IRS Announces Second Offshore Voluntary Disclosure Initiative

February 8th, 2011

The IRS has announced the promised Second Special Voluntary Disclosure Initiative for taxpayers who have unreported and untaxed assets offshore. The new initiative runs from now until August 31, 2011 and differs in some material ways from the first Offshore Voluntary Disclosure Initiative which expired October 15, 2009.

Taxpayers who did not take advantage of the first offer will find the second offer a bit more expensive. The FBAR penalty which is imposed under the Bank Secrecy Act, has been increased from 20% to 25% for taxpayers with aggregate account balances of $75,000 or more. For taxpayers with foreign financial accounts with aggregate balances of less than $75,000 there is a break in the FBAR penalty to 12.5%. There is also a special 5% penalty with very limited application. In addition to the FBAR penalty taxpayers must filed all unfiled returns or amended returns for the years 2003-2010, pay all taxes, interest penalties and an accuracy related penalty as imposed under the Internal Revenue Code and file all unfiled FBAR's.

Taxpayers who have accounts in foreign financial institutions are encouraged to take advantage of the new offer. The risk of discovery through disclosure by foreign financial institutions directly to the IRS because of the Foreign Account Tax Compliance Act (FATCA) will make it harder for taxpayers to hide accounts. The risks are augmented when taxpayers consider that the UBS case and other cases started with former employees releasing confidential customer lists to the IRS. The risk of non-compliance will just increase in the future. Right now taxpayers can control the risk by making a Voluntary Disclosure.