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US Offshore Voluntary Disclosure Program Ending Soon

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Hi Everyone,

Some of you probably heard in the news already, the Internal Revenue Service (IRS) announced on March 13th that the Offshore Voluntary Disclosure Program (OVDP) will end on September 28, 2018.

So what is the OVDP? It is a program designed to allow US taxpayers (i.e. US citizens living in Canada) to voluntarily resolve past tax/reporting non-compliance in exchange for two things: a) no criminal prosecution; and b) a guaranteed cap on civil penalties based on the amount of unreported assets.

How does this impact you?

First, the OVDP has been around since 2009 and was extended/modified three times along the way; I would be first to advocate that its cancellation is not unexpected. In addition, the IRS is leaving other disclosure options available for non-compliant taxpayers.

Beyond the OVDP, there are two sets of procedures in place to allow non-compliant taxpayers to complete the filing of missing foreign asset reporting without having to use OVDP. If the taxpayer is simply missing certain foreign asset reporting from their US tax returns but has been filing Form 1040s on time each year, the Delinquent FBAR submission procedures and Delinquent international information return submission procedures remain in place for use.

If the taxpayer is a low tax owing, low risk taxpayer (which is true for most US citizens living in Canada) the Streamlined Filing Compliance Procedures (SFCP) is also remaining in place. The SFCP is used much more frequently than the OVDP by US citizens living in Canada. Those procedures are designed with low-risk taxpayers in mind and are much less onerous than the OVDP. There are a few limitations to the SFCP, the critical limitation is the lack of guarantee from the IRS, if the IRS considers the taxpayer's non-compliance was willful in nature, filings can be kicked out of the SFCP.

Finally, there is always the traditional IRS Voluntary Disclosure Practice; it is an onerous process which few utilized. Having said that, in light of the \$10,000 per missing form automatic penalty which the IRS is levying currently; it remains a viable option for those who may be missing a few US filings.

What should you do?

The key thing (as illustrated on the cover of one of my favorite books); "Don't Panic".

If you are late on filing US tax returns, please talk to us about becoming compliant. Despite the fact that the IRS has left certain penalty-free disclosure avenues open for now, there is no guarantee that these avenues will remain open indefinitely. If detected by the IRS, the penalties associated with non-compliance is simply too high to ignore. With the increased enforcement through information obtained through Foreign Account Tax Compliance Act, things will become worse for non-compliant individuals.

Should you choose to renounce your US citizenship, the requirements will no longer apply to you. We can assist you in becoming compliant and renouncing your US citizenship.

The key thing is, open a timely dialogue. Regardless of the topic, OVDP, SFCP, VDP, FATCA (hey, this is US tax, it is all about the cool acronyms), our U.S. tax team is always here to help facilitate the discussions. In the unlikely event that OVDP is in fact required, we still have time to get things done.

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