
  - If the clients are married filing a joint income tax return and the total value of their specified foreign financial assets is more than \$400,000 on the last day of the tax year or more than \$600,000 at any time during the year
- These thresholds apply even if only one spouse resides abroad
- Married individuals who file a joint income tax return for the tax year will file a single Form 8938 that reports all of the specified foreign financial assets in which either spouse has an interest
- If the client is not a married person filing a joint income tax return and the total value of their specified foreign financial assets is more than \$200,000 on the last day of the tax year or more than \$300,000 at any time during the year

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### Execptions

- If the client does not have a filing requirement for the year, then they do not have to file Form 8938, regardless of the value of the specified foreign financial assets
- Also, if the client reports interests in foreign entities and certain foreign gifts on other forms, just list the submitted forms on Form 8938, without repeating the details

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### Other Exceptions

- If you reported specified foreign financial assets on other forms, you do not have to report them a second time on Form 8938
- These include interests in:
  - Trusts and foreign gifts reported on Form 3520 or Form 3520-A (filed by the trust);
  - Foreign corporations reported on Form 5471;
  - Passive foreign investment companies reported on Form 8621;
  - Foreign partnerships reported on Form 8865; and
  - Registered Canadian retirement savings plans reported on Form 8891.
- The value of the foreign financial assets reported on these forms is included in determining the total value of assets for the reporting threshold, but you do not have to list the assets on Form 8938
- In this situation, identify on Form 8938 which and how many of these form(s) report the specified foreign financial assets.

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### What About Other Entities?

- As of January 2013, only individuals are required to report their foreign financial assets
- At a later time, a limited set of U.S. domestic entities also may have to report their foreign financial assets, but not for tax years starting before 2013
- You may have to complete and file other reports about foreign assets, such as FinCEN Form 114, Report of Foreign Bank and Financial Accounts (FBAR) (formerly TD F 90-22.1), in addition to Form 8938

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### What is Considered an Interest in a Foreign Account?

- Savings deposits, checking, and brokerage accounts held with a bank or broker-dealer and, to the extent held for investment and not held in a financial account, must report stock or securities issued by someone who is not a U.S. person, any other interest in a foreign entity, and any financial instrument or contract held for investment with an issuer or counterparty that is not a U.S. person
- Examples of these assets that must be reported if not held in an account include:
  - A note, bond or debenture issued by a foreign person;
  - An interest rate swap, currency swap, basis swap, interest rate cap, interest rate floor, commodity swap, equity swap, equity index swap, credit default swap or similar agreement with a foreign counterparty;
  - An option or other derivative instrument with respect to any of these examples or with respect to any currency or commodity that is entered into with a foreign counterparty or issuer;
  - A partnership interest in a foreign partnership;
  - An interest in a foreign retirement plan or deferred compensation plan;
  - An interest in a foreign estate;
  - Any interest in a foreign-issued insurance contract or annuity with a cash-surrender value.

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**Types of Foreign Assets that are Reportable on Form 8938**

- Financial (deposit and custodial) accounts held at foreign financial institutions
- Foreign stock or securities not held in a financial account and issued by a foreign entity
- Foreign partnership interests
- Foreign mutual funds
- Foreign accounts and foreign non-account investment assets held by foreign or domestic grantor trust for which you are the grantor
- Foreign-issued life insurance or annuity contract with a cash-value
- Foreign hedge funds and foreign private equity funds

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**Specified Foreign Financial Assets**

- Stock or securities issued by someone that is not a U.S. person,
- Any interest in a foreign entity,
- Any financial instrument or contract that has an issuer or counterparty that is not a U.S. person

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**Types of Foreign Assets and Whether They are Reportable on Form 8938**

