Insights: Alerts

June 30th Deadline for Foreign Bank Account Reporting to IRS

MAY 18, 2015

Tuesday, June 30th is the filing due date for the Report of Foreign Bank and Financial Accounts, known as the “FBAR.”

A “U.S. person” is required to file an FBAR if: (1) the U.S. person has a financial interest in, or signature authority over, at least one financial account located outside of the United States; and (2) the aggregate value of all foreign financial accounts exceeded $10,000 at any time during the calendar year to be reported.

“U.S. person” includes U.S. citizens; U.S. residents; entities, including, but not limited to, corporations, partnerships or limited liability companies, created or organized in the United States or under the laws of the United States; and trusts or estates formed under the laws of the United States. Notably, U.S. residents who are classified as non-residents under the treaty tie breaker provisions of a double tax treaty still are required to file an FBAR even though such persons are excused from the disclosure obligations under IRS Form 8938. In addition, U.S. persons owning more than 50% of a foreign entity are responsible for filing an FBAR with respect to foreign accounts held by the foreign corporation.

The FBAR reports the “maximum value of the account” to the IRS on an annual basis. FBARs must be e-filed, and no extensions of the FBAR due date are permitted. Severe penalties of up to $100,000 or 50% of the account balance for each year of violation, whichever is greater, may be imposed for failure to comply with the FBAR requirements.

The FBAR reporting requirement may be imposed on more than one person having a financial interest or signature authority over a financial account. Consequently, it is possible for both a corporation and its officers to face an FBAR filing responsibility. As a result, both companies and their employees should be made aware of possible filing requirements and the accompanying penalty exposure for any compliance failure.

For further information on current FBAR reporting obligations and/or past failures to comply with the FBAR requirements, please contact Susan Hu or any other member of Kilpatrick Townsend's Domestic and International Tax Team.