

**IRS Announces Second Voluntary Disclosure Program
for Offshore Accounts and Assets****February 2011**

On February 8, 2011, the Internal Revenue Service ("IRS") announced a new Offshore Voluntary Disclosure Initiative ("OVDI") for 2011. The 2011 OVDI is similar to the prior program that ended on October 15, 2009 in which approximately 15,000 taxpayers participated. Of these cases, less than 4,000 have been processed and closed to date. We have closed several cases thus far, and we are currently handling a number of unresolved cases opened during the 2009 program. The IRS decision to open a second disclosure initiative was prompted by continuing interest from taxpayers with foreign accounts. Like the previous program, the 2011 OVDI allows taxpayers with undisclosed offshore bank or financial accounts or undisclosed interests in foreign entities to come forward and pay a predictable level of additional tax and penalties related to the prior non-disclosure of taxable income and information related to offshore investments. The 2011 OVDI will be available to taxpayers until August 31, 2011.

The look-back period for the 2011 OVDI is eight years (2003 through 2010). The penalty scheme under the 2011 OVDI is as follows: (1) a one-time 25 percent penalty on the highest aggregate annual balance in the unreported accounts in the look-back period (an increase from the 20 percent penalty under the 2009 program), and (2) a 20 percent accuracy-related penalty or delinquency penalties on the amount of U.S. income tax that should have been paid on any unreported income from the non-U.S. accounts in the look-back period. However, a taxpayer with offshore accounts or assets that, in the aggregate, did not surpass \$75,000 in any calendar year covered by the 2011 OVDI will qualify for a new 12.5 percent rate, instead of the 25 percent rate. No such reduction was provided in the 2009 program, but the IRS has indicated that taxpayers who participated in the 2009 program can apply for retroactive application of the 12.5 percent rate, if eligible.

Under the 2011 OVDI, a taxpayer can avoid other potentially extensive civil tax penalties. This could include: (1) civil fraud penalties (75 percent of unpaid tax); (2) penalties for failure to file various information returns (\$10,000 for each failure to file); and, (3) penalties for willful failure to file information returns (the greater of \$100,000 and 50 percent of foreign account balances per year). In addition, criminal charges could include up to ten years imprisonment and \$500,000 in fines.

The IRS has made it clear that its efforts in the international arena will only increase beyond its already high levels as time goes on. IRS Commissioner Shulman has recently warned that "as [the IRS] continue[s] to amass more information and pursue more people internationally; the risk to individuals hiding assets offshore is increasing."

For the eligible taxpayer, the 2011 initiative offers clear benefits to encourage taxpayers to disclose offshore accounts rather than risk IRS detection. Given this potential for extremely high penalties and criminal prosecution that could be involved with non-disclosure, taxpayers who are eligible to participate in the 2011 OVDI would be well advised to consult with an attorney in connection with the decision regarding whether to enter the 2011 OVDI.

Handler Thayer, LLP has significant experience in all aspects of representation before the IRS. Consequently, we are well-positioned to assist taxpayers in all facets of participation in the 2011 OVDI. Please [contact us](#) if you need assistance or have any questions regarding this opportunity.

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