

## Deadlines Approach For Taxpayers On Extension, Offshore Disclosure Initiative

### ◆ IR-2009-87

October 15, 2009 is not only the last day for individuals on extension to file their 2008 return but is also the deadline for the IRS's offshore voluntary disclosure initiative, the agency recently reminded taxpayers. October 15 is also the deadline for certain taxpayers to file Form TD F 90-22.1, Report of Foreign Bank and Financial Accounts (FBAR).

■ **CCH Take Away.** After October 15, the reduced penalty framework for the offshore disclosure initiative will no longer be available, James Mastracchio, partner, Caplin & Drysdale, Chartered, Washington, D.C., told CCH. "Individuals can still come forward, file amended returns but they will be subject to any and all penalties that apply," Mastracchio explained. For example, the civil penalty for willfully failing to file an FBAR can reach as high as the greater of \$100,000 or 50 percent of the total balance of the foreign account.

### Individuals

The IRS reported that it expects to receive as many as 10 million 2008 returns from individuals on extension. These are taxpayers who timely filed Form 4868, Application for Automatic Extension of Time to File U.S. Income Tax Return, and secured an automatic six-month filing extension. The filing deadline for Form 4868 was the due date of the taxpayer's calendar return (usually April 15) or fiscal year return.

■ **Comment.** October 15 is also the last day to use the IRS Free File program or to e-file.

### Offshore disclosure initiative

In March, the IRS announced a temporary program to encourage taxpayers to disclose unreported offshore accounts. Generally, the IRS will waive the 75 percent fraud penalty in exchange for taxpayers agreeing to pay back taxes plus interest and penalties for six years. The one-time initiative was originally scheduled to end September 23, 2009. The IRS extended the deadline to

October 15, 2009. The IRS reiterated that the deadline will not be extended again.

Taxpayers who recently learned that they have a current FBAR filing requirement but did not have sufficient time to properly file by the June 30, 2009 due date have until October 15, 2009 to file. The October 15, 2009 deadline also applies to taxpayers who recently learned they had FBAR filing obligations for years prior to 2009. Taxpayers must have reported and paid tax on all of their taxable income to qualify for the extension.

■ **Comment.** Account holders at UBS AG can ask the bank if their names are among the reported 4,500 that the bank will disclose to the IRS, Mastracchio noted. A Swiss court recently directed the bank to answer requests from account holders that their accounts meet the criteria for disclosure under the recently concluded U.S.-Swiss agreement.

*References: FED ¶46,502;  
TRC FILEIND: 15,200.*

## Reports Of High-Dollar Tax Evasion Climb In IRS Whistleblower Office

### ◆ IRS Whistleblower Office Annual Report, SBSE-04-9090-054

Reports of high-dollar tax evasion to the IRS Whistleblower Office rose steadily during Fiscal Year (FY) 2008, the agency recently reported. The IRS Small Business and Self-Employed Division (SB/SE) also issued procedures for examiners to follow in whistleblower cases.

■ **CCH Take Away.** Like any effective whistleblower program, the IRS's program requires strong measures to protect the confidentiality of individuals who report tax evasion. Earlier this year, IRS Chief Counsel reminded agency personnel that the sharing of information about whistleblowers is on a "need to know" basis.

### Background

The IRS has long had authority to pay awards to whistleblowers. In 2006, Congress overhauled the whistleblower rules and created the IRS Whistleblower Office.

Generally, the tax, penalties, interest, additions to tax, and any additional amounts in a high-dollar case must exceed \$2 million. If the alleged noncompliant taxpayer is an individual, the individual's gross income must exceed \$200,000 for any tax year at issue. The amount of an award may be at least 15 percent but no more than 30 percent of proceeds collected by the IRS.

■ **Comment.** The Whistleblower Office makes the final determination whether, and in what amount, an award will be paid. If the whistleblower disagrees with the IRS, the individual can appeal to the Tax Court.

Not all cases fall within the \$2 million/\$200,000 thresholds. The IRS has another award program for these cases. The maximum award is 15 percent, up to \$10 million. Whistleblowers cannot appeal these awards to the Tax Court.

### High-dollar submissions

During FY 2008, the IRS Whistleblower Office received 476 submissions relating to 1,246 taxpayers. Of these, 228 submissions alleged \$10 million or more in tax evasion. Sixty-four submissions alleged tax evasion of \$100 million or more.

■ **Comment.** The IRS did not describe what types of tax evasion the submissions reported.

### SB/SE

The SB/SE Division processes referrals from the Whistleblower Office. SB/SE has designated a coordinator for whistleblower cases and outlined procedures for different types of allegations of tax evasion. The IRS Large and Mid-Size Business (LMSB) Division previously issued similar procedures for its employees.

*Reference: TRC IRS: 63,060.05.*