

Trusts and Estates

January 11, 2012

Offshore Voluntary Disclosure Program Reopens

The Internal Revenue Service recently reopened its Offshore Voluntary Disclosure Program (OVDP) in order to help people who have been hiding offshore accounts, or have become aware of their interests in and obligations with respect to such accounts, become current with their taxes.

The IRS reopened the OVDP following continued strong interest from taxpayers and tax practitioners after the closure of the 2011 and 2009 programs. The third offshore program comes as the IRS continues working on a wide range of international tax issues, and follows ongoing efforts with the Justice Department to pursue criminal prosecution of international tax evasion. This program will be open for an indefinite period until otherwise announced.

The program is similar to the 2011 program in many ways, but with a few key differences. Unlike last year, there is no set deadline for people to apply. However, the terms of the program could change at any time going forward. For example, the IRS could increase penalties in the program for all or some taxpayers or defined classes of taxpayers, or decide to end the program entirely at any point.

The overall penalty structure for the new program is the same as it was for 2011, except for taxpayers in the highest penalty category. For the new program, the penalty framework requires individuals to pay a penalty of 27.5 percent of the highest aggregate balance in foreign bank accounts/entities or value of foreign assets during the eight full tax years prior to the disclosure. This number has increased from 25 percent in the 2011 program. Some taxpayers will be eligible for reduced 5 or 12.5 percent penalties under the same criteria of the 2011 program.

Participants must file all original and amended tax returns and include payment for back-taxes and interest for up to eight years in addition to paying accuracy-related and/or delinquency penalties.

As under the prior programs, taxpayers who feel that the penalty is disproportionate may opt instead to be examined.

The IRS will release more details in the next month. We will continue to advise on developments regarding the new program.

If you have any questions or inquiries regarding the OVDP, please contact any of the following Katten Muchin Rosenman LLP attorneys.

Trusts and Estates

Joshua S. Rubenstein

212.940.7150 / joshua.rubenstein@kattenlaw.com

Ronni G. Davidowitz

212.940.7197 / ronni.davidowitz@kattenlaw.com

Beth D. Tractenberg

212.940.8538 / beth.tractenberg@kattenlaw.com

Charles Harris

312.902.5213 / charles.harris@kattenlaw.com

Carol A. Johnston

310.788.4505 / carol.johnston@kattenlaw.com

Abby L.T. Feinman

310.788.4722 / abby.feinman@kattenlaw.com

Kathryn von Matthiessen

212.940.6631 / kathryn.vonmatthiessen@kattenlaw.com

Philip J. Tortorich

312.902.5643 / philip.tortorich@kattenlaw.com

Litigation/White Collar Crime

Scott A. Resnik

212.940.8543 / scott.resnik@kattenlaw.com

Glen Donath

202.625.3535 / glen.donath@kattenlaw.com

Alexander S. Vesselinovitch

312.902.5660 / avesselinovitch@kattenlaw.com

Tax

Saul E. Rudo

312.902.5664 / saul.rudo@kattenlaw.com

Jill E. Darrow

212.940.7113 / jill.darrow@kattenlaw.com

Zvi Hahn

212.940.8517 / zvi.hahn@kattenlaw.com

Robert Loewy

212.940.6303 / robert.loewy@kattenlaw.com

www.kattenlaw.com



www.kattenlaw.com

KattenMuchinRosenman LLP

CHARLOTTE CHICAGO IRVING LONDON LOS ANGELES NEW YORK OAKLAND WASHINGTON, DC

Published as a source of information only. The material contained herein is not to be construed as legal advice or opinion.

©2012 Katten Muchin Rosenman LLP. All rights reserved.

Circular 230 Disclosure: Pursuant to regulations governing practice before the Internal Revenue Service, any tax advice contained herein is not intended or written to be used and cannot be used by a taxpayer for the purpose of avoiding tax penalties that may be imposed on the taxpayer. Katten Muchin Rosenman LLP is an Illinois limited liability partnership including professional corporations that has elected to be governed by the Illinois Uniform Partnership Act (1997). London affiliate: Katten Muchin Rosenman UK LLP.