

# Tax Evasion Amnesty – The Time To Come in From the Cold Is Now!

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The Internal Revenue Service's amnesty program – the 2011 Offshore Voluntary Disclosure Initiative – will end soon. The initiative, which is designed to bring offshore money back into the U.S. tax system and help people with undisclosed income from hidden offshore accounts get current with their taxes, will expire on August 31, 2011.

The IRS had a previous disclosure program that ended in October 2009, which required taxpayers to pay a 20% penalty. That program closed with 15,000 voluntary disclosures!

Combating international tax evasion is a top priority for the IRS. Based on so much continuing interest from taxpayers with foreign accounts after the first program closed, the IRS created the current second program.

Generally, an individual or business taxpayer is eligible to participate in the disclosure program if the IRS has not already initiated an examination or investigation of the taxpayer.

Participants in the 2011 initiative must pay back-taxes and interest. The penalty framework requires taxpayers to pay a 25% penalty based on the amount in the foreign bank accounts in the year with the highest aggregate account balance covering the 2003 to 2010 time period. Some taxpayers will be eligible for 5% or 12.5% penalties.

The 12.5% penalty category is reserved for smaller offshore accounts. People whose offshore accounts or assets were \$75,000, or less, in any calendar year will qualify for this lower rate. The 5% penalty is reserved for taxpayers with extremely limited involvement with offshore accounts.

The amnesty program offers clear benefits to encourage taxpayers to come in from the cold now, rather than risk

Taxpayers hiding assets offshore who do not come forward will face far higher penalty scenarios as well as the possibility of criminal prosecution.

There are folks who may think about the possibility of merely making a "quiet disclosure" to try to correct their tax problem. A quiet disclosure is where a taxpayer files amended returns and pays any related tax and interest for previously unreported income through the normal filing procedures without participating in the voluntary disclosure program.

Unfortunately, some taxpayers, like Michael F. Schiavo, will have to learn the hard way that a quiet disclosure will not work for everyone. In May of this year, the United States decided to criminally prosecute Schiavo, a Boston bank director, for failing to report income hidden in a secret HSBC bank account in

Bermuda. Schiavo pled guilty to willfully failing to file a Report of Foreign Bank and Financial Account (FBAR). This decision to prosecute by the United States is eye opening, considering that Schiavo amended his tax returns to include the interest in his offshore accounts and filed late FBARs in October 2009, although he did not submit them in connection with the IRS's offshore disclosure program.

The IRS has stated publicly that its efforts in the international arena will only increase as time goes on. Therefore, anyone with a problem in this area should contact their nearest tax attorney to discuss their legal options before it's too late, instead of continuing to rely on the ostrich strategy of sticking their head in the sand, ignoring the situation and hoping the problem goes away.



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