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THE TAX LAWYER

TAXES 6/18/2014

IRS Announces Better Offshore Amnesty Program

The IRS has rolled out important changes to its successful offshore account amnesty programs. How successful have they been for the IRS? More than [45,000 taxpayers](#) have fixed their tax problems via the IRS programs, paying about [\\$6.5 billion in taxes](#), interest and penalties.

As [FATCA](#) and global bank transparency kick in July 1, 2014, the IRS can expect even more mea culpas. But one group unhappy with the rules so far has been expats. Americans abroad have long complained that they have foreign accounts for *legitimate* reasons and shouldn't be penalized for technical reporting failures.

Expats should be pleased that the IRS's [Streamlined Program](#), a big disappointment when announced in 2012, is now a good deal broader. The original streamlined procedures announced in 2012 were available only to non-resident, non-filers. For many, that was a non-starter. Plus, there were different degrees of review based on the amount of tax due and the taxpayer's response to a risk questionnaire.

The [revamped Streamlined Program is broader](#). It can even apply to some people living in the U.S. Moreover, the expanded streamlined procedures are available to more U.S. taxpayers living abroad. The changes include:

- Eliminating the rule that the taxpayer have \$1,500 or less of unpaid tax per year;
- Eliminating the required risk questionnaire;
- Requiring the taxpayer to certify that previous failures to comply were due to non-willful conduct.

For eligible U.S. taxpayers residing outside the U.S., all penalties will be waived. For eligible U.S. taxpayers residing in the U.S., the only penalty will be a miscellaneous offshore penalty equal to 5% of the foreign financial assets that gave rise to the tax compliance issue.

Expatriate or not, for many U.S. persons with foreign income and accounts, it's clear that compliance is required. But a primary fear is precisely how to begin in a way that is not too expensive and not too risky. The IRS view is that either the OVDP or the Streamlined Program is best.

That remains true. After all, the IRS programs are certain which is worth a lot. But some taxpayers still want to explore alternatives.

“Quiet Disclosures.” A “quiet” disclosure is a correction of past tax returns and FBARs without drawing attention to what you are doing. The IRS warns against it. See [“Quiet” Foreign Account Disclosure Not Enough](#).

Prospective Compliance. Some people consider filing complete tax returns and FBARs prospectively, but not trying to fix the past. However, the risk is that past non-compliance will be noticed and it may then be too late to make a voluntary disclosure.

Voluntary Disclosure. The two IRS programs are worth considering, especially under the [Revised IRS Voluntary Disclosure Practice](#). Each program is worth a look. After all, although criminal cases are rare, FBAR violations and tax violations can both be criminal.

But even civil penalty cases can be catastrophic. The non-willful FBAR [penalty](#) is \$10,000 each. Willful violations are hit with \$100,000 or 50% of the amount in the account for each violation. A Florida man was recently hit with 150% of his account. See [Court Upholds Record FBAR Penalties, Exceeding Offshore Account Balance](#).

You can have money and investments anywhere in the world as long as you disclose them. Get some professional advice and try to get your situation resolved in a way that makes sense for your facts and your risk profile.

You can reach me 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.