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**RE: Current Events Memorandum  
 Asset Protection: Unreported Offshore Income**

IRS Commissioner Doug Shulman has announced what is in effect a settlement offer for those that voluntarily and timely disclose unreported offshore income. Those meeting the terms of the offer will have to pay back-taxes and interest for six years, and pay either an accuracy or delinquency penalty on all six years. They will also pay a penalty of 20% of the amount in the foreign bank accounts in the year with the highest aggregate account or asset value. However, those who come forward on a timely basis will not face criminal prosecution.

*Highlights of the offer.* As explained in a memorandum written by Linda E. Stiff, Deputy Commissioner for Services and Enforcement and addressed to the Commissioners for the Large and Mid-Size (LMSB) and Small Business/Self-Employed (SBSE) Divisions, the tax liabilities related to offshore issues of taxpayers that make “voluntary disclosure requests” will be settled as follows:

- ... Taxes and interest due going back 6 years will be assessed. The taxpayer must file or amend all returns, including information returns, and Form TD F 90-22.1 (Report of Foreign Bank and Financial Accounts (FBAR)).
- ... IRS will assess either an accuracy or delinquency penalty for all years (no reasonable cause exception will be applied).
- ... In lieu of all other penalties that may apply (including FBAR and information return penalties), IRS will assess a penalty equal to 20% of the amount in foreign bank accounts/entities in the year with the highest aggregate account/asset value. The penalty is reduced to 5% if, with respect to the accounts or entities formed: (a) the taxpayer did not open them or cause them to be opened or formed; (b) there has been no activity during the period the accounts/entities were controlled by the taxpayer; and (c) all applicable U.S. taxes have been paid on the funds in the accounts/entities (where only the earnings have escaped U.S. taxes).

The above terms will apply only to taxpayers that “fully cooperate with the IRS both civilly and criminally,” for all voluntary disclosure requests that are submitted to IRS, and are not yet resolved. The terms will remain in effect only for six months from Mar. 23, 2009 (the date that the Deputy Commissioner for Services and Enforcement released the memorandum on voluntary disclosure requests).

\*Used with permission from RIA Checkpoint, *IRS announces settlement offer for those that voluntarily disclose unreported offshore income.*, 3/27/09