

# International Tax Controversy

## International Tax Controversy

We represent and advise taxpayers with offshore tax compliance issues. This includes U.S. persons who live abroad, and those residing in the United States with interests in foreign bank accounts, investment accounts, businesses and other assets held abroad.

This also includes individuals under examination for late filing or failing to file information reports required under the Internal Revenue Code (Title 26) or the Bank Secrecy Act (Title 31), such as the Foreign Bank Account Report (FBAR).

We represent an extensive international client base of individuals and businesses in a wide range of issues including foreign bank account reporting, Subpart F and controlled foreign corporation issues, residency and domicile matters, transfer pricing issues, and foreign trust matters. In addition to our Team's extensive experience representing clients administratively with international tax and information reporting and compliance, our Firm's criminal and civil tax litigation groups, led by attorneys with decades of combined experience with Internal Revenue Service Office of Chief Counsel and the United States Department of Justice, are prepared to provide a vigorous defense for our clients facing criminal exposure relating to International Tax matters.

### TEAM LEADER



**TIFFANY D. BELL**  
Partner | Office Leader, Clarence

### Foreign Business Information Reporting

U.S. tax law requires substantial information reporting for foreign corporations, partnerships, trusts and certain foreign investments.

We represent individuals and businesses with foreign business interests, trusts and investment interests. Individuals and businesses can be assessed substantial penalties for failing to timely report foreign interests or transactions with foreign entities on the proper information returns. It is critical to properly identify the appropriate filing requirements and ensure they are met for all years. Our Team assists clients in navigating the complex rules, reporting and compliance relating to foreign businesses, foreign owners of U.S. businesses, trusts and certain foreign investments, including identifying compliance requirements, assisting with proper timely reporting, voluntary disclosures of untimely information returns, penalty assessment defense and, if necessary, litigation representation.

### FBAR (Foreign Bank Account Reporting) & FATCA (Foreign Account Tax Compliance Act)

U.S. persons, this includes both individuals and businesses, are subject to substantial information reporting requirements. One common foreign information reporting obligation is the Foreign Bank Account Report, usually referred to as the FBAR. U.S. persons are required to file the FBAR form if the highest aggregate balance in all accounts held outside the U.S. exceeds \$10,000 at any time during the tax year. This form is used to report any type of foreign account, including checking, savings, investment and retirement. A U.S. person must report an account on an FBAR if they have signature authority or a beneficial interest in the account. If it is determined that previous FBAR filings were missed, it is important to seek professional guidance immediately as the potential penalties for late filed or unfiled FBARs can be substantial. Our Team can assist you in determining your FBAR filing requirements as well as determine the best course for voluntarily disclosing your interests in the foreign accounts.

### **Voluntary Disclosure Representation**

Lippes Mathias LLP can assist in determining any foreign reporting obligations our clients may have and assist in determining the appropriate IRS voluntary disclosure process for our client's specific circumstances.

We provide legal counsel and representation to clients with foreign business interests, financial accounts or other foreign assets. We have successfully navigated many of our clients through the IRS' various Offshore Voluntary Disclosure Programs since its inception in 2009. We currently assist clients with the IRS Foreign or Domestic Streamlined disclosures, Delinquent Information Return submissions and other general voluntary disclosure avenues. Our team of attorneys and paralegals are uniquely qualified to assist taxpayers with complex foreign reporting obligations through these situations.

### **Transfer Pricing**

Transfer pricing is an important issue for related companies transacting business internationally. The concept of transfer pricing encompasses the price paid or cost allocated for services or supplies traded between related entities which make up an international business operation. The IRS is aggressive in challenging certain transactions between related entities to determine if a fair price has been determined by the entities. With more attention to retention of profits outside of the U.S., transfer pricing is a renewed area of emphasis for the IRS. Given the complex nature of a transfer pricing audit, it is critical that any entity dealing with a transfer pricing issue seek professional assistance.

### **Permanent Establishment**

In today's global market, businesses are focusing more resources on effectively managing and organizing permanent establishments. Likewise, taxing authorities, including the IRS, are becoming more aggressive in addressing permanent establishment issues. As business models evolve, multinational companies face more complex problems in ensuring compliance with tax laws and treaties established under more outdated policy considerations.

Corporations have many options for doing business in a target country without triggering a permanent establishment. Analysis is highly fact-specific for each case, and the treaty language may vary depending upon the countries that are involved. When a corporation is expanding its operations into a foreign country, careful consideration of all issues must be taken into account.

The professionals at Lippes Mathias LLP, can address issues and ensure that you are taking the most effective approach toward compliance. Our Team will conduct a detailed review of your corporation with respect to risks relating to maintaining a permanent establishment within the U.S. These reviews are similar in scope and

substance to the IRS permanent establishment examinations. The review identifies any significant risk factors, advises on corrective action going forward, and assesses the need to file protective or taxable forms 1120F.

### **Residency/Domicile Issues relating to Foreign Tax and Information Reporting**

Generally, U.S. taxpayers are taxed on their worldwide income. Many times, however, questions of domicile or residency arise with regard to taxation. Domicile is a common-law term which refers to a person's fixed or permanent living place in which the person intended to live indefinitely or intends to return. Generally speaking, a person may have several residences, but they may only have one domicile.

There are several different tests that may be conducted to determine your domicile and/or residency. There are also instances where an individual may have dual residency and be subject to taxation in more than one tax jurisdiction. Taxpayers should take care to ensure that they avoid potential pitfalls of double taxation when it comes to these issues and should seek the help of a professional in determining whether and to what extent they have a tax obligation. Our Team assists clients with Residency/Domicile issues and provides counsel and representation pertaining to foreign residency-related matters, whether you are planning a change, currently need assistance determining residency or domicile for certain information reporting, or are already under audit related to that issue.