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Report of Foreign Bank and Financial Accounts ("FBAR") due June 30: No Extensions Allowed and Large Penalties Levied for Not Filing

If you have a financial interest in or signature authority over a foreign financial account, including a bank account, brokerage account, mutual fund, trust, retirement account, life insurance, annuity or other type of foreign financial account, the Bank Secrecy Act may require you to report the account yearly to the Internal Revenue Service by filing Form TD F 90-22.1, Report of Foreign Bank and Financial Accounts (widely referred to as the "FBAR").

United States persons with foreign financial accounts totaling in the aggregate more than \$10,000 in value during the year must file an FBAR. The rules for determining maximum account value are confusing and somewhat counterintuitive. United States person means United States citizens; United States residents; entities, including but not limited to corporations, partnerships, or limited liability companies created or organized in the United States or under the laws of the United States; and trusts or estates formed under the laws of the United States.

The FBAR must be received in a designated Detroit office of the Treasury Department by June 30 of the year following the calendar year being reported. The mailing date means nothing. The form cannot be e-filed. The June 30 filing date cannot be extended.

The penalties for failure to file or failure to supply complete information are substantial.

Nonwillful failure to file an FBAR may trigger a \$10,000 penalty per year. A person who willfully fails to report an account or account identifying information may be subject to a civil monetary penalty equal to the greater of \$100,000 or 50 percent of the balance in the account at the time of the violation. Also, the tax must be paid.

Currently, the IRS has provided a special voluntary disclosure initiative designed to bring offshore money back into the U.S. tax system and help people with undisclosed income from hidden offshore accounts get current with their taxes. This voluntary disclosure initiative will be available through August 31, 2011. If income has not been reported, then reduced penalties may apply.

Q&A 17 of IRS's Frequently Asked Questions and Answers about the temporary voluntary disclosure initiative addresses the case of someone who reported and paid tax on all their taxable income for prior years, but did not file FBARs. That person should file the delinquent FBAR reports according to the instructions and attach a statement explaining why the reports are filed late. According to Q&A 17, the IRS will not impose a penalty for failure to file the delinquent FBARs if there are no underreported tax liabilities and the FBARs are filed by August 31, 2011. However, FBARs for 2010 are due on June 30, 2011 and must be filed by that date.

Next year a new form will be due with the 2011 1040 return requiring disclosure of even more foreign assets. In addition to the new form, you will still have to file your FBAR next year.

File your FBARs on time and correctly. We can help. Please contact your HM&M advisor with any questions or to obtain assistance at 972/404-1010.

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To ensure compliance with U.S. Treasury Department regulations, we inform you that any tax advice that may be contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (a) avoiding tax-related penalties under the Internal Revenue Code or applicable state or local tax law provisions or (b) promoting, marketing or recommending to another party any tax-related matters addressed herein.