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# Appendix I: Objectives, Scope and Methodology

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The objectives of this report were to (1) describe the nature of the noncompliance of taxpayers participating in the 2009 Offshore Voluntary Disclosure Program (OVDP), (2) determine the extent to which Internal Revenue Service (IRS) used data from the 2009 OVDP in order to better prevent and detect future noncompliance, and (3) assess IRS's efforts to identify taxpayers who may have attempted quiet disclosures or other ways of circumventing some of the taxes, interest, and penalties that would otherwise be owed in its offshore programs.

To describe the characteristics of taxpayers participating in the 2009 OVDP, we relied on data for tax years 2003 through 2008 from four sources: (1) the Criminal Investigation Management Information System (CIMIS) managed by IRS's Criminal Investigation (CI) division; (2) the Currency and Banking Retrieval System managed by the Treasury Department's Financial Crimes Enforcement Network (FinCEN);<sup>1</sup> (3) IRS's Individual Master File and Business Master File; and (4) IRS's Compliance Data Warehouse (CDW). We used data from four databases in CDW: Enforcement Revenue Information System, Individual Returns Transaction File, Audit Information Management System, Individual, and Business Returns Transaction File. To determine the reliability of IRS's taxpayer data, we reviewed relevant documentation, conducted interviews with IRS officials knowledgeable of the data, and conducted electronic testing of the data to identify obvious errors or outliers. We determined that these data were sufficiently reliable for our purposes.

Using these sources, we identified 19,337 participants in the 2009 OVDP.<sup>2</sup> The 2009 OVDP population figure that we use in this report differs from the population number issued publicly by IRS. IRS's publicly reported numbers are from CI, the IRS division that initially received and processed the 2009 OVDP applications, and is generally a count of applicants. Our figure is larger, primarily because it includes some spouses that were not captured on the CI list. For example, we counted two participants (versus instances where IRS may have only counted

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<sup>1</sup>FBAR forms are processed by the IRS, but FBAR information is managed by Treasury's FinCEN.

<sup>2</sup>This population includes 200 participants with an Employer Identification Number (EIN), which IRS uses to identify businesses, instead of an Individual Tax Identification Number or Social Security Number. Since these business entities represented less than 1 percent of the total OVDP participants identified, our use of the term "OVDP participants" in this report generally refers to individual taxpayers participating in the program.

one) in situations where only one spouse applied to the 2009 OVDP through CI, but both were liable for the delinquent taxes, interest, and penalties because of their married filing jointly filing status. From the 19,337 participants, we identified 10,439 closed examination cases as of November 29, 2012, which we use in this report for our analysis of penalties.

To obtain a better understanding of taxpayer noncompliance, we selected a random sample of 30 2009 OVDP case files for cases that were closed as of March 30, 2012, and that received a 2009 OVDP penalty of \$1 million or greater.<sup>3</sup> As part of the 2009 OVDP application, taxpayers were asked to explain their reasons for establishing offshore accounts, the source of funds, the ownership structure, and the history of accounts. Many taxpayers in our sample submitted an IRS optional letter containing this information with their application (referred to in this report as the “application letter.” See appendix III for sample application letters). Some taxpayers were interviewed by IRS investigators, and some responded to IRS follow-up requests for additional information. Additionally, other case file documents that provided key information were: (1) IRS Form 906, Closing Agreement On Final Determination Covering Specific Matters; (2) IRS Form 4549-A, Income Tax Discrepancy Adjustments; (3) OVDP Penalty Computation Workpaper; and (4) form TD F 90-22.1, Report of Foreign Bank and Financial Accounts (FBAR).

We used a standard data collection instrument to review each case file to ensure we consistently captured information about the 2009 OVDP participants, their offshore accounts, and their penalties, interest, and additional taxes owed. To ensure reliability, two analysts separately conducted this analysis, and a third analyst compared and reconciled any inconsistencies regarding the categorizations of 2009 OVDP cases. The analysts then tallied the number of observations for each topic or category and all information was traced and verified. We then analyzed the results of this data collection effort to identify main themes and develop summary findings. We determined that these data were sufficiently reliable for our purposes. (See app. VII for a summary of our data collection instrument results.)

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<sup>3</sup>We focused on cases with an OVDP penalty of \$1 million or greater because these “large penalty” cases accounted for about half of the total OVDP penalty dollars assessed. At the time we selected our sample of 30 cases in April 2012, we had identified a total population of 378 “large penalty” cases that were closed as of March 30, 2012.

To determine the extent to which IRS used data from the 2009 OVDP in order to better prevent and detect future noncompliance, we also interviewed IRS officials from the office of the Offshore Compliance Initiative to determine what data they collected from the 2009 OVDP effort and how, if at all, IRS used that data to create taxpayer profile data to identify additional offshore noncompliance and inform future offshore programs. In addition, we reviewed changes that IRS made to the 2011 and 2012 offshore programs.

To assess IRS's efforts to identify taxpayers who may have attempted quiet disclosures, we used the same datasets that we used to identify the 2009 OVDP population, as described above, plus FBAR data from FinCEN. To determine the reliability of FinCEN's FBAR data, we reviewed relevant documentation, conducted interviews with FinCEN officials knowledgeable of the data, and conducted electronic testing of the data to identify errors or outliers. We determined that these data were sufficiently reliable for our purposes. To identify potential quiet disclosures we conducted a three-step analysis. First, we used IRS tax return data to identify taxpayers who filed late or amended returns for the applicable 2009 OVDP period.<sup>4</sup> We then used FBAR data to identify taxpayers who filed late or amended FBARs during the same time period to create a combined list of taxpayers. Finally, we removed from this combined list any taxpayers that we had previously identified as 2009 OVDP participants. The remaining taxpayers constitute our population of taxpayers who potentially "quietly disclosed" offshore accounts. From this population, we used data from amended tax returns to identify whether the amended returns had positive adjustments to income, and whether taxpayers filed amended returns for multiple years. We confirmed this methodology with IRS officials. The results of our analyses are shown in appendix VIII. To assess other ways taxpayers might be circumventing some of the taxes, interest, and penalties that would be otherwise owed, we analyzed filing trends in FBAR data from FinCEN and in Schedule B, Interest and Ordinary Dividends, of IRS Form 1040, U.S. Individual

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<sup>4</sup>This included individuals or businesses who filed one or more amended or late returns for any of the six tax years included in the 2009 OVDP (tax year 2003 through tax year 2008), and whose amended or late returns were posted in IRS's Individual Master File or Business Master File systems in calendar years 2009 and 2010. Taxpayers could apply to the 2009 OVDP program from March 23 through October 15, 2009, but they could still file amended returns after this period. We discussed our intended use of this data along with our methodology with IRS officials. They agreed with our use of the data and our methodology.

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Income Tax Return, from IRS's Statistics of Income Division (SOI). To assess the reliability of the SOI data that we analyzed, we reviewed agency documentation and interviewed officials familiar with the data. We determined that these data were sufficiently reliable for our purposes.

