

Publications

FBAR Update – IRS Grants Extension for Some Filers until June 30, 2011

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Immediately after we sent our last memorandum discussing the proposed foreign account disclosure regulations (available at <http://www.groom.com/resources-458.html>*), the Internal Revenue Service issued Notice 2010-23, which extends the FBAR filing deadline for the 2009 calendar year and prior years for U.S. persons with (i) signature or other authority over, but no financial interest in, a foreign financial account or (ii) a financial interest in, or signature or other authority over, a foreign commingled fund. It also provides that a taxpayer who qualifies for the filing relief does not have to report foreign financial accounts on his or her personal income tax return, provided he or she has no other reportable foreign financial accounts.

Notice 2010-23 provides welcome relief with respect to numerous U.S. persons that may have otherwise been required to file FBAR in connection with employee benefit plans and IRAs. The extended filing deadline is a particularly positive development for investment fiduciaries of employee benefit plans, many of whom will likely be eligible for a complete reprieve from any FBAR filing obligation until June 30, 2011. The extension is similarly helpful in connection with plans and IRAs where foreign investments are limited to commingled funds.

Unfortunately, however, the new extension does not apply to all plan- or IRA-related filings. Thus, some plans, plan sponsors and service providers may be required to file or, in some cases, make partial filings on or before June 30, 2010, and may be required to report foreign accounts on their personal income tax returns.

We are holding a dial-in to discuss FBAR and the parallel income tax reporting requirement on March 4, 2010 from 11:00 to 12:00 PM (EST). If you would like to register for the dial-in, please contact Dorothy Rudd (202-861-6327, drudd@groom.com).

Additionally, we are re-activating the FBAR Comment Group and opening the group to new membership. If you are interested in joining, please contact Jennifer Eller ((202) 861-6604, jee@groom.com), Michael Kreps ((202) 861-0182, mkreps@groom.com), or your regular Groom attorney.

*Please note this memo has been updated on 3/1/10 to reflect the new IRS guidance.