

Alert

UPDATE: Filing Deadline for Report of Foreign Bank and Financial Accounts

Our June 17, 2009 Alert, [Reporting of Foreign Bank and Financial Accounts](#), was a reminder of the June 30, 2009, deadline for filing the Treasury Department Form 90-22.1 ("FBAR"). On June 24, 2009, the IRS posted an update to its [Frequently Asked Questions](#) regarding its voluntary disclosure program for unreported foreign financial accounts, (the "FAQs"). The FAQ now provides that taxpayers have until September 23, 2009, to file their 2008 FBAR as a "delinquent FBAR report" without a penalty for failure to file if they: a) reported and paid tax on all 2008 taxable income, b) only recently learned of their FBAR filing obligations, and c) had insufficient time to gather the necessary information to complete the FBAR.

For your information, following is the new IRS FAQ Question 43 and IRS Response:

43. Re: FAQ 9 A taxpayer recently learned that they have an FBAR filing obligation but they do not have sufficient time together the information necessary to properly file the FBAR by the June 30, 2009 due date. How should the taxpayer proceed?

IRS Response: Taxpayers who reported and paid tax on all of their 2008 taxable income but only recently learned of their FBAR filing obligation and have insufficient time to gather the necessary information to complete the FBAR, should file the delinquent FBAR report according to the instructions and attach a statement explaining why the report is filed late. Send a copy of the delinquent FBAR, together with a copy of the 2008 tax return, by September 23, 2009, to the Philadelphia Offshore Identification Unit at the address in FAQ 9.

In this situation, the IRS will not impose a penalty for the failure to file the FBAR.

Additionally, if all 2008 taxable income with respect to a foreign financial account is timely reported and a United States person only recently learned they have a 2008 FBAR obligation and there is insufficient time to gather the necessary information to complete the FBAR, the United States person may follow the procedures set forth above and no penalty will be imposed.

For 2008 tax returns due after September 23, 2009, the tax return does not need to accompany the 2008 FBAR.

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