

IRS Changes Streamlined OVDP Reducing FBAR Penalty Exposure!

By Charles P. Rettig

Charles Rettig discusses the significant changes to the offshore voluntary compliance programs.

U.S. taxpayers with previously undisclosed interests in foreign financial accounts and assets continue to analyze and seek advice regarding the most appropriate methods of coming into compliance with their U.S. filing and reporting obligations. Many are pursuing participation in the IRS offshore voluntary disclosure program (the OVDP, which began in 2012—modeled after similar programs in 2009 and 2011).

In IR-2014-73,¹ the IRS recently announced significant changes regarding the offshore voluntary compliance programs, providing new options to help both taxpayers residing overseas and those residing in the United States. The changes are anticipated to provide thousands of people a new avenue to come into compliance with their U.S. tax obligations.

Changes to the IRS OVDP include the possibility of transitioning to the revised Streamlined Filing Compliance Procedures. Generally, people currently participating in an OVDP who meet the eligibility requirements for the streamlined procedures should consider requesting transitional treatment if they are comfortable and have a sufficient factual basis to appropriately certify their “non-willful” status under penalties of perjury. The IRS has indicated it will look at each of the non-willful certifications to decide if there’s any reason for further inquiry. If the facts supporting the non-willful certification are less than accurate, the certification form indicates that the government might “open an examination or investigation that could lead to civil fraud penalties, FBAR penalties, information return penalties, or even referral to Criminal Investigation.”²

Before transitional treatment will be afforded from the OVDP, the IRS must agree that the taxpayer is eligible for transitional treatment and must agree that the available information is consistent with the taxpayer’s certification of non-willful conduct. These changes do not apply to anyone who has received a counter-signed



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IRS Closing Agreement. If the case is closed it remains closed and the IRS will not issue refund.

The government may have or subsequently receive information that does not support such status. The IRS, working closely with the U.S. Department of Justice, continues to investigate foreign financial institutions that may have assisted U.S. taxpayers in avoiding their tax filing

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and payment obligations. In addition, on July 1, 2014, the new information reporting regime resulting from the Foreign Account Tax Compliance Act (FATCA) went into effect. Thousands of foreign financial institutions will be reporting foreign accounts held by U.S. taxpayers to the IRS. Since the launch of the first OVDP in 2009, more than 45,000 taxpayers have come into compliance voluntarily, paying about \$6.5 billion in taxes, interest and penalties.³

Revised Streamlined Procedures

The original streamlined procedures (outside the OVDP) announced in 2012 were only available to nonresident, non-filers. Taxpayer submissions were subject to different degrees of review based on the amount of the tax due and the taxpayer's response to a "risk" questionnaire. The expanded streamlined procedures are intended for U.S. taxpayers whose failure to disclose their offshore assets was "non-willful."

The expanded 2014 streamlined procedures are available to a wider population of U.S. taxpayers living outside the country and, for the first time, to certain U.S. taxpayers residing in the United States. The changes include:

- eliminating a requirement that the taxpayer have \$1,500 or less of unpaid tax per year;
- eliminating the required risk questionnaire; and
- requiring the taxpayer to certify that previous failures to comply were due to non-willful conduct.

The streamlined procedures require the filing of original (for nonresidents) or amended (for residents) tax returns. Such tax returns must not only report whatever foreign source income was generated in each of the applicable tax years but must also properly report any U.S. source income

and deductions for each of the applicable tax years. For eligible U.S. taxpayers residing outside the United States, all penalties will be waived. For eligible U.S. taxpayers residing in the United States, the only offshore related penalty will be a miscellaneous offshore penalty equal to five percent of the foreign financial assets that gave rise to the tax compliance issue (all income tax related penalties associated with the non-U.S. source income will be waived).

The streamlined procedures do not limit the civil penalties otherwise associated with the reporting of U.S. source income. IRS Offshore Voluntary Disclosure Program (OVDP) Frequently Asked Question 7.1 provides, "The offshore penalty structure only resolves liabilities and penalties related to offshore noncompliance. Domestic portions of a voluntary disclosure are subject to examination." Further, the streamlined procedures do not provide protection from a possible criminal prosecution referral from the IRS.

