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Temporary FBAR (Foreign Bank Account Reports) Relief

Tax Department / Washington, DC

The Internal Revenue Service (IRS) has issued temporary guidance related to Foreign Bank Accounts. What does this mean to plan sponsors, trusts, unions, and others with investments in foreign financial accounts?

- Individuals who only have signature authority over an account, such as an officer of an organization, will not need to file a FBAR report for that account until June 30, 2011.
- Individuals with signature authority over a foreign commingled mutual fund will need to file a FBAR report by June 30, 2010 for 2009 and earlier years.
- Organizations that have foreign commingled funds will not be required to file a FBAR report for the 2009 or earlier year. They will need to file a FBAR for the 2010 year by June 30, 2011.
- Organizations with a foreign commingled fund that is a mutual fund or a foreign custody account will need to file a FBAR report for those funds for the year 2009 and earlier by June 30, 2010.

Details

On August 31, 2009, the IRS published Notice 2009-62 which extended until June 30, 2010, the filing deadline for:

- Persons with no financial interest in a foreign financial account but with signature or other authority over that account (signature authority); and
- Persons with a financial interest in, or signature authority over, a foreign financial account in which the assets are held in a commingled fund (foreign commingled funds).

Furthermore, on February 26, 2010, the IRS issued Notice 2010-23 which provides administrative relief to persons who are otherwise required to file FBAR reports by June 30, 2010. The relief is for the filing of Form TD F 90-22.1 for calendar year 2009 and earlier calendar years. This temporary relief is provided so the Treasury Department will have time to provide taxpayers with guidance on who is required to file FBARs.

The following administrative relief was provided in Notice 2010-23:

Signature Authority

Persons with signature authority over a foreign financial account for which an FBAR would otherwise have been due on June 30, 2010 will now have until June 30, 2011 to report those foreign financial accounts. The June 20, 2011 due date applies to FBAR reporting for the 2010 and prior calendar years.

Certain Foreign Commingled Funds

Persons with a financial interest in or a signature authority over a foreign commingled fund that is a mutual fund are required to file an FBAR by June 30, 2010. The IRS will not interpret the term "commingled fund" as applying to funds other than mutual funds with respect to FBAR's for calendar year 2009 and prior years. The IRS will not apply its enforcement authority adversely in the case of persons with a financial interest in or signature authority over any other foreign commingled fund with respect to that account for

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calendar year 2009 and earlier calendar years. Included in this administrative relief is a financial interest in or signature authority over a foreign hedge fund or private equity fund. Therefore, interest in or signature authority over commingled funds other than mutual and foreign hedge funds or private equity funds will not require a FBAR filing for 2009 and earlier years.

FBAR – Related Questions on Federal Tax Forms

A taxpayer who qualifies for filing relief should check the “No” box in response to FBAR-related questions found on federal tax forms for 2009. This would include Schedule B of Form 1040; the “Other Information” section of Form 1041, Schedule B of Form 1065, and Schedule N of Form 1120.

For purposes of who must file, a “person” is defined as:

- an individual;
- a corporation;
- a partnership;
- a trust or estate;
- a joint stock company;
- an association;
- a syndicate;
- a joint venture; or
- other unincorporated organizations or groups.

For further information, contact Calibre CPA Group’s Tax Department at (202) 331-9880 or toll-free at (866) 464-2839 or by email at info@calibrecpa.com. ■

About Calibre CPA Group, PLLC

Calibre CPA Group, PLLC was founded on a commitment “**to provide services of a superior calibre.**” We believe this is accomplished through personalized attention and an in-depth understanding of our clients’ operations. Our firm is staffed with over 80 employees who provide value-added audit, accounting, tax, and consulting services to the tax exempt community.

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