

Legal Updates & News

Legal Updates

IRS Posts Form Letter for Voluntary Disclosure of Offshore Accounts

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The IRS continued its efforts to encourage taxpayers with foreign financial accounts to participate in its voluntary disclosure program. As part of these efforts, the IRS posted a [form letter](#) on its website on July 29. See <http://www.irs.gov/compliance/enforcement/article/0,,id=205909,00.html>. The form letter, which is not mandatory, provides a helpful checklist of information that is required if a taxpayer wishes to participate in the voluntary disclosure program. In order to participate in the program, certain requirements must be met, and the submission must be made by September 23, 2009, as discussed in our prior Alerts: [Recent IRS Guidance Gives Certain Investors in Foreign Private Investment Funds Breathing Room Until September 23, 2009 for Potential FBAR Filings](#), [IRS Announcement Permits Use of Old Definition of 'U.S. Person' for June 30, 2009 FBAR Filing](#).

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The detailed inquiries on the form reduce the likelihood that a taxpayer might inadvertently omit required information. Information required on the form includes:

- identifying information (name, taxpayer identification number, date of birth, address, passport number, and occupation);
- the contact information of the taxpayer's representative;
- a requirement that the taxpayer explain the source of the funds in the foreign financial account;
- a required disclosure of any existing audit or criminal investigation by the IRS and whether the taxpayer believes the IRS has obtained information concerning the taxpayer's liability;
- the highest account value for foreign financial accounts dating back to and including 2003 (the IRS uses ranges in this form, as were used in the FBAR before its October, 2008 revision);
- information on the financial institution at which each account is held and the country where each account is located;
- information on the dates accounts were opened or closed;
- information on the purpose for the accounts;
- information on the structure of the accounts (if they are held by a corporation, foundation, or trust) and each person or entity affiliated with the accounts;
- an estimate of total unreported income for each year dating back to and including 2003; and
- a description of all face-to-face meetings and any other communications the taxpayer had

regarding the accounts or assets with financial institutions or advisors.

The form is filed under penalty of perjury, making it essential that the information provided is accurate.

As noted above, use of the form is not mandatory. It should be emphasized that the form is within the context of a voluntary disclosure which, if accepted by the IRS, normally removes any criminal penalties from consideration. However, given the potential criminal context of such a disclosure, taxpayers who are eligible for the amnesty program are encouraged to consult with counsel in preparing their submission.