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Deadline Approaches for U.S. Persons to Report Foreign Financial Accounts

U.S. persons should be aware that the annual deadline to file a Report of Foreign Bank and Financial Accounts ("FBAR") is coming up on April 15th.

The Bank Secrecy Act ("BSA") requires that U.S. individuals and entities (i) report certain foreign financial accounts to the U.S. Department of the Treasury each year and (ii) observe certain recordkeeping practices. Individuals and entities subject to these requirements include U.S. citizens, residents, corporations, partnerships, limited liability companies, trusts, and estates. Each of these individuals and entities must report if it has any financial interest in or signature or other authority over at least one financial account located outside the U.S. and the aggregate value of all of such individual's or entity's foreign financial accounts exceeded $10,000 at any time during the calendar year reported.

Any account at a financial institution located outside the U.S. is considered a foreign financial account, and the individual or entity is deemed to have a financial interest in an account if the owner of record or holder of legal title is any entity in which such individual or entity owns directly or indirectly more than 50% of the voting power, total value of equity interest or assets, or interest in the profits. Certain foreign financial accounts, such as those owned by a governmental entity or international financial institution or those maintained on a U.S. military banking facility, do not need to be reported.

Although reports are due each year on April 15th following the calendar year being reported, there is an automatic extension until October 15th if the April deadline is missed.

Failure to report can result in both civil and criminal penalties, which are determined by the facts and circumstances of the filer, including the filer's number of violations and whether the failure to file was negligent or willful. The statute of limitations for the FBAR is 6 years, so individuals and entities should ensure that reports are filed for each of the last 6 years if applicable.

The reporting process involves preparing and filing Form 114 through Financial Crimes Enforcement Network's BSA E-Filing System. Form 114 requires the following:

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- Part I: Filer information
- Part II: Information on Financial Account(s) Owned Separately
- Part III: Information on Financial Account(s) Owned Jointly
- Part IV: Information on Financial Account(s) Where Filer has Signature or Other Authority but No financial Interest in the Account(s)
- Part V: Information on Financial Account(s) Where Filer is Filing a Consolidated Report.

The end of Form 114 includes an authorization section for the preparer's information and the filer's signature.

To streamline the reporting process for certain related entities, a reporting entity having more than 50% ownership of one or more subsidiaries may file a single consolidated report covering its and its subsidiaries' foreign accounts.

In addition to filing the FBAR, the filer must keep records of the following information for each reported account: name on the account, account number, name and address of the foreign bank, type of account, and maximum value of the account during the reported year. These records must be kept for 5 years from the due date of the filed FBAR. Maintaining copies of the filed FBAR is sufficient to meet this requirement.

If you have specific questions about the FBAR, please contact Claire Grace at Rich May, P.C.

Disclaimer: This summary is provided for educational and informational purposes only and is not legal advice. Any specific questions about these topics should be directed to attorney Claire Grace.

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