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IRS Gives Big Break To Some Offshore Account Holders

If you have foreign accounts and wake up to the nightmare of complying with [FBAR filing obligations](#), you may fear prosecution or penalties eating up half the balance in your accounts. If you haven't addressed your situation, the most reliable way is a voluntary disclosure in the IRS program. There are actually two programs.



The OVDP calls for up to 8 years of amended tax returns and [FBARs](#). See [Is Closing Foreign Bank Accounts An Alternative To Disclosure?](#) A streamlined program applies to some people living outside the U.S. but has strict rules who qualifies. See [Should U.S. Citizens Abroad Pick Streamlined IRS Program or OVDP?](#)

But one rule that surprises many people can make entry into the IRS programs unnecessary. What's more, it holds out the promise of no penalties whatsoever. Sound too good to be true?

If you failed to file FBARs but reported all your income from foreign accounts, your tax returns are OK. The IRS has said that if you just file 6 FBARs with a letter explaining that you didn't know about FBARs and don't owe any taxes,

there aren't any penalties. So says a piece of IRS guidance generally known in the tax world as FAQ 17.

Make sure you qualify since the stakes are quite high. Besides, you may want a tax professional to help you write the letter. It's supposed to explain why you qualify for this FAQ 17 relief. See [2012 Offshore Voluntary Disclosure Initiative FAQs and Answers](#). What if you didn't file FBARs and you also failed to report all your income from your foreign accounts?

This scenario is more nuanced. Your tax returns aren't correct, since you didn't report all your income. Yet before you **assume** you have to go into the IRS OVDP, run some numbers.

Ask yourself, what if you **had** reported everything correctly? Would you owe any more U.S. tax than you already paid? If not, you may **still** be in luck. Why might you not owe more?

Suppose you failed to report earnings on a foreign account but also paid tax there and didn't claim a foreign tax credit. If you make both corrections on an amended tax return, you might not owe Uncle Sam. If that's so for all the years in question can you rely on FAQ 17?

Not exactly. Your tax returns are wrong, but even if they were right you wouldn't owe additional taxes. As a result, you look to the IRS guidance in [Fact Sheet 2011-13](#). It says you can file delinquent FBARs with an explanatory statement and **still** might not have any penalties.

You should get professional advice and be careful. Plus, the IRS guidance suggests you need to explain more here than if you qualified under FAQ 17. But the good news is that both these routes may offer you a low-cost way out of the tax maze if you qualify.

Contact me 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.