

## Last Chance to Voluntarily Disclose Unreported Foreign Accounts to IRS Under Offshore Voluntary Disclosure Program

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The window of opportunity to come forward and voluntarily disclose to the IRS any unreported foreign bank accounts (thereby avoiding higher penalties and potential criminal charges if the IRS were to discover the accounts otherwise) is rapidly closing. The IRS announced on March 13, 2018 that the Offshore Voluntary Disclosure Program will be shut down permanently on September 28, 2018.

Acting IRS Commissioner David Kautter stated: "Taxpayers have had several years to come into compliance with U.S. tax laws under this program ... all along, we have been clear that we would close the program at the appropriate time, and we have reached that point. Those who still wish to come forward have time to do so."

The closure of the program, which has been around in one form or another since 2009, does not signify any decrease in the IRS' intent to locate noncompliant taxpayers, but instead reflects "advances in third-party reporting." In other words, the IRS has now received, and will be continuously receiving, information about U.S. taxpayers who have accounts abroad from the foreign banks who, through subpoena or voluntarily, have complied with IRS requests for such information. The more information the IRS has access to, the less it needs to provide incentives to taxpayers to come forward voluntarily.

The IRS stated that it will continue to use tools besides voluntary disclosure to combat offshore tax avoidance, including civil examination and criminal prosecution. According to Don Fort, Chief of IRS Criminal Investigation, stopping offshore tax noncompliance remains a top priority for the IRS, and "the IRS remains actively engaged in ferreting out the identities of those with undisclosed foreign accounts with the use of information resources and increased data analytics."

Until September 28, 2018, there are several options under the program which are available to taxpayers in order to pay a reduced penalty and/or receive amnesty from criminal prosecution. Still, taxpayers with undisclosed foreign accounts should not wait long to come forward, as applications postmarked after September 28 will be rejected by the IRS.

To learn more about disclosure options under the Offshore Voluntary Disclosure Program, please contact **Jo Ann Gambale**, the author of this Alert.