

Holders of offshore accounts – MUST READ!

The Internal Revenue Service announced a new guideline to encourage US taxpayers to disclose their offshore accounts without the risk of criminal prosecution and significantly increased penalties. Dealers with foreign bank accounts, brokerage or other financial accounts over which they have signature authority should take note. Reinsurance companies domesticated offshore and other foreign holdings should be reviewed and evaluated. Dealers should take this opportunity to come clean.

Taxpayers 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. Making a voluntary disclosure also provides the opportunity to calculate, with a reasonable degree of certainty, the total cost of resolving all offshore tax issues. Taxpayers who do not submit a voluntary disclosure run the risk of detection by the IRS and the imposition of substantial penalties, including the fraud penalty and foreign information return penalties, and an increased risk of criminal prosecution.

Voluntary Disclosure FAQ's Avoid Criminal Prosecution

The IRS is offering financial penalties that are substantially lower than potential penalties under current law. The objective to this program, announced on March 23 2009, is to bring taxpayers that have used undisclosed foreign accounts and entities to avoid or evade tax into compliance with United States tax laws.

Voluntary disclosure requests will be resolved under the following framework:

1. The taxpayer must file amended returns including Form TDF 90-22.1 (Foreign Bank Account Return (FBAR)) and informational returns (i.e. Form 3520 or 5471) for the preceding six years (unless the account(s) were opened less than six years ago, then for such number of years they existed)
2. The payment of tax and interest for the six years plus a payment of the accuracy related penalty of 20% or a 25% penalty for failure to timely file. Reasonable cause will not be accepted as a defense to such penalties.
3. The payment of a 20% penalty on the highest balance in the offshore account during such six year period. This penalty may be reduced to 5% if the taxpayer did not open or create the foreign account (e.g., it was inherited), has never withdrawn funds from the account or added funds thereto and all US taxes were previously paid on the funds deposited in the account.

Why should you make a voluntary disclosure?

By making a voluntary disclosure it enables you to become compliant, avoid substantial civil penalties, and generally eliminate the risk of criminal prosecution. The IRS has stated that when a taxpayer complies with all provisions of the voluntary disclosure practice, it will not recommend criminal prosecution to the Department of Justice.



To ensure compliance with requirements imposed by the IRS, we inform you that any tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of avoiding penalties under the Internal Revenue Code.



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The Dixon Hughes Dealer Services Group | August 2009

What is the time period for the disclosure?

Accounts and entities that date back to tax year ended December 31, 2003, a 6-year period. If the IRS receives specific information about a taxpayer's noncompliance before the taxpayer attempts to make a voluntary disclosure, the disclosure will not be timely and the taxpayer will not be eligible for criminal and civil penalty relief available under the voluntary disclosure practice. Also, if a taxpayer is currently under examination, they are not eligible to participate under the IRS's Voluntary Disclosure Practice.

When does the effective period end for reporting?

The program was announced March 23, 2009. As of August 7, 2009, taxpayers have until June 30, 2010 to file their delinquent T DF 90-22.1 forms. This relief covers reports for 2008 and prior years.

How do I make a voluntary disclosure?

To make a voluntary disclosure, you are required to submit a letter to the nearest Special Agent in Charge, IRS Criminal Investigation, stating that you wish to make a voluntary disclosure. Disclosure of accounts and entities that predate December 31, 2003 is not required and will not be investigated.

Are you still unsure about voluntary disclosures?

For further information on the specifics of the IRS' voluntary disclosure practice related to the above or if you have to report any undisclosed offshore accounts or entities, contact your CPA Advisor. You may also contact Wayne Robbins, Lead Member of the Dixon Hughes Dealer Services Tax Group at (919) 875-4490 or via email at wrobbins@dixon-hughes.com.

For additional information regarding the Dixon Hughes Dealer Services Group, please contact us at dsg@dixon-hughes.com, (877) DLR-CPAS or visit us on the web at www.dixon-hughes.com/dsg.

About the Dixon Hughes Dealer Services Group

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