

Last chance to become compliant for US taxpayers as Offshore Voluntary Disclosure Program deadline approaches.

US citizens, residents, and green card holders living outside the US who have not yet brought their tax affairs up to date should take steps to do so before **28 September 2018**, particularly if they have or had accounts with financial institutions which have been publicly identified as being under investigation by, or cooperating with, the US government.

The Offshore Voluntary Disclosure Program ('OVDP')

OVDP is specifically designed for taxpayers with exposure to potential criminal liability and/or substantial civil penalties due to a wilful failure to report foreign financial assets and pay all tax due in respect of those assets. This also applies to US taxpayers living in the Middle East.

OVDP is designed to provide taxpayers with such exposure (1) protection from criminal liability and (2) terms for resolving their civil tax and penalty obligations.

What penalties will I have to pay?

The overall penalty structure for the 2014 OVDP is as follows:

- Back taxes for years of non-compliance going back no more than 8 years from entry into programme (so for a 2018 applicant it would cover years 2010 through 2017);
- An accuracy-related penalty or delinquency-related penalty for each of the years in question (generally up to 20% or 25% of the tax due for each year);
- Interest on the tax and penalty amounts;
- A penalty of 27.5% of the total asset value in all unreported foreign bank accounts and certain entities (calculated by reference to the year in which the value of such accounts and entities was the highest during the disclosure period). This penalty is 'in lieu of' all other penalties that would otherwise apply;
- The 27.5% penalty will rise to 50% if as of the date on which the taxpayer applied for pre-clearance, there was a public disclosure that the financial institution where the account was held, or a facilitator, is cooperating with the IRS or the US Department of Justice in connection with these accounts. This penalty will apply to all of the taxpayer's undisclosed accounts even if the other accounts would not otherwise be subject to the 50% penalty.

What do I need to do if I want to participate in OVDP?

Taxpayers wishing to participate in the 2014 OVDP must file:

- Original and amended US tax returns and pay back taxes for up to eight years, and accuracy-related or delinquency penalties, and;
- Original and amended foreign bank account reports (FBARs) and pay a penalty based on the highest asset balance during the period of non-disclosure.
- Individuals will also need to make an application and have their eligibility to enter the programme assessed by the IRS.

What are my other options?

Where US taxpayers are delinquent with their US tax filing obligations due to non-wilful conduct they may be able to participate in the Streamlined Filing Procedures.

Before taking any corrective actions, please contact us:

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