Eligibility for the Streamlined Procedures

Taxpayers using either the Streamlined Foreign Offshore Procedures⁴ or the Streamlined Domestic Offshore Procedures⁵ will be required to execute an IRS form certification under penalties of perjury that their failure to report all income, pay all tax, and submit all required information returns, including FBARs (FinCEN Form 114, previously Form TD F 90-22.1), was due to "non-willful" conduct.

Transitional treatment under the OVDP will allow taxpayers currently participating in the OVDP who meet the eligibility requirements for the expanded Streamlined Procedures, an opportunity to remain in the OVDP while requesting consideration of the more favorable penalty structure of the expanded streamlined procedures.

A taxpayer will be considered to be currently participating in an OVDP for purposes of receiving transitional treatment if: (1) before July 1, 2014, they mailed to IRS Criminal Investigation their OVDP voluntary disclosure letter and attachments as described in OVDP FAQ 24, and (2) as of July 1, 2014, either: (a) remained in OVDP but had not yet completed the OVDP certification process where a Form 906 Closing Agreement has been fully executed by the IRS, or (b) opted out of OVDP, but had not yet received a letter initiating an examination and enclosing an IRS Notice 609. A taxpayer who, as of July 1, 2014, completed the OVDP certification process where a Form 906 Closing Agreement has been fully executed by the IRS will not be considered currently participating in an OVDP and thus will not be eligible for transitional

treatment. A taxpayer whose case has been removed from OVDP by the IRS is no longer participating in OVDP and thus is not eligible for the transitional treatment described in the Transition Rule FAQs.⁶

A taxpayer will not be considered to be currently participating in the OVDP for purposes of possibly receiving transitional treatment unless, as of July 1, 2014, they mailed to IRS Criminal Investigation their voluntary disclosure letter and attachments as described in OVDP FAQ 24. Thus, a taxpayer who made an offshore voluntary disclosure as outlined in FAQ 24 on or after July 1, 2014, is not eligible for transitional treatment under OVDP, even though they may have made a request for OVDP pre-clearance before July 1, 2014.

A taxpayer eligible for treatment under the streamlined procedures who has submitted a voluntary disclosure letter under the OVDP (or any predecessor offshore voluntary disclosure program) prior to July 1, 2014, but who does not yet have a fully executed OVDP closing agreement, may request treatment under the applicable penalty terms available under the streamlined procedures. A taxpayer seeking such treatment does not need to opt out of OVDP, but will be required to certify, in accordance with the Streamlined Procedures instructions, that the failure to report all income, pay all tax and submit all required information returns, including FBARs, was due to non-willful conduct. As part of the OVDP process, the IRS will consider this request in light of all the facts and circumstances of the taxpayer's case and will determine whether or not to incorporate the streamlined penalty terms in the OVDP closing agreement.

Certification of "Non-Willful" Conduct

The vast majority of taxpayers having previously undisclosed interests in a foreign financial account or asset likely believe they are more "non-willful" than not. The issue is whether the IRS will agree. The government may have or subsequently receive information that does not support such status.

Taxpayers who are concerned that their failure to report income, pay tax and submit required information returns was due to willful conduct and who therefore seek assurances that they will not be subject to criminal liability and/or substantial monetary penalties should consider participating in the OVDP and should consult with their professional tax or legal advisors. The streamlined procedures offer no protection from whatever consequences might arise in a later civil examination and/or criminal tax investigation.

The government carries the burden of proving willfulness into the courtroom where "willfulness" has generally required demonstrating that the government prove the taxpayer's actions were as a result of a "voluntary, conscious and intentional" act by the taxpayer. Taxpayers considering the streamlined procedures should carefully review the recent court decisions in *Williams* and *McBride*⁷ on the issue of determining "willfulness" for assertion of the more significant "willful" FBAR penalties (of up to 50 percent of the account balance, per year).

