

**Alert**

## REMINDER: Reporting of Foreign Bank and Financial Accounts

As a reminder, the *Report of Foreign Bank and Financial Accounts*, Treasury Department Form 90-22.1 ("FBAR") that is generally required to be filed with respect to foreign financial accounts is due by June 30<sup>th</sup>. The FBAR is required for all accounts with an aggregate value of in excess of \$10,000 at any time during the previous calendar year. It must be filed by U.S. persons (including tax-exempt organizations) who have a financial interest in or signature authority over a foreign financial account. In addition, certain trusts, trust beneficiaries, owners of foreign companies and others must file the FBAR report. Further, an employee of an entity who has signatory authority over a foreign account of an employer may have to file separately and must acknowledge the account on Schedule B of his or her Form 1040.

A financial account is defined broadly and includes any bank, securities, securities derivatives or other financial instruments account. It also generally encompasses "any account in which assets are held in a commingled fund, and the account owner holds an equity interest in the fund (e.g. a mutual fund)." (See *FBAR Instructions*.)

Failure to comply with the FBAR reporting requirements can result in civil and criminal penalties. The civil penalty for a non-willful violation generally is \$10,000 per violation, going up to the greater of \$100,000 or 50% of the balance in the account if the violation is willful.

The 2008 FBAR must be received by the Department of Treasury by June 30, 2009. For U.S. persons who did not file FBARs in prior years but who reported and paid tax on all taxable income in those years, delinquent FBARs filed by September 23, 2009 will not be subject to the penalty for failure to file. (See Internal Revenue Service, "Frequently Asked Questions" (May 6, 2009) <http://www.irs.gov/pub/irs-news/faqs.pdf>.)

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