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# Appendix II: Events that Influenced Participation in IRS's Offshore Programs

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IRS's first offshore program started in 2003 as part of an ongoing, multipronged effort to counter offshore tax evasion. Related to the 2003 program was the Offshore Credit Card Program, which stemmed from a series of John Doe summonses issued to a variety of financial and commercial businesses to obtain information on U.S. persons who held credit, debit, or other payment cards issued by offshore banks. IRS used records from the summonses to trace the identities of taxpayers whose use of these payment cards may have been related to hiding taxable income; this drew many other taxpayers to the offshore program.<sup>1</sup> (See figure 5 for a timeline of key events.)

IRS's three subsequent offshore voluntary disclosure programs ran more frequently, starting in 2009. The 2009 Offshore Voluntary Disclosure Program (OVDP) coincided with events that helped attract a very large number of taxpayers to the program. On February 18, 2009, UBS AG, a global financial services firm headquartered in Switzerland, entered into a deferred prosecution agreement confirming the account of a whistleblower and acknowledging that its employees participated in a scheme to actively assist and facilitate U.S. taxpayers' concealment of taxable income.<sup>2</sup> As part of the deferred prosecution agreement, UBS agreed to turn over identities and account information on a limited number of clients. Later that month, the Department of Justice (DOJ) petitioned the U.S. District Court in Miami for an order enforcing a John Doe summons, seeking turnover of information on approximately 52,000 undisclosed accounts. By August 2009, IRS and DOJ announced they had reached a settlement agreement with Switzerland. The agreement required Swiss authorities to give IRS the names of approximately 4,450 U.S. clients with accounts at UBS, pursuant to a request under the USA-Switzerland income tax treaty. All parties agreed to keep confidential the

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<sup>1</sup>We testified on IRS's 2003 offshore voluntary compliance program in 2009. See GAO, *Tax Compliance: Offshore Financial Activity Creates Enforcement Issues for IRS*, [GAO-09-478T](#) (Washington, D.C.: Mar. 17, 2009).

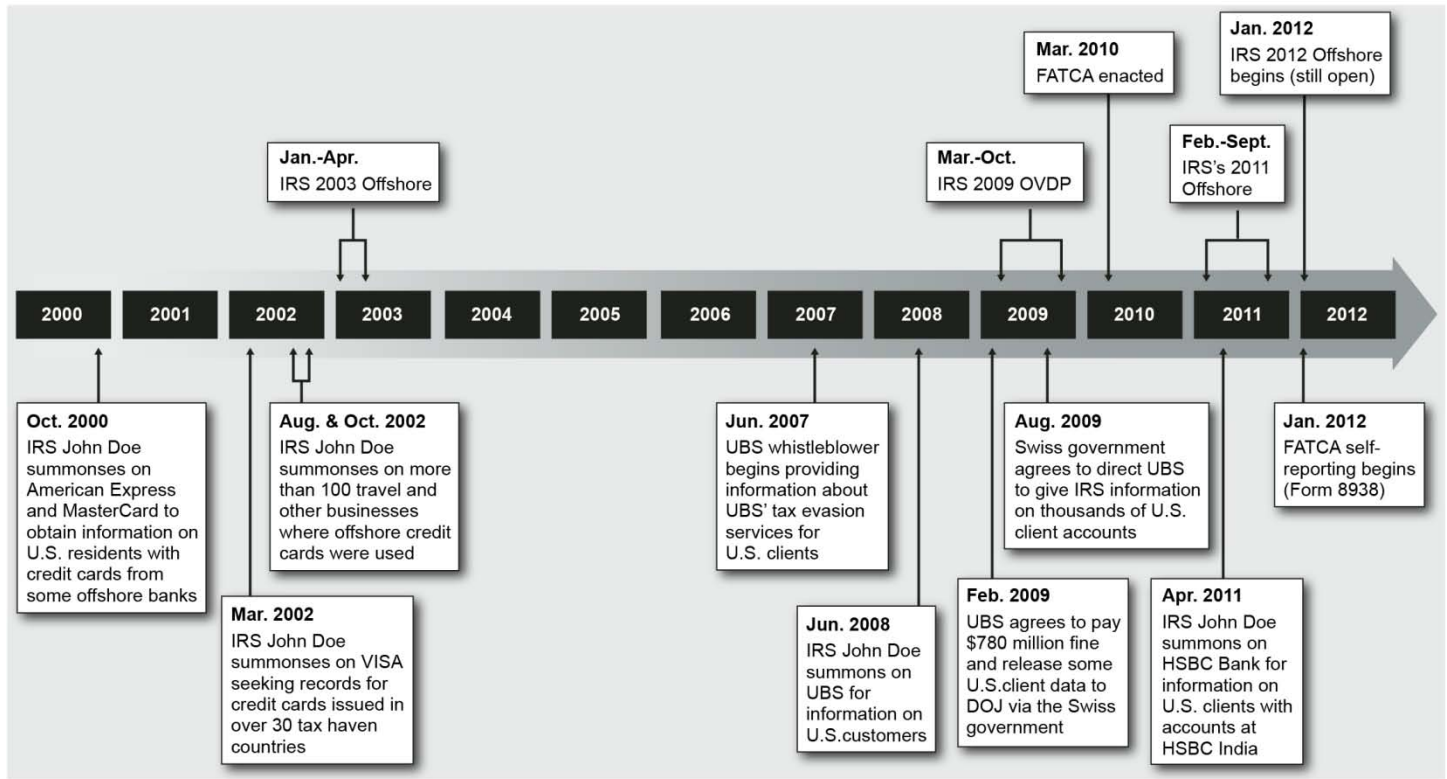
<sup>2</sup>The Internal Revenue Code provides whistleblowers with a significant financial incentive to report noncompliance. It provides for awards up to 30 percent of the collected proceeds that arise from the whistleblower's information. 26 U.S.C. § 7623. A whistleblower is someone who reports information on potential tax problems, such as fraud, to the IRS. Although not publicly confirmed by IRS, attorneys for the UBS whistleblower reported that he was awarded \$104 million. For additional information on tax whistleblowers, see GAO, *Tax Whistleblowers: Incomplete Data Hinders IRS's Ability to Manage Claim Processing Time and Enhance External Communication*, [GAO-11-683](#) (Washington, D.C.: Aug. 10, 2011).

specific criteria by which the 4,450 accounts would be selected until after the 2009 OVDP deadline passed. This created uncertainty among UBS account holders as to whether their names were on the list to be disclosed. IRS gave taxpayers until October 15, 2009, to enter the program. IRS publicity about the program, and correspondence sent by UBS to all U.S. account holders, emphasized the several criminal and civil penalties applicable to taxpayers who did not make voluntary disclosures before Switzerland turned over the account data.

The 2011 and 2012 programs had a similar draw for taxpayers. During the 2011 program, IRS and DOJ were building cases against tax evasion involving foreign banks in several countries, including Switzerland, Liechtenstein, Israel, and India. Many 2011 program participants came forward as a result of criminal enforcement activity and a John Doe summons issued to HSBC, a global banking and financial services firm headquartered in the United Kingdom, with significant business operations in Hong Kong and Asia. The 2012 program, which is still open and as of March 2013 does not have an end date, is expected to draw participants based on further criminal enforcement activity against foreign banks and opportunities for additional John Doe summonses that are being built by IRS and DOJ with information from past offshore programs. Also during this time, as the Foreign Account Tax Compliance Act (FATCA) becomes fully implemented, IRS expects to have increased information reporting from certain taxpayers and from foreign financial institutions on offshore accounts.