Types of Foreign Assets and Whether They are Reportable on Form 8938	
Financial (deposit and custodial) accounts held at foreign financial institutions	Yes
Financial account held at a foreign branch of a U.S. financial institution	No
Financial account held at a U.S. branch of a foreign financial institution	No
Foreign financial account or asset for which you have signature authority	No, unless any income, gains, losses, deductions, credits, gross proceeds, or distributions from holding or disposing of the account or asset are or would be required to be reported, included, or otherwise reflected on your income tax return
Foreign stock or securities held in a financial account at a foreign financial institution	The account itself is subject to reporting, but the contents of the account do not have to be separately reported
Foreign stock or securities not held in a financial account	Yes
Foreign partnership interests	Yes
Indirect interests in foreign financial assets through an entity	No
Foreign mutual funds	Yes
Domestic mutual fund investing in foreign stocks and securities	No

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Foreign accounts and foreign non-account investment assets held by foreign or domestic grantor trust for which you are the grantor	Yes, as to both foreign accounts and foreign non-account investment assets
Foreign-issued life insurance or annuity contract with a cash-value	Yes
Foreign hedge funds and foreign private equity funds	Yes
Foreign real estate held directly	No
Foreign real estate held through a foreign entity	No, but the foreign entity itself is a specified foreign financial asset and its maximum value includes the value of the real estate
Foreign currency held directly	No
Precious Metals held directly	No
Personal property, held directly, such as art, antiques, jewelry, cars and other collectibles	No
'Social Security'-type program benefits provided by a foreign government	No

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**Comparison Chart**

- <http://www.irs.gov/Businesses/Comparison-of-Form-8938-and-FBAR-Requirements>

	Form 8938, Statement of Specified Foreign Financial Assets	FinCEN Form 114, Report of Foreign Bank and Financial Accounts (FBAR)
Who Must File?	Specified individuals, which include U.S. citizens, resident aliens, and certain non-resident aliens that have an interest in specified foreign financial assets and meet the reporting threshold	U.S. persons, which include U.S. citizens, resident aliens, trusts, estates, and domestic entities that have an interest in foreign financial accounts and meet the reporting threshold

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**Foreign Social Security**

- An interest in a social security, social insurance, or other similar program of a foreign government is not a specified foreign financial asset

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**Asset Valuation**

- You will need to determine the value of the specified foreign financial assets to know if the total value exceeds the threshold applicable
- Generally, a reasonable estimate of the highest fair market value of the asset during the tax year is reported, but special rules apply to ease valuation burdens
  - For reporting purposes, you may rely on periodic financial account statements (provided at least annually) to determine the maximum value of a financial account
  - For a specified foreign financial asset that is not held in a financial account, you may rely on the year-end value of the asset if it reasonably approximates the maximum value of the asset during the tax year
  - Special rules also apply for reporting the maximum value of an interest in a foreign trust, a foreign retirement plan, or a foreign estate.

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**Asset Valuation**

- You may determine the fair market value of a specified foreign financial asset based on information publicly available from reliable financial information sources or from other verifiable sources
- Even if there is no information from reliable financial information sources regarding the fair market value of a reported asset, a reasonable estimate of the fair market value will be sufficient for reporting purposes
- For assets denominated in a currency other than U.S. dollars, use the U.S. Treasury Department's Financial Management Service foreign currency exchange rate to convert the denomination into U.S. dollars
- If no U.S. Treasury Financial Management Service foreign currency exchange rate is available for a particular currency, use another publicly available foreign currency exchange rate to convert the value of a specified foreign financial asset into U.S. dollars
- The exchange rate is determined by reference to the exchange rate on the last day of your tax year

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**Types of Foreign Assets that are Not Reportable on Form 8938**

- A financial account that is maintained by a U.S. payer, such as a domestic financial institution
- In general, a U.S. payer also includes a domestic branch of a foreign bank or foreign insurance company and a foreign branch or foreign subsidiary of a U.S. financial institution.
- Examples of financial accounts maintained by U.S. financial institutions include:
  - U.S. mutual funds accounts;
  - IRAs (traditional or Roth);
  - Section 401(k) retirement accounts;
  - Qualified U.S. retirement plans;
  - Brokerage accounts maintained by U.S. financial institutions

