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HSBC Account holders next target of IRS

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The Department of Justice, announced today that it has filed a petition in federal court in San Francisco seeking an order to all the [IRS](#) to issue and serve a John Doe Summons on HSBC Bank USA, N.A. for information about U.S. residents who have accounts at HSBC India. This action is a follow-up to a action that was brought in 2008 against UBS AG which resulted in an estimated 18,000 UBS AG account holders making voluntary disclosures under the 2009 Offshore Voluntary Disclosure Initiative and numerous criminal cases being brought. More actions against other banks can be expected.

In February of this year, the [IRS](#) announced a Second Supplemental Offshore Voluntary Disclosure Initiative (Second OVDI). The 2011 Second OVDI expires August 31, 2011. There may be numerous HSBC India account holder whose records may ultimately be disclosed to the [IRS](#), irrespective of India's Bank Secrecy laws, if the UBS Ag case is any guide. For those account holders are U.S. residents who failed to file time [Foreign Bank Account Reports](#), (FBAR's).or who failed to report income from the accounts, and/or failed to file required information returns for foreign controlled corporations, foreign partnerships or foreign trusts they can expect much more severe treatment than if they come forward now and make a voluntary disclosure. The terms of the current voluntary disclosure program essentially require: Filing a Voluntary Disclosure letter with Criminal Investigation of the [IRS](#); if approved for entry into the Second OVDI program taxpayers will be required to (1) file amended returns and report their previously unreported income for years 2003-2010, pay the tax, interest and penalties (failure to pay and accuracy related penalty) and (2) pay a 25% miscellaneous civil penalty based upon the highest aggregate account balance for years reported.

For those taxpayers considering waiting it out to see if the [IRS](#) will find their accounts, be advised that beginning January 1, 2013 foreign financial institutions, like HSBC India, will be reporting account information directly to the [IRS](#) for accounts held by U.S. residents, or their nominees.

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With the new reporting rules, known as FATCA, soon to be implemented, taxpayers who elect to duck and hide are likely to be on the wrong side of aggressive enforcement efforts by the [IRS](#) and DoJ.

Some of the recalcitrant account holders will be criminally charged, others will find themselves paying more than 100% of the account balance in penalties.

For questions about your options, feel free to contact this office.

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