Appendix II: Events that Influenced Participation in IRS's Offshore Programs

Figure 5: Events That Influenced Participation in IRS's Offshore Programs



Source: GAO analysis.

Note: OVDP refers to Offshore Voluntary Disclosure Program and FATCA refers to Foreign Account Tax Compliance Act.

# Appendix III: Sample 2009 and 2012 Offshore Program Application Letters

## 2009 Application Letter

The 2009 application letter was optional for participants in the 2009 Offshore Voluntary Disclosure Program (OVDP).

### *Offshore Voluntary Disclosures – Optional Format*

*If taxpayer has domestic issues only, please have them contact their local Criminal Investigation office for a traditional voluntary disclosure.*

<DATE>

**Internal Revenue Service  
Criminal Investigation  
ATTN: Voluntary Disclosure Coordinator  
<CITY Field Office>  
<Address>  
<CITY, ST ZIP CODE>**

**Re: Taxpayer Name  
Tax Identification Number  
Taxpayer Date of Birth  
Taxpayer Address**

**Dear Voluntary Disclosure Coordinator:**

To assist in a timely determination of my acceptance into the Voluntary Disclosure Program, (for *Voluntary Disclosures involving offshore accounts or assets*) I have addressed *all* of the following items:

- Please include your:
  - Complete name:
  - Social Security Number:
  - DOB:
  - Address:
  - Passport Number (and Country):
  - Current Occupation
  
- Taxpayer Representative and his/her contact information.
  
- Explain the source of the funds.

Revised 07-28-2009



**Appendix III: Sample 2009 and 2012 Offshore  
Program Application Letters**

- Disclose if you or any related entities are currently under audit or criminal investigation by the Internal Revenue Service or any other law enforcement authority.
  - Has the IRS notified you that it intends to commence an examination or investigation? **Yes No**
  - Are you under criminal investigation by any law enforcement authority? **Yes No**
  - If yes, please explain.
  
- Do you believe that the IRS has obtained information concerning your tax liability? **Yes No**
  - If yes, please specify.
  
- Please check the box to estimate the annual range of the highest aggregate *value* of your offshore accounts/assets.

**Highest Aggregate  
Account/Asset Value**

	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>
\$0 to \$100,000						
\$100,000 to \$1,000,000						
\$1,000,000 to \$2,500,000						
\$2,500,000 to \$10,000,000						
Greater than \$10,000,000						
Greater than \$100,000,000						

- Please check the box to estimate the potential total unreported *income* from the offshore account(s) during each disclosure period. If known, please enter exact amounts/assets.

**Estimated Total  
Unreported Income**

	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>
\$0 to \$100,000						
\$100,000 to \$1,000,000						
\$1,000,000 to \$2,500,000						
\$2,500,000 to \$10,000,000						
Greater than \$10,000,000						

Revised 07-28-2009

**Appendix III: Sample 2009 and 2012 Offshore  
Program Application Letters**

- For accounts or assets where you have control or are a beneficial owner of the account or asset, list any and all financial institutions and the country where the institution is located. For accounts, please also list the dates the accounts were opened and/or closed. Provide your point of contact at each financial institution.
- Explain the purpose for establishing the offshore account or assets. For example: Holocaust Compensation or Restitution; inherited account; account established prior to World War II, etc.; if tax non-compliance – please explain.
- List each person or entity affiliated with the account, their formal structure (i.e., if a corporation, foundation, or trust), and the nature of their relationship to the account (i.e. owner, power of attorney, parent entity of corporate account holder, etc.).
- Explain all face to face meetings, and any other communications you had regarding the accounts or assets with the financial institution(s). Also include face to face meetings or communications regarding the accounts or assets with independent advisors/investment managers not from the financial institution(s) where the funds are held. Provide the names, locations and dates of these meetings and/or communications.

**To be included with all letters:**

By signing this document, I certify that I am willing to continue to cooperate with the Internal Revenue Service, including in assessing my income tax liabilities and making good faith arrangements to pay all taxes, interest, and penalties associated with this voluntary disclosure.

Under penalties of perjury, I declare that I have examined this document and accompanying statements, and to the best of my knowledge and belief, they are true, correct, and complete.

\_\_\_\_\_  
Signature of Taxpayer

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Date

**IRS reserves the right to make further contacts with the taxpayer to clarify his/her submission.**

Revised 07-28-2009

**2012 Application Letter  
and New Required  
Attachment**

IRS revised the 2009 application letter for subsequent programs, and included an attachment that required a more detailed reporting from taxpayers on their previously unreported offshore accounts. The 2012 application letter was required for all participants in the 2012 offshore program.

*Offshore Voluntary Disclosures*

*If taxpayer has domestic issues only, please have them apply for a traditional voluntary disclosure.*

**Date:**

**Internal Revenue Service  
Voluntary Disclosure Coordinator  
1-D04-100  
2970 Market Street  
Philadelphia, PA 19104**

**Re: Taxpayer Name  
Tax Identification Number  
Taxpayer Date of Birth  
Taxpayer Address**

**Dear Voluntary Disclosure Coordinator:**

To assist in a timely determination of my acceptance into the Voluntary Disclosure Program, (for *Voluntary Disclosures involving offshore accounts*), I have addressed *all* of the following items:

1. Please include:
  - Complete name:
  - Social Security Number:
  - Date of Birth:
  - Address:
  - Passport Number (and Country):
  - Current Occupation:
2. Taxpayer Representative and his/her contact information.
3. Type of Voluntary Disclosure

Offshore Only       Offshore and Domestic

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**Appendix III: Sample 2009 and 2012 Offshore  
Program Application Letters**

4. Identify the source of the funds.
5. Have any of the offshore accounts you are disclosing been identified by the IRS as ineligible for this program?
- Yes       No
6. Has anyone, including a foreign government or a foreign financial institution, advised you that your offshore account records, which are the subject of this voluntary disclosure, were susceptible to being turned over to the US Government pursuant to an official request?
- Yes       No
- If yes, did you or anyone on your behalf submit documents in opposition?
- Yes       No
- If yes, were copies of those documents provided to the Attorney General of the United States as required by 18 USC § 3506?
- Yes       No
7. Disclose if you or any related entities are currently under audit or criminal investigation by the Internal Revenue Service or any other law enforcement authority.
- Has the IRS notified you that it intends to commence an examination or investigation?
- Yes       No
- Are you under criminal investigation by any law enforcement authority?
- Yes       No
- If yes, please explain
8. Do you believe that the IRS has obtained information concerning your tax liability?
- Yes       No

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**Appendix III: Sample 2009 and 2012 Offshore  
Program Application Letters**

If yes, please specify.

9. Please check the box to estimate the annual range of the highest aggregate *value* of your offshore accounts.

Highest Aggregate Account/Asset Value	Tax Year	Tax Year	Tax Year	Tax Year	Tax Year	Tax Year	Tax Year	Tax Year
\$0 to \$100,000	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
\$100,000 to \$1,000,000	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
\$1,000,000 to \$2,500,000	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
\$2,500,000 to \$10,000,000	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
\$10,000,000 to \$100,000,000	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Greater than \$100,000,000	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

10. Please check the box to estimate the range of potential total unreported *income* from the offshore account(s) during each disclosure period.