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**Types of Foreign Assets that are Not Reportable on Form 8938**

- A financial account that is maintained by a dealer or trader in securities or commodities if all of the holdings in the account are subject to the mark-to-market accounting rules or dealers in securities or an election under section 475(e) or (f) is made for all of the holdings in the account

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**What is Reported?**

- Maximum value of specified foreign financial assets, which include financial accounts with foreign financial institutions and certain other foreign non-account investment assets

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**How are maximum account or asset values determined and reported?**

- Fair market value in U.S. dollars in accord with the Form 8938 instructions for each account and asset reported
- Convert to U.S. dollars using the end of the taxable year exchange rate and report in U.S. dollars

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When Due?
<ul style="list-style-type: none"><li>• By due date, including extension, if any, for income tax return</li></ul>

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Where to File?
<ul style="list-style-type: none"><li>• File with income tax return pursuant to instructions for filing the return</li></ul>

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Penalties
<ul style="list-style-type: none"><li>• Up to \$10,000 for failure to disclose and an additional \$10,000 for each 30 days of non-filing after IRS notice of a failure to disclose, for a potential maximum penalty of \$60,000; criminal penalties may also apply</li></ul>

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**Example 1**

- Your client is not married and does not live abroad
- An unrelated U.S. resident and the client jointly own a specified foreign financial asset valued at \$60,000
- Each have to file Form 8938
- Each satisfy the reporting threshold of more than \$50,000 on the last day of the tax year

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**Example 2**

- The client is not married and does not live abroad
- They own an entity disregarded for tax purposes, which owns one specified foreign financial asset valued at \$30,000
- In addition, they own a specified foreign financial asset valued at \$25,000
- They have to file Form 8938
- They own both the specified foreign financial asset owned by the disregarded entity and the specified foreign financial asset they own directly, for a total value of \$55,000
- They satisfy the reporting threshold of more than \$50,000 on the last day of the tax year

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**Example 4**

- Your clients do not live abroad, file separate income tax returns, and jointly own a specified foreign financial asset valued at \$60,000 for the entire year
- Neither have to file Form 8938
- They each use one-half of the value of the asset, \$30,000, to determine the total value of specified foreign financial assets that each own
- Neither of them satisfies the reporting threshold of more than \$50,000 on the last day of the tax year or more than \$75,000 at any time during the tax year

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### Example 3

- Your clients do not live abroad and file a joint income tax return
- They jointly own a single specified foreign financial asset valued at \$60,000
- They do not have to file Form 8938
- You do not satisfy the reporting threshold of more than \$100,000 on the last day of the tax year or more than \$150,000 at any time during the year

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### Example 4

- Your clients are U.S. citizens but live abroad for the entire tax year and file a joint income tax return
- The total value of their combined specified foreign financial assets on any day of the tax year is \$150,000
- The couple do not have to file Form 8938
- You do not satisfy the reporting threshold of more than \$400,000 on the last day of the tax year or more than \$600,000 at any time during the tax year for married individuals who live abroad and file a joint income tax

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### Example 5

- The clients file separate income tax returns, and jointly and individually own specified foreign financial assets, and do not live abroad
- On the last day of the tax year, the couple jointly own a specified foreign financial asset with a value of \$90,000
- In addition, one spouse has a separate interest in a specified foreign financial asset with a value of \$10,000
- The other spouse, has a separate interest in a specified foreign financial asset with a value of \$1,000
- One spouse does not have to file Form 8938 but the spouse does
- One spouse has an interest in specified foreign financial assets in the amount of \$55,000 on the last day of the tax year
  - This is one-half of the value of the asset that is jointly own, \$45,000, plus the entire value of the asset that the spouse separately owns, \$10,000
- The other spouse has an interest in specified foreign financial assets in the amount of \$46,000 on the last day of the tax year
  - This is one-half of the value of the asset that is jointly owned, \$45,000, plus the entire value of the asset that is separately owned, \$1,000
- One spouse satisfies the reporting threshold of more than \$50,000 on the last day of the tax year
- The other spouse does not satisfy the reporting threshold of more than \$50,000 on the last day of the tax year or more than \$75,000 at any time during the tax

