

# IRS Assistance to Delinquent Taxpayers

The IRS announced a new program to help US overseas taxpayers catch up with filing obligations. The new procedures will allow qualifying taxpayers to catch up on filing the foreign bank account reports and U.S. tax returns in general.

Many U.S. taxpayers living abroad do not understand their tax filing obligations or simply fall behind. The IRS has now announced a program that allows these taxpayers to come forward and become compliant on past filings. The program will be open to taxpayers who are considered low compliance risks, which is described as taxpayers with simple returns that owe \$1,500 or less in tax. Taxpayers that do not fit this description are expected to enter the 2012 Offshore Voluntary Disclosure Program. To enter the new program, taxpayers must file 3 years of past due income tax returns, 6 years of foreign bank account reports (FBARs) and any other required informational returns. The IRS will then review the returns and determine if the taxpayer is a low compliance risk and eligible for the new program.

Despite this new program being announced as an aid to taxpayers, at this time the program appears to offer few benefits. Taxpayers are still subject to penalties and interest and are not guaranteed amnesty from potential criminal prosecution. If the IRS feels criminal prosecution is warranted the taxpayer does not have any protection by entering the program. In fact, the IRS specifically advises taxpayers fearful of criminal prosecution to file with the Offshore Voluntary Disclosure Program. However, it is very rare that the IRS seeks criminal prosecution for simple returns with little or no tax due. The IRS has said that qualifying returns will have expedited processing and will not be subject to further review, but again simple returns with little or no tax due are not generally at high risk for audit anyway. Overall, given the limited benefits, this new program appears to simply be an effort to discourage taxpayers from submitting past due returns through normal filing processes sometimes referred to as “quiet disclosure”. The IRS would prefer this program to quiet disclosure because it would give them direct notice of all the taxpayers who have been delinquent on their filings. However, through quiet disclosure it is possible for returns to be processed and resolved without ever being reviewed.

The IRS has still not released the final details of the program, but says the information is forthcoming before the program takes effect on September 1<sup>st</sup>. In the meantime, taxpayers considering this program should consult with an attorney for a thorough analysis of their specific situation to determine the best strategy for becoming compliant. If you have undisclosed foreign financial assets, unfiled tax returns, and/or undisclosed foreign income contact **Global Tax Service** today.