

Tax Advice and Controversy Client Service Group

To: Our Clients and Friends

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IRS Announces New Off-Shore Voluntary Disclosure Program Without A Deadline

On January 9, 2012, the Internal Revenue Service ("IRS") announced a third voluntary disclosure program ("OVDP") designed to bring offshore money back into the U.S. tax system and to help people with undisclosed income from hidden offshore accounts become current with their taxes. The third offshore program comes as the IRS continues working on a wide range of international tax issues and follows ongoing efforts with the Justice Department to pursue criminal prosecution of international tax evasion. Unlike the 2009 and 2011 programs, this program will be open for an indefinite period until otherwise announced.

Under the OVDP, participants with undisclosed foreign accounts or unreported foreign income may be able to avoid criminal prosecution and limit their potential exposure to civil penalties by making a voluntary disclosure of such undisclosed accounts or unreported income to the IRS. Such persons generally will be required to (i) file delinquent foreign bank account reports ("FBARs") and amended returns for an 8 year period (such as tax years 2004 through 2011), (ii) pay the tax and interest due in connection with such amended returns along with a 20% accuracy penalty and delinquency penalties, if applicable, and (iii) a miscellaneous "offshore" penalty equal to 27.5% (or in limited cases 12.5 or 5%) of the highest aggregate balance in the undeclared foreign accounts during the years 2004 through 2011.

For many taxpayers with undeclared foreign accounts or unreported foreign income, the specified penalty structure under the OVDP may be extremely favorable in comparison with the civil penalties that could otherwise be imposed. Each case is different, however, and the advantages and disadvantages of a voluntary disclosure must be carefully analyzed for each taxpayer based upon the individual facts and circumstances.

IRS Commissioner Shulman has sent the following message to non-compliant taxpayers: "As we've said all along, people need to come in and get right with us before we find you. We are following more leads and the risk for people who do not come in continues to increase."

To discuss this issue further, please speak to your Bryan Cave contact, or to:

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