



# Client Alert

May 14, 2012

## A Third "Last" Chance to Disclose Income from Foreign Accounts to the IRS

In January 2012, the Internal Revenue Service ("IRS") announced its third Offshore Voluntary Disclosure Program ("OVDP") aimed at U.S. taxpayers who have failed to report income from foreign accounts. Under the OVDP, noncompliant taxpayers can resolve their tax liabilities that result from undisclosed foreign accounts and minimize their chances of criminal prosecution. Noncompliant taxpayers include not only those who intentionally hide assets overseas, but also those who may not have known that they had an obligation to report such income on their U.S. tax return. Generally, all U.S. taxpayers are required to report and pay tax on their worldwide incomes. The phrase "U.S. taxpayers" can include foreign nationals working or living temporarily in the United States.

The current OVDP is similar to its predecessor programs that ended in 2009 and 2011, except that the maximum penalty has increased to 27.5 percent (a 12.5 percent and 5 percent penalty is also available in limited circumstances) of the highest aggregate balance of a taxpayer's foreign accounts during the eight full tax years prior to the tax year of the disclosure. There is no set deadline when the current OVDP will expire. The IRS has promised to provide additional guidance with respect to the current OVDP soon.

The IRS is making international tax compliance a priority. In addition to the OVDP, the Foreign Account Tax Compliance Act ("FATCA") will soon require foreign financial institutions to report certain information about financial accounts held by U.S. taxpayers to the IRS. This threat will likely prompt many to file under the OVDP.

It is not unlawful for a person to have a foreign account, as long as the income from such account is properly reported on the person's U.S. tax return. In addition, U.S. taxpayers with foreign accounts may also be required to file IRS Form 8938 and a Report of Foreign Bank Account and Financial Accounts ("FBAR"). The penalties for failing to file IRS Form 8938 and the FBAR are substantial.

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**Please contact an attorney in the Armstrong Teasdale Tax Department  
if you would like to discuss the IRS Offshore Voluntary Disclosure Program.**

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