

Part IV - Items of General Interest

FBAR FILING REQUIREMENTS - CONTINUATION OF SUSPENSION OF FBAR FILING REQUIREMENTS FOR PERSONS WHO ARE NOT UNITED STATES CITIZENS, UNITED STATES RESIDENTS, OR DOMESTIC ENTITIES

Announcement 2010-16

This Announcement suspends, for persons who are not United States citizens, United States residents, or domestic entities (corporations, partnerships, trusts, or estates), the requirement to file Form TD F 90-22.1, Report of Foreign Bank and Financial Accounts (FBAR), for the 2009 and earlier calendar years.

In October 2008, the Internal Revenue Service published a revised FBAR form together with accompanying instructions that changed the definition of “United States person.” The IRS received numerous questions and comments from the public concerning the changed definition. In response, and to reduce the burden on the public, the IRS issued Announcement 2009-51, 2009-25 I.R.B. 1105, which directed people to refer to the definition of “United States person” in the July 2000 version of the FBAR instructions to determine if they had a filing obligation. This effectively suspended the filing of FBARs due on June 30, 2009, by persons who were not United States citizens, United States residents, or domestic entities. Announcement 2009-51 stated that additional FBAR guidance would be issued for subsequent filing years and invited public

comments concerning the FBAR form and instructions.

Since the issuance of Announcement 2009-51, and receipt of a significant number of public comments, the Treasury Department has published proposed FBAR regulations under 31 CFR Part 103, as well as proposed revisions that clarify instructions for the FBAR (Form TD F 90-22.1). To provide taxpayers with guidance on who is required to file FBARs due on June 30, 2010, and in particular to provide immediate guidance to taxpayers on how to answer FBAR-related 2009 federal income tax return questions (e.g., Schedule B of Form 1040, the “Other Information” section of Form 1041, Schedule B of Form 1065, and Schedule N of Form 1120), the IRS and Treasury Department believe it is appropriate to provide the following administrative relief:

The requirement to file an FBAR due on June 30, 2010, is suspended for persons who are not United States citizens, United States residents, or domestic entities. Additionally, all persons may rely on the definition of “United States person” found in the July 2000 version of the FBAR instructions to determine if they have an FBAR filing obligation for the 2009 and earlier calendar years. The definition of “United States person” from the July 2000 version of the FBAR is:

United States Person The term “United States person” means (1) a citizen or resident of the United States, (2) a domestic partnership, (3) a domestic corporation, or (4) a domestic estate or trust.

This substitution of the definition of “United States person” applies only with respect to FBARs for the 2009 calendar year and, as originally provided in Announcement 2009-

51, to earlier calendar years.

All other requirements of the 2008 version of the FBAR form and instructions, as modified by Notice 2010-23, remain in effect until changed by subsequent guidance issued by the Treasury Department, including the IRS.

EFFECT ON OTHER DOCUMENTS

Announcement 2009-51 is supplemented and superseded.

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