

Offshore Penalty vs Information Return Penalty Analysis

FAQ 35

	<u>Highest Acct. Balance</u>	x	<u>Penalty Rate</u> <u>20%/5%</u>	=	<u>Computed Offshore Penalty</u>
OFFSHORE PENALTY		x	20%	=	<u>\$ -</u>
Tentative FAQ 35 Comparison Penalty (based on summary below)					<u>\$ -</u>

FAQ 35 COMPARISON

<u>IRC Section</u>	<u>Form</u>	<u>IRM</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>
31 U.S.C. 5321(a)(5)	TD F 90-22.1	20.1.9	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
6048 or 6039F	Form 3520	20.1.9	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
6048(b)	Form 3520-A	20.1.9	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
6038(b)	Form 5471	20.1.9	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
6038A and 6038C	Form 5472	20.1.9	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
6038B	Form 926	20.1.9	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
6038, 6038B and 6046A	Form 8865	20.1.9	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
6651(a)(1)	Failure to File	20.1.2	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
6651(a)(2)	Failure to Pay	20.1.2	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
6651(f)	Fraudulent Failure to File	20.1.2	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
6654	Failure to Pay Estimated Income Tax	20.1.3	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
6662(c)	Negligence Penalty	20.1.5	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
6662(d)	Substantial understatement	20.1.5	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
6663	Fraud Penalty	20.1.5	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Yearly Total			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

Conclusion:

- This computation is to be used for the purposes of FAQ 35 only.
- Information penalties may extend to years prior to 2003 if outside of OVDI, and may be subject to interest accruals based on the return due date (not shown).

FBAR

Pre-October 23, 2004 Civil Penalty Mitigation Guidelines

Account Balance	Penalty Structure	Account Balance	Computed Penalty Amount
Level I - Balance <\$20,000	5% of Maximum Value		\$ -
Level II - Balance <\$250,000	10% of Maximum Value		\$ -
Level III - Balance >\$250,000 but <\$1,000,000	Lesser of 10% of Maximum Value or amount in the acct as of last day unless amt is less than or equal to \$25,000 then penalty is \$25,000	\$ -	\$ -
Level IV - Balance >\$1,000,000	Lesser of \$100,000 each unreported account or the amount in the acct as of last day unless amt is less than \$25,000 then penalty is \$25,000	\$ -	\$ -
FBAR Penalty			\$ -

Form	Penalty Structure	Valuation /Underpayment	#of Periods	Computed Penalty Amount
6048 or 6039F 6048(b)	Form 3520	35% of Gross Taxable Amt, or if gift 5% of gift per month up to 25% of gift		\$ -
	Form 3520-A	5% of Gross Value of Trust Assets		\$ -
6038(b)	Form 5471	\$10,000 per Accounting Period, with an additional \$10,000 penalty each 30 day period failure continues after the 90 day notice period has expired, max of \$50,000		\$ -
6038A and 6038C	Form 5472	\$10,000 Penalty, with an additional \$10,000 added each month failure continues 90 days after notice, max of \$50,000		\$ -
6038B	Form 926	10% of Value of Property Transferred, max. of \$100,000		\$ -
6038, 6038B and 6046A	Form 8865	\$10,000 Penalty for each return, with an additional \$10,000 added for each month failure continues 90 after notice, max \$50,000 per return and 10% of value of transferred property not reported subject to \$100,000 limit		\$ -
6651(a)(1)	Failure to File	4 1/2% per month, 25% max, if FTP applies, or 5% if only FTF applies		\$ -
6651(a)(2)	Failure to Pay	1/2% per month, 25% max		\$ -
6651(f)	Fraudulent Failure to File	15% per month, up to max of 5 months or 75%		\$ -
6654	Failure to Pay Estimated income Tax			\$ -
6662(c)	Negligence Penalty	Penalty is 20% of underpayment		\$ -
6662(d)	Substantial understatement	Penalty is 20% of underpayment		\$ -
6663	Fraud Penalty	75% of underpayment attributable to fraud		\$ -

2004

FBAR

FBAR Mitigation Guidelines After October 22, 2004

	Account Balance	Penalty Structure	Account Balance	# of Violations	Computed Penalty Amount
Non-Willful Penalties	Level I - Balance <\$50,000	\$500 for each violation, not to exceed an aggregate penalty of \$5,000			\$ -
	Level II - Balance <\$250,000	\$5,000 for each violation, not to exceed 10% of the maximum balance in the account during the year			\$ -
	Level III - Balance >\$250,000	\$10,000 for each violation			\$ -

	Account Balance	Penalty Structure	Account Balance	# of Violations	Computed Penalty Amount
Willful Penalties	Level I - Balance <\$50,000	The greater of \$1,000 for each violation or 5% of the maximum balance in the account during the year			\$ -
	Level II - Balance <\$250,000	The greater of \$5,000 for each violation or 10% of the maximum balance in the account during the year			\$ -
	Level III - Balance >\$250,000 but <\$1,000,000	The greater of 10% of the maximum balance during the year or 50% of the account balance in the account as of the last day for filing the FBAR			\$ -
	Level IV - Balance >\$1,000,000	The greater of \$100,000 or 50% of the closing balance in the account as of the last day for filing the FBAR			\$ -

FBAR Penalty \$ -

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6651(f) 6654	Fraudulent Failure to File	15% per month, up to max of 5 months or 75%			\$ -
6662(c) 6662(d)	Failure to Pay Estimated income Tax				\$ -
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