

IRS Ending OVDP: Act Now to Avoid Higher Penalties (or Worse)

On March 13, 2018, the Internal Revenue Service (IRS) [announced](#) that it will immediately "ramp down" its Offshore Voluntary Disclosure Program (OVDP). The IRS is closing the OVDP on September 28, 2018. Taxpayers with unreported foreign accounts or assets should be aware of the implications of such a change and consider the benefits of disclosure through the OVDP while it remains available.

Individuals and companies can use the OVDP to disclose unreported foreign income and offshore assets. The primary advantage of the OVDP is that it is available to taxpayers who cannot certify that a reporting failure was "[non-willful](#)." Another advantage of the OVDP is the program's fixed penalty regime. At 27.5% of the highest balance of the unreported accounts and assets, the OVDP penalty is usually far less than the penalties which apply if the IRS discovers offshore assets or accounts on its own. That opportunity to secure a fixed, lower penalty will disappear when the OVDP closes in September.

After September 28, 2018, other voluntary IRS disclosure programs will continue, including the [Streamlined Disclosure Programs](#) for taxpayers with "non-willful" failures to report foreign assets and accounts. Under the Streamlined programs, taxpayers are required to file three years of amended tax returns and six years of FBARs. The streamlined programs entitle domestic taxpayers to a reduced penalty of 5% of the highest aggregate balance of their undisclosed accounts, while U.S. taxpayers living abroad are not subject to any penalties.

These IRS program changes reflect ongoing efforts of the U.S. government to make offshore tax compliance a priority. The Foreign Account Tax and Compliance Act (FATCA), enacted in 2010, requires foreign financial institutions to report their U.S. taxpayer clients to the U.S. government. In addition, intergovernmental agreements (IGAs) with 113 countries mean that foreign governments are also sharing information with American authorities to combat offshore tax evasion. This additional reporting may identify taxpayers who were able to shield assets in the past.

Tax attorneys at Hanson Bridgett LLP provide guidance to taxpayers and advisors regarding the various options available to



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address foreign account and asset reporting delinquencies. Taxpayers or their representatives with questions about the IRS OVDP or other programs should contact Christopher Karachale at ckarachale@hansonbridgett.com or Erin Fraser at efraser@hansonbridgett.com.

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