Estimated Total Unreported Income	Tax Year	Tax Year	Tax Year	Tax Year	Tax Year	Tax Year	Tax Year	Tax Year
\$0 to \$100,000	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
\$100,000 to \$1,000,000	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
\$1,000,000 to \$2,500,000	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
\$2,500,000 to \$10,000,000	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Greater than \$10,000,000	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

For each foreign financial account of which you have control or are a beneficial owner, complete the attached form entitled "Attachment to Offshore Voluntary Disclosures Letter." Please ensure all pages of the attachment include your name, the last four digits of your taxpayer identification number, the name of the foreign financial institution, and the account number for which you are responding.

**To be included with all letters:**

By signing this document, I certify that I am willing to continue to cooperate with the Internal Revenue Service, including in assessing my income tax liabilities and making good faith arrangements to pay all taxes, interest, and penalties associated with this voluntary disclosure.

Under penalties of perjury, I declare that I have examined this document, all attachments, and accompanying statements, and to the best of my knowledge and belief, they are true, correct, and complete.

\_\_\_\_\_  
Signature of Taxpayer

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Date

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Appendix III: Sample 2009 and 2012 Offshore  
Program Application Letters

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\_\_\_\_\_  
Signature of Taxpayer's Spouse

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Date

**IRS reserves the right to make further contacts with the taxpayer to clarify his/her submission.**

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Appendix III: Sample 2009 and 2012 Offshore  
Program Application Letters

Taxpayer Name:  
Last Four Digits of Taxpayer Identification Number:  
Foreign Financial Institution Name:  
Account Number:

**ATTACHMENT TO OFFSHORE VOLUNTARY DISCLOSURES LETTER**

*Please ensure all pages of the attachment include your name  
the last four digits of your taxpayer identification number,  
the name of the foreign financial institution, and the account number  
for which you are responding.*

For each foreign financial account of which you have control or are a beneficial owner, provide the following information:

1. Name of the foreign financial institution.
2. Country, including address, where the account was established.
  - If different, country, including address, where the account is currently located.
3. Date the account was opened.
4. Is the account still open?  
 Yes                       No  
If no, when was the account closed?
5. Identify the individual(s) and/or organization(s) (e.g., banks, independent financial advisors, trust or corporate service providers) who advised or assisted you in opening and using/maintaining the account.
  - Explain all communications you had regarding the opening and use/maintenance of the account. Identify the individuals (whether affiliated with the foreign financial institution or independent from the financial institution), dates, and form (e.g., face-to-face meeting, phone, email, fax, etc.) of the communication.
    - Did you hold any meetings or receive any phone calls, faxes, emails, or any other communications from these individuals to you in the U.S.?  
 Yes                       No  
If yes, where?
  - Are any of the individuals a business person (advisor), accountant, attorney, or return preparer in the U.S.?  
 Yes                       No  
If yes, identify which organization(s)

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6. What documentation was received by or shown to you regarding opening and maintenance of the account (e.g., account statements, account opening documents, etc.)?

Did you retain any of the documents?

Yes       No

- If yes, identify the documents retained.
- If no, explain why you did not retain them.

7. Were you able to make deposits to or withdrawals from your account through the use of a U.S. domestic branch office of the foreign financial institution?

Yes       No

8. Did you make deposits (beyond the initial opening deposit) or withdrawals from the account?

Yes       No

If yes, respond to the following:

- How did you make a deposit or withdrawal (e.g., in person, computer, phone, use of third-party, etc.)?
- What form did the deposits or withdrawals take (e.g., cash, check, wire, traveler's check, etc.)?
- What documents did you receive when a deposit or withdrawal was made (e.g., receipt, debit memo, credit memo, etc.)?

9. Were you able to access funds in your offshore account by the use of wire transfers made into the U.S.?

Yes       No

10. Were you able to access funds in your offshore account through the use of a debit or credit card?

Yes       No

11. Are there other individuals affiliated with the account?

Yes       No



If yes, identify each person affiliated with the account, including the nature of their relationship to the account (e.g., owner, beneficial owner, power of attorney, etc.).

12. Is an entity affiliated with the account?

Yes  No

If yes, respond to the following for each entity:

- Identify the entity, including the nature of its relationship to the account (e.g., nominee owner, beneficial owner, power of attorney, parent entity of corporate account holder, etc.).
- Identify the entity's formal structure (e.g., corporation, foundation, trust, etc.).
- Identify the country where the entity was organized.
- Identify the individual(s) and/or organization(s) (e.g., the foreign bank, an outside professional, etc.) who suggested forming the entity and who formed the entity.
- Identify the individual(s) or organization(s) that managed the entity.
- Is the entity still in existence?  
 Yes  No
- Was a business person (advisor), accountant, attorney, or return preparer in the U.S. involved in setting up the entity or in advising its use?  
 Yes  No

If yes, identify the individual(s).

- Was a U.S. bank, brokerage firm or other financial services company involved in setting up the entity or in advising its use?  
 Yes  No

If yes, identify the bank, firm, or company.

13. With respect to communications you had about your foreign financial account, provide the following:

Appendix III: Sample 2009 and 2012 Offshore  
Program Application Letters

- Did a representative of the foreign financial institution or advisor visit you in the United States regarding the offshore account?  
 Yes                       No
- Did a representative of the foreign financial institution or advisor suggest to you the use of offshore accounts, offshore investments, offshore entities, or particular foreign countries as a way of avoiding the disclosure of your ownership of the account or avoiding taxes?  
 Yes                       No
- Did a representative of the foreign financial institution or advisor suggest to you the use of practices, such as holding mail at the institution, using prepaid phone cards, using credit or debit cards, communicating via fax or email, bank storage of account documentation, or conducting face-to-face-meetings, to avoid the disclosure of your ownership of the account?  
 Yes                       No
- Did a representative of the foreign financial institution, one of its U.S. subsidiaries, or advisor provide services in the U.S. related to offshore accounts (e.g., facilitating opening accounts, reviewing account activity, forwarding account statements, providing investment and/or tax advice, etc.)?  
 Yes                       No
- Did a representative of the foreign financial institution or advisor suggest you meet in a jurisdiction outside the U.S. and other than where the institution is located?  
 Yes                       No
- Did a representative of the foreign financial institution or advisor suggest you either not file a voluntary disclosure with the IRS or repatriate the foreign funds into the U.S.?  
 Yes                       No
- Did an advisor or other person attempt to influence you to move funds from one foreign financial institution to another or from one foreign country to another?  
 Yes                       No

