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## Is the IRS Voluntary Disclosure Program for You

For many years, the usual practice among wealthy Americans who wanted to evade taxes was to open a foreign bank account in countries like Switzerland, famed for its tax secrecy laws and low income tax rates. The IRS requires that all who have a foreign bank account fill up a Foreign Bank and Financial Accounts Report (FBAR). The FBAR is to be filed by June 30 for accounts in existence as at December 31 the previous year. Failure to file your FBAR will attract a fine of \$10,000 unless it can be proven that the omission was due to reasonable cause and that the amount in the foreign bank account at the time was reported.

But if not filing the FBAR was done willfully, the fine increases to \$100,000 or 50% of the balance in the account at the time of violation. Furthermore, if the violation was willful and the amount unreported was material, you might be prosecuted Internal Revenue Code 7201 (tax evasion) or IRC 7206 (filing a false tax return). Such prosecutions usually lead to convictions, a prison term and restitution.

However, the IRS also has a voluntary disclosure program in which

taxpayers can step forward and declare their assets under 3 conditions:

1. The disclosure must be truthful, timely and complete. A timely disclosure means that the taxpayer voluntarily comes forward before the IRS sends him a notice that it is investigating his account or information is received about his tax evasion.
2. The taxpayer cooperates with the IRS in determining the amount of taxes owed
3. The taxpayer pays up all tax liabilities plus any penalties, fees and interests charged

If you hold income obtained illegally, you are not eligible to participate in the voluntary disclosure program.

But in 2009, the IRS held a special voluntary disclosure program only for those who have previously undeclared offshore assets to disclose. By the time the program ended in September 15, 2009, 15,000 taxpayers had participated.

Recently, the IRS announced it is having another Offshore Voluntary Disclosure Initiative that is due to end October 31, 2011. This OVDI, like the one in 2009, is for those who have willfully withheld filing FBAR and who have not declared their overseas assets for taxation.

To participate, you have to do 7 things:

1. File amended tax returns

2. Sign and submit an Offshore Voluntary Disclosure letter
3. Pay up all taxes, interests and any penalties
4. File form 872, the Consent to Extend Time to Assess Tax
5. If your balance exceeds \$500,000 in any year, you must file bank statements for all years covered by the voluntary disclosure
6. If your balance exceeds \$1 million, you must file Foreign Financial Institutions Statements for your accounts
7. Pay 25% of the highest balance in your account in the years in controversy. If your highest balance does not exceed \$75,000, you pay 12.5%