

CASTING A WIDER NET

Government Offshore Account Compliance Efforts Continue to Expand

By: Leigh Kessler

On December 22, 2014, Bank Leumi, one of Israel's largest banks, admitted in federal court that it helped United States taxpayers to hide assets from U.S. tax authorities through the use of foreign bank accounts. As part of the agreement, the bank agreed to pay \$400 million to the United States Treasury and New York banking authorities, to turn over to the IRS information regarding more than 1,500 accounts linked to U.S. taxpayers, and to cooperate with U.S. authorities. This is a significant step in the Department of Justice and IRS pursuit of taxpayers who have tried to evade their income tax obligations in the U.S., and the banks who have helped them. It is safe to bet that the government will continue to pursue people who use foreign bank accounts to avoid income tax, and it appears that the government focus may now expand to accounts held in areas of the world beyond Switzerland and Israel.

Bank Leumi has provided significant information to U.S. authorities, most significantly data regarding the identities of the account holders and beneficial owners of more than 1,500 accounts, and data regarding outgoing transfers from mid-2008 through 2012, including the value of the transfers and the financial institutions to which the transfers were made. Other recent federal offshore account investigations have focused on India and Barbados. U.S. tax authorities no doubt will use this treasure trove of information to further expand the offshore account enforcement program and to identify and pursue additional U.S. taxpayers and banks who try to skirt U.S. tax reporting requirements.

As part of a deferred prosecution agreement, Bank Leumi admitted that it conspired to assist taxpayers in defrauding the U.S. government and assisting taxpayers in filing false income tax returns that did not report the existence of secret offshore accounts with Bank Leumi, or the income earned in the accounts. The government filed a criminal conspiracy charge against Bank Leumi but agreed to dismiss that charge in two years if the bank continues to cooperate with U.S. authorities. Bank Leumi admitted that in 2008, when news broke of the investigation of UBS in Switzerland for violating U.S. tax laws, it actively pursued UBS clients who sought to move their secret offshore accounts to avoid detection. The bank admitted that Bank Leumi USA issued loans to U.S. clients which were guaranteed by funds in the clients' undeclared foreign accounts at Bank Leumi or its foreign subsidiaries. This allowed customers to enjoy the funds they secretly held offshore without being discovered. Bank Leumi also advised clients to sell U.S. securities in their accounts or to set up nominee offshore entities controlled by the client, and used hold mail orders, assumed name accounts, and numbered accounts to avoid detection of its U.S. clients.

U.S. citizens, resident aliens, and legal permanent residents are required to report all income earned from foreign bank accounts on their income tax returns. They are also required to report the existence of foreign accounts over which they have signature authority or in which they have a financial interest on their income tax returns. If the value of those foreign accounts exceeds \$10,000 at any time during a particular year, they must also file a Report of Foreign Bank and

Financial Accounts, Form TD F 90-22.1 for that year. Programs are in place which allow taxpayers to come into compliance and avoid criminal investigation and prosecution. Rosenberg Martin Greenberg is well equipped to assist with offshore bank reporting issues.

For any of your other tax controversy needs, please contact an attorney in our Tax Controversy & Litigation group:

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