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# 2 IRS Voluntary Disclosure Program Facts

The IRS has been having an Offshore Voluntary Disclosure program for those who have not been paying taxes on their offshore bank accounts to voluntarily step forward and declare their assets in exchange for a lighter punishment. The deal is that if you participate in the Voluntary Disclosure program, you will escape criminal prosecution and be let off with payment of penalties, fines and interests on your taxes. The closing date to participate is August 31 this year.

Here are two little-known facts about the IRS Offshore Voluntary Disclosure Program.

You can obtain an extension on the deadline to participate in the program. However, while this 90 day extension is stated in the IRS' document, '2011 Offshore Voluntary Disclosure Initiative Frequently Asked Questions and Answers', the fact is that it does not come automatically. You may request for an extension till November 30, 2011 to submit your amended tax returns, FBAR form or account information to the IRS only IF you can furnish evidence that you did try to fully comply with the August 31 deadline. The good faith attempt to fully comply must include properly completed and signed agreements to extend the time to assess tax and assess FBAR penalties. Furthermore, the request to extend the deadline must include a statement of those disclosure items that are missing, why they are not included, and the steps taken to secure them.

Secondly, once you have entered the Voluntary Disclosure program, you can subsequently opt out of it. You must be thinking, "Why would anyone want to opt out?" especially since the possible repercussions of being convicted of tax evasion are very serious.

Nevertheless, there can be cases where opting out is the more advantageous thing to do. Suppose you are slapped with a 25% penalty on your unpaid taxes. You might want to consider opting out and taking your chances with an audit. The IRS gives you the option to do so and has published a guide entitled, 'Opt Out and Removal Guide for the 2009 OVDP and 2011 OVDI'. This document sets out the procedures for opting out.

There is also another document issued by the IRS called FAQ 51 that stipulates the pros and cons of opting out of the OVDI. For example, if you have foreign tax credits that surpass the amount of taxes you incur, and opting out may subject you to a smaller FBAR penalty than the 25% penalty imposed earlier, then it makes sense to opt out.

On the other hand, opting out may also backfire, as your case may still be referred to the IRS Criminal Investigation Division. This would happen if you are audited and found to be guilty of under-declaring your income and making false statements.