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## IRS EXTENDS FBAR FILING DEADLINE FOR CERTAIN TAXPAYERS TO JUNE 30, 2010

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**Federal law requires that any U.S. person or entity with a financial interest in, or signature or comparable authority over, any foreign financial account file an annual Report of Foreign Bank and Financial Accounts ("FBAR") if the aggregate value of such accounts exceeds \$10,000 at any time during the calendar year. The FBAR instructions define "financial account" to include "any bank, securities, securities derivatives or other financial instruments accounts" and, generally, "any accounts in which the assets are held in a commingled fund, and the account owner holds an equity interest in the fund (including mutual funds)." In our June 18<sup>th</sup> [Client Alert](#), we reported that certain personnel from the Internal Revenue Service had taken the position that offshore hedge funds and private equity funds were foreign personal accounts for FBAR purposes.**

The FBAR for a particular calendar year generally must be filed by June 30<sup>th</sup> of the succeeding year with the U.S. Department of Treasury (e.g., FBARs for 2008 were required to be filed by June 30, 2009). In our June 25<sup>th</sup> [Client Alert](#), we advised that the IRS provided that certain persons or entities who reported and paid tax on all of their taxable income, but who only recently learned of their obligation to file an FBAR, had until September 23, 2009 to file an FBAR for 2008 and the prior five years without penalty.

On August 7, 2009, in [Notice 2009-62](#), the IRS further extended the FBAR filing deadline for (i) persons or entities with no financial interest in a foreign financial account but with signature or comparable authority over the foreign financial account, and (ii) persons or entities with a financial interest in, or signature or comparable authority over, a foreign financial account in

which the assets are held in a commingled fund. The IRS has provided that the above categories of persons and entities have until June 30, 2010 to file an FBAR for the 2008 and earlier calendar years with respect to these foreign financial accounts. Thus, eligible persons that avail themselves of the extension may need to file FBARs for the 2008 and earlier calendar years, as well as 2009, on or before June 30, 2010.

The IRS also stated that it intends to issue regulations clarifying the FBAR filing requirements pertaining to the above categories of persons and entities. In anticipation of those regulations, the IRS has requested public comments regarding certain issues, including: (a) when a person with signature authority, but no

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financial interest in, a foreign financial account should be relieved of filing an FBAR for the account; (b) when an interest in a foreign entity should be subject to FBAR reporting; and (c) whether a U.S. person or entity should be relieved from an FBAR filing requirement with respect to a foreign commingled fund in certain circumstances.

**Please contact any of the attorneys below for further information on FBAR reporting requirements.**

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