

## Another IRS Offshore Account Voluntary Disclosure Program As published February 23, 2011



### An IRS Offer to Come Clean

For the second time in two years, the IRS is conducting a voluntary disclosure initiative designed to bring offshore money back into the U.S. tax system and allow people with undisclosed income from hidden offshore accounts to get current with their taxes. The new federal voluntary disclosure initiative will be available through August 31, 2011.

The IRS stated its decision to open a second special disclosure initiative follows continuing interest from taxpayers with foreign accounts. A previous voluntary disclosure program closed with 15,000 voluntary disclosures on October 15, 2009. Since that time, more than 3,000 taxpayers have come forward to the IRS with bank accounts from around the world. These taxpayers will also be eligible to take advantage of the special provisions of the new initiative.

(In 2003, the IRS had a similar voluntary disclosure program aimed at bringing back into compliance taxpayers who used offshore payment cards and other arrangements to hide income.)

"As I've said all along, the goal is to get people back into the U.S. tax system," IRS Commissioner Doug Shulman said. "Combating international tax evasion is a top priority for the IRS. We have additional cases and banks under review..."

The new initiative – called the 2011 Offshore Voluntary Disclosure Initiative (OVDI) -- includes several changes from the 2009 Offshore Voluntary Disclosure Program (OVDP). The overall penalty structure for 2011 is higher, meaning that people coming forward now will not fare as well as those did in 2009.

However, the 2011 initiative does add new features and modifications:

- For the 2011 program, there is a new penalty framework that requires individuals to pay a penalty of 25 percent of the amount in the foreign bank accounts in the year with the highest aggregate account balance covering the 2003 to 2010 time period. Some taxpayers will be eligible for 5 or 12.5 percent penalties. Participants also must pay back-taxes and interest for up to eight years as well as paying accuracy-related and/or delinquency penalties.
- Taxpayers participating in the new initiative must file all original and amended tax returns and include payment for taxes, interest and accuracy-related penalties by the August 31, 2011 deadline.
- Participants face a 25 percent penalty, but taxpayers in limited situations can qualify for a 5 percent penalty.
- The IRS also created a new penalty category of 12.5 percent for treating smaller offshore accounts. People whose offshore accounts or assets did not surpass \$75,000 in any calendar year covered by the 2011 initiative will qualify for this lower rate.

In the 2009 voluntary disclosure program, taxpayers faced up to a 20 percent penalty covering up to a six-year period. Taxpayers came forward with about 15,000 voluntary disclosures in that effort covering banks in more than 60 countries.

To be acceptable, a taxpayer must make a voluntary disclosure before the IRS initiates an inquiry and before a tipster contacts the IRS about the matter. Additionally, it is extremely important to coordinate a federal voluntary disclosure with a voluntary disclosure to the relevant state(s).

If you have a foreign account and have compliance concerns, consult with our cross-border expert Mark Janulewicz about how to proceed. A taxpayer needs to determine the full extent of possible federal (as well as state) taxes and penalties that could be imposed *before* making a voluntary disclosure. Mark can be reached at [mjanulewicz@lumsdencpa.com](mailto:mjanulewicz@lumsdencpa.com) or 716-856-3300.



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