



Robert W. Wood

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Can Israelis Still Get IRS Amnesty?

If you are a U.S. citizen or permanent resident with undisclosed offshore accounts, most advisers say you had better act soon. Even if you pay tax elsewhere, you must report the income to the IRS and file annual FBARs. There was one IRS amnesty deal in 2009, another in 2011, and one is still open. But the window is closing.

The IRS has many sources of data now so the odds of your name getting to the IRS are going up. The IRS has always been clear that if you want leniency you must come to them before they find you. If you are under audit or investigation, you can't get the deal.

For that reason, most lawyers do a pre-clearance disclosing minimal detail and asking if their client can join the IRS program. The IRS Criminal Investigation Division checks the name to make sure and usually says no problem. But as reported here, [IRS Yanks Criminal Amnesty Deal From Taxpayers With Secret Bank Leumi Accounts](#), the IRS has spit out previously cleared people with accounts at [Bank Leumi le-Israel Ltd.](#), Israel's largest bank.



Photo credit: Wikipedia

That's scary. Reports suggest some may have gone beyond the pre-clearance stage to submit details of accounts and income. This is unusual, and the details about why this happened are not clear. What is clear is that the IRS sent faxes to tax attorneys who had cleared clients stating that "upon further review" they were disqualified.

The speculation is that the IRS has been investigating [Bank Leumi](#) and may have erred in initially allowing Leumi account holders in the amnesty deal. Alternatively, perhaps something in the investigation broke loose causing the IRS to reverse course. See [IRS Yanks Criminal Amnesty Deal From Taxpayers With Secret Bank Leumi Accounts](#). Either way, there's considerable heartburn over this among tax lawyers and clients.

People directly impacted care that the rug was pulled from under them. It is unsettling for many others too, including taxpayers still hand-wringing whether to enter the program. People with accounts at other banks (Israeli or otherwise) may fear a bait and switch may befall them. Time will tell how this shakes out.

Perhaps the IRS will proceed in a civil fashion against Leumi account holders, just with higher penalties than the OVDP norm. Perhaps the IRS will try to prosecute. Some lawyers assume there won't be prosecutions because of the taint of the IRS reversal, especially for anyone who had submitted amended tax returns, FBARs, account information, and more.

For all its one-size-fits-all faults and the expense and penalties the OVDP entails, it works pretty well and serves an enormously valuable function. The cloud on the program the Leumi action brings is unfortunate. No matter what, the fallout from this isn't over.

*Robert W. Wood practices law with [Wood LLP](#), in San Francisco. The author of more than 30 books, including *Taxation of Damage Awards & Settlement Payments* (4th Ed. 2009 with 2012 Supplement, [Tax Institute](#)), he can be reached at Wood@WoodLLP.com. This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.*