

ANSPACH FINANCIAL GROUP

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FALL NEWSLETTER

SEPTEMBER, 2009

IRS Gets Serious about Foreign Bank Account Reporting

All US citizens and resident aliens are required to report any income from a foreign account on their US tax returns. This legal requirement to disclose the existence of all financial accounts held in a non-US country and report the income from such accounts applies to individuals, corporations, partnerships, estates and trusts that have any kind of interest in such an account.

There is an additional reporting requirement (separate from the tax return) if the aggregate value of all foreign accounts exceeds \$10,000 at any time during the year. This information is reported on **Form TD F 90-22.1**, the **“Report of Foreign Bank and Financial Accounts”**, commonly known as **FBAR**. The FBAR is filed with the Detroit IRS Service Center and is due June 30 of the following year, with no extensions. IRS has recently stepped up enforcement of this requirement and is prepared to impose civil and criminal penalties on those who fail to properly report foreign income and required FBAR information.

Some taxpayers have only recently learned that they have an FBAR filing obligation, and the IRS recognizes that some did not have sufficient time to gather the information necessary to properly file the report by the June 30 deadline. On June 24, 2009, the IRS offered this advice: “Taxpayers who reported and paid tax on **all** of their 2008 taxable income, but only recently learned of their FBAR filing obligation, should file the delinquent FBAR report according to the instructions for Form TD F 90-22.1, and attach a statement explaining why the report is filed late”. In this situation, the IRS will not impose a penalty for the failure to file the FBAR.

For those who have not reported income from foreign or “offshore” accounts, IRS is offering a voluntary disclosure (amnesty) program that expires September 23, 2009. Those taxpayers choosing to participate in this program can avoid criminal prosecution by filing amended returns reporting their foreign income and paying the federal taxes owed as well as interest and either an accuracy or delinquency penalty. In addition, they must pay a 20% penalty based on the highest asset value of their foreign accounts for the tax years at issue. IRS has also extended filing due dates for FBARs where the filer has signature authority, but **no** financial interest in a foreign financial account.

California similarly requires residents to pay taxes on their worldwide income, so amended state returns will also be necessary for those reporting previously undeclared income. Although it doesn't impose a 20% penalty, California **does not** offer amnesty from criminal prosecution.

There are some complex rules for what constitutes a financial interest in a foreign account, but the most common situations with individuals are generally clear regarding the filing requirement. Beware of severe civil and

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Special points of interest:

- California legislators continue to tinker with the tax laws to deal with the budget crisis.
- We are expecting to see a significant increase in IRS audit activity due to increased staffing.
- Tax agencies are assisting taxpayers who are victims of identity theft.

Can California Make This More Complicated?

As a result of the California budget crisis, tax law pertaining to the timeliness of tax payments has been manipulated several times in an effort to accelerate payments into the current year. This is classic “smoke and mirrors” balancing of the budget. The accelerated revenue is not additional income, but revenue “borrowed” from the next year to balance the current year’s budget. Note that California’s fiscal year ends on June 30 each year.

Estimated tax payments: Prior to 2009, estimated tax payments were deemed timely if 25% of the required payment for the year was paid by the quarterly due dates (April 15, June 15, September 15, January 15.) For 2009, the payment schedule was accelerated so 30% of the total required payment for the year was due for each of the first two quarters and 20% each for the remaining two quarters.

For 2010, the payment schedule will be accelerated yet again, so that 30%, 40%, 0%, and 30% of the estimated tax liability will be due on the respective quarterly due dates. As you can see, the percentage of the total annual payment due prior to June 30 has increased from 50% to 70%.

Withholding taxes: The state’s tax withholding tables, which were revised once already this past April, are changing again to reflect a 10% increase effective November 1, 2009. While this withholding increase is “optional”, the only option for averting it requires employees to recalculate their projected tax liability and submit new Forms DE 4 withholding instructions to their employers.

This may not be the end of these changes as the budget woes are not expected to subside for several years. Of course, continuing to balance the budget by using this technique will have only very limited effectiveness.

Helpful Tips from IRS

The IRS Website can be a good resource for tips on specific issues. Below are links to a number of timely topics that you may find helpful. Go to the newsletter posted on our Website and link directly to the articles.

Does the IRS Owe You Money? - <http://www.irs.gov/newsroom/article/0,,id=211635,00.html>

Five Tax Scams to Avoid - <http://www.irs.gov/newsroom/article/0,,id=173404,00.html>

Tax Tips for Recently Married Taxpayers - <http://www.irs.gov/newsroom/article/0,,id=210762,00.html>

Top Seven Tips for Taxpayers Starting a Business - <http://www.irs.gov/newsroom/article/0,,id=172970,00.html>

Tax Benefits for Job Seekers - <http://www.irs.gov/newsroom/article/0,,id=210523,00.html>

Six Things You Need to Know About Mortgage Workouts - <http://www.irs.gov/newsroom/article/0,,id=184704,00.html>

First \$2,400 of Unemployment Benefits Tax Free for 2009 - <http://www.irs.gov/newsroom/article/0,,id=205633,00.html>

Seven Facts about the New Sales Tax Deduction for Vehicle Purchases - <http://www.irs.gov/newsroom/article/0,,id=206633,00.html>

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criminal penalties for failure to file the FBAR, which is the responsibility of the taxpayer. We can advise you as to the required reporting information you need to obtain, and we can assist you in completion of the form.