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### Example 6

- Your clients live abroad and file separate income tax returns
- One spouse is not a specified individual
- On the last day of the tax year, my spouse and I jointly own a specified foreign financial asset with a value of \$150,000. My spouse has a separate interest in a
- specified foreign financial asset with a value of \$10,000. I have a separate interest in a specified foreign financial asset with a value of \$60,000. You have to file Form 8938 but your spouse, who is not a specified individual, does not. You have an interest in specified foreign
- financial assets in the amount of \$210,000 on the last day of the tax year. This is the entire value of the asset that you jointly own, \$150,000,
- plus the entire value of the asset that you separately own, \$60,000. You
- satisfy the reporting threshold for a married individual living abroad and
- filing a separate return of more than \$200,000 on the last day of the tax year.

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### Review

- Spouses filing a joint return
  - Taxpayer and spouse report the maximum value of an asset held jointly by them only once on the single Form 8938 filed with the joint income tax return
- Spouses filing separate returns
  - Taxpayer and spouse each report the maximum value of an asset held jointly by them on their separate Forms 8938 filed with your separate income tax returns
- Other joint owners
- Report the maximum value of the entire jointly held asset on your Form 8938 filed with your income tax return, regardless of the value of your separate interest in the asset

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### Scoop Dates for Post Filing Season

- July 15, 2015
- August 5, 2015
- September 23, 2015
- October 21, 2015




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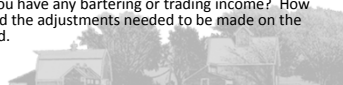
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**July Webinars**

- **Preparing for a Gambling Audit – July 6, Noon to 1:00** - Your client gambles, whether it slots or poker we will review the recent IRS issues as they relate to auditing your client who has gaming income. What advice should you give a client with this type of income and what records will IRS accept during the audit process will be discussed.
- **Basis of a Partnership – July 7, Noon to 1:00** - Discussion will include filing requirements, hiring employees, how to make estimated tax payments and how the income will show up on the personal return. A general overview of the partnership and some of the problematic issues related to filing for this business entity.
- **The Partnership Form K-1 – July 8, Noon to 1:00** - An overview of Form 1065 K-1 preparation and the resulting Form 1040 income issues will be discussed.
- **Bartering and Trading Income – July 13, Noon to 1:00** - A question IRS auditor always ask, Dow you have any bartering or trading income? How this income is reported and the adjustments needed to be made on the tax return will be discussed.




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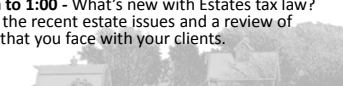
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**July Webinars**

- **Correspondence Audits – July 14, Noon – 1:00** - IRS's chief audit stream is correspondence audit. They do more of them than face to face and other types of audits combined. Responding to the audit request and providing logical and concise information to resolve the issue is an important part of the audit process. What are the do's and don'ts in providing the information and how best to handle the audit will be discussed.
- **Preparing for an IRS Audit – July 22, Noon to 1:00** - Your client has been informed that they will be subject to and IRS audit. Tips on how to preparer, what information you should gather, pre-audit analysis and other issues will be discussed.
- **Issues Related to Estates, Procedures and Developments in Estate Tax Law – July 23, Noon to 1:00** - What's new with Estates tax law? An overview of some of the recent estate issues and a review of typical estate tax issues that you face with your clients.




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**CALT Website**

<http://www.calt.iastate.edu/>




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### Tour of the CALT Website



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### CALT Staff



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