

US TAX ALERT



US TAX ALERT is a commentary on topics of current interest – usually topics relating to recent changes in tax law, new IRS administrative practices or current interpretations arising from tax cases. Professional advice should be obtained before acting on any of this information.

THE IRS UPS THE REPORTING ON DELINQUENT US TAX FILINGS

The IRS in the United States has had an income tax voluntary disclosure program for some time now for US citizens and long term residents who are delinquent in their tax filings. It's called *Streamlined Filing*.

The program is only available to people who have failed to file because of what the IRS calls non-willful reasons - negligence, inadvertence, mistake, or a good faith misunderstanding of the law. It is not available when failing to file is the result of willfulness, fraud or criminal conduct. Recently, the IRS concluded that some taxpayers who willfully did not file returns were using Streamlined filing to get on side and avoid costly penalties. The IRS says *NO WAY!*

Because of this, the IRS now requires that Streamlined Filing submissions include more detail and effectively provide a comprehensive report describing personal and financial background and stating the reasons for not filing. Information that is both positive and negative must be disclosed. The disclosure form requires information about the taxpayer and their financial dealings in several areas as follows:

- Personal background
- Financial background
- Other relevant background information
- Sources of funds for accounts
- Business reasons for accounts
- Details of contact with the accounts
- Investment management decision details
- Reliance of professional advisors with their names

This additional disclosure is very onerous and certainly ups the anti for those who still have failed to file US personal tax returns. At one time it seemed it was not a big deal to not file for US citizens living in Canada, but now it is. And it's getting much worse! Canadian banks are now sending out forms to ask if their customers are US citizens as required by FATCA disclosure rules.

If you are a citizen of the United States or if you ever held a green card for eight or more years in a fifteen-year period and did not **formally** surrender it, you must submit a Streamlined Filing to get yourself on side with your US filings and avoid potential costly penalties. The fact that you don't owe any tax doesn't get you off the hook for filing US returns. If you have even modest income you must file.

We have helped prepare many Streamlined filings for our US clients. As a result, and because of these new disclosure rules, we recently prepared a questionnaire to help our clients to properly submit the additional information to the IRS. It should help filers organize their submission in a comprehensive way in order to comply with IRS requirements and not have their submission rejected. That is the fate that nobody will want to meet.

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