

Carr Talks

TAXLOGIC



WEEKLY SUMMARY

A muted week for financial information, and except for the devastating tornados in the South, there was little newsworthy even from the Chairman of the Federal Reserves' first public press conference. Gold rocketed through \$1,530 an ounce and the US domestic economy looked decidedly patchy. Unemployment remains stubbornly high, the low US dollar, while good for exporters, is not helping alleviate high gas prices that in turn is flowing through to weakening demand as the price increases ripple through the economy. In spite of all this, the stock market continues to rally and showing impressive gains over the 2008 Global Financial Crisis lows.

Credit conditions remain weak, and funding for business almost non-existent, except for work out loans on existing loans, and even then with tough terms and short periods of repayment. Housing remains moribund and there is nothing in sight that would provide encouragement as to seeing a revival in housing sales, or prices. We should be prepared for a long slow drawn out recovery.

The job market weakened this week with an extra 25,000 filing for unemployment – not encouraging on the back of weak consumer confidence.

Some positive news is going to be required to jump start consumer spending.

FBAR (Foreign Bank Account Reporting)

Before you say that this doesn't apply to you – double check and then check and think again. For penalties, nothing comes close to the FBAR penalty regime. Even if no taxes are owed, and the offense was not deliberate, penalties start at \$10,000 and go up to 50% of the account value EACH YEAR.

What is FBAR? FBAR is not in itself a tax – but a financial reporting (informational) form that has to be received in Detroit by June 30th, each year. It is one of the few forms (if only form) that is due by June 30th each year and not just post marked, and there is no electronic filing option.

Who is covered? Basically if you have an account outside the US, bank account, financial account, stocks or bonds – you have to file the TD F 90-22.1

The FBAR is one element of a concerted push by Congress and the Internal Revenue Service to make sure U.S. taxpayers are paying what they owe on foreign accounts. Unlike other countries, Uncle Sam taxes citizens and residents on world-wide income.

Not all of it, of course: To prevent or lessen double taxation, a tax credit generally offsets foreign taxes paid, up to the amount of U.S. taxes. For U.S. citizens living abroad, the first \$92,900 of earned income is tax-free as well in 2011.

Related efforts include a second limited amnesty (the first was in 2009), ending Aug. 31, for taxpayers who didn't report offshore accounts in prior years. A new form also will be due with the 2011 1040 return requiring disclosures of even more foreign assets, although the IRS hasn't yet released it.

• **Who must file.** U.S. taxpayers, including citizens, residents and entities, with foreign financial accounts totaling more than \$10,000 at any point during a year. This trigger isn't indexed for inflation, and all affected assets or accounts are aggregated. Experts say those with signatory authority over foreign accounts (say, for a business) should be especially careful, as should U.S. citizens with non-U.S. family members.

The rules for figuring asset totals are confusing: One takes the highest value of the account during the year—even if a large payment such as a bonus was there for only a day or two—but converts it using exchange rates as of Dec. 31 of that year.

• **Covered assets.** Generally included are foreign bank and brokerage accounts, offshore mutual funds or pooled investments (but not private-equity and hedge funds), some foreign trusts, foreign life insurance or annuities if they have cash value and overseas individual pension plans, such as the Canadian version of an IRA.

The rules note that an account with a U.S. bank at a branch physically located outside the U.S. must be reported, but an account with a foreign bank at a branch inside the U.S. doesn't. "The name of the institution is irrelevant, it's where it's located.

• **Penalties.** Even nonwillful failure to file an FBAR may trigger a \$10,000 penalty per year. In practice, many who have come forward under the IRS's 2009 limited amnesty for undeclared offshore accounts have been forfeiting 40% to 70% of the current value of their accounts, plus attorney's fees, even if little or no tax was owed.

www.carr.co.nz/stats

	Last Week	End of Week	Next Week	12/31/2011
Gold	\$1,504.90	\$1,565.80	\$1,600.00	\$1,600.00
Oil	\$112.35	\$113.73	\$115.00	\$120.00
Dow Jones	12,505.99	12,810.54	12,900.00	12,250.00
Prime Rate	3.25 %	3.25 %	3.25 %	4.00 %
Unemployment	8.80 %	8.80 %	8.80 %	9.50 %