

# IRS Expands Streamlined Program For Reporting Offshore Accounts Of U.S. Taxpayers

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U.S. citizens and resident aliens are required to report worldwide income from all sources including foreign accounts and pay taxes on that income. Failure to report the existence of those foreign accounts on Schedule B of their tax returns or pay taxes on the income from those accounts may lead to civil and criminal penalties. Beginning in 2009, the Internal Revenue Service (IRS) introduced the first of several settlement programs known as the Offshore Voluntary Disclosure Program (OVDP), offering taxpayers the chance to pay back taxes and interest for 2003 to 2008 and pay a penalty of 20% of the highest aggregate balance in the account during 2003 to 2008. Those taxpayers who came forward timely to enter into the program avoided criminal prosecution. The IRS introduced a second OVDP in 2011 for the period 2003 to 2010 and imposed a higher 25% penalty. In 2012, the IRS introduced a third OVDP, raising the maximum penalty from 25% to 27.5%, but set no deadline for entering the program.

The IRS has published significant changes in its 2012 OVDP and has expanded the streamlined filing procedures program to help U.S. taxpayers both at home and abroad come into compliance with their U.S. tax obligations. The expanded streamlined procedures are intended for U.S. taxpayers whose failure to disclose their offshore assets was non-willful.

## **Streamlined Procedures Expanded**

The expanded streamlined procedures allow a broader group of U.S. taxpayers to enter the program, including for the first time U.S. taxpayers residing in the U.S. who have unreported offshore financial accounts, and whose failure to disclose the offshore accounts was not willful.

The original streamlined procedures announced in 2012 were available only to non-resident, non-filers. Taxpayer submissions were subject to different degrees of review based on the amount of the

tax due and the taxpayer's response to a "risk" questionnaire.

The expanded streamlined procedures are available to a wider population of U.S. taxpayers living outside the country and, for the first time, to certain U.S. taxpayers residing in the United States. The changes include:

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

### **Offshore Voluntary Disclosure Program (OVDP) Modified**

The IRS also announced important modifications to the OVDP. The changes include:

- Requiring additional information from taxpayers applying to the program;
- Eliminating the existing reduced penalty percentage for certain non-willful taxpayers in light of the expansion of the streamlined procedures;
- Requiring taxpayers to submit all account statements and pay the offshore penalty at the time of the OVDP application;
- Enabling taxpayers to submit voluminous records electronically rather than on paper;
- Increasing the offshore penalty percentage (from 27.5% to 50%) if, before the taxpayer's OVDP pre-clearance request is submitted, it becomes public that a financial institution where the taxpayer holds an account or another party facilitating the taxpayer's offshore arrangement is under investigation by the IRS or Department of Justice.