

Bank customers urged to come clean on offshore accounts

IRS crackdown with tough penalties is no joke; those who come forward may avoid prosecution

By **Charles Paikert**
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Wealthy Americans who have offshore bank accounts may be sweating more than usual this summer.

If they haven't done so already, offshore account holders have until Sept. 23 to take advantage of the Internal Revenue Service's voluntary disclosure program and report income in those accounts.

Account holders who do come forward "are more likely to avoid criminal prosecution than those who do not," according to an IRS statement.

Wealth managers and tax lawyers say that they are telling their clients to take the IRS at its word.

To that point, the IRS is vowing to crack down hard on those who don't participate in the program and get caught. IRS agents have been ordered to pursue "both civil and criminal avenues" and maximum penalties for offshore tax evaders, according to IRS commissioner Doug Shulman.

"Clients should not delay their consideration of the voluntary compliance program. In my view, the critical factor is the potential for criminal sanctions, including incarceration," said Grace Allison, a tax strategist for Chicago-based Northern Trust Corp.



Carl Linder: "There's a lot of hesitancy out there."

"Absolutely, the only advice is to do the voluntary disclosure," said tax attorney Carl Linder, a shareholder at Rothstein Rosenfeldt Adler in Fort Lauderdale, Fla.

The Obama administration is taking a hard line on offshore accounts, as evidenced by its aggressive prosecution of Zurich, Switzerland-based UBS AG to gain access to 52,000 offshore accounts and its vow this month to "crack down on the abuse of tax havens by individuals."

"The enforcement environment has changed dramatically," said Ian Comisky, an attorney who specializes in offshore accounts as a partner for Blank Rome LLP in Philadelphia. "The days are gone when you can tell a client with a wink and a nod they have to come forward."

Clients have to adapt to the new realities, said Jeff Grossman, the Charlotte, N.C.-based senior director of banking for specialty business for San Francisco-based Wells Fargo Wealth



Jeff Grossman

Management.

"What's going on in Washington will have a major financial impact on individuals with offshore ac-counts," he said.

HURDLES "VERY HIGH"

Nonetheless, many wealthy investors resist disclosing their offshore accounts, according to tax lawyers.

"There's a lot of hesitancy out there," Mr. Linder said. "A lot of people would like to come in, but the economic hurdles are very high."

In fact, offshore account holders who do voluntarily report their in-come face harsh penalties, including paying 20% of the amount of tax that was underpaid for the past six years and 20% of the highest value of the account over the past six years. That is in addition to all their unpaid taxes and interest due on those taxes.

What's more, account holders who didn't file a "report of foreign bank and financial accounts" statement may have to pay a penalty as high as \$100,000, or 50% of the total balance of the foreign account.

All told, an offshore-account holder could wind up paying two to three times the value of his or her account in penalties, said Caroline Ciraolo, a tax attorney for Rosenberg Martin Greenberg LLP in Baltimore.

"Clients are also hesitant to come forward because they think, 'I've had the account for years, and nothing has happened, so what are the chances of if being found now?'" she said.



Caroline Ciraolo: Penalties on offshore accounts could be huge.

In fact, the odds have substantially increased that an unreported account will be discovered, Ms. Ciraolo said.

"The IRS is collecting a tremendous amount of information from people who are disclosing their accounts," she said. "The longer that people wait, the more likely it is the IRS may already have their name."

Along with IRS penalties, there is no guarantee the account holder won't be criminally prosecuted, some experts noted.

To assist clients, Ms. Allison pointed out in a notice to Northern Trust customers that those who voluntarily disclose their accounts will only have to pay taxes, interest and penalties owed for the past six years.

"This is significant because the stature of limitations never runs out on fraud," she wrote.

Mr. Grossman said that he is also telling his wealthy clients, such as hedge fund managers who have deferred-compensation arrangements, to disclose their offshore accounts as soon as possible.

He said that he is anticipating higher tax rates on offshore accounts that may result in some of those ac-counts' being brought back to the United States.

The additional regulation "should not be perceived as unwelcome by legitimate investors and taxpayers," said

Ian Cain, head of the private-wealth division for the London-based law firm Ogier.

In fact, there are still many legitimate reasons to maintain an offshore account, wealth managers and tax lawyers said.

Taxpayers who frequently travel abroad for business, have a second home in another country or have children living overseas are among the most common account holders, tax experts said.

Some offshore-account holders are looking for safety from a calamitous event in the United States or want to preserve and protect their wealth as much as legally possible, experts said.

"There's nothing wrong with having an offshore account; you just have to declare it," Mr. Comisky said.

Nonetheless, account holders should expect the government's increased scrutiny to continue, wealth managers and tax experts said.

"The Obama administration is putting considerable resources behind this effort," Ms. Ciruolo said. "The money, staffing and publicity we've seen so far are unprecedented."

Jamie McLaughlin, New York-based managing director for -Convergent Wealth Advisors of Rockville, Md., cited the populist sentiment to go after wealthy individuals who don't pay taxes, as well as Washington's need for more revenue in a recession.

"The government has a pretty heavy hand to play, and I suspect they will," he said.

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