# Circular 230: Your Responsibility For a Client's Foreign Financial Account Reporting

By Charles M. Lax

The article in this month's e-News on the close of the IRS' Off Shore Voluntary Disclosure Program brings into focus a related issue concerning a preparer's responsibility in the reporting of foreign financial accounts. As we know, Part III of Form 1040, Schedule B, asks "At any time during 20___, did you have a financial interest in or signature authority over a financial account (such as a bank account, securities account, or brokerage account) located in a foreign country?"

Most practitioners do little more than alert their clients to this required disclosure by including in their tax return organizers this question, with a simple check the box "yes" or "no." Little, if anything, is done to explain to the client that this question must be answered in the affirmative where they have signatory authority over a foreign account:

- For the benefit of minors.
- Of a relative, where they've been added simply for "emergencies."
- Of an entity, where they sign in some authorized capacity.
- Of their employer.
- Which they acquired through an inheritance.
- Which is a brokerage account.
- Holding retirement funds (such as a Canadian Registered Retirement Savings Plan).

Section 10.22(a) of Circular 230 provides in applicable part, "A practitioner must exercise due diligence (1) in preparing or assisting in the preparation of, approving, and filing tax returns . . .." Section 10.34(d) further provides in applicable part, "A practitioner . . . generally may rely in good faith without verification upon information furnished by the client. The practitioner may not, however, ignore the implications of the information furnished to, or actually known by the practitioner, and must make reasonable inquiries if the information as furnished appears to be incorrect, inconsistent with an important fact or another

factual assumption or incomplete.” With this background, I believe these are the kind of situations which require practitioners to do more than simply rely on that organizer that checked the box “no”:

- A physician client who practiced medicine in Canada for many years, moves to the U.S. and opens a practice.
- A first generation U.S. citizen who remained in the U.S. after college, whose family lives in Greece. Recognizing that the client’s parents are aging you learn of a parent’s death.
- A client who purchases a villa in the south of France and lives there three or four months a year.
- A client who owns 100% of a U.S. based company with a UK subsidiary, who has signature authority over its UK deposit account.

In each of these instances a “no” answer in their organizer should set off “bells and whistles.” Apart from being a best practice, I submit to you that Circular 230 may require further inquiry of the client.