Note: For purposes of these issues, criminal prosecution is generally reserved for those who have evaded or avoided paying taxes by intentionally failing to report or underreport income from foreign accounts. However, IRS is very serious about enforcement in this area, and we can assist you in getting right with the government if you have any outstanding reporting issues of this nature.

When IRS Calls

The number of income tax audits of both individual and business returns is expected to increase dramatically in light of the recent hiring frenzy by the Internal Revenue Service. Literally thousands of new office and field auditors have been hired recently, and more hiring is anticipated. The large number of new auditors means that more audits will be conducted to facilitate their training. The audits are likely to be more "by the book" than those conducted by more experienced auditors. Under these circumstances, it is even more critical for taxpayers to have the appropriate documentation to support the figures on the tax return.

The IRS is increasingly using telephone calls as the first point of contact with taxpayers targeted for audit. Yes, it is legal for IRS to call you without warning when your tax return has been selected for examination. However, **you are under no obligation to talk to them**. If you question whether or not they work for the IRS, they should discontinue the call and send a letter. If you tell them that your tax practitioner has advised you to notify them prior to any conversation with IRS, they should discontinue the call and send a letter. If you are uncomfortable talking to them and say you would prefer a mail notification, they should discontinue the call and send you a letter.

We strongly advise our clients to use one of these approaches in order to discontinue the call. It is important to be courteous and not to appear that you are hiding anything. It is critical not to inadvertently say the wrong thing or to be manipulated into saying something that could be damaging. Despite having done nothing wrong, the combination of the element of surprise and the natural intimidation we feel from the IRS create a rich environment for misstatements and misunderstandings.

Exercise your right to representation to ensure that a letter precedes any telephone conversations. It's your right, and exercising your rights does not indicate a lack of cooperation. If done courteously (and firmly), the IRS is required to follow their stated protocol and cannot legally retaliate.

What To Do If You Suspect Identity Theft

As of April, 2009, the IRS has provided a new form for taxpayers who have experienced or suspect potential harm from identity theft. Form 14039, *Identity Theft Affidavit*, is the most expeditious way to notify IRS. If you have previously been in contact with the IRS and **have not achieved a resolution**, please contact the *IRS Identity Protection Specialized Unit*, toll-free at 1-800-908-4490.

Here is a link to the IRS Website where you can view an article entitled Top Ten Things Every Taxpayer Should Know About Identity Theft: <http://www.irs.gov/newsroom/article/0,,id=211493,00.html>

Although the Franchise Tax Board (FTB) does not have a similar form, they do have internal procedures to give priority to handling FTB notices. They will ensure that the victim is held harmless and will minimize the time to resolve the issue with the least possible burden on the taxpayer.

If you receive an FTB billing, refund reduction notice, e-file rejection notification, or any other notice that you believe is attributable to identity theft, you need to notify them immediately. The FTB advises that they will give the case priority handling and focus on the following issues for the taxpayer:

- ◇ Ensure that the victim is held harmless, i.e., they get their full and correct refund
- ◇ Minimize the burden on the victim in resolving their identity theft related tax problem
- ◇ Minimize the time to resolve the case - usually within two weeks to two months, depending on the complexity of the situation

They can also designate a taxpayer's account with a special ID theft contacts flag. This provides a mechanism to block the automated processing of tax returns to a victim's account. FTB is required to manually process everything that comes into such a flagged account.

Most importantly, the sooner the suspected ID theft is reported, the easier it is to get erroneous information removed and get your tax accounts back in order.

ANSPACH FINANCIAL GROUP *TAX AND FINANCIAL PLANNING*

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SEPTEMBER, 2009

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At Anspach Financial Group, we are committed to providing valuable and personalized services to each of our clients. We strive to solve complex tax and related issues by combining technical expertise with creative planning and problem solving. The experience, professional credentials and personal attention of our partners provide our clients with superior services at reasonable cost.

Calendar

Tax Due Dates

September 15	Final filing due date for calendar year corporation, partnership and fiduciary returns on extension
September 15	Third quarter estimated tax payments due
October 15	Final filing due date for individual returns on extension
October 31	Due date for third quarter payroll tax returns
December 10	Final due date for property tax installment

Anspach Financial Group Calendar *

August 31	Deadline for providing all required information for the preparation of 2008 calendar year corporation, partnership and fiduciary returns to insure completion by the September 15th due date
September 30	Deadline for providing all required information for the preparation of 2008 individual returns to insure completion by the October 15th extended due date.

*** Please make arrangements to get your 2008 tax information to us as soon as you possibly can.**

November 1-	
December 15	Best time for year end tax planning