

IRS ISSUES NEW GUIDELINES FOR OFFSHORE VOLUNTARY DISCLOSURE INITIATIVE

The IRS recently issued new guidelines for U.S. citizens entering the 2011 Offshore Voluntary Disclosure Initiative (the “2011 Initiative”) and may extend the August 31 deadline by as much as 90 days. As discussed in previous Client Alerts, the voluntary program was designed to encourage taxpayers with unreported offshore bank accounts to come forward and avoid severe monetary penalties and possible criminal prosecution. The previous amnesty program (the “2009 Initiative”) was instituted by the IRS in anticipation of the release of 5,000 account holder names from United Bank of Switzerland (“UBS”) in order to induce taxpayers to disclose their offshore accounts voluntarily, rather than be revealed by UBS.

The 2011 Initiative was offered in response to the overwhelming success of the 2009 Initiative in which over 15,000 taxpayers disclosed offshore accounts in exchange for more lenient penalties. While the 2011 Initiative has a higher penalty rate, thus punishing those who failed to previously avail themselves of the 2009 Initiative, it does, however, give violating taxpayers another chance at coming clean. Unlike the 2009 Initiative, the 2011 Initiative provides a new reduced penalty of 12.5% for smaller offshore accounts that maintained a balance less than \$75,000 during the applicable years. The agency has also outlined a way for people to exit the voluntary disclosure program if they choose. Taxpayers can now remove their case from the 2009 or 2011 Initiative civil-settlement structure and shift to a standard audit process. The IRS has promised that there will be no penalty for opting-out, but warns that some taxpayers might find their tax burden increased once they leave the voluntary disclosure program. At the same time, the agency will be able to eject people from the program if they prove to be uncooperative or if the case appears to take too long to resolve.

The decision to extend the original August 31 deadline stands in stark contrast to earlier pronouncements by the IRS that the prior deadlines would be firm. Two reasons have been offered for the change: first, some taxpayers expressed concern that they could not meet the August 31 deadline; and second, the agency wanted to expand the opportunity for those taxpayers who make a good faith effort to enter the program.

For many people, these new guidelines, along with the extended deadline, provide an excellent opportunity to join the 2011 Initiative and enjoy what IRS Commissioner Doug Shulman has called “the last, best chance for people to get back into the system.” At the same time, for those who may regret opting-in, the IRS has created a means to extricate themselves with minimum repercussions.

Our Firm is intimately involved in monitoring these events and will continue to provide you with pertinent updates as more information becomes available. If you have any questions about the matters covered in this Client Alert, or wish to schedule a private consultation, please call Terrence A. Oved, Esq. of Oved & Oved LLP by telephone at 212.226.2376 or contact by email at terry@ovedlaw.com.

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