Further, in *C.R. Zwerner*,⁸ on May 29, 2014, the jury returned a verdict finding Mr. Zwerner "willful" and thus liable for an FBAR penalty equivalent to 50 percent of the high balance in his foreign financial account for three of the four years at issue. Essentially, the assessed FBAR penalties upheld by the jury aggregate \$2,241,809 on an offshore account that had an apparent high balance of \$1,691,054 during the years at issue. The jury verdict in *Zwerner* represents a significant win for the government in their efforts to encourage certain U.S. persons having undisclosed interests in foreign financial accounts to come into compliance with the applicable filing and reporting requirements.

Streamlined Foreign Offshore Procedures

Taxpayers, seeking to use the Streamlined Foreign Offshore Procedures described must (1) meet the "applicable non-residency requirement" (for joint return filers, both spouses must meet the applicable nonresidency requirement), and (2) have failed to report the income from a foreign financial asset and pay tax as required by U.S. law, and may have failed to file an FBAR (FinCEN Form 114, previously Form TD F 90-22.1) with respect to a foreign financial account, and such failures resulted from non-willful conduct. Non-willful conduct is conduct that is due to negligence, inadvertence or mistake, or conduct that is the result of a good-faith misunderstanding of the requirements of the law.⁹

Nonresidency Requirement Applicable to Individuals Who Are U.S. Citizens or Lawful Permanent Residents (*i.e.*, "Green Card Holders")

Taxpayers will satisfy the "applicable non-residency requirement" if, in any one or more of the most recent three years for which the U.S. tax return due date (or

properly applied for extended due date) has passed, the individual did not have a U.S. abode and the individual was physically outside the United States for at least 330 full days. Under Code Sec. 911 and its regulations, which apply for purposes of the procedures, neither temporary presence of the individual in the United States nor maintenance of a dwelling in the United States by an individual necessarily mean that the individual's abode is in the United States.¹⁰

Nonresidency Requirement Applicable to Individuals Who Are Not U.S. Citizens or Lawful Permanent Residents

Individuals who are not U.S. citizens or lawful permanent residents, or estates of individuals who were not U.S. citizens or lawful permanent residents, meet the applicable nonresidency requirement if, in any one or more of the last three years for which the U.S. tax return due date (or properly applied for extended due date) has passed, the individual did not meet the substantial presence test of Code Sec. 7701(b)(3).¹¹

If the IRS has initiated a civil examination of a taxpayer's returns for any tax year, regardless of whether the examination relates to undisclosed foreign financial assets, the taxpayer will not be eligible to use the streamlined procedures. Taxpayers eligible to use the streamlined procedures who have previously filed delinquent or amended returns in an attempt to address U.S. tax and information reporting obligations with respect to foreign financial assets (so-called "quiet disclosures" made outside of the OVDP or its predecessor programs) may still use the streamlined procedures.

Effect of Streamlined Foreign Offshore Procedures

Taxpayers eligible to use the Streamlined Foreign Offshore Procedures must (1) for each of the most recent three years for which the U.S. tax return due date (or properly applied for extended due date) has passed, file delinquent or amended tax returns, together with all required information returns (*e.g.*, Forms 3520, 5471 and 8938); and (2) for each of the most recent six years for which the FBAR due date has passed, file any delinquent FBARs (FinCEN Form 114, previously Form TD F 90-22.1). The full amount of the tax and interest due in connection with these filings must be remitted with the delinquent or amended returns.¹²

A taxpayer who is eligible to use the Streamlined Foreign Offshore Procedures and who complies with all of the

applicable instructions will *not* be subject to failure-to-file and failure-to-pay penalties, accuracy-related penalties, information return penalties or FBAR penalties Associated with the non-U.S. source income. Even if returns properly filed under these procedures are subsequently selected for audit under existing audit selection processes, the taxpayer will *not* be subject to failure-to-file and failure-to-pay penalties or accuracy-related penalties with respect to non U.S. source amounts reported on those returns, or to information return penalties or FBAR penalties, unless the examination results in a determination that the original tax noncompliance was fraudulent and/or that the FBAR violation was willful.

Any previously assessed penalties with respect to the applicable tax years, however, will not be abated. Further, as with any U.S. tax return filed in the normal course, if the IRS determines an additional tax deficiency for a return submitted under these procedures, the IRS may assert applicable additions to tax and penalties relating to that additional deficiency.

