

TAX ADVISORY

Unreported Offshore Foreign Income

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Dear clients and friends:

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

The Initiative requires that taxpayers:

- File 6 years of back tax returns reflecting unreported foreign source income;
- Calculate interest each year on unpaid tax;
- Apply a 20-percent accuracy-related penalty under Code Sec. 6662 or a 25-percent delinquency penalty under Code Sec. 6651; and
- Apply a 20-percent penalty based upon the highest balance of the account in the past six years.

In return, IRS has agreed to not pursue:

- Charges of criminal tax evasion;
- Other fraud and filing penalties including IRC Sec. 6663 fraud penalties (75-percent of the unpaid tax) and failure to file a TD F 90-22.1, Report of Foreign Bank and Financial Accounts Report, (FBAR) (the greater of \$100,000 or 50-percent of the foreign account balance)

While there remain many unresolved issues surrounding the Initiative, this may be the last opportunity for taxpayers to resolve unreported foreign income issues without prosecution. We recommend that clients in this situation, act immediately and seek assistance from qualified practitioners with experience in filing for voluntary disclosures.

Sincerely,



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