

If one is a US Resident for tax purposes (by virtue of being a US Citizen or a Green Card holder, no matter where in the world one is, or by virtue of being physically present in the US for certain number of days, irrespective of one's immigration status), their worldwide income is subject to US taxes.

Further, if one has foreign financial assets, there are annual disclosure and reporting requirements (Schedule B of form 1040 due with your return and Form TD 90.22.1 due on June 30, every year, with no option of extension). The rules do not distinguish between persons who are here on work visas (H-1B, L-1A etc) and others – if you are a “US resident” for tax purposes, you are subject to all these rules.

Simply put, if you file (or are supposed to file) a Form 1040EZ, 1040A or 1040, you are subject to the disclosure rules. If you file returns in the 1040NR series, these will not apply to you for that year.

In 2009, the Internal Revenue Service instituted a special Voluntary Disclosure Program that allowed qualified taxpayers to fully disclose the existence of offshore bank accounts, pay “back” taxes, interest and penalties and an “offshore penalty” of 20% to avoid severe civil and criminal penalties. More than 15,000 taxpayers entered the program by the October 15, 2009 deadline.

In February 2011, the Internal Revenue Service announced a special voluntary disclosure initiative designed to bring more offshore money back into the U.S. tax system and help taxpayers with undisclosed income from hidden offshore accounts. This new voluntary disclosure initiative will be available through August 31, 2011.

The IRS decision to open a second “tax amnesty” period follows continuing interest from taxpayers with foreign accounts. Since the October 15, 2009 deadline, more than 3,000 taxpayers have come forward to the IRS with offshore bank accounts. These taxpayers will also be eligible to take advantage of the special provisions of this new initiative.

The new program--the 2011 Offshore Voluntary Disclosure Initiative (OVDI)--includes several changes from the 2009 Offshore Voluntary Disclosure Program (OVDP). The overall penalty structure for 2011 is higher, meaning that taxpayers who did not come forward in 2009 will not be rewarded for waiting.

For the 2011 initiative, there is a new penalty framework that requires taxpayers to pay a penalty of 25% (an increase from the 20% penalty imposed for the 2009 program) of the amount in the foreign bank accounts in the year with the highest aggregate account balance covering the 2003 to 2010 time period. Some taxpayers, however, may be eligible for a 5% (in very limited circumstances) or a 12.5% penalty (for those with accounts that never surpassed \$75,000 in any calendar year covered by the 2011 program).

Of course, all taxpayers participating in the new initiative must file all original and amended tax returns to include any unreported income from these foreign accounts for the relevant years between 2003 and 2010, and pay all taxes, interest and accuracy-related penalties by the August 31, 2011 deadline.

Similar to the 2009 Program, the 2011 Initiative offers clear benefits and encourages taxpayers to come forward now rather than risk IRS detection at a later time. Those taxpayers who do not come forward risk devastating civil penalties (far greater than 25% of the account balances and possibly **more than** 100% of the account balances in question) and criminal prosecution.

The IRS has released extensive details and conditions of the 2011 Offshore Voluntary Disclosure Initiative in a [Frequently Asked Questions](#) format that covers eligibility, penalty calculations, compliance requirements, etc.

A new law, with some features that will come into effect for the tax year 2011 is, "[Foreign Account Tax Compliance Act](#)" While the current disclosures to the Treasury Department [[Form TD 90.22.1](#)] are for foreign financial assets, one of the items under FATCA is the requirement to file a new form [Form 8938 – yet to be released] along with one's tax returns and includes information of one's interest in all foreign assets, including real estate holdings (aggregate value over a certain threshold).

If any of the circumstances / situations described herein are relevant to you, you should seriously consider this opportunity and take advantage of this tax amnesty--it is far from certain that the IRS will ever offer another opportunity to do so.

Please call us at 631-732-8877 for a free initial consultation.