

BEN-COHEN LAW FIRM

PROFESSIONAL LAW CORPORATION

1901 Avenue of the Stars • Suite 1100 • Los Angeles, CA 90067-6002

Tel: +1.310.272.7600 • Fax: +1.310.272.7601

www.taxexpertise.com

Pedram Ben-Cohen
Attorney & CPA
pedram@taxexpertise.com

Certified Tax Specialist
State Bar of California
Board of Legal Specialization

October 30, 2012

VIA ELECTRONIC MAIL

Ramineh, Fani, Nowakhtar, LLP
5757 Wilshire Blvd., Suite 937
Los Angeles, CA 90036

RE: The Foreign Account Tax Compliance Act (“FATCA”)

Dear Ramineh, Fani, Nowakhtar, LLP:

Following is a brief overview of The Foreign Account Tax Compliance Act (“FATCA”), which is a new U.S. law aimed at foreign banks to prevent tax evasion by U.S. citizens and residents through the use of offshore accounts.

Under the new provisions, U.S. taxpayers holding financial assets outside the United States must report those assets to the IRS. In addition, FATCA will require foreign banks to report directly to the IRS information about foreign accounts held by U.S. taxpayers, or by foreign entities in which U.S. taxpayers hold a substantial ownership interest.

Reporting by U.S. Taxpayers Holding Foreign Financial Assets

In general, FATCA requires certain U.S. taxpayers holding foreign financial assets to report information about those assets on a new form (Form 8938) that must be attached to the taxpayer’s annual tax return. Taxpayers must file Form 8938 if the aggregate value of their foreign financial assets is more than the following reporting thresholds.

- **Unmarried taxpayers living in the US:** The total value of their 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;
- **Married taxpayers filing a joint income tax return and living in the US:** The total value of their 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; and
- **Married taxpayers filing separate income tax returns and living in the US:** The total value of their 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.

Failure to report foreign financial assets on Form 8938 can result in substantial civil and even criminal penalties. Furthermore, this new filing requirement is in addition to the annual obligation of U.S. persons to file TD F 90-22.1, Report of Foreign Bank and Financial Accounts (commonly known as the FBAR), with the Treasury Department by June 30 of the year following the year in which such U.S. persons have signature authority or a financial interest in a foreign financial account exceeding \$10,000.

Reporting by Foreign Banks

FATCA will also require foreign banks (“FFIs”) to report directly to the IRS information about foreign accounts held by U.S. taxpayers, or by foreign entities in which U.S. taxpayers hold a substantial ownership interest. To properly comply with these new reporting requirements, an FFI will have to enter into a special agreement with the IRS by June 30, 2013. Under this agreement a “participating” FFI will be obligated to:

(1) undertake identification and due diligence procedures with respect to its accountholders;

(2) report annually to the IRS on its accountholders who are U.S. persons or foreign entities with substantial U.S. ownership; and

(3) withhold and pay over to the IRS 30-percent of any payments deemed U.S. source income, as well as the gross proceeds of any payment that may generate any type of U.S. source income, made to (a) non-participating FFIs, (b) individual accountholders failing to provide sufficient information to determine whether or not they are a U.S. person, or (c) foreign entity accountholders failing to provide sufficient information about the identity of its substantial U.S. owners. Payments that may be subject to withholding include (i) any payment of interest, dividends, rents, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, and other fixed or determinable annual or periodical gains, profits, and income, if such payment is from sources within the U.S.; and (ii) any gross proceeds from the sale of any property of a type which can produce interest or dividends from sources within the U.S.

The FATCA provisions are part of the IRS’ overall effort to crack down on U.S. taxpayers holding unreported offshore bank accounts. The IRS remains actively engaged in finding out the identities of those with undisclosed foreign accounts. Moreover, increasingly this information is available to the IRS under tax treaties with foreign governments, through submissions by whistleblowers, and will become more available under the FATCA provisions.

If you have any questions regarding the foregoing, please feel free to call me directly at (310) 272-7600. Thank you.

Sincerely,



Pedram Ben-Cohen, Esq., CPA