

# Akerman Practice Update

TAXATION

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## The Tax Man Cometh – The New IRS Off-Shore Voluntary Disclosure Initiative

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On February 8, 2011, the IRS announced the 2011 Offshore Voluntary Disclosure Initiative (the “2011 VDI”). The 2011 VDI provides a new framework allowing taxpayers with undisclosed offshore personal and business assets a mechanism in which to disclose the undisclosed offshore assets with limited exposure to criminal prosecution and civil penalties. In response to the 2011 VDI, IRS Commissioner Douglas Shulman urged, “For those hiding cash or assets offshore, the time to come in is now.” The 2011 VDI is available through August 31, 2011 only. Taxpayers with undisclosed offshore personal and/or business assets must act quickly.

Under the 2011 VDI, taxpayers with undisclosed offshore assets have an opportunity to avoid criminal prosecution so long as the proper procedures are followed. Taxpayers will be required to do the following:

- File Amended Tax Returns for tax years 2003 through 2010 reporting previously undisclosed offshore income;
- Pay applicable income tax resulting from such undisclosed offshore income along with interest resulting therefrom;
- File all Informational Returns applicable to the undisclosed offshore assets for tax years 2003 through 2010;
- Pay an accuracy-related penalty based on the additional income tax;



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- Pay a failure to file and/or failure to pay penalty, if applicable; and
- Pay a penalty of 25% of the highest aggregate balance of the undisclosed foreign financial accounts and/or assets during tax years 2003 through 2010. In certain limited circumstances, taxpayers may be eligible for a reduced penalty of 12.5% or even 5%.

The 2011 VDI is the IRS' second amnesty program focused on undisclosed offshore assets. The IRS provided for a similar voluntary disclosure program in March of 2009 which resulted in 15,000 voluntary disclosures before the program ended in October 2009. Since October 2009, an additional 3,000 taxpayers have come forward to disclose their offshore financial assets. The 2011 VDI will cover those 3,000 taxpayers.

The overall penalty structure of the 2011 VDI is slightly higher than the previous 2009 amnesty program. Taxpayers who did not participate in the voluntary disclosure program in 2009 will not be rewarded by the IRS for waiting to come forward.

To see the IRS' announcement, [click here](#).

The advantages and disadvantages of the 2011 VDI should be carefully analyzed based upon each taxpayer's particular circumstances. Akerman Senterfitt's International Tax Group has a long history of representing clients in international tax controversy matters, including a significant number of voluntary disclosure matters. We are ready to provide immediate assistance with 2011 VDI matters.

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