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## WEALTH PRESERVATION AND TAX PLANNING ALERT

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### IRS Offshore Voluntary Disclosure Program Reopens

On January 9, 2012, the Internal Revenue Service ("IRS") announced the reopening of the Offshore Voluntary Disclosure Program ("OVDP") as a way for U.S. taxpayers with undisclosed foreign accounts, assets and income to become compliant with U.S. tax law. The OVDP follows the 2009 Offshore Voluntary Disclosure Program and the 2011 Offshore Voluntary Disclosure Initiative. Under these programs, 33,000 taxpayers came forward in order to become compliant with U.S. tax law resulting in the collection of \$4.4 billion to-date. The IRS expects taxpayers to continue to come forward and participate in the OVDP as its efforts to combat offshore tax evasion continue.

#### Framework of the 2012 OVDP

The federal tax filing and payment structure of the 2012 OVDP is similar to what was offered by the 2011 Offshore Voluntary Disclosure Initiative. Participants in the 2012 OVDP will be required to:

1. Pay all applicable tax, interest, accuracy-related penalties, late filing and late payment penalties (if applicable) for up to 8 years; and
2. Pay a 27.5% penalty (or reduced rates of 12.5% and 5% for certain qualifying U.S. taxpayers) based on the highest aggregate balance of unreported foreign financial accounts and assets that were required to be reported for the prior 8 years.

U.S. taxpayers who feel the penalty structure of the 2012 OVDP is disproportionate to the circumstances surrounding their noncompliance can choose to opt out of the 2012 OVDP and be examined by the IRS.

Some key differences between the 2012 OVDP and the 2011 Offshore Voluntary Disclosure Initiative are:

1. The 2012 OVDP will remain available to taxpayers indefinitely (no deadline currently established);
2. The 27.5% is an increase from the 25% penalty offered by the 2011 Offshore Voluntary Disclosure Initiative; and
3. The terms of the 2012 OVDP can change at any time going forward, including increased penalties or termination of the program.

The IRS announced that more details and additional specifics about the 2012 OVDP will be issued within the next month.

The information in this alert is not intended to be an exhaustive summary of the IRS Voluntary Disclosure Program or the options available to a U.S. taxpayer who desires to become compliant with their U.S. tax and reporting obligations. ■

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#### WEALTH PRESERVATION AND TAX PLANNING GROUP

##### Alfredo Tamayo

(561) 893-8733

ATamayo@bergersingerman.com

##### Michael Harris

(561) 893-8717

MHarris@bergersingerman.com

##### Nick Jovanovich

(954) 712-5144

NJovanovich@bergersingerman.com

##### Daniel Mielnicki

(561) 893-8705

DMielnicki@bergersingerman.com

##### Marian Nease

(561) 893-8710

MNease@bergersingerman.com

##### Sheldon Polish

(954) 712-5132

SPolish@bergersingerman.com

##### William Shaheen

(561) 893-8732

WShaheen@bergersingerman.com