

A Special Tax Letter

Foreign Account Reporting (FAR)

Under pressure from the Obama administration to collect more revenue, the IRS has recently stepped up their effort to enforce the off-shore accounts and foreign income reporting. This special, surprising effort by the IRS could hit tens of thousands of taxpayers. Foreign account includes foreign bank accounts and investment accounts. It also includes accounts with foreign branches of US banks and/or US investment firms, etc.

To achieve their objective, the IRS specially targeted an obscure information return known as TDF 90-22.1 (report of foreign bank and financial accounts). By regulation, this TD Form is an informational return only and it is not required to be filed with the taxpayer's tax return. The only requirement is to file this TD Form directly to the Department of Treasury on or before June 30 of every year for the prior year. The sole purpose of this filing is to inform the Treasury Department for any and all foreign bank and financial accounts if and only if that all foreign accounts aggregating \$10,000 or more at any given point of time during a reporting year (from January 1 to December 31).

Any taxable earnings associated with the funds deposited in those foreign bank and/or investment accounts should be reported accordingly and paid the required taxes with the taxpayer's annual income tax return.

Now, the IRS want to find out which taxpayer(s) failed to file the TDF 90-22.1 Form and failed to report the related income in their tax returns and allowing for a one time voluntary "come clean" opportunity until September 23, 2009.

Any taxpayer who should report foreign accounts and related income but failed to take advantage of this one time voluntary "come clean" will be subject to very heavy penalty both civilly and criminally. Moreover, the IRS said they will trace the taxable income backward for 6 years, even the statute of limitation (SOL) generally is for 3 years.

Within the “come clean” period, there will be only civil penalties with no prosecution. The civil penalties could be ranged from 5% to 20% of the amount in a foreign bank account or entity in the year with the highest aggregate amount or asset value. In applying the 20% penalty, the IRS will make no distinction between savings accounts or business accounts or investment accounts.

After September 23, 2009, the IRS will begin to impose much higher civil penalties. If willful intent to avoid income taxes was the case, the taxpayer may be facing criminal prosecution with possible maximum 5 years imprisonment.

In order to understand further about the voluntary “come clean” period and the reporting requirements, etc., please go to the IRS web site and read a March 26, 2009 Statement made by the IRS Commissioner Mr. Doug Shulman as well as the following related frequently asked Questions and Answers (FQ&A’s) posted by the IRS:

- A. For definitions –
www.irs.gov/businesses/small/article/0,,id=148849.00.html
- B. For general and basic questions –
www.irs.gov/businesses/small/article/0,,id=210252.00.html
- C. For filing requirement –
www.irs.gov/businesses/small/article/0,,id=210244.00.html
- D. For financial and/or investment accounts –
www.irs.gov/businesses/small/article/0,,id=210249.00.html

Hoping this special letter will be helpful to you. If you like to discuss your circumstance, please feel free to give us a call at 415-381-0681

Sincerely

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