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FLORIDA'S BUSINESS LAW FIRM

PANAMA PAPERS GOING PUBLIC

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The International Consortium of Investigative Journalists ("ICIJ") announced that, on May 9th, it will release a database searchable by the public on more than 200,000 foreign entities included in the "Panama Papers". The Panama Papers contain 11.5 million files from the law firm Mossack Fonseca, one of the world's largest law firms specializing in the formation and administration of offshore entities, that were leaked by an anonymous source to a German newspaper that, in turn, provided the information to the ICIJ. The ICIJ stated that such database includes information about corporations, trusts, foundations and other entities incorporated in a multitude of jurisdictions (including the United States) with connections to people in over 200 countries. Where possible, the ICIJ stated that users will be able to search the database to see an entity's true owners. The database will also include information about the more than 100,000 companies included in the 2013 ICIJ offshore leaks investigation.

The Panama Papers leak comes several years after the UBS scandal broke, wherein the names of U.S. taxpayers holding unreported accounts at UBS were provided to the U.S. government. In the wake of the UBS scandal, the IRS established the Offshore Voluntary Disclosure Program ("OVDP") and the Streamline Filing Compliance Procedures ("SFCP") for U.S. taxpayers who have failed to properly report their foreign assets. While the specifics of each program and distinctions between the two are beyond the scope of this article, these programs generally permit U.S. taxpayers to voluntary come forward and pay delinquent taxes, civil penalties (which, generally, are less than the civil penalties that could apply outside either program) and interest on their unreported foreign assets and avoid criminal prosecution. A key prerequisite to participate in these programs, among others, is that the U.S. taxpayer enters either program before the IRS contacts such taxpayer or otherwise is provided with information about such taxpayer. The OVDP and SFCP have gone through many revisions since their respective inceptions but remain in effect as of this writing.

Thus, for those U.S. taxpayers with undisclosed foreign assets, particularly with connections to Panama, who have yet to come into compliance, the clock is ticking. If the U.S. government receives information about such taxpayers through the Panama Papers (or otherwise), they may be precluded from entering the OVDP or SFCP and be subject to greater civil penalties that would otherwise apply within either program as well as potential criminal exposure.

If you have any questions on this topic, please contact the author, Mitchell W. Goldberg, on the firm's Business, Finance & Tax Team.

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