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ATTORNEYS AND COUNSELORS AT LAW

**Report of Foreign Bank and Financial Accounts (Form TD F 90-22.1) Must be *Received* by the IRS by June 29, 2012**

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**REMINDER:** All U.S. persons who had a financial interest in a foreign financial account or signature authority over a foreign financial account in 2011 must file the Report of Foreign Bank and Financial Accounts, commonly referred to as an “FBAR”, if the aggregate value of such foreign accounts exceeded USD \$10,000 at any time during the calendar year. The FBAR form must be received by the IRS by June 30, 2012. Since June 30, 2012 is a Saturday, the form should be sent so that it is received by the IRS by Friday, June 29, 2012. Note that there are no extensions of time available for this form.

A U.S. person is defined as a U.S. citizen, resident, entity or trust. A financial account includes a bank account, securities account, futures or options account, insurance or annuity policy with a cash value, or a foreign mutual fund. Note that an account of a foreign bank that is physically maintained at a branch in the United States is not a foreign financial account.

Taxpayers who elect not to disclose their offshore accounts and pay any tax due on associated income may be subject to a civil penalty of \$10,000 per account per year. If the failure to disclose is found to be willful, the penalty may increase to the greater of \$100,000 or 50 percent of the highest account balance per year for six years (effectively, a 300 percent penalty). Moreover, the taxpayer could be assessed criminal penalties of a fine up to \$500,000 or ten years imprisonment, or both.

In addition, for the 2011 tax year, individuals who own certain specified foreign financial assets may need to file the new Form 8938, “Statement of Specified Foreign Financial Assets” with their individual income tax return (Form 1040). Specified foreign financial assets generally include 1) a financial account held at a foreign bank, 2) stock or securities issued by a non-U.S. person, 3) an interest in a foreign entity, or 4) a financial instrument or contract with an issuer that is a non-U.S. person. The reporting threshold varies depending on the individual’s marital and residency status. For a married couple living in the U.S., the threshold is \$100,000. Note that the requirement to file this Form 8938 is in addition to the requirement to file the FBAR forms. Many individuals will be required to file both forms during a particular tax year.

Please contact us if you require any assistance with these forms or if we may otherwise be of service to you.