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Failure to Report Foreign Income **IRS Tax Amnesty Program Expires September 23, 2009**

We are sending this informational bulletin to our clients to apprise them of recent developments relating to the obligation to pay tax on, and disclose the existence of, foreign bank accounts. Our more than thirty-five years of experience as tax attorneys has revealed that while many U.S. persons maintain such accounts, most do not comply with the reporting obligations. The government is aware of such noncompliance and has achieved certain well publicized victories in its ongoing efforts to locate and prosecute such people.

The Bank Secrecy Act gave the Department of Treasury authority to establish recordkeeping and filing requirements for U.S. persons with financial interests in, or signature or other authority over, financial accounts maintained with financial institutions in foreign countries. This provision of the law requires that a Report of Foreign Bank and Financial Accounts ("FBAR") be filed if the aggregate balances of such foreign accounts exceed \$10,000 at any time during the year. This form is used as part of the IRS's enforcement initiative against abusive offshore transactions and attempts by U.S. persons to avoid payment of income taxes by hiding money offshore. The criminal penalties for FBAR noncompliance are severe. They include fines of up to \$500,000 and imprisonment of up to 10 years.

Not only are U.S. persons required to disclose the existence of such accounts, they are also required to pay tax on the income generated overseas. For example, a taxpayer with a foreign bank account is required to pay tax on all interest and dividends earned in that account even if the money remains overseas. Failure to do so is illegal (e.g., tax evasion) and can subject the owner to criminal sanctions including fines and imprisonment.

Recent news headlines highlight the government's success in gathering the identities of depositors at UBS, a Swiss bank. We believe that these aggressive actions on the part of the government will continue and spread to other banks and other countries.

We can assist with IRS tax problems, complying with FBAR filing obligations, and minimize the chance of any criminal investigation or imposition of civil penalties.

The IRS has issued a series of memorandums that outline a voluntary disclosure program for unreported foreign income. The program designated as the IRS Offshore Income Reporting Initiative (the "Initiative") is only available until **September 23, 2009**. Taxpayers who qualify for the Initiative will be required to follow certain filing procedures and pay lesser penalties in exchange for not being subject to criminal and civil fraud penalties.

As this may be the last opportunity for taxpayers to resolve unreported foreign income issues without criminal prosecution, we recommend that taxpayers in this situation act immediately.

If you have questions regarding potential unreported foreign assets or income, please contact us to discuss the IRS's Initiative.

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