Session Two:
Influencing Individual Taxpayer Behavior

2010 IRS Research Conference
Solving Information Asymmetry for Offshore Accounts

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IRS Research Conference

June 29-30, 2010
Target: U.S. accounts

Applies to U.S. account holders

FBAR

Chapter 4

Applies to foreign financial institutions

Target: non-U.S. accounts, though some provisions apply to U.S. accounts
“Penalty Default” Barrier

Penalties so big they would wreck the business.

Contract-around solution

Force taxpayer to reveal information
Penalty Defaults in Tax Administration

- **Negotiation-based rule**
  - Government may negotiate with taxpayers
  - Taxpayers may provide broad range of information

- **Menu-based rule**
  - Government provides choices
  - Taxpayers identify as compliant or noncompliant
Negotiation-Based Chapter 4 Options

U.S. seeks information about reporting design from foreign banks, subject to core objectives. (Timely electronic filing of TINs?)

U.S. devises § 1471 agreement specifics.

U.S. permits non-U.S. banks to devise § 1471 agreements specifics.
What § 1471 is looking for:

<table>
<thead>
<tr>
<th>Name of Foreign Financial Institution (FFI) Making Report</th>
<th>FFI Address</th>
<th>FFI IRS-Assigned Identifying Number</th>
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<tbody>
<tr>
<td>US account holders⁹¹</td>
<td>TIN</td>
<td>Name</td>
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Menu-Based FBAR Objectives

Make the choice of filing an FBAR -- or not -- clear

Guard against noncompliers masquerading as compliers

Standardized data fields. Electronic filing?

Use reinforcing gatekeeper strategies

Diligence requirements are key. EITC-like checklist?
Great availability-bias-based publicity.

Noncompliers

Confusing messaging.

Compliers

FBAR

20% of account value as penalty benchmark.

Applicable to continuing voluntary disclosures?

Is lower 5% “heir” penalty a null set?

Is criminal prosecution still possible after VDP participation?

Are FBARs confidential?

Plus plea bargain news:
Rubinstein, Moran, Chernick, Homann, McCarthy, Cittadini, Robbins, Zabczuk . . .
Penalty default rules as information-forcing multi-tools