

## **FOREIGN INCOME, ASSETS AND INTERESTS STATEMENT**



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We cannot express strongly enough the seriousness of this issue for our clients who may have foreign income, assets, or interests in any form. The fines simply for failure to file the proper foreign income reporting forms by the tax year in which they are due literally start at \$10,000 per form. The fees, penalties, and interest on the unreported income are assessed on top of that – and the penalties alone are a minimum of 27.5% of the unreported income for each tax year.

The Internal Revenue Service has, to date, collected over \$5,000,000,000 from their very aggressive pursuit of offshore income in just four years. They use a very broad definition of "interest in foreign income" that can include anything from bank accounts, stocks, time-shares, and retirement plans to your parents' bank accounts in a foreign country (if you happen to have a financial power of attorney for them - whether or not it has been exercised) or a relative's account if you go abroad for a length of time and store your money in that. There are literally hundreds of possible types of income. Do not assume that any form of income you possess, store in, or expect to receive from a foreign country is exempt from this scrutiny – disclose it to us and we will review it with you to determine whether or not it needs to be reported on your tax return.

The Internal Revenue Service has begun a Voluntary Disclosure Program for taxpayers who have failed to report their offshore income, whether deliberately or not. We have worked with taxpayers going through this program already and we encourage our clients who did not report foreign income to sign up for it as the civil penalties (referenced above) for those in it are far less than those who did not join it. Failure to report foreign income can also result in criminal charges for income tax evasion, filing a false tax return, or failure to file a tax return. The Internal Revenue Service has indicated that it will more aggressively pursue criminal action against taxpayers with unreported offshore income who did not join their Voluntary Disclosure Program than those who did.

Taxpayers are required to report on all world-wide income including, but not limited to, wages, self-employment earnings, interest, dividends, annuities, rental income, pensions, scholarships, and sales of assets. Taxpayers and entities to which they belong (including corporations, partnerships, trusts, and estates) that have a financial interest in, or signature or other authority over, bank accounts, securities, or other financial accounts in a foreign country whose aggregate value exceeds \$10,000 in any tax year must report the relationship. This includes taxpayers that have direct or indirect control over a foreign or domestic entity with foreign financial accounts, even if they are not in the taxpayer's name. Failure to disclose these accounts to the IRS may result in substantial civil and/or criminal penalties. The form required to report this relationship, TD-F-90-22, is due on June 30th of each tax year.

Taxpayers are required to report holding of foreign financial assets with an aggregate value exceeding \$50,000 for all tax years beginning after March 18, 2010. The definition of foreign financial assets is also broad and includes, but is not limited to, bank accounts, stocks, partnership interests, mutual funds, investment accounts, foreign-issued life insurance or annuity contract with a cash value, hedge funds, equity funds, and interest in foreign property held by a foreign business entity. The form required to report these assets, Form 8938, is due on the filing date for the tax return (including extensions).

In addition, currently the Internal Revenue Service, under IRC §6038 and §6046, requires information reporting if you are an officer, director or shareholder with respect to certain foreign corporations (Form 5471); foreign-owned U.S. corporation or foreign corporation engaged in a U.S. trade or business (Form 5472); or U.S. transferor of property to a foreign corporation (Form 926). There are additional forms which may need filing depending on your circumstances.

Again, we strongly encourage you to discuss any possible foreign income, assets, or interests that you may possess with us.

We assume no liability for penalties associated with the failure to file or untimely filing of any forms regarding foreign income, assets, or interests.