



Insight Paper # 05:

IRS Foreign Bank Account Compliance Initiative

In recent years, increasing numbers of U.S. taxpayers have investments in bank and other financial and security accounts in foreign countries. As you may know, taxpayers are required to report all income from domestic and foreign sources. In addition, taxpayers who have a financial interest in or signature authority over foreign accounts are required to file a Form TD F 90-22.1, Report of Foreign Bank and Financial Accounts (FBAR), if the aggregate value of all such financial accounts exceeds \$10,000 at any time during the calendar year. The FBAR cannot be filed with your federal tax return. Instead, it is filed with the Department of the Treasury in Detroit, Michigan no later than June 30 of the year following the calendar year reported. There is no extension of time available for filing this report.

Failure to report income in foreign bank accounts, or to file Form TD F 90-22.1, has serious consequences; there are civil and criminal penalties, and both can be imposed in appropriate cases. These penalties are among the toughest in the tax system. People who have inadvertently fail to report offshore income could be subject to a \$10,000 per year penalty going back several years, even if the account value exceeds the minimum reportable value by just a small amount. However, for people who the IRS considers to be willful tax evaders, penalties of \$100,000 or one-half the value of the account (whichever is greater) can be imposed each year.

Until September 23, 2009, however, taxpayers with unreported income in foreign bank accounts have an opportunity to take advantage of an IRS settlement offer. In exchange for full disclosure, the IRS agrees not to criminally prosecute those taxpayers not already under investigation who pay all back taxes plus interest and penalties. In addition, the IRS waives the 75 percent fraud penalty for taxpayers who voluntarily disclose their foreign accounts.

If you are unsure whether your investments qualify for this initiative, we would be happy to review your portfolio and assist with a voluntary disclosure request, if necessary. Please call our office at your earliest convenience to arrange an appointment.

The Marston Group, PLC