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For this Workshop and the CENTRA-Quiet  
Disclosure training:

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Activity Code 683

# **OVDI-OOR Examinations and Penalty Investigations**

**Part I: FBAR Penalty Investigations  
Background and Administrative  
Issue Development**

**Part II: Statute of Limitations**

**Part III: International (Information Returns) Penalties**

***Part IV: Offshore Issues - Examination  
Techniques and Administrative Topics***



# **OVDI-OOR Examinations and Penalty Investigations**

**Part IV: Offshore Issues - Examination Techniques and  
Administrative Topics**



## **SAA OVDI Team – Today’s Presenters**

(b) (6)

**SAA OVDI Team**

(b) (6)

## **Offshore Issues - Examination Techniques and Administrative Topics**

### **PURPOSE of this Workshop?**

- Provide you with the available resource materials for Offshore Issues-Examination Techniques
- Familiarize you with Administrative issues encountered in OVDI-OOR cases
- Provide updated/additional information on previous topics

# Where to go?

## ◆ People

- Start with your OVDI Technical Advisor
- Fraud Technical Advisor (FTA)
- FBAR Coordinators (b) (6)
- (b) (6)
- Area (SBSE) Counsel
- International Specialists (mandatory referrals and informal assistance)



# Where to go?

## ◆ Places

- Hyperlinks on slides (right click, Open Hyperlink)
- IRM references
- Exhibits – IDR/Interview (hand-outs for Workshop)
- Quiet Disclosures Desk Guide (hand-out for Workshop)
- CENTRA – Quiet Disclosures (SNS669566 and NPV149095)



## FBAR Reminders

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- Related Statute Memorandums (RSM)
  - A Blanket RSM was issued for OVDI cases and covers the scope years
  - If additional years are under consideration a RSM is required for those years
  
- FBAR penalty cases must be established on ERCS via a F5345D and in Detroit (DCC) via a Form 13536



## FBAR Reminders

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- Willful Cases require FTA involvement and concurrence.
- FBAR extensions
  - An FBAR may be extended, signed by the taxpayer and executed by the IRS after expiration



## FBAR News

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- New FBAR E-filing Requirements
- Effective July 1, 2013
- FBARs must be electronically filed. RA's can not accept paper returns.
- E-filed FBARs accepted by the BSA should appear on CBRS within 48 hours.

# International Penalty Investigations

## ◆ Reminders

- [IRM Section 20.1.9-International Penalties](#)
- [International Referral Criteria and Procedures](#) (IRM Section 4.60.6)
- F5471 Penalty Leadsheet (in RGS Leadsheets as "Penalty\_Form\_5471\_Lead\_Sheet.doc" Rev. 05/2012)
- F3520-A and F3520 Penalty Job Aids (will be posted in OVDI Library/Opt outs and Removals folder)
- ERCS Issues (P9 limitations)-See [ERCS Group Handbook](#)

## Income Tax Examinations

- ◆ Follow IRM 4.10 Procedures, including
  - Opening steps (L2205, Pub. 1, Notice 609)
  - Separate notice requirements for spouses
  - Mandatory Audit Steps (Income Probe, P/S/R return inspections)
  - Penalty Consideration, including Fraud, Preparer penalties, GM Approvals

# Income Tax Examinations

- ◆ Quick Assessments
  - Use the examination procedures at IRM Section 4.4.25
  - Different from Quick Assessment procedures in OVDI
  - Must update AGI and TI (CENTRA Quiet Disclosures SNS669566)
  - Quiet Disclosures-Desk Guide

## Income Tax Examinations

- ◆ “Barred” refunds
  - Move advance payments to Excess Collection
  - Instructions are on the National OVD SharePoint
  
- ◆ Taxpayer makes a timely (within 2 years of payment) request in writing for the refund of advance payments made for years with “barred” assessment statutes
  - ???????





## Statutes

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- The CENTRA presentation will review statutes again.
- Exceptions
  - Fraud
  - 6501 (e) 25% Omission
  - 6501 (e) FATCA - \$5,000 unreported foreign income'
  - 6501(c) (8) FTF Information Returns
  - 7609 (e)(2) John Doe Summon



## Qualified Amended Returns

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- Amended Returns Processed
- Quick Assessments
- No Penalties if the Amended Return is qualified.
- Fraud is still applicable since amended returns do not correct



## Qualified Amended Returns

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- 1040X filed before first contacted by the IRS concerning an exam
- 1040X is filed before the date on which the IRS services John Doe Summons.



## Non-Qualified Amended Returns

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- Penalties applicable
- Statute exceptions still apply

## Information Document Requests

- ◆ OVDI Agents
  - When taxpayers indicate they are considering opting out of OVDI: Issue a written document request for all relevant missing records, especially bank records
- ◆ Workshop hand-outs include the QD Exhibits
  - Provides “wording” for document request items
  - Customize requests for your taxpayer

## Summons

- ◆ We can **not** summons offshore banks or offshore third-parties
- ◆ We can summons the individual taxpayers to provide . . . .
  - Documentary evidence (offshore bank records, for example)
  - Oral testimony (What was their intent when opening/using an offshore account?)
- ◆ We can summons U.S. return preparers, U.S. financial advisors, and other U.S. third-parties

## Summons *continued*

- ◆ Primary Resources
  - IRC Sections: 6001, 6201, 7602 – 7622, 7210
  - IRM Section 25.5
- ◆ Serving the summons - If taxpayer is in another Area? See IRM Section 25.5.5.3.2.1
- ◆ Plan the Summons appearance
  - Location (if the taxpayer is not in our Area?)
  - Counsel assistance to prepare interview questions
  - Court Reporter procedures (CENTRA-Quiet Disclosure SNS669566)

## Summons *continued*

- ◆ Serving the summons
  - What if the taxpayer is in another Area? SEE IRM Section 25.5.5.3.2.1
- ◆ Plan the Summons appearance
  - Location (if the taxpayer is not in our Area?)
  - Counsel assistance to prepare interview questions
  - Court Reporter procedures (CENTRA-Quiet Disclosure SNS669566)
- ◆ Be prepared for enforcement actions
  - IRM Section 25.5.10



# IMPORTANT!

- ◆ Do **not** issue a summons to a foreign person
- ◆ Do **not** issue a summons to a foreign bank
- ◆ Do **not** contact a foreign government
- ◆ Do **not** contact a foreign person or business

## Exchange of Information (EOI) Programs

- ◆ Foreign records may be available under a tax treaty or a tax information exchange
- ◆ Work through the EOI program (or International Specialist, if assigned to your case) to determine if these programs apply
  - [Exchange of Information \(EOI\) Programs](#)

# Formal Document Request

- ◆ What is it?
  - Coordinate with Counsel
  - If the taxpayer does not comply, will be precluded from using the requested documents at a subsequent civil trial
- ◆ Training module explanation
  - [Formal Document Request](#)
- ◆ CENTRA-Quiet Disclosure SNS 669566