

## IRS deadline raises ante to report foreign accounts

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Do you have foreign accounts upon which you — er, forgot — to pay taxes? Consider applying to the IRS criminal investigation for voluntary disclosure by Sept. 23.

By meeting this deadline, outlined in an IRS memo last March, you may not only avert an IRS criminal investigation, but also may get a reduced federal tax penalty.

But be careful. Filing voluntary disclosure doesn't guarantee immunity from criminal prosecution. Also, the IRS offer may be moot if you're already under IRS scrutiny.

The IRS memo gains added significance in the face of a recent agreement between the Swiss government and U.S. Justice Department.

Switzerland now can turn over to the United States the names of financial institution clients who meet a set of agreed-upon criteria. This, amid a major U.S. Justice Department crackdown on tax evaders, marks a significant change in Switzerland's long-coveted bank secrecy rules.

*"I think the days of bank secrecy are numbered," says Dennis Brager, a Los Angeles tax attorney who formerly worked for the IRS. "What we're seeing is a move toward a more transparent world."*

Germany and France, he says, are even more worried than the United States about their citizens evading taxes.

Bottom line: If you own or have authority over a foreign bank account, brokerage account, mutual fund, unit trust or other financial account, you must report the account to the IRS. You also must file a "Report of Foreign Bank and Financial Accounts (FBAR)" with the IRS if the total value of your foreign financial accounts exceeds \$10,000.

Brager suggests that anyone with at least \$100,000 in offshore accounts who has not paid taxes on them immediately seek counsel.

You might figure you're under the radar screen because an account is small. But "what about your kids?" he says. "What's going to happen when you pass on? Are you going to leave this problem for your kids to deal with?"

The IRS gives this example of how much you might save if you failed to pay taxes on offshore accounts, but come forward by Sept. 23.

Say you're in the 35 percent tax bracket and the \$1 million you had in a foreign bank account in 2003 grew, earning \$50,000 annually, to \$1.3 million in 2008. You possibly could save nearly \$2 million in taxes and penalties.

Have you been reporting income and interest on your foreign account to the IRS, but failing to file the required FBAR form? In that case, voluntary disclosure may not be necessary, Brager says. Those forms still need to be processed, but penalties may not be so severe.

Are you a U.S. citizen or green cardholder who lives overseas? You might not think you have a foreign account in the eyes of the IRS, he says, but you do.

Brager also notes that to be fully penalized by the IRS for failing to file a FBAR form, the IRS must prove the failure to file was "willful." This means you knew there is such a thing as a "FBAR" and that it is something you needed to file. "Not everybody is going to fall into that category."

If you file voluntary disclosure with the IRS, make sure you disclose everything and it's 100 percent accurate. Omit certain foreign accounts or portions of your income, and you've made a false statement to the IRS.

"That," Brager says, "can result in a criminal case brought against you."

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