

The New IRS Amnesty Program for Reporting for Foreign Entities and Foreign Accounts Applies to Innocent and Guilty Alike

The IRS's focus on unreported foreign accounts and entities is at its highest point at any time in history and is escalating. The IRS has announced a new voluntary disclosure program to force taxpayers to come forward and disclose previously unreported foreign accounts and entities before September 23, 2009. The IRS is hammering taxpayers into the program with the threat of harsh fines and criminal prosecution. The new program offers participants reduced civil penalties and removes the risk of criminal prosecution if they come forward and file back tax returns.

The program is a result of the UBS Swiss banking scandal, but applies to any US citizen or resident who has not filed the proper forms to disclose foreign entities and accounts, even if the failure to file was an innocent oversight. In February 2009, UBS AG, Switzerland's largest bank entered into a deferred prosecution agreement on charges of conspiring to defraud the United States. UBS AG agreed to close the accounts of US clients and agreed to pay \$780 million in fines. The US government has filed suit against UBS to reveal the names of 52,000 US customers with undisclosed accounts.

The law requires annual forms to disclose interests in or control over most foreign entities as well as foreign bank and securities accounts. US citizens and residents must report to the IRS foreign:

- * bank and financial accounts
- * trusts
- * corporations
- * partnerships, and
- * other entities

Taxpayers are often unaware of the filing requirements unless they are working with a firm with specialized international tax expertise. Many of the required disclosures are due with a taxpayer's annual tax return. Others have their own special filing deadlines. For example, foreign bank and financial account reports are due June 30th.

Anyone who may have missed a filing requirement should consult with an advisor experienced with foreign filing requirements and the IRS's amnesty program as soon as possible. At BPM, contact Kent Lawson at klawson@bpmlp.com or Inna Merzheritsky at imerzheritsky@bpmlp.com