



Sep 13, 2007

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# Can a United States Citizen Deposit Money in an Offshore Bank Account and Avoid IRS Penalties?

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In today's world, United States citizens regularly travel to foreign countries for vacation and business. Millions of United States citizens open bank accounts in foreign countries. United States citizens use foreign bank accounts for several reasons: to protect assets from creditors, to increase financial privacy and to avoid taxes. It is not illegal to deposit money in a foreign bank account if you comply with the United States tax laws. In fact, many high net worth individuals should have money in foreign banks to protect assets from creditors. Countries in the Caribbean, such as the Cayman Islands, have laws that protect bank accounts from creditors.

Unfortunately for many United States Citizens, sophisticated promoters have convinced them that money deposited in a foreign bank account will not be taxed by the United States. This commonly held belief is simply incorrect. A United States citizen is taxed on his worldwide income. For example, a United States citizen who deposits money in a Cayman Island bank account must pay United States tax on all interest payments that he receives from the Cayman Island bank.

United States citizens who have a foreign bank account generally use a credit card or debit card to withdraw money from their foreign bank account. Many of these United States citizens have failed to pay United States taxes on the money deposited in the foreign bank account and the interest received from the bank.

## **The IRS is Investigating Offshore Bank Accounts**

The IRS has obtained the names of many United States citizens who have money deposited in foreign bank accounts. Over the last several months the IRS has:

Convinced a United States Federal Judge to order American Express, MasterCard and Visa to provide lists for 1998 through 2001

containing the names of United States citizens who hold credit cards issued by banks from tax haven countries such as the Cayman Islands, Bahamas, and Antigua. Now that the IRS has identified the names of the United States citizens who hold offshore credit cards, it is only a matter of time until the IRS audits these individuals to determine if they have paid taxes on the money deposited in the foreign bank.

### **The IRS's New Voluntary Disclosure Policy**

Fortunately for United States citizens who have used offshore banks to avoid paying taxes, the IRS has a new program designed to bring United States citizens into compliance with all United States tax laws. The new IRS program is called the "IRS Voluntary Compliance Initiative for Offshore Credit Card Users and Accounts." However, the new IRS program is not available after April 15, 2003. The purpose of the new IRS program is to: quickly bring United States citizens into compliance with all United States tax laws, permit United States citizens to avoid paying substantial civil penalties relating to their offshore accounts, avoid being criminally prosecuted by the IRS, and to gather information to pursue the individuals who promoted the offshore banking arrangements.

For example, a taxpayer who understated his income to avoid \$100,000 in taxes in 1999 would wind up paying \$149,319 to the government. This includes the tax liability plus \$29,319 in interest and an additional accuracy-related penalty of \$20,000. If a taxpayer did not step forward, his tax liability generally would include the civil fraud penalty of \$75,000, and therefore higher interest of \$42,758. The total amount due would be \$217,758, without considering probable additional civil penalties for failure to file certain information returns. The accuracy-related penalty, cited in the above examples, is equal to 20 percent of the tax underpayment. The civil fraud penalty is up to 75 percent of the unpaid tax liability attributable to fraud.

### **Requirements for Participating in the New IRS Voluntary Disclosure Policy**

United States citizens who want to participate in the new IRS programs must comply with several guidelines before the IRS will

waive civil fraud and criminal penalties. For example, United States citizens must comply with the following requirements to qualify for the program.

They must contact the IRS in writing by April 15, 2003, and ask to participate in the program.

The IRS must receive the written request before it begins a civil or criminal investigation of the taxpayer.

Taxpayers must provide specific information about all aspects of how the taxpayer used the offshore bank account and who promoted the offshore banking arrangements.

Taxpayers will not qualify for the program if they deposited any illegally obtained money in the offshore bank account.

Taxpayers who qualify for the IRS Disclosure Program will avoid substantial civil fraud and criminal penalties. However, if the IRS determines that a taxpayer does not qualify for the program, he may be criminally prosecuted and forced to pay civil fraud penalties.

If you have deposited money in a foreign bank account, now is the time to consult with your tax lawyer and confirm with the IRS that you are in compliance with all United States tax laws.

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