

FOREIGN FINANCIAL ACCOUNT REPORTING 2009 UPDATE

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By: Karen A. Monroe

U.S. persons (U.S. citizens, U.S. residents, and persons doing business in the U.S. including individuals, all forms of business entities, trusts and estates) with signature power or a financial interest in a foreign financial account which held more than \$10,000 at any time in the prior year are required to file Form TD F 90-22.1 "Report of Foreign Bank and Financial Accounts" by June 30 of each year for the prior year.

There is NO extension of time to file. Accounts include savings, checking, time deposits, debit and pre-paid credit cards, and security accounts. The penalty for failure to file is up to one-half of the account value for willful failures and \$10,000 per account for non-willful failures. The geographical location of the account determines whether or not the account is in a foreign country.

Although in the past the IRS has not vigorously imposed the penalties for failure to file, as a result of the IRS's initiatives in 2009 to curb abuse in the use of offshore accounts together with its six month voluntary disclosure program the IRS intends to, and has implemented, a rigorous enforcement policy.

Among the frequently asked questions (FAQs) the IRS posted on its website in May 2009 to provide guidance on the voluntary disclosure practice applicable to U.S. taxpayers holding noncompliant offshore accounts and structures were FAQs providing guidance for filing either amended or delinquent Forms TD F 90-22.1 by requiring taxpayers to use the current version of the FBAR form, as revised in October 2008, and providing that taxpayers may rely, however, on the instructions for the prior version of the form revised in July 2000 for determining who must file the foreign financial reports for 2007 and prior years. In general, taxpayers should be sure they have filed at least for the last six years, generally 2003 through 2008.

For your convenience we attach a copy of the form and instructions to this notice.

If you have any questions in connection with the foregoing please do not hesitate to contact Jack Wilk in New York at jwilk@sillerwilk.com or Karen Monroe in Geneva at kmonroe@sillerwilk.com.

The foregoing is general information and should be reviewed and relied upon only in conjunction with consultation with tax counsel.

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