



Robert W. Wood

THE TAX LAWYER

Jul. 14 2012 — 6:46 am

Credit Suisse Account Holders Face Search And Seizure

Before you get alarmed by this headline, it's not the IRS doing the raiding. It's German tax inspectors. German clients of the Swiss bank who are suspected of evading taxes are facing home raids and more. About 5,000 are said to have bought insurance policies at a Bermuda-based subsidiary of Credit Suisse between 2005 and 2009. See [Clients of Swiss Bank Raided in Tax Probe](#).



What's wrong with buying insurance? Nothing usually, but these policies were supposed to earn tax-free money on savings accounts, and are alleged to be tax scams. Credit Suisse says customers were told to talk to their own tax adviser. This may sound like a tempest in a German teapot, but not if you're an American Credit Suisse account holder who has not yet come forward. See [10 IRS Rules for Stress-Free Foreign Accounts](#).

The IRS OVDP remains in effect and offers a limited form of amnesty with manageable penalties and no prosecution. See [New IRS Offshore Amnesty Announced: Third Time's A Charm](#). Plus, in late June of 2012 the IRS released helpful FAQs [here](#). In general, these FAQs say the IRS will not penalize taxpayers who don't owe additional taxes (even if they didn't properly declare their foreign accounts). Just file your past due FBARs, the IRS says.

The IRS also showed some relief to dual nationals living outside the U.S., noting that a new relief program's details would be out by September 1, 2012. See [IRS Announces Tax Relief For Dual Citizens And U.S. Citizens Abroad](#). But on a more threatening note, the IRS says it can rule taxpayers ineligible for the IRS amnesty program. Here's what could make you ineligible:

John Doe Summons or Treaty Request. The mere fact that the IRS served a John Doe summons, made a treaty request or took similar action does not make every member of the John Doe class or group identified in the treaty request or other action ineligible to participate. However, once the IRS or Department of Justice obtains information under a John Doe summons (see [IRS Summons? Meet John Doe](#)), treaty request or similar action that provides evidence of a *specific* taxpayer's noncompliance with the tax laws or Title 31 reporting requirements, that taxpayer will become *ineligible* for OVDP.

Appealing Foreign Tax Decision About Disclosure. If a taxpayer appeals a foreign tax administrator's decision authorizing the release of account information to the IRS, the taxpayer is required to serve notice of that appeal on the U.S. government. See [18 U.S.C. § 3506](#). Of course, serving the notice may defeat the purpose of the appeal. Still, if the taxpayer fails to serve the notice, he is ineligible to participate in the OVDP. See [Are You Ineligible For IRS' Offshore Account Amnesty?](#)

Action Against Institutions. The IRS may announce that taxpayers with accounts at particular financial institutions are ineligible for OVDP due to U.S. government actions in connection with that institution. Such announcements will provide notice and the prospective date eligibility will end.

*Robert W. Wood practices law with [Wood LLP](#), in San Francisco. The author of more than 30 books, including *Taxation of Damage Awards & Settlement Payments* (4th Ed. 2009 with 2012 Supplement, [Tax Institute](#)), he can be reached at Wood@WoodLLP.com. This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.*