

IRS Winning Game of Offshore Hide and Seek

Update on FBARs, IRS Offshore Voluntary Disclosure Initiative and New FATCA Reporting Requirements for Foreign Financial Assets

The federal government continues to view offshore tax evasion as a major contributor to the tax gap. As a consequence, the government has been intensifying enforcement efforts in the international arena, specifically targeting United States persons with undisclosed foreign accounts or holdings. After breaching the formerly impenetrable wall of bank secrecy in Switzerland, the government is now relentlessly pursuing U.S. holders of undisclosed accounts in Europe and Asia where offshore private banking is increasingly migrating. As a result of taxpayers that have come forward to date and voluntarily disclosed their offshore holdings (over 30,000 according to the Internal Revenue Service), the government is engaged in extensive data mining of leads, information gleaned through these disclosures and informants and sources to widen the net. Armed with such information, the government is increasing the risk by pursuing criminal charges against private client advisors at foreign banks that have facilitated or assisted U.S. persons in hiding wealth offshore. Most recently, the government successfully prosecuted a centuries old Swiss bank for conspiring to assist U.S. taxpayers in hiding accounts offshore notwithstanding that that this bank had no affiliate or physical presence in the U.S.. Lastly and perhaps most importantly, the tools available to the government to detect and combat offshore tax evasion have been greatly expanded with the enactment of new legislation commonly known as FATCA.

FBAR and Other Offshore Reporting Requirements A detailed discussion of the extensive and ever increasing reporting requirements for US persons with foreign accounts or activities and severe penalties for non-compliance is beyond the scope of this article. For a brief primer on the special tax regimes and information reporting requirements for US beneficiaries of foreign trusts or persons with ownership (both direct and indirect) in offshore holding company structures, please refer to the author's article in the September 2009 Maryland Bar Journal, *Mori Dieul Your Client is Now the Beneficiary of an Offshore Trust*.

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