

Information for US Citizens or Dual Citizens in Canada

After the recent media coverage regarding the IRS crackdown on Canadians through the 2011 Offshore Voluntary Disclosure Initiative (“OVDI”), many US citizens or dual citizens became aware of their US tax filing obligations and sought to come into compliance with the law only days before the OVDI deadline. The IRS has issued a new guideline which is now more lenient for US citizens or dual citizens residing outside the US.

Below is a summary of the new guideline.

Income Tax Return Filing Requirement

US citizens must file a US federal income tax return for any tax year in which they have a filing obligation. They only need to file returns going back six years.

Income Tax Return Penalties

The taxpayer will have what is considered to be both a “failure to file” and “failure to pay” penalty if there is tax owing on their income tax return after taking into account the foreign earned income exclusion and the foreign tax credit. There is no penalty if no tax is due. The IRS may waive these penalties if the taxpayer can show that the failure is due to reasonable cause and not willful neglect.

Possible Additional Penalties

Additional penalties that may apply to US citizens or dual citizens in Canada include: civil penalties, accuracy-related penalties, fraud penalties and certain information reporting penalties.

FBAR Filing Requirement

Taxpayers who are delinquent on the foreign bank account reports (“FBAR”) filings for earlier years only need to go back six years and should file with a statement explaining why they are filed late. No penalty will be assessed if the IRS determines that the late filings were due to reasonable cause.



FBAR Penalties

In the absence of a reasonable cause, the taxpayer may be subject to either a willful or non-willful civil penalty which can be up to the greater of \$100,000 or 50% of the total balance of the foreign account.

New Reporting Requirement for Foreign Financial Assets

Beginning in 2012, a new law requires US taxpayers who have an interest in foreign financial assets (including financial accounts – whether or not they are maintained by a financial institution – and interest in a foreign entity etc.) with an aggregate value exceeding \$50,000 to report those assets to the IRS.

Contact us

We encourage you to contact your Manning Elliott representative or Jose Chu, Manager in our US tax group to ensure that you comply with your US tax filing obligations.

