

Bloomberg Tax Quotes Victor Jaramillo on Supreme Court Ruling on Non-Willful FBAR Violators

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Following a Supreme Court ruling that the IRS has been over-penalizing people for non-willfully failing to report their foreign accounts, practitioners are hoping courts will further curb the IRS penalties in both willful and non-willful cases.

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Victor Jaramillo, a tax lawyer at Caplin & Drysdale, said he has seen tax returns that are 6 inches thick and questioned whether taxpayers notice the IRS's foreign accounts inquiry on Schedule B, Part III of individual tax return Form 1040.

"But some courts have said, you signed the return, had a duty to review, and that box is checked 'no.' Willful! Do not pass go, pay 50 percent of the account balance," Jaramillo wrote in an email to *Bloomberg Tax*.

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Jaramillo also holds out hope for the tide to turn in Eighth Amendment FBAR litigation.

"I have a case where the IRS stated in the Revenue Agent Report that it was not assessing all penalties (including continuation penalties) 'so as to not violate the excessive fines clause of the Eighth Amendment,'" Jaramillo said.

"I know many practitioners that would love to see that admission in a court filing," he added.

For the full article, please visit *Bloomberg Tax's* website (subscription required).

Attorneys

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