

FBARs and Offshore Hedge Funds

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After the landmark agreement between the U.S. and Swiss government over secret UBS Swiss bank accounts held by U.S. citizens, the IRS is now focusing on hedge funds in the Cayman Islands. Recently, IRS officials advised that certain U.S. investors in off-shore hedge funds must file a FBAR.

On June 12, 2009, an IRS official stated that the term "financial interest" (which requires a FBAR filing) includes hedge funds that "function as mutual funds." It appears the IRS and Justice Department will identify U.S. taxpayers who evade U.S. taxes by investing with off-shore hedge funds. The IRS and Justice Department are pressing foreign financial institutions to provide them with information about Americans with "foreign, secret bank accounts."

Senate Finance Committee Chairman Max Baucus (D., Mont.) has introduced legislation that would require an FBAR to be filed with a tax return. It would also require U.S. financial institutions to report to the IRS transfers of money into any foreign financial account. This would make it possible for the IRS to have information about the creation of a foreign account at the beginning.

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