

Filing Alternatives - Delinquent Foreign Disclosures

<https://www.irs.gov/individuals/international-taxpayers/options-available-for-u-s-taxpayers-with-undisclosed-foreign-financial-assets>

Alternative	Information Returns Only	FBAR Returns Only	Streamlined SDO (Residing inside the US)	Streamlined SFO(Residing outside the US)	Voluntary Disclosure (2014 OVDP)	Quiet Disclosure	No Filing
General Description	Taxpayers who reported all income and only failure was to not file international information returns.	Taxpayers who reported all income and only failure was to not file the FBAR (Form 114).	Lowest overall penalty structure relative to risk. Targeted at those who are noncompliant without knowledge of a requirement related to foreign assets.	Lowest overall penalty structure relative to risk. Targeted at those who are noncompliant without knowledge of a requirement related to foreign assets.	Targeted at taxpayers that are willfully non-compliant. Higher penalty and tax cost, but eliminates risk of criminal prosecution.	File delinquent returns and report tax for periods open for audit.	N/A
Relevant Criteria to qualify	<ul style="list-style-type: none"> - Have reasonable cause for not timely filing the information returns, - Are not under a civil examination or a criminal investigation by the IRS, and - Have not already been contacted by the IRS about the delinquent information returns 	<ul style="list-style-type: none"> - Are not under a civil examination or a criminal investigation by the IRS, and - Have not already been contacted by the IRS about the delinquent FBARs 	<ul style="list-style-type: none"> - Certify non-willfull failure to file. (Non-willfull conduct is conduct that is due to negligence, inadvertence, or mistake or conduct that is the result of a good faith misunderstanding of the requirements of the law.) - No notification from the IRS regarding compliance. - Individuals and estates only. 	<ul style="list-style-type: none"> - Certify non-willfull failure to file. (Non-willfull conduct is conduct that is due to negligence, inadvertence, or mistake or conduct that is the result of a good faith misunderstanding of the requirements of the law.) - No notification from the IRS regarding compliance. - Individuals and estates only. 	<ul style="list-style-type: none"> - Not under current IRS examination. - Complete submission to the IRS by September 28, 2018. 	N/A	N/A
Tax return open reporting periods	Any period that has not been filed.	N/A	3 years	3 years	8 years	Any period that has not been filed.	Any period that has not been filed.
Open foreign bank reporting ("FBAR") periods	N/A	6 years	6 years	6 years	8 years	6 years	6 years
Late filing/payment penalties	N/A	N/A	N/A	N/A	5% per month up to 25%	5% per month up to 25%	5% per month up to 25%
Accuracy related penalties	N/A	N/A	N/A	N/A	20%	20%/40%	20%/40%
Fraud penalties	N/A	N/A	N/A	N/A	N/A	75%	75%
Information form penalties	N/A	N/A	N/A	N/A	N/A	Varies depending on form, but typically \$10,000 per foreign entity/transaction disclosure.	Varies depending on form, but typically \$10,000 per foreign entity/transaction disclosure.
Title 26 miscellaneous offshore (FBAR) penalty risk	N/A	The IRS will not impose a penalty for the failure to file the delinquent FBARs if you properly reported on your U.S. tax returns, and paid all tax on, the income from the foreign financial accounts reported on the delinquent FBARs, and you have not previously been contacted regarding an income tax examination or a request for delinquent returns for the years for which the delinquent FBARs are submitted.	5% of the highest value of foreign financial assets during the 6 year FBAR filing period.	N/A	27.5% of the highest value of foreign financial assets during the 8 year OVDP filing period. (50% in some cases*).	Up to 50% of the account balance for each year of noncompliance.	Up to 50% of the account balance for each year of noncompliance.
Criminal enforcement risk	Up to 5 years prison/\$500,000 (Would not qualify for this program if criminal risk is an issue)	Up to 10 years prison/\$500,000 (Would not qualify for this program if criminal risk is an issue)	Up to 5 years prison/\$500,000 (Would not qualify for this program if criminal risk is an issue)	Up to 5 years prison/\$500,000 (Would not qualify for this program if criminal risk is an issue)	No	Up to 5 years prison/\$500,000	Up to 5 years prison/\$500,000
Relevant Website reference	http://www.irs.gov/Individuals/International-Taxpayers/Delinquent-International-Information-Return-Submission-Procedures	http://www.irs.gov/Individuals/International-Taxpayers/Delinquent-FