withersworldwide

Increased IRS scrutiny of high-net worth individuals on their worldwide assets

21 OCTOBER 2020

Jay H. Rubinstein
PARTNER | SWITZERLAND

CATEGORY:
ARTICLE

Several initiatives announced during 2020 highlight the IRS's efforts to track and enforce US tax and reporting obligations of high-net worth individuals on their worldwide assets. In early 2020 the IRS announced an audit campaign focusing on returns filed by high-net worth taxpayers holding foreign assets such as: foreign bank accounts; offshore retirement accounts; foreign trusts; business interests in entities holding foreign accounts; and overseas inheritances. These audits will be conducted with a global, holistic approach attempting to take into account the complete financial picture of the high-net worth individual, looking not only at the individual taxpayer but also at any entities he or she may have an interest in worldwide.

Following this more general high-net worth audit campaign, the IRS has also announced two initiatives that more closely focus on non-resident aliens' ("NRAs") US real property ownership. On October 5, 2020 the IRS announced that it will be rolling out a new compliance campaign titled "Non-resident Alien Rental Income from US Property". The new campaign will focus on NRAs who receive rental income from US real property and will address noncompliance through examinations, education, and outreach. Typically for NRAs rental income from US real property triggers annual US federal (and most likely state level) income tax and reporting implications. In addition to the NRA rental income campaign the IRS announced on September 14, 2020 a new initiative that will target NRAs' reporting compliance under the Foreign Investment in Real Property Tax Act ("FIRPTA"). Generally, under FIRPTA if an NRA is selling US real property the buyer must act as a withholding agent and is required to withhold 15% of the amount realized on the sale, file the required forms and remit the tax to the IRS. Given these two initiatives that are focused on NRAs and their ownership of US real property, NRAs should ensure they are tax-compliant when engaging in any transactions involving US real property – taking note that many of the tax efficient planning strategies must be undertaken prior to the transaction.

A clear trend that can be derived from these three IRS initiatives is that the IRS is funding and supporting internal programs by which it can more closely detect and examine high-net worth individuals and take into account their worldwide assets. As the consequences of not properly reporting and paying tax may be severe any US individual with a foreign connection or NRA with a potential US connection should consult with a US tax specialist, ideally before engaging in any transaction involving US persons or US property.

Authors

Jay H. Rubinstein

PARTNER | GENEVA

Private client and tax

+41 22 593 7716

jay.rubinstein@withersworldwide.com