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Client Alert

Extension of Deadline for Admission into the Offshore Voluntary Disclosure Program

The Internal Revenue Service (IRS) announced on September 21, 2009 that it will extend, on a one-off basis, the deadline for taxpayers to report undisclosed offshore financial accounts and any income from those accounts under its Offshore Voluntary Disclosure Program (the "Program"). The IRS will give offshore account holders an additional 22 days, until October 15, 2009, to make a voluntary disclosure of these accounts and thereby remain eligible for reduced penalties under the Program.

As we have reported in previous Client Alerts, the IRS announced on March 23, 2009 that it would offer reduced penalties to certain U.S. taxpayers who voluntarily disclose previously unreported foreign financial accounts and the earnings in those accounts. Entry into the Program was due to be barred after September 23, 2009. However, after repeated requests from tax practitioners who claimed that they could not process the number of taxpayers coming forward under the Program by the September 23 deadline, the IRS announced on Monday an extension of the deadline until October 15, 2009. The IRS also extended to October 15, 2009 the deadline for certain taxpayers required to file information returns relating to offshore accounts on Form TD F 90-22.1, commonly known as the FBAR. The IRS has made it clear that there will be no further extensions beyond the October 15th date.

The announced extension is short and will almost certainly be followed by an aggressive audit program aimed at anyone the IRS has reason to suspect of having an undisclosed offshore financial account, a term that the IRS has defined broadly to include foreign co-mingled accounts, such as mutual funds. Taxpayers who do not participate in the Program and who are found on audit to have hidden offshore accounts should not expect the IRS to be flexible in negotiating penalties or in determining whether to pursue civil rather than criminal remedies.

If you would like more information about the Offshore Voluntary Disclosure Program or to discuss a particular set of facts, please contact:

Jeffrey Berger: 212-907-7393 jberger@golenbock.com

Ian Shane: 212-907-7331 ishane@golenbock.com

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