



To Our Clients and Friends:

June 22, 2011

IRS Modifies 2011 Offshore Voluntary Disclosure Initiative to Reduce Penalties for Certain Participants and Permit Extensions

On June 2, 2011, the IRS issued further guidance in connection with the 2011 offshore voluntary disclosure initiative (“2011 OVDI”) for taxpayers with undeclared foreign accounts and/or unreported foreign income.

As discussed in our prior letter, dated February 9, 2011, participants in the 2011 OVDI must, among other things, file complete and accurate amended (or original) returns and FBARs for each year during the period covered by the voluntary disclosure. Participants must pay (i) all tax due with interest, (ii) an accuracy penalty equal to 20% of the underpayment of tax for each year, and (iii) an “offshore” penalty equal to 25% of the highest aggregate balance in the undeclared foreign accounts (plus the value of the taxpayer’s interests in certain foreign entities and other foreign assets) during the voluntary disclosure period. This process (including the submission of all such returns) must be completed by August 31, 2011.

Pursuant to the new guidance issued June 2, 2011, the 25% offshore penalty may be reduced to 5% for a taxpayer who, for each year of the voluntary disclosure period, (i) resides in a foreign country, (ii) makes a good faith showing that he or she has timely complied with all tax reporting and payment obligations in the country of residence, and (iii) has no more than \$10,000 of U.S.-source income. In addition, certain nonfinancial foreign assets to which the 25% offshore penalty applies may not be subject to the 5% penalty.

The new guidance also provides that a participant who cannot make a complete submission by August 31, 2011, may request an extension of up to 90 days if he or she can demonstrate a good faith attempt to fully comply. The request must include, among other things, a statement of the items that are missing, an explanation of why such items are missing, and a description of the steps being taken to secure them. Whether or not to grant an extension is wholly within the discretion of the IRS.

Even with the possibility of an extension beyond the August 31, 2011 deadline, taxpayers who wish to participate in the 2011 OVDI have relatively little time to obtain the necessary information and complete the required submission. **Early action will be needed to meet the deadline.**

If you have any questions concerning this release, please call Michael J. Miller at (212) 903-8757, Richard A. Levine at (212) 903-8729, Howard J. Levine at (202) 293-3408, Mark David Rozen at (212) 903-8743, or Ellen S. Brody at (212) 903-8712.