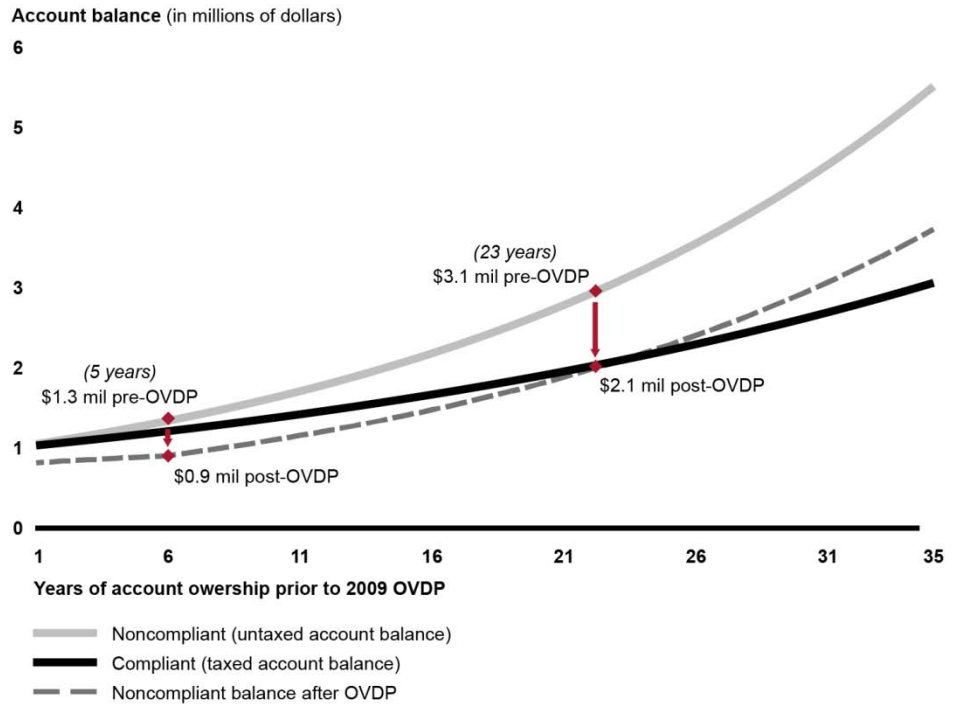
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# Appendix IV: Hypothetical Examples Comparing Account Balances, Length of Account Ownership, and Penalties

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The 2009 Offshore Voluntary Disclosure Program (OVDP) penalties follow what some tax practitioners have called “rough justice” because of the relationship between the offshore penalties and the original taxes evaded. Figure 6 illustrates how two hypothetical offshore accounts bearing 5 percent interest might grow over time. One account is owned by a compliant taxpayer who reports the interest income and pays U.S. taxes at a 35 percent rate with earnings from the account. The other account is owned by a noncompliant taxpayer who does not report the interest income. Assuming both taxpayers deposited \$1 million in 1986, the compliant taxpayer would accumulate a balance of approximately \$2.1 million by 2009 and the noncompliant taxpayer would accumulate \$3.1 million. The compliant taxpayer would have paid tax in each year the account was open, totaling about \$585,000 in cumulative taxes on the reported account’s interest over 23 years. A noncompliant taxpayer who participated in the 2009 OVDP would, after disclosing the account, make a one-time payment in 2009 of about \$993,000 in taxes, interest, and penalties. Although the 2009 OVDP participant would pay more in total taxes and penalties, the final account balances for both taxpayers would be roughly the same.

**Figure 6: Hypothetical Comparison of Offshore Account Growth for Compliant (Reported and Taxed) and Noncompliant (Unreported and Untaxed) Taxpayers, and Changes in Account Balances by Participating in the 2009 OVDP**



Source: GAO analysis.

Note: The following assumptions were used to construct the figure: (1) a \$1 million opening account balance; (2) 5 percent annual rate of return on the offshore account; (3) 35 percent U.S. income tax rate and zero offshore tax rate; (4) 20 percent 2009 OVDP offshore penalty applied to the account balance; (5) 20 percent accuracy-related penalty on the taxes owed for tax year 2003 through tax year 2008; and (6) IRS interest of 5 percent on taxes owed for tax year 2003 through tax year 2008. The point at which the compliant taxpayer's account balance (solid black line) equals the 2009 OVDP participant's post-penalty balance (dashed grey line) is affected by changes in the assumptions. For example, a higher rate of return on the offshore account shortens this "rough justice" point, whereas a higher 2009 OVDP offshore penalty rate (greater than 20 percent) lengthens it.

Using the same hypothetical model from figure 6 can help illustrate how taxpayers with newer offshore accounts that have not accumulated decades of untaxed interest income are treated. Assuming the hypothetical accounts in figure 6 were opened in 2004 (instead of 1986), the compliant taxpayer would have paid about \$93,000 in taxes on the interest income and accumulated a balance of about \$1.2 million by 2009, and the noncompliant taxpayer paying no taxes would have accumulated about \$1.3 million. If the noncompliant taxpayer came forward through the 2009 OVDP, the penalties, interest, and delinquent taxes would have totaled about \$387,000. The 2009 OVDP participant's ending account

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**Appendix IV: Hypothetical Examples  
Comparing Account Balances, Length of  
Account Ownership, and Penalties**

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balance would be about \$890,000, which is less than the original opening deposit amount.

# Appendix V: 2009 Offshore Voluntary Disclosure Program Participants with Employer Identification Numbers

We identified 200 2009 OVDP participants with an Employer Identification Number (EIN), which is used by IRS to identify a business entity. We did not have complete information on all of the businesses in our sample. In addition, not all of the businesses had filing requirements in every year covered by the 2009 OVDP. Table 4 shows the tax forms filed by some of the businesses in tax year 2008, and table 5 shows the self-reported North American Industry Classification System (NAICS) code.

**Table 4: 2008 Business Filing Requirements for 2009 OVDP Business Participants**

Filing requirement	Count of EINs <sup>a</sup>
Form 1041 and 1041A (estates and trusts)	27
Form 1065 (partnership income)	9
Form 1120 (U.S. corporation)	66

Source: GAO analysis of IRS's Compliance Data Warehouse and Business Returns Transactions File.

<sup>a</sup>Some 2009 OVDP businesses may not have a filing requirement or may not have filed during tax year 2008

**Table 5: Self-Reported Industry Code on 2008 Tax Return for 2009 OVDP Businesses**

NAICS category/CIMIS description	Count of EINs <sup>a</sup>	Percent of EINs
Agriculture, forestry, fishing and hunting	2	1.1
Mining, quarrying, and oil and gas extraction	2	1.1
Construction	6	3.3
Manufacturing	4	2.2
Wholesale trade	14	7.6
Retail trade	8	4.4
Transportation and warehousing	2	1.1
Information (publishing, newspaper, etc.)	3	1.6
Finance and insurance	12	6.5
Real estate and rental and leasing	9	4.9
Professional, scientific, and technical services	16	8.7
Management of companies and enterprises	4	2.2
Administrative and support and waste management and remediation services	2	1.1
Educational services	2	1.1
Health care and social assistance	5	2.7
Arts, entertainment, and recreation	6	3.3
Accommodation and food services	4	2.2

**Appendix V: 2009 Offshore Voluntary Disclosure Program Participants with Employer Identification Numbers**

<b>NAICS category/CIMIS description</b>	<b>Count of EINs<sup>a</sup></b>	<b>Percent of EINs</b>
Other services (except public administration)	4	2.2
Estate or trust based on CIMIS name description	66	35.9
NAICS unknown, not estate or trust	13	7.1

Source: GAO analysis of IRS's Compliance Data Warehouse and Business Returns Transactions File.