Streamlined Domestic Offshore Procedures

Taxpayers seeking to use the Streamlined Domestic Offshore Procedures must (1) fail to meet the applicable nonresidency requirement described above (for joint return filers, one or both of the spouses must fail to meet the applicable nonresidency requirement described above); (2) have previously filed a U.S. tax return (if required) for each of the most recent three years for which the U.S. tax return due date (or properly applied for extended due date) has passed¹³; (3) have failed to report gross income from a foreign financial asset and pay tax as required by U.S. law, and may have failed to file an FBAR (FinCEN Form 114, previously Form TD F 90-22.1) and/or one or more international information returns (*e.g.*, Forms 3520, 3520-A, 5471, 5472, 8938, 926 and 8621) with respect to the foreign financial asset; and (4) show that such failures resulted from non-willful conduct.¹⁴ Non-willful conduct is conduct that is due to negligence, inadvertence, or mistake or conduct that is the result of a good faith misunderstanding of the requirements of the law.

Effect of Streamlined Domestic Offshore Procedures

A taxpayer who is eligible to use the Streamlined Domestic Offshore Procedures and who complies with all of the applicable instructions will be subject only to the "5-percent

miscellaneous offshore penalty” and will *not* be subject to accuracy-related penalties, information return penalties, or FBAR penalties associated with the non-U.S. source income. The five-percent miscellaneous offshore penalty is based on the highest aggregate balance/value of the taxpayer’s foreign financial assets that are subject to the miscellaneous offshore penalty during the years in the covered tax return period and the covered FBAR period. For this purpose, the highest aggregate balance/value is determined by aggregating the year-end account balances and year-end asset values of all the foreign financial assets subject to the miscellaneous offshore penalty for each of the years in the covered tax return period and the covered FBAR period and selecting the highest aggregate balance/value from among those years.¹⁵

A foreign financial asset is subject to the five-percent miscellaneous offshore penalty in a given year within the covered FBAR period if the asset should have been, but was not, reported on an FBAR (FinCEN Form 114) and/or a Form 8938 for that year. A foreign financial asset is also subject to the five-percent miscellaneous offshore penalty in a given year within the covered tax return period if the asset was properly reported for that year, but gross income in respect of the asset was not reported in that year. A foreign financial asset may include financial accounts held at foreign financial institutions; financial accounts held at a foreign branch of a U.S. financial institution; foreign stock or securities not held in a financial account; foreign mutual funds; and foreign hedge funds and foreign private equity funds.

Compliance with the Streamlined Domestic Offshore Procedures

Domestic taxpayers seeking to use the streamlined procedures must do the following¹⁶:

1. For each of the most recent three years for which the U.S. tax return due date (or properly applied for extended due date) has passed, submit a complete and accurate amended tax return using Form 1040X, *Amended U.S. Individual Income Tax Return*, together with any required information returns (e.g., Forms 3520, 3520-A, 5471, 5472, 8938, 926 and 8621) even if the information returns would normally not be submitted with the Form 1040 had the taxpayer filed a complete and accurate original return. Delinquent income tax returns (including Form 1040, *U.S. Individual Income Tax Return*) may not be filed using these procedures.
2. Include at the top of the first page of each amended tax return “Streamlined Domestic Offshore” written

in red to indicate that the returns are being submitted under these procedures.

