



2015

IRSNationwide

TaxFORUM

Updates to Offshore Voluntary Disclosure Program (OVDP) and Streamlined Filing Procedures



Presenter Panel

Dave Horton,

Director, IIC

David.W.Horton@irs.gov

Christine Stone, OVDP Coordinator

Christine.Stone@irs.gov

Misha Weitzner, OVDP Coordinator

Misha.Weitzner@irs.gov

2015

IRSNationwide

TaxFORUM



2015

IRSNationwide

TaxFORUM

Offshore Compliance Options

1. OVDP
2. Streamlined Filing Compliance Procedures
3. Delinquent FBAR Submission Procedures
4. Delinquent International Information Returns Submission Procedures

Reference: Options Available for U.S. Taxpayers with Undisclosed Foreign Financial Assets on IRS.gov



OVDP Key Terms

- Preclearance through CI
- Disclosure period
- Certification
- Miscellaneous Offshore Penalty (MOP)

2015

IRSNationwide

TaxFORUM



2015

IRS Nationwide

Tax FORUM

2014 OVDP Key Modifications

- Increase information required for preclearance (FAQ 23)
- 50% offshore penalty for accounts at listed banks (FAQ 7.2)
- Eliminate the existing reduced penalty categories for certain non-willful taxpayers (FAQ 52 and 53)
- Payment of the offshore penalty at the time of the OVDP submission (FAQ 7)

Reference FAQ 1.1 for all significant changes to the 2012 OVDP.



OVDP and Collection

- Program requires full payment of tax, interest and penalties including MOP (FAQ 7)
- Inability to full pay (FAQ 20)
 - Burden on taxpayer to establish inability to full pay

2015

IRSNationwide

TaxFORUM



Opt Out and Removal

- Statute extensions requested with OVDP submission in the event of opt out/removal - (FAQs 25 and 43)
- Cases that cannot be resolved in OVDP with a Form 906 result in Opt Outs or Removals (FAQ 51)
- Opt Out Refund Issues
 - When opting out or before, taxpayers may make claim for refund

2015

IRSNationwide

TaxFORUM



Reasons for 2014 Streamlined

- OVDP penalty structure was harsh for certain taxpayers
- Taxpayers who disagreed with penalty structure were:
 - Filing “quiet disclosures”
 - Entering OVDP then opting out
 - Remaining non-compliant
- 2012 Streamlined had narrow eligibility requirements
- 2014 Streamlined modifications greatly expanded eligibility



Definition of “Non-Willful” for Streamlined Procedures

“Non-willful conduct is conduct that is due to negligence, inadvertence, or mistake or conduct that is the result of a good faith misunderstanding of the requirements of the law.”

- Based on facts and circumstances of each case
- No one fact controls analysis
- Press coverage includes 2014 TNT 212-7 (11/3/2014)



SFO

vs.

SDO

- Form 14653
- Meet non-residency requirement
- Provide delinquent or amended income tax returns (Form 1040/1041)
- Forms 1040NR are not accepted
- No penalties

- Form 14654
- Do not meet SFO residency requirements
- Must have filed income tax returns before submitting amended returns through procedures
- 5% penalty on assets reportable on FBAR/F8938



2015

IRS Nationwide

Tax FORUM

SFO Non-Residency Requirements

- Individuals who are U.S. citizens or lawful permanent residents, and in any one or more of the most recent three years:
 - Not have a U.S. abode and
 - Physically outside the U.S. for at least 330 full days
- Both taxpayers on joint return must meet residency requirements
- Snowbird Issue



2015

IRSNationwide

TaxFORUM

5% SDO Miscellaneous Offshore Penalty

- SDO Penalty FAQs posted to IRS.gov
- SDO FAQ 6 – Penalty Applies to assets in the covered FBAR and/or tax return period if the asset should have been, but was not, reported on an FBAR (FinCEN Form 114) and/or Form 8938 for that year or if gross income in respect of the asset was not reported in that year
- Year end account/asset values are used to aggregate assets
- Rev. Proc. 2014-55 – Canadian retirement plans

2014 Transition Streamlined

- Must be currently participating in OVDP
- Meet eligibility for SFO/SDO
- Certify non-willful conduct subject to IRS concurrence
- If denied, taxpayer may remain in OVDP or Opt Out



2015

IRSNationwide

TaxFORUM



Resources

- IRS.gov
 - <http://www.irs.gov/Individuals/International-Taxpayers/Options-Available-For-U-S--Taxpayers-with-Undisclosed-Foreign-Financial-Assets>
- FAQs
- OVDP Hotline (267)941-0020



2015

IRSNationwide

TaxFORUM