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Dear Client,

The IRS has added this year a new form to complete for individuals who have foreign investments including some foreign real estate interest and retirement investments. See below information regard the new IRS form 8938.

Sincerely,

Lauren Spradlin
Miorini Law PLLC



New Tax Form 8938

"Statement of Specified Foreign Financial Assets"

The IRS has created a new form 8938, "Statement of Specified Foreign Financial Assets" that needs to be filed with your 2011 income tax return if you have foreign investments. This form is in addition to the requirements of completing form TD F 90-22.1, "Report for Foreign Bank and Financial Accounts" (to be filed by June 30, 2011).

The goal of this new form is to avoid any possible tax evasion. This form does not trigger income tax liability; it is only an income tax report obligation; however if you do not comply with this obligation the tax penalty is \$10,000.

Who is Supposed to Declare?

- An American or and American entity
- A permanent resident
- A non-resident that has requested to be treated as a resident for income tax purposes.

What is the Threshold of your Income?

- For an individual the foreign investment is above \$50,000 on December 31, 2011 or a value of more than \$75,000 for the year 2011
- For a couple the thresholds is more than \$100,000 as of December 31, 2011 or more than \$150,000 during the year.
- For a married couple filling separate income tax returns the value is more than \$50,000 on December 31, 2011 or \$75,000 at any time during the year 2011.
- There is also a requirement if you are living abroad.

What are the Reporting Obligations?

- Stock or securities issued by a foreign corporation
- A note, bond or debenture issued by a foreign person

- An interest rate swap, currency swap, basis swap, interest rate cap, interest rate floor, commodity swap, equity swap, equity index swap, credit default swap or similar agreement with a foreign counterparty
- An option or other derivative instrument with respect to any of these examples or with respect to any currency or commodity that is entered into with a foreign counterparty or issuer
- A partnership interest in a foreign partnership
- An interest in a foreign retirement plan or deferred compensation plan
- An interest in a foreign estate
- Any interest in a foreign-issued insurance contract or annuity with a cash-surrender value
- Foreign pension or deferred compensation plan

Important Exceptions to Reporting

- Foreign investments held by a U.S. organization
- Any retirement interest held by a foreign government that is similar to social security.

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