3. Complete and sign a statement on the Certification by U.S. Person Residing in the U.S.¹⁷ certifying: (1) that they are eligible for the Streamlined Domestic Offshore Procedures; (2) that all required FBARs have now been filed (see instruction 9 below); (3) that the failure to report all income, pay all tax, and submit all required information returns, including FBARs, resulted from non-willful conduct; and (4) that the miscellaneous offshore penalty amount is accurate (see instruction 5 below). The taxpayer must maintain his or her foreign financial asset information supporting the self-certified miscellaneous offshore penalty computation and be prepared to provide it upon request. They must submit an original signed statement and attach copies of the statement to each tax return and information return being submitted through these procedures. Copies should not be attached to FBARs. Failure to submit this statement, or submission of an incomplete or otherwise deficient statement, will result in returns being processed in the normal course without the benefit of the streamlined procedures.
4. Submit payment of all tax due as reflected on the tax returns and all applicable statutory interest with respect to each of the late payment amounts. Submit payment of the five-percent miscellaneous offshore penalty.
5. For each of the most recent six years for which the FBAR due date has passed, file delinquent FBARs according to the FBAR instructions and include a statement explaining that the FBARs are being filed as part of the Streamlined Filing Compliance Procedures. The delinquent FBARs must be filed electronically at FinCen. On the cover page of the electronic form, select “Other” as the reason for filing late. An explanation box will appear. In the explanation box, enter “Streamlined Filing Compliance Procedures.”
6. Various additional items referenced in the Specific Instructions for the Streamlined Domestic Offshore Procedures.¹⁸

General Treatment Under the Streamlined Procedures

Receipt of the returns filed under the streamlined procedures will not be acknowledged by the IRS and the streamlined filing process will not conclude in the signing of a closing agreement with the IRS. Returns submitted under either the Streamlined Foreign Offshore Procedures or the Streamlined Domestic Offshore Procedures

will not be subject to IRS audit automatically, but they may be selected for audit under the existing audit selection processes applicable to any U.S. tax return and may also be subject to verification procedures in that the accuracy and completeness of submissions may be checked against information received from banks, financial advisors, and other sources. As such, returns submitted under the streamlined procedures may be subject to IRS examination, additional civil penalties, and even criminal liability, if appropriate.

The 2014 OVDP

Full details of the changes to both the streamlined procedures and OVDP can be found on IRS.gov. However, generally, beginning July 1, 2014 modifications to the OVDP include:

- Requiring additional information from taxpayers applying to the program;
- Eliminating the existing reduced penalty percentage for certain non-willful taxpayers in light of the expansion of the streamlined procedures;
- Requiring taxpayers to submit all account statements and pay the offshore penalty at the time of the OVDP application;
- Enabling taxpayers to submit voluminous records electronically rather than on paper;
- Increasing the offshore penalty percentage (from 27.5 percent to 50 percent) if, before the taxpayer's OVDP pre-clearance request is submitted, it becomes public that a financial institution where the taxpayer holds an account or another party facilitating the taxpayer's offshore arrangement is under investigation by the IRS or Department of Justice.¹⁹

Coordination Between Streamlined Procedures and the OVDP

Once a taxpayer makes a submission under either the Streamlined Foreign Offshore Procedures or the Streamlined Domestic Offshore Procedures, the taxpayer may not participate in the OVDP. Similarly, a taxpayer who submitted an OVDP voluntary disclosure letter pursuant to OVDP FAQ 24 on or after July 1, 2014, is not eligible to participate in the streamlined procedures.

Each request for transitional treatment from the OVDP to the Streamlined Procedures will be reviewed by an IRS examiner, their Manager and, perhaps, by a central review committee (to assure consistent treatment) to determine whether the taxpayer is eligible for transitional treatment,

the taxpayer's certification of non-willfulness is complete, and the available information is consistent with the certification. There are no appeal rights within OVDP, including the determination of whether the taxpayer qualifies for transitional treatment. If the IRS does not agree that the taxpayer is entitled to transitional treatment, the case remains governed by the terms of the OVDP in which the taxpayer is participating. In these circumstances, if the OVDP miscellaneous offshore penalty is unacceptable to the taxpayer, the taxpayer may then opt out of the OVDP and choose to have the case resolved in an examination process.

For OVDP participants who receive transitional treatment, all other terms of the OVDP in which the taxpayer is currently participating will continue to apply, including, but not limited to, the OVDP disclosure period (currently eight tax years) remains the same; execution of a Form 906 Closing Agreement is required; payment of accuracy-related, failure-to-file, and/or failure-to-pay penalties, if applicable, are required; and the alternative mark-to-market PFIC resolution will continue to be available.