<sup>a</sup>Some 2009 OVDP businesses may not have a filing requirement or may not have filed during tax year 2008

# Appendix VI: Additional 2009 Offshore Voluntary Disclosure Program Participant Characteristics

Taxpayers participating in the 2009 OVDP most often used the married filing jointly filing status, were most often age 55 and over, and had an average adjusted gross income of about \$528,000, as show in table 6.

**Table 6: Taxpayer and 2009 OVDP Participant Income and Demographics for Tax Year 2008**

Returns filed for tax year 2008

Filing status	All tax returns		2009 OVDP returns	
	Number of returns	Percent of all returns	Number of returns	Percent of all returns
Single	64,896,521	46	2,890	27
Married filing jointly	53,655,844	38	6,708	64
Married filing separately	2,717,037	2	608	6
Head of household	21,098,890	15	332	3
Surviving spouse	82,276	<1	5	<1
<b>Age</b>				
65 and over	19,963,516	14	3,864	37
55 under 65	19,662,988	14	2,584	25
45 under 55	26,091,781	18	2,191	21
35 under 45	25,515,310	18	1,304	12
26 under 35	23,923,140	17	451	4
under 26	25,623,607	18	121	1
unknown	1,670,226	1	28	<1
<b>Adjusted gross income (AGI)</b>				
Mean AGI	\$58,005		\$527,610	
Median AGI	\$32,261		\$136,878	

Source: GAO analysis of IRS's Individual Returns Transaction File and Statement of Income databases.



# Appendix VII: Data Collected from a Sample of 30 2009 Offshore Voluntary Disclosure Program Case Files with Large Penalties

As noted in appendix I, we used a standard data collection instrument to capture information from a sample of 30 2009 OVDP cases in which taxpayers received offshore penalties of \$1 million or greater. We then analyzed the results to identify main themes, and develop the summary findings presented in this report. The information in this appendix contains information from our case file reviews.

## Account Balances and Total Penalties, Taxes, and Interest

We calculated offshore account balances based on penalty information. For our sample of 30 cases, the average account balance was almost \$15 million, as shown in table 7 with other key information.

**Table 7: Selected Offshore Account Balances, Taxes, and Penalties from a Case Study of 30 2009 OVDP Cases with Penalties of \$1 Million or Greater**

	Mean	Median
Adjusted gross income, tax year 2008 <sup>a</sup>	\$2,550,043	\$359,333
Offshore account(s) balance <sup>b</sup>	14,674,778	7,898,603
OVDP penalty assessed	2,934,956	1,579,721
Additional tax, tax years 2003-2008 <sup>c</sup>	851,745	480,318
Interest, tax years 2003-2008	264,686	146,856
Other penalties <sup>d</sup>	196,754	102,877
<b>Total penalties, taxes, and interest</b>	<b>4,218,937</b>	<b>2,420,399</b>

Source: GAO analysis of IRS's Enforcement Revenue Information System, and Individual Returns Transaction File.

Note: The cases were randomly selected to the population with penalties of \$1 million or greater, but due to the small number of cases, we do not recommend generalizing the mean and median to the population. The sum of components may not add to the total.

<sup>a</sup>Adjusted gross income is from original, not amended, returns.

<sup>b</sup>OVDP offshore account balance is an estimated number based on penalty amounts. It represents the highest aggregate balance of all offshore accounts between 2003 and 2008.

<sup>c</sup>For a few cases in our sample, no additional tax or interest was assessed.

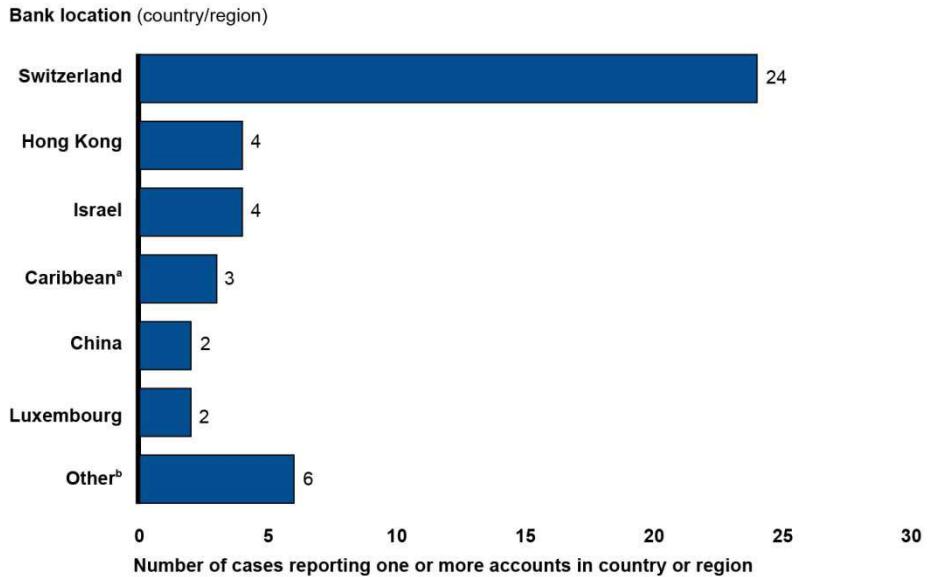
<sup>d</sup>Other penalties include delinquency penalties and accuracy-related penalties, which most taxpayers in our sample received.

## Bank Locations and Names

Most of the 30 cases we reviewed contained some information about the bank names and country locations of the offshore accounts. In some cases, 2009 OVDP participants disclosed dozens of offshore accounts with multiple banks and in multiple countries; in other cases, participants reported only one account. Only those offshore accounts that were open in tax year 2003 through tax year 2008 were included in the calculation of the 20 percent 2009 OVDP penalty. In compiling our profile, we only

included information on accounts that were open during the 2009 OVDP applicable period and included in the penalty calculation. (Some participants disclosed additional offshore accounts that were closed prior to 2003 and not part of the 2009 OVDP penalty calculation.) Figure 7 illustrates the most commonly disclosed country locations. A total of 17 different locations were noted in the 28 cases that disclosed locations, with Switzerland being the most commonly reported location.

**Figure 7: Locations of Offshore Accounts as Disclosed in a Sample of 30 2009 OVDP Cases with Penalties of \$1 Million or Greater**



Source: GAO analysis of 30 2009 OVDP case files with penalties of \$1 million or greater.

