



***The Oversight Group, LLC***  
***International Tax Compliance Oversight, LLC***

[www.oversight-group.com/compliance](http://www.oversight-group.com/compliance)

## ***OFFSHORE AMNESTY PROGRAM***

*IRS' Initiative Announcement March 26<sup>th</sup> 2009*

*Timeframe – Six Months, or Until September 23, 2009*

### ***IRS INITIATIVE OVERVIEW***

- **Provides for new Penalty Framework for “voluntary disclosures”**
- **Voluntary disclosure occurs when the communication is Truthful, Timely, Complete and when a taxpayer shows willingness to cooperate (and does in fact cooperate) with the IRS in deterring the taxpayer’s correct tax liability.**
- **Voluntary disclosure will not automatically guarantee immunity from prosecution; however a voluntary disclosure may result in prosecution not being recommended. This practice does not apply to taxpayers with illegal sources of income.**
- **Establishes specific sets of procedures and guidelines for how disclosure will be handled under the new Framework.**
- **This is now the ONLY means by which offshore noncompliance may be resolved.**
- **Eliminates the “Reasonable Cause” exception for failure to file a Report of Foreign Bank and Financial Account (FBAR) and other information returns**
- **Covers six years, 2003 – 2008**

### **PROCEDURES**

- **Tax professionals or individuals who want to initiate a voluntary disclosure should call their local Criminal Investigation Unit of the IRS.**
- **The Criminal Investigation Unit of the IRS will review the disclosure to determine eligibility.**
- **Closing agreements resolving the liabilities, including:**
  1. **Filing of six years of amended or delinquent tax returns and information returns as well as the FBAR.**
  2. **Payment of tax and interest due for six years.**

3. Payment of:
  - A 20% accuracy-related penalty (IRC 6662)
  - Or
  - The 25% delinquency penalty (IRC 6651)
4. Payment of a one-time 20% penalty in the year with the highest aggregate account balance (including all offshore accounts).

## CONSIDERATIONS

- If you are identified by the IRS before you submit your disclosure request you **CANNOT** participate in the program
- Inability to pay will not preclude participation
- Taxpayers under IRS exam cannot participate
- Taxpayers that have already made “quiet disclosures” still at risk of examination and criminal prosecution, and can participate in voluntary disclosure program
- **NO option for IRS Appeals**

## FAILURES TO ONLY FILE THE FOREIGN BANK AND FINANCIAL REPORTS (FBARS)

- All income and tax paid
- Only the FBAR form outstanding
- DO NOT use the voluntary disclosure process
- File delinquent FBARS according to the instructions and attach explanation for late filing
- IRS will not impose a penalty for the failure to file the FBARSs

## VOLUNTARY DISCLOSURE UNDER THE INITIATIVE AVOIDS:

- Civil Fraud penalties
- Failure to file penalties
- Failure to pay penalties
- Penalties for failure to file:
 

Form 5471	Form 926	Form 3520
Form 3520-A	Form 8865	FBAR's
- **CRIMINAL PROSECUTION**

For More Information: Department of Treasury Memorandum and the IRS FAQ's on the Amnesty Program – [www.oversight-group.com/memo](http://www.oversight-group.com/memo)

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