

## LAST MINUTE TAX ALERT — FOREIGN ASSETS

Because the IRS penalties for failing to disclose are so severe, we think these reminders bear repeating:

- A bank account or investments account in a non-US bank or brokerage firm with a combined total of \$10,000 or more must be disclosed to the IRS both on Schedule B of Form 1040 and on FBAR Form TD F 90-22.1. The FBAR is filed separately from the 1040 and is due by June 30 – and *cannot be extended*.
- For certain other investment assets, Form 8938 may need to be filed with the 1040, which overlaps with some of the FBAR reporting requirements.
- Disclosure of foreign income and interests in foreign trusts is complex; disclosure and tax computation are required on Form 3520.
- Disclosure of gifts from foreign sources:
  - Any gift from a non-US person in excess of \$100,000 in any year must be disclosed on Form 3520.
  - Total gifts from non-US partnerships or companies and certain related persons in excess of \$14,723 must be disclosed on Form 3520.

### What are some possible penalties?

- Failure to timely file an FBAR carries a \$10,000 penalty if the failure was merely non-willful neglect.
- Failure to file Form 8938 may be a \$10,000 penalty.
- Failure to file Form 3520 may carry a penalty of \$10,000 or may be a percentage of the undisclosed foreign trust balance (up to 35%) or undisclosed foreign gift.

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