

NEW OFFSHORE VOLUNTARY DISCLOSURE INITIATIVE

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About 15,000 taxpayers came forward in 2009 in an amnesty initiative that allowed taxpayers to come clean on offshore holdings and unreported offshore income. The IRS has now introduced a similar initiative that will run through August 31, 2011.

The principal benefits to taxpayers for using the program are avoiding criminal penalties, and limits on overall penalties that might otherwise apply (such as near-confiscatory FBAR penalties).

Some key points:

--A 25% penalty will be imposed on the highest balance during the unreported period in foreign bank accounts/entities or the value of unreported assets. This is compared to the 20% penalty under the prior initiative. Under limited circumstances, the 25% penalty may be reduced to 12.5% or 5%. The 25% penalty is in addition the 20% accuracy-related penalties under Code §6662(a) for any tax underpayments that occurred, Code §6651(a)(1) failure to file penalties, and Code §6651(a)(2) failure to pay penalties.

--Tax years covered are 2003-2010.

--Taxpayers will need to provide previously filed returns, and provide missing or required complete and amended returns, for 2003-2010.

--If a civil exam is already under way, the program is not available.

--Simplified PFIC reporting mechanisms are provided for.

Presumably, most taxpayers interested in this type of relief would have participated in the 2009 program. However, within several days of the new program, we have already seen new clients interested in participating in the new program in our office.

2011 Offshore Voluntary Disclosure Initiative, Frequently Asked Questions and Answers

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