



VOLUNTARY DISCLOSURE PROGRAM FOR UNDERREPORTED FOREIGN INCOME TO EXPIRE

Client Advisories

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An IRS program designed to encourage U.S. taxpayers with underreported foreign income to comply with U.S. tax reporting requirements is now due to expire October 15, 2009. As a result of an additional extension in the due date, taxpayers have until then to come forward, identify themselves and apply for the benefit of the program.

WHAT IT OFFERS

The program offers taxpayers several benefits. First, a person who comes forward and complies with the reporting and payment provisions will minimize their chances of criminal prosecution. "When a taxpayer truthfully, timely, and completely complies with all provisions of the voluntary disclosure practice, the IRS will not recommend criminal prosecution to the Department of Justice." (IRS FAQ of May 6, 2009)

Second, it gives taxpayers guidance as to what returns need to be filed or amended to participate in the program. Taxpayers are expected to file corrected returns for years 2003 to 2008.

Third, the size of the penalties for underreporting of income and the non-filing of reports of foreign bank and financial accounts is capped at 20% of the highest value in each foreign account over the years 2003 to 2008. This penalty encompasses all penalties that would otherwise apply for failing to report foreign account information and income except for the 20% accuracy penalty which can still be imposed. Interest would also be imposed from the due date of the return on the tax due and any accuracy related penalties. With regard to all other penalties, interest runs from the date of the assessment of the penalty.

For taxpayers who have not reported their foreign source income and choose not to correct the problem or to comply with the voluntary disclosure program, the IRS is threatening harsher treatment going forward including greater enforcement and the imposition of a broader array of penalties.

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