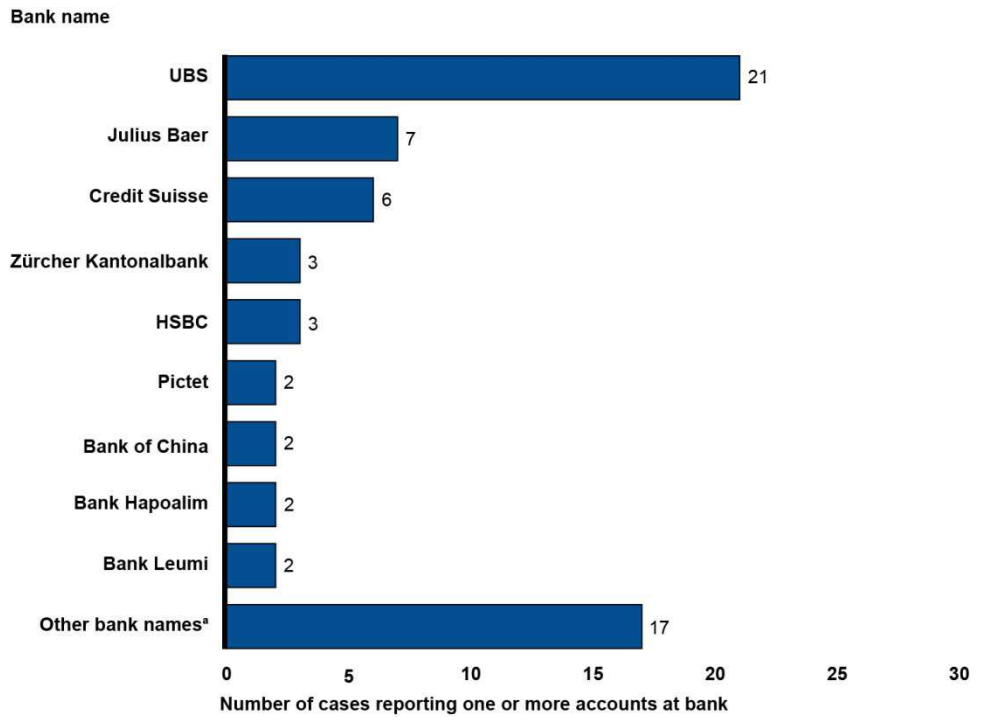
Note: The total number of countries exceeds the total number of case files we reviewed (30) because some taxpayers had accounts in multiple locations.

<sup>a</sup>Caribbean region could include Bermuda, British Virgin Islands, and Cayman Islands.

<sup>b</sup>Six cases disclosed offshore accounts in a total of nine other countries, and each country appeared once in our sample.

Figure 8 illustrates the most commonly disclosed bank names. A total of 42 different banks were reported in the 29 cases that contained bank name information, with UBS by far the most commonly disclosed bank name, followed by Swiss banks Julius Baer, and Credit Suisse.

**Figure 8: Bank Names of Offshore Accounts as Reported in a Sample of 30 2009 OVDP Cases with Penalties of \$1 Million or Greater**



Source: GAO analysis of 30 2009 OVDP case files with penalties of \$1 million or greater.

Note: The total number of bank names exceeds the total number of case files we reviewed (30) because some taxpayers had accounts in multiple banks.

<sup>a</sup>17 cases disclosed other bank names that appeared less frequently (only once) in our sample. In 9 of these cases, one or more accounts were with other Swiss banks not named above.

## Age of Accounts

Twenty-two of the case files we reviewed contained information about the history of the accounts and the nature of the taxpayer’s noncompliance. Many of the accounts had been opened decades ago. The median period of time that participants had owned but not reported income from these accounts, was 18 years, and the average period was 25 years. In four cases, the participants had owned offshore accounts for 50 years or longer.

## Summary of Data Collection Instrument Results

Table 8 summarizes key information from the data collection instrument we used to collect information on the 30 offshore case files we reviewed.

**Appendix VII: Data Collected from a Sample of  
30 2009 Offshore Voluntary Disclosure  
Program Case Files with Large Penalties**

**Table 8: Selected Data Collection Instrument Questions and Response Counts from Sample of 30 2009 OVDP Case Files with Penalties of \$1 Million or Greater**

	Frequency		
	Yes	No	Not in file <sup>a</sup>
<b>Citizenship, and residency</b>			
Is the taxpayer (or spouse) a U.S. citizen?	23	1	6
If yes, is the taxpayer (or spouse) a naturalized citizen?	7	13	3
If yes, is the taxpayer (or spouse) a dual citizen?	3	20	0
Do the taxpayer(s) reside outside the U.S.?	3	26	1
<b>Account(s) histories</b>			
Were any of the offshore accounts with UBS?	21	8	1
Did the taxpayer (or spouse) open the offshore account(s) while a non-U.S. resident?	10	12	8
Did the taxpayer (or spouse) inherit the offshore account(s) from a spouse, parent, or other relative?	14	9	7
If inherited, did the prior owner open the account(s) while a non-U.S. resident?	11	0	3
If inherited, was the prior owner not a U.S. citizen?	6	7	1
If inherited, was the prior owner a Holocaust survivor?	5	5	4
<b>Ownership types</b>			
Did the taxpayer(s) jointly own or manage the account(s) with other family or relatives (other than spouses)?	7	16	7
Did other family or relatives also disclose offshore accounts?	10	0	20
Did the taxpayer(s) own or manage the account(s) through foreign corporations, trusts, foundations or other offshore entities?	12	0	18
<b>Taxes paid</b>			
Did the taxpayer(s) pay U.S. taxes on any of the funds originally deposited into the account(s)?	7	10	13
Did the case file indicate that the taxpayer paid foreign income taxes?	16	12	2
<b>Source of funds</b>			
Was the original source of funds deposited into the accounts: <sup>b</sup>			
an inheritance?	14	10	6
non-U.S. source income?	11	13	6
U.S. source income?	5	19	6

Source: GAO analysis of 30 2009 OVDP case files with penalties of \$1 million or greater.

<sup>a</sup>In some cases, there was insufficient information in the case file to answer these questions.

<sup>b</sup>In some cases, taxpayers disclosed that funds in their offshore accounts came from a combination of sources including U.S. and non-U.S. sources.

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# Appendix VIII: Quiet Disclosure Analysis Results

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Using a methodology that we designed to detect potential quiet disclosures, as described in appendix I, we identified the following.

## Potential Quiet Disclosures Individuals

- 9,884 Taxpayers Identification Numbers (TIN) = Filed amended returns or late returns and FBARs in calendar year 2009 and calendar year 2010
  - 7,440 of the 9,884 TINs = Had non-zero change in tax liability, of which 6,668 TINs had a positive change (i.e., owed taxes based on the amended return), in at least one tax year between tax year 2003 and tax year 2008.
  - 3,240 of the 9,884 TINs = In calendar year 2009 and calendar year 2010, filed late or amended returns with FBARs for more than one tax year between tax year 2003 and tax year 2008

## Potential Quiet Disclosures Businesses

- 711 Employee Identification Numbers (EIN) = Filed amended returns or late filed returns and FBARs in calendar year 2009 and calendar year 2010
  - 710 of the 711 EINs = Had non-zero change in tax liability, of which 427 had a positive change in tax liability (i.e., owed taxes based on the amended return) in at least one tax year between tax year 2003 and tax year 2008
  - 146 of the 711 EINs = In calendar year 2009 and calendar year 2010, filed late or amended returns with FBARs for more than one tax year between tax year 2003 and tax year 2008

