



IRS Announces Offshore Voluntary Disclosure Initiative

PRACTICE AREAS

Estate Planning

International Tax

January 9, 2012

The Internal Revenue Service announced today the third in a series of special voluntary disclosure programs designed to provide taxpayers who have undisclosed income from offshore accounts and assets a means to become current with their taxes. This new initiative is similar to the 2011 Offshore Voluntary Disclosure Initiative (OVDI) and the 2009 Offshore Voluntary Disclosure Program (OVDP), both of which have ended.

According to a recent IRS statement, those now-closed voluntary disclosure programs attracted 33,000 participants and resulted in the collection of over \$4.4 billion in past-due taxes, penalties and interest. The recently announced 2012 voluntary disclosure program does not have an application deadline, but the IRS has stated it may alter the terms of the program or decide to end the program at any point.

Details of the new program have not been released, but the IRS has stated the basic structure of the program will be similar to the 2011 OVDI. One change from the 2011 OVDI is the maximum "miscellaneous" penalty applicable to participants is 27.5 percent (up from 25 percent) of the highest balance in the taxpayer's offshore accounts during the eight full tax years prior to the disclosure. As with the 2011 OVDI, certain qualified taxpayers will be eligible for reduced penalties of 5 or 12.5 percent. As part of their participation in the 2012 program, participants must file all original or amended tax returns, pay past taxes due as well as accuracy-related and/or delinquency penalties and interest.

The IRS announcement also stated that the IRS is currently developing procedures by which dual-citizens and others who may have failed to file tax returns but who owe no U.S. taxes

| 2 | IRS Announces Offshore Voluntary Disclosure Initiative

may come into compliance with U.S. tax law.

If you have maintained undisclosed financial accounts in offshore financial institutions or have underpaid the taxes related to offshore accounts and/or assets, this program may be an excellent opportunity for you to disclose those accounts and become compliant going forward. In conjunction with the 2011 OVDI, the IRS explained that "[T]axpayers with undisclosed foreign accounts or entities should make a voluntary disclosure because it enables them to become compliant, avoid substantial civil penalties and generally eliminate the risk of criminal prosecution."

If you are interested in consulting with our attorneys to determine if the 2012 voluntary disclosure program is appropriate for you, please contact Mr. Robert B. Stack or Mr. Douglas M. Andre. We will update this web site as details of the new program are released.

Below is a link to the IRS News Release.

News Release IR-2012-5: <http://www.irs.gov/newsroom/article/0,,id=252162,00.html?portlet=108>