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## IRS Postpones Deadline for Certain Filers of FBARs until June 30, 2010

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Earlier today, August 7, 2009, the Internal Revenue Service issued Notice 2009-62 ("Notice"), which extends to June 30, 2010 the filing deadline with respect to Reports of Foreign Bank and Financial Accounts ("FBAR") for calendar year 2008 and prior years for certain eligible U.S. persons, and requested public comment on possible exceptions to the FBAR filing requirements.

U.S. persons eligible for relief until June 30, 2010 are:

- persons with signature authority over, but no financial interest in, a foreign financial account, and
- persons with a financial interest in, or signature authority over, a foreign commingled fund.

Eligible persons have until June 30, 2010 to file an FBAR for the 2008 and earlier calendar years with respect to these foreign financial accounts. The Notice indicates that the IRS plans to issue guidance for these filers prior to June 30, 2010, which may include clarification that some persons with signature authority may not be required to file FBARs and that certain interests in foreign commingled funds may not be subject to FBAR reporting at all.

The Notice, available [here](#), requests public comments on a number of issues related to possible exceptions and relief from FBAR filing. These include:

- when a person with signature authority over, but no financial interest in, a foreign financial account should be relieved of filing an FBAR for the account;
- in what circumstances the exception from FBAR filing currently available for officers and employees of banks and certain publicly-traded domestic companies might be expanded to apply to all officers and employees with only signature authority over, and no financial interest in, an employer's foreign financial account;
- how the bank and publicly-traded company exception (including the requirement of notification that an FBAR was filed by a U.S. person with a financial interest in the account) might apply to officers and employees with only signature authority over accounts owned by clients of their employer; and

- when an interest in a foreign entity (e.g., a corporation, partnership, trust, or estate) should be subject to FBAR reporting.

At this time, it is unclear from the Notice if any exceptions or relief that may come as a result of the public comments would apply to late filings for calendar year 2008 and prior years. Accordingly, eligible US persons with signature authority over, but no financial interest in, a foreign financial account and persons with a financial interest in, or signature authority over, a foreign commingled fund (including a mutual fund or other passive investment vehicle) should be prepared to make late FBAR filings for 2008 and prior years, in accordance with the procedures set forth in FAQ 9 and 43 previously issued by the IRS (available [here](#)), by June 30, 2010. All U.S. persons not eligible for the June 30, 2010 postponement should make late FBAR filings for 2008 and prior years no later than September 23, 2009 in accordance with the procedures set forth in the FAQs.

Please refer to our prior Email Alerts on this topic, available [here](#) and [here](#), which provide additional details on the scope of the FBAR filing.

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## *Authors*

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RETIRED PARTNER