Note that non-OVDP participants eligible for the streamlined procedures would only be required (1) to file delinquent or amended tax returns, together with all required information returns (*e.g.*, Forms 3520, 5471 and 8938) for their most recent three years for which the U.S. tax return due date (or properly applied for extended due date) has passed, and (2) for each of the most recent six years for which the FBAR due date has passed, file any delinquent FBARs (FinCEN Form 114, previously Form TD F 90-22.1). Further, they would avoid all applicable accuracy-related, failure-to-file and/or failure-to-pay penalties whereas transitional OVDP participants would have to file returns for the additional five years and their returns for all eight years would remain subject to applicable accuracy-related, failure-to-file and/or failure-to-pay penalties.

Relevant Considerations

Taxpayers currently participating in an OVDP who meet the eligibility requirements for the streamlined procedures should consider requesting transitional treatment if they are comfortable and have a sufficient factual basis to certify their "non-willful" status. They are not required to affirmatively opt out of the OVDP and will retain the ability to resolve their issues within the OVDP or opt out at a later date if the IRS does not agree with their non-willful certification. Taxpayers not currently participating in an OVDP who meet the eligibility requirements for the streamlined procedures should likewise consider requesting streamlined treatment if they are comfortable and have sufficient factual basis to certify their "non-willful" status.

If there are material, intentional misstatements set forth in the non-willful certification, the taxpayer might anticipate exposure to the extensive civil and criminal enforcement powers of the U.S. government. The IRS form certification required to be signed by the taxpayer under the streamlined procedures provides, “I recognize that if the Internal Revenue Service receives or discovers evidence of willfulness, fraud, or criminal conduct, it may open an examination or investigation that could lead to civil fraud penalties, FBAR penalties, information return penalties, or even referral to [IRS] Criminal Investigation.” Often, the difference between a civil resolution and a criminal tax prosecution can be found within the misstatements of a taxpayer or their representative.

All relevant facts and circumstances must be carefully analyzed before making a determination regarding the submission of a “non-willful” certification requesting transition to the recently announced Streamlined Filing Compliance Procedures. The source of funds held in the foreign account may be an important factor. If the source of funds in the account was from unreported income, the situation can become somewhat problematic. However, having inherited funds in a foreign financial account, without more, might not be considered deserving of non-willful status by the IRS. The IRS has expressed an intention to treat taxpayers consistently and numerous individuals having inherited funds in an undeclared foreign account have been subjected to the stated OVDP penalty.

Deposits and withdrawals to the foreign account can reveal intentions and knowledge of various individuals involved. In reviewing the “non-willful” certification, the government can be expected to inquire about the manner in which deposits and/or withdrawals were made to/from the foreign account(s); the mechanics of how deposits/withdrawals were made; the form in which deposits/withdrawals occurred (*i.e.*, cash, check, wire, travelers’ check, *etc.*); amounts of each withdrawal/deposit; when such deposits/withdrawals occurred; where such deposits/withdrawals occurred; whether there were there limitations on the amounts that could be deposited/withdrawn; and documents received when a deposit/withdrawal occurred (*i.e.*, receipt, credit memo, debit memo, *etc.*)?

Additional considerations regarding someone being “non-willful” often include whether the existence of the account was disclosed to the return preparer or others; whether the account was at some point moved to another foreign financial institution; whether the taxpayer’s advisors had some degree of knowledge about the account; the perceived degree of financial and business sophistication

and education of the taxpayer; whether foreign entities were involved as accountholders; documents provided to open the account (*i.e.*, U.S. or foreign passport(s), identification card, *etc.*—note that it might not be a good fact for a taxpayer having dual passports to open an account with their non-U.S. passport); communications, if any, with others that occurred regarding bank secrecy, taxation, and/or disclosure of any foreign accounts; failure to seek independent legal advice about how to properly handle the foreign bank account and instructions or advice received regarding holding or receiving mail from the bank, *etc.* Further questions often lay within the responses to each of the foregoing questions.

Lastly, in reviewing the non-willful certification under the streamlined procedures, taxpayers should anticipate the government inquiring as to whether the foreign accounts remain open and if not, where the funds were transferred when the account(s) were closed. Some taxpayers closed accounts and transferred the funds directly to a domestic account. Others closed accounts and transferred the funds through various means to other foreign accounts. Further questions often lay within the responses to each of the foregoing questions.

