

# Akerman Practice Update

TAXATION

June 2011

## 2010 Foreign Financial Account Reporting Requirements

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U.S. citizens or residents who owned, directly or indirectly through an entity, or who had power of attorney/signature authority over one or more foreign financials account with an aggregate value exceeding \$10,000 at ANY point in time during 2010 may be required to report such foreign financial accounts. The definition of a reportable foreign financial account includes any investment account, brokerage account, certain pension funds, cash value life insurance or annuity policy, mutual fund, some commodity accounts, and other types of foreign financial accounts.

U.S. citizens and residents with a reportable foreign financial account are required to file a Form TD F 90-22.1 (FBAR). The due date of the FBAR is June 30th. Unlike other IRS forms, the FBAR MUST be received by June 30th, not mailed June 30th.

Published IRS guidance also allows for U.S. citizens and residents who have reported and paid all their worldwide taxable income for tax years 2003 through 2010 but who failed to file FBARs for those tax years, to file such FBARs by June 30th without any exposure to penalties. U.S. citizens and residents who have not reported and paid all their worldwide taxable income for tax years 2003 through 2010 should NOT file any FBARs by June 30th without seeking proper legal advice.



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“U.S. citizens and residents who have not reported and paid all their worldwide taxable income for tax years 2003 through 2010 should NOT file any FBARs by June 30th without seeking proper legal advice.”

The IRS published new guidance on the reporting of foreign financial accounts on February 24, 2011 which further broadens the definition of a foreign financial account and who is responsible for filing an FBAR. Due to the overwhelming penalties, we highly recommend that all U.S. citizens or residents holding an asset offshore seek proper legal advice to determine if they now possess an FBAR filing obligation.

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