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THE TAX LAWYER

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IRS Announces Tax Relief For Dual Citizens And US Citizens Abroad

The IRS has taken considerable flak from U.S. citizens living abroad. See [Living Abroad Sounds Idyllic—Until You Consider Taxes](#). Most weren't intentionally hiding money, but many didn't file [FBARs](#) and may not have reported their worldwide income on their U.S. tax returns. This is especially true if they were paying tax elsewhere.



Such persons have generally had no choice up to now but to go into the OVDP. That can mean potentially large penalties. See [New IRS Offshore Amnesty Announced: Third Time's A Charm](#). But now the IRS has announced a way for many U.S. citizens residing overseas, including dual citizens, to catch up with tax filing obligations. It also offers relief to some with foreign retirement plan issues.

A [new IRS procedure](#) will take effect on September 1, 2012. [IR-2012-65](#). Once the rules kick in, you'll be able to file delinquent tax returns for the past three years plus [FBARs](#) for the past six years. That's less than the usual eight amended returns and eight FBARs for OVDP participants.

Payment of any federal tax you owe and interest must accompany the submission. Penalties? Hopefully none. The IRS will review your materials and if you look clean, won't add any penalties.

If you look like a bigger compliance problem, you might face an audit going back more than three years, sort of like opting out of the OVDP, the IRS says. Penalties may be the wildcard. The IRS says it won't impose penalties in some cases.

Yet it also says that tax, interest and penalties, ***if appropriate***, will be imposed. But the idea seems to be that if you come forward and file your three amended returns and six FBARs and owe little or no taxes, you'll be fine. One key is how many dollars you owe.

If your amended returns for the three years show less than \$1,500 in tax due in ***each*** year, you are "low risk." That means you get a pass. If you did sophisticated tax planning or avoidance, or if you had material economic activity in the U.S., you may not be low risk. The IRS will release more guidance about these issues before September.

Any taxpayer claiming reasonable cause for failure to file tax returns, information returns, or FBARs will be required to submit a dated statement, signed under penalties of perjury, explaining why there is reasonable cause for previous failures to file. In addition, retroactive relief is available for failure to timely elect income deferral on certain retirement and savings plans where deferral is permitted by relevant treaty. There will be a little more work for deferral elections including a separate request for relief.

For more, see:

[FBAR Penalties: When Will IRS Let You Off With A Warning?](#)

[Foreign Accounts? Don't Forget June 30 FBAR Deadline](#)

[Living Abroad Sounds Idyllic—Until You Consider Taxes](#)

[Beware Longer IRS Statute Of Limitations On Foreign Accounts](#)

[10 IRS Rules for Stress-Free Foreign Accounts](#)

[FBARs & FATCA Form 8938: Maddening Duplication?](#)

[More On IRS Form 8938 vs. FBAR](#)

[Is Closing Foreign Bank Accounts An Alternative To Disclosure?](#)

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