# Unreported Offshore Accounts and Structures No Longer Tolerated

On March 23 the Internal Revenue Service announced another voluntary disclosure program (VDP) for U.S. persons who have not properly reported their non-U.S. bank and other financial accounts and offshore structures, such as foreign trusts and companies controlled by U.S. persons. The VDP will end September 23, 2009.

This VDP follows two others offered in earlier years, the Offshore Voluntary Disclosure Initiative (OVDI) and the Last Chance Compliance Initiative (LCCI). The VDPs generally forgave all penalties if no fraud was involved. This third VDP follows the Treasury Department's strategic plan for the period 2009 through 2013. The U.S. Internal Revenue Service (IRS) has been instructed to make international tax administration their top priority. The IRS, by way of allocating compliance resources, is targeting the above-mentioned matters as high-risk areas of revenue loss.

It appears this is the Treasury Department's last warning for those who still have not complied with the first two initiatives. This is especially so since the new initiative effectively terminates the LCCI, except where cases are still pending under such initiative. It further appears that once this six-month window is closed, they are not going to blindly accept reasonable cause explanations as they have in the past. Therefore, if a person comes forth after September 23, 2009 under the current VDP, their request for abatement of penalties and interest due to reasonable cause may not be so easily accepted.

### The New VDP Terms

The terms being offered are an outgrowth of current policy and carry penalties consistent with disclosure programs of the past. Amounts that are expected to be paid are back taxes and interest for the past six years, and a 20% accuracy penalty or 25% delinquency penalty for each tax year at issue. A penalty equal to 20% of the total combined highest balances for all foreign accounts over the six-year period will be assessed, in lieu of the harsh foreign financial account reporting (FBAR), and information return penalties related to controlled foreign corporations and partnerships, foreign trusts, gifts from non-resident aliens, etc. The later penalty is reduced to 5% where the reporting taxpayer did not open or cause the opening of the foreign accounts, the accounts have been inactive for the past six years, and all applicable U.S. taxes on said accounts have been paid.

### Eligibility

Those who are not under criminal investigation, or have not already been contacted by the IRS are generally eligible to participate.

### Process

The Criminal Investigation Division of the Internal Revenue Service will have the discretion to determine if a taxpayer is eligible and will forward such eligible disclosure requests with offshore implications to the Philadelphia Offshore Identification Unit for civil processing. Those requests will be distributed to and worked by examiners who specialize in offshore examinations. All resulting closing agreements will be reviewed and executed as prescribed by existing delegation orders.

### Conclusion

Those persons with considerable assets may find this offer to be a reasonable solution to securing and fixing penalties, whereas that may not be possible otherwise. ***But please take note: time is limited***.

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