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New IRS Offshore Amnesty Announced: Third Time's A Charm

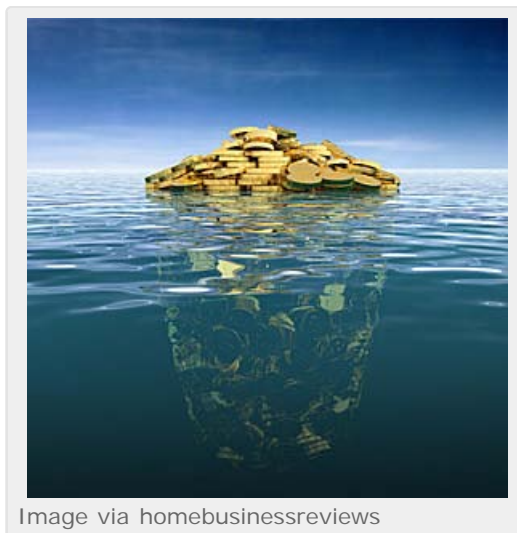
Never say never. The IRS previously had said it was [unlikely to offer amnesty](#) following its 2009 and 2011 programs. But the IRS says it's collected more than \$4.4 billion so far from the two previous international programs and much money is **still** expected from the 2011 OVDP.

That's some serious change given tax revenues over the last two years.

Besides, more and more people are turning up with these issues, many of whom seem reluctant to come forward in the absence of a formal invitation. For that reason and to provide a program into the future, the IRS has [reopened](#) its Offshore Voluntary Disclosure Program (OVDP).

This is great news and the IRS should be commended for changing its mind, offering the kind of pre-packaged program many taxpayers find more palatable than a more open-ended voluntary disclosure. The latter, many fear, might or might not go well, with variables that can be harder to predict.

The IRS says this third offshore program will be open **indefinitely**. It is mostly similar to the 2011 OVDP but here's what's new:



1. **No Deadline!** While there's no deadline, the IRS notes that its terms could change at any time. Penalties might be increased or the program might end so don't delay.
2. **Grandfathering.** If you already came forward to the IRS since the closing of the 2011 OVDI—and the IRS says hundreds have—you qualify to be treated under the provisions of the new OVDP program. The IRS did the same thing with people coming forward between the 2009 and 2011 programs.
3. **Penalties.** The change here is a 27.5% penalty on the highest aggregate balance (in foreign bank accounts/entities or value of foreign assets) during the eight years before disclosure. That's up from 25% in 2011 and 20 percent in 2009. The reduced 5% and 12.5% penalties remain as in 2011.
4. **5% or 12.5%?** Smaller offshore accounts will face a 12.5% penalty. People whose offshore accounts or assets did not surpass \$75,000 in any calendar year covered by the new OVDP will presumably qualify for this lower rate. As under the prior programs, taxpayers who feel the penalty is disproportionate may opt instead to be examined.
5. **Returns and FBARs.** As in the past, participants must file all original and amended tax returns and include payment for back-taxes and interest for up to eight years as well as paying accuracy-related and/or delinquency penalties. They must also compete and file FBARs.
6. **Opting Out?** You can still elect to proceed *outside* the program. If you believe you are not being treated fairly and that the penalties are not reasonable in your case, you can opt out and deal with the issue as an audit item. There's more flexibility there and also a greater array of procedural rights (such as going to the [IRS Appeals Office](#)) if it doesn't go to your liking.
7. **More FAQs?** The IRS says it will release within the next month key Frequently Asked Questions (FAQs) and providing additional specifics on the offshore program. The IRS is making effective use of this kind of guidance. While its precedential value is debatable, FAQs are a good way of getting across the information quickly.

For more, see:

[IRS Makes Swiss Cheese Of Swiss Banks](#)

[Is Foreign Account Ignorance Bliss?](#)

[It's Not Too Late For IRS Amnesty](#)

["Quiet" Foreign Account Disclosure Not Enough](#)

[IRS On What Is A Foreign Account](#)

[Tax Amnesty: IRS Voluntary Disclosure Part Deux](#)

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