## Potential Quiet Disclosures Individuals and Businesses, Combined Totals

- 10,595 TINs and EINs = Filed amended returns or late returns and FBARs in calendar year 2009 and calendar year 2010.
  - 8,150 of the 10,595 TINs and EINs = Had non-zero change in tax liability, of which 7,095 had a positive change in tax liability (i.e., owed taxes based on the amended return) in at least one tax year between tax year 2003 and tax year 2008
  - 3,386 of the 10,595 TINs and EINs = In calendar year 2009 and calendar year 2010, filed late or amended returns with FBARs for more than one tax year between tax year 2003 and tax year 2008
  - Of the 3,386 TINs and EINs, 94 filed late or amended returns with FBARs for all tax years between tax year 2003 and tax year 2008

# Appendix IX: Comments from the Internal Revenue Service



COMMISSIONER

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

March 18, 2013

Mr. James R. White  
Director, Tax Issues  
Strategic Issues Team  
U.S. Government Accountability Office  
441 G Street, N.W. Washington, DC 20548

Dear Mr. White:

Thank you for the opportunity to review and provide comments on your draft report entitled, *OFFSHORE TAX EVASION: IRS Has Collected Billions of Dollars, but May Be Missing Continued Evasion* (GAO-13-318, Job Code 450914). We appreciate the time the GAO team spent reviewing the results of our offshore programs and the processes we used to develop them. Despite the challenges we have encountered detecting offshore accounts, we are pleased you recognized the overall success of our offshore strategy.

Global tax enforcement is a top priority at IRS, and we have made significant progress on multiple fronts, including ground breaking international tax agreements and increased cooperation with other governments. In addition, the IRS and the Justice Department have increased efforts involving criminal investigation of international tax evasion. This combination of efforts helped support the 2009 Offshore Voluntary Disclosure Program (2009 OVDP), the 2011 Offshore Voluntary Disclosure Initiative (OVDI), and the ongoing 2012 Offshore Voluntary Disclosure Program (2012 OVDP). The goal of these programs is to get individuals back into the U.S. tax system and to turn the tide against offshore tax evasion.

The Offshore Voluntary Disclosure Programs have:

- Given U.S. taxpayers with undisclosed assets or income offshore an opportunity to become compliant with the U.S. tax system, pay their fair share and avoid potential criminal charges;
- Been effective in encouraging taxpayers to disclose unreported offshore income and so far have resulted in the collection of more than \$5.5 billion in back taxes, interest, and penalties from approximately 38,000 participants; and
- Provided the IRS with a wealth of information on various banks and advisors assisting people with offshore tax evasion, which the IRS is using to continue its international enforcement efforts.

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The IRS agrees with the recommendations in your report. We continue to improve the use of data gathered through the offshore voluntary disclosure programs. For example, IRS uses the offshore voluntary disclosure data to identify noncompliance involving additional banks, advisors, and countries. We are also continuing our work to identify quiet disclosures. While there are many acceptable reasons for taxpayers to submit amended returns outside of the offshore voluntary disclosure programs, the IRS agrees that we must continue to explore additional methods for effectively identifying quiet disclosures submitted to circumvent the program. Since the completion of the GAO review, IRS has engaged LB&I Research to begin analyzing GAO methodology and quiet disclosure data.

The IRS response addressing your recommendations is enclosed. If you have any questions, please contact David W. Horton, Director, International Individual Compliance (IIC), at 630-493-5937.

Sincerely,



Steven T. Miller  
Acting Commissioner

Enclosure

Enclosure

The Commissioner of the IRS should take the following actions:

**RECOMMENDATION 1:**

Use data gained from the offshore programs to identify and educate populations of taxpayers that might not be aware of their tax obligations related to offshore income and Foreign Bank and Financial Accounts (FBAR) filing requirements.

**MANAGEMENT RESPONSE:**

We agree with this recommendation. The IRS recognizes that heightened public awareness is critical to reporting compliance, and a number of steps have already been taken to educate persons with foreign accounts about their filing obligations. For example, information has been posted to irs.gov outlining filing obligations, and fact sheets and public announcements outlining filing requirements have been issued. Additional information has been published through multiple channels, including the IRS Twitter account, the IRS Tax Attachés located in U.S. consulates and embassies, and the National Public Liaison's practitioner e-mail distribution list.

Recently, the IRS has also established a team to explore efforts that can increase assistance and awareness for U.S. taxpayers living overseas and other taxpayers facing international issues. This team is moving ahead with its work. In addition, the Director, International Individual Compliance will share general information about taxpayer problems gathered from the offshore programs with this team and with other appropriate functions within IRS (i.e., the International Taxpayer Assistance Team and Service wide FBAR Communication Strategy Team) for use in education and outreach programs.

**RECOMMENDATION 2:**

Obtain information that can help IRS test offshore program promotion strategies and identify new ones by adding a question to current and future programs to determine how participants found out about the program.

**MANAGEMENT RESPONSE:**

The IRS agrees with this recommendation. The Director, International Individual Compliance will explore new means of capturing information about how voluntary disclosure participants learned about the program and will work to identify additional means of enhancing voluntary disclosure program awareness.



**RECOMMENDATION 3:**

Explore options for employing a methodology for identifying and pursuing potential quiet disclosures to provide more assurance that actual quiet disclosures are not being missed, and then implement the best option.

**MANAGEMENT RESPONSE:**

The IRS agrees with this recommendation. The Director, International Individual Compliance has received the quiet disclosure data gathered through the GAO methodology outlined in this report. This data will be reviewed and analyzed and appropriate action will be taken including examinations, if warranted. The Director, International Individual Compliance will work with LB&I's research personnel to explore new methodologies for identifying quiet disclosure cases.

**RECOMMENDATION 4:**

Conduct an analysis designed to measure the extent that taxpayers are reporting existing foreign accounts on the Form 1040, Schedule B, or on FBARs for the first time and circumventing some of the taxes, interests, and penalties that would otherwise be owed, and take appropriate action based on the analysis.

**MANAGEMENT RESPONSE:**

The IRS agrees with this recommendation. The IRS is currently analyzing filed Forms 8938, Statement of Specified Foreign Financial Assets, to identify specific characteristics of the filing population and to assess filing behaviors indicating potential compliance issues. This analysis includes a statistical analysis of filers (e.g., income, age, filing status) and several measures of year-to-year filing behavior (e.g., taxable income changes, FBAR filing history, and Schedule B reporting patterns). This data will also be evaluated against other indicators of compliance risk.

The Director, International Individual Compliance will work with LB&I research personnel to explore means of analyzing Form 1040, Schedule B, and FBAR filings to identify first-time FBAR filers who may be improperly reporting offshore accounts as new accounts. The IRS will take the necessary actions to address any identified noncompliance including examinations, if warranted.

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# Appendix X: GAO Contact and Staff Acknowledgments

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## GAO Contact

James R. White, (202) 512-9110 or [whitej@gao.gov](mailto:whitej@gao.gov).

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## Staff Acknowledgments

In addition to the contact named above, Mark Abraham, Tara Carter (Analyst-In-Charge), Andrew Ching, Leon Green, Mark Kehoe, and Libby Mixon (Assistant Director) made contributions to the report. Jeff Arkin, Chuck Fox, Robert Gebhart, George Guttman, Brian James, Sarah McGrath, Donna Miller, John Mingus, Ed Nannenhorn, Karen O'Connor, Robert Robinson, Cynthia Saunders, Andrew Stephens, Wayne Turowski, Jim Ungvarsky, and John Zombro provide key assistance.

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