

January 5, 2012

To our Clients and Friends:

Certain US taxpayers that have specific foreign financial assets with an aggregate value exceeding \$50,000 must file new IRS Form 8938 to report those assets. The form is attached to Form 1040 and is in addition to the FBAR Form TD F 90-22.1. Higher asset thresholds apply to US taxpayers who file jointly or who reside abroad. Taxpayers who are not required to file Form 1040 do not file Form 8938.

Form 8938 reporting applies for specified foreign financial assets starting in tax years after March 18, 2010. Most individual taxpayers who qualify will start filing Form 8938 with their 2011 income tax return in 2012.

Who must file Form 8938

1) Specified Individuals

- a) A US Citizen
- b) A resident alien of the US for any part of the tax year
- c) A nonresident alien who makes an election to be treated as a resident alien in order to file a joint tax return
- d) A nonresident alien who is a bona fide resident of American Samoa or Puerto Rico.

2) Specified Foreign Financial Interests

- a) A financial account maintained by a foreign financial institution
- b) Other foreign financial assets held for investment that are not in an account maintained by a US or foreign institution, namely:
 - i) Stock or securities issued by someone other than a US person
 - ii) Any interest in a foreign entity and
 - iii) Any financial instrument or contract that has an issuer or counterparty other than a US person.

3) Aggregate Financial Thresholds

a) Unmarried taxpayers living in the US: The value of specified foreign financial assets is more than \$50,000 on the last day of the tax year or more than \$75,000 at any time during the tax year.

b) Married taxpayers filing a joint return and living in the US: The value of specified foreign assets is more than \$100,000 on the last day of the tax year or more than \$150,000 at any time during the tax year.

c) Married taxpayers filing separate returns and living in the US: The value of specified foreign assets is more than \$50,000 on the last day of the tax year or more than \$75,000 at any time during the year.

d) Taxpayers living abroad and filing a joint return: The value of specified foreign assets is more than \$400,000 on the last day of the tax year or more than \$600,000 at any time during the year.

e) Taxpayers living abroad and filing any return other than a joint return: The value of specified foreign assets is more than \$200,000 on the last day of the tax year or more than \$300,000 at any time during the tax year.

At the present time, specified foreign assets do not include real estate.

Please call us for further information.