Taxpayers who have an OVDP application in process must determine whether the recent changes to the IRS program may provide a benefit. Many will significantly benefit from the modifications to the streamlined procedures and the OVDP. Others should view these changes in light of the substantial amount of information flowing into the government and that is soon to arrive as a result of FATCA implementation. All should immediately get into compliance and view this as yet another opportunity to overcome their fear of certain uncertainties that historically existed.

Nonresident taxpayers might be better positioned to achieve their goal of a non-willful, no penalty resolution under the streamlined procedures. Their “foreign” account is actually in their own neighborhood; it is only “foreign” in the sense that it is located outside the territorial boundaries of the United States. The existence of the account does not, by itself, somehow represent an acknowledgment of tax noncompliance by the nonresident taxpayer. The streamlined procedures seem to represent the first attempt by the government to acknowledge that at some point, non-resident taxpayers become residents of their home state, emotionally even if perhaps not technically.

If there are any uncertainties or potentially difficult factual scenarios involved, consult with experienced counsel. Taxpayers will sleep better if they get it right, somehow get into compliance and move on in life ...

ENDNOTES

- ¹ *IRS Makes Changes to Offshore Programs; Revisions Ease Burden and Help More Taxpayers Come into Compliance*, IR-2014-73, June 18, 2014.
- ² See www.irs.gov/pub/irs-utl/CertNonResidents.pdf.
- ³ *IRS Offshore Voluntary Disclosure Efforts Produce \$6.5 Billion; 45,000 Taxpayers Participate*, FS-2014-6, June 2014.
- ⁴ See U.S. Taxpayers Residing Outside the United States, Eligibility for the Streamlined Foreign Offshore Procedures, available online at www.irs.gov/Individuals/International-Taxpayers/U-S-Taxpayers-Residing-Outside-the-United-States.
- ⁵ See U.S. Taxpayers Residing in the United States, Eligibility for the Streamlined Domestic Offshore Procedures, available online at www.irs.gov/Individuals/International-Taxpayers/U-S-Taxpayers-Residing-in-the-United-States.
- ⁶ See Offshore Voluntary Disclosure Program Frequently Asked Questions and Answers, at www.irs.gov/Individuals/International-Taxpayers/Offshore-Voluntary-Disclosure-Program-Frequently-Asked-Questions-and-Answers-2012-Revised.
- ⁷ *J.B. Williams*, CA-4, 2012-2 ustc ¶50,475, 489 FedAppx 655 and *J. McBride*, DC-UT, 2012-2 ustc ¶50,666, 908 FSupp2d 1186.
- ⁸ *C.R. Zwerner*, DC-FL, Case # 1:13-cv-22082-CMA (June 11, 2013).
- ⁹ See U.S. Taxpayers Residing Outside the United States, Eligibility for the Streamlined Foreign Offshore Procedures, available online at www.irs.gov/Individuals/International-Taxpayers/U-S-Taxpayers-Residing-Outside-the-United-States.
- ¹⁰ *Id.*
- ¹¹ *Id.*
- ¹² *Id.*
- ¹³ Note that the IRS does not indicate that such returns must have been timely filed.
- ¹⁴ See U.S. Taxpayers Residing in the United States, Eligibility for the Streamlined Domestic Offshore Procedures, available online at www.irs.gov/Individuals/International-Taxpayers/U-S-Taxpayers-Residing-in-the-United-States.
- ¹⁵ *Id.*
- ¹⁶ *Id.*
- ¹⁷ For a copy of the form certification, see www.irs.gov/pub/irs-utl/CertNonResidents.pdf.
- ¹⁸ See www.irs.gov/Individuals/International-Taxpayers/U-S-Taxpayers-Residing-in-the-United-States.
- ¹⁹ See FAQ #7.2 and the list of Foreign Financial Institutions and Facilitators available at www.irs.gov/Businesses/International-Businesses/Foreign-Financial-Institutions-or-Facilitators.

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