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California adopts new Voluntary Compliance Initiative

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For taxpayers who have participated in abusive tax avoidance schemes or have unreported income from the use of offshore financial arrangements California has an offer for you. Under just passed SB 86 California adopted a new Voluntary Compliance Initiative.

Taxpayers will have between August 1, 2011 and October 31, 2011 to make elections to participate in the new program using forms and under procedures to be adopted by the Franchise Tax Board. Like the new federal Supplemental Offshore Voluntary Disclosure Initiative taxpayers will have to file amended returns which correctly report all unreported income and/or remove the abusive tax avoidance deductions/credits from prior years returns and pay the tax, interest and a specific penalty. All other penalties and potential criminal prosecution will be waived. Taxpayers will also have to agree to cooperate with the Franchise Tax Board and sign a closing agreement.

The point of difference between the federal program and state program is the addition in the California law of participants in abusive tax avoidance transactions. The federal program is limited to offshore unreported financial accounts (bank accounts). This difference may be important for there is no waiver of penalties from the [IRS](#) for those taxpayers who file under the California law and report participation in an abusive tax avoidance program. If the state reports the amended return to the [IRS](#) there is likely to be no audit defense. The new Voluntary Compliance Initiative from California may produce real revenue in a state that desperately needs it. Time will tell. As with all voluntary disclosures, the taxpayer is admitting to potential criminal law violations and should not enter the program without advice of counsel.

Law Offices of Sanford I. Millar

Office: 310-556-3007

Fax: 310-556-3094

Address: 1801 Avenue of the Stars, Suite 600
Los Angeles, CA. 90067

Email: smillar@millarlaw.net

www.millarlawoffices.com