

Tax Flash

New Federal tax developments
from Grant Thornton's National Tax Office

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IRS extends FBAR voluntary disclosure initiative until Oct. 15

The IRS has extended the deadline on its foreign reporting disclosure initiative from Sept. 23 until Oct. 15. The program was originally announced on March 26, 2009, and was originally scheduled to last only six months beginning on March 23.

The program's central focus is to provide reduced penalties for delinquent filings of Foreign Bank Account Reports (FBARs) and foreign information returns (such as Forms 5471 and 3520) made by taxpayers who qualify.

The IRS has confirmed that the extension until Oct. 15 applies for all types of delinquent filings eligible for the Sept. 23 deadline under the program as described in the IRS's FAQ on the subject.

Special procedures apply in the case of submissions of delinquent FBARs and other information returns, including the submission of an explanatory statement, the attachment of income tax returns and the need to retain counsel in some cases.

Separate extended deadlines

The IRS also recently extended the filing deadline further under Notice 2009-62 for certain other FBAR filings.

Specifically, the Notice provided that (i) persons with signature authority over, but no financial interest in, a foreign financial account, and (ii) persons with a financial interest in, or signature authority over, a foreign commingled fund, have until June 30, 2010, to file an FBAR for the 2008 and earlier calendar years with respect to these foreign financial accounts.

General reporting requirements

Generally, the United States imposes reporting requirements for income tax purposes on all U.S. persons (generally U.S. citizens, resident aliens, domestic partnerships and corporations, and domestic trusts and estates). Among other filing and reporting requirements, there are filings for certain foreign activity required on:

- FBAR – Form TDF 90.22-1 (revised Oct. 2008) (The due date for filing some but not all of these reports for 2008 and

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previous years was extended to June 30, 2010.)

- Form 3520-A, Annual Information Return of Foreign Trust with a U.S. Owner
- Form 3520, Annual Return To Report Transactions With Foreign Trusts and Receipt of Certain Foreign Gifts
- Form 5471, Information Return of U.S. Persons With Respect to Certain Foreign Corporations
- Form 926, Return by a U.S. Transferor of Property to a Foreign Corporation
- Form 8621, Return by a Shareholder of a Passive Foreign Investment Company or Qualified Electing Fund
- Form 8865, Return of U.S. Persons With Respect to Certain Foreign Partnerships
- Form 8858, Information Return of U.S. Persons With Respect To Foreign Disregarded Entities
- Form 5472, Information Return of a 25% Foreign-Owned U.S. Corporation or a Foreign Corporation Engaged in a U.S. Trade or Business

In addition to the penalties provided by the IRC for a failure to file tax returns or pay tax (Section 6651), a substantial understatement of tax (Section 6662) or an understatement due to fraud (Section 6663), the IRC and other provisions of the U.S. Code impose a number of substantial civil and criminal penalties for failure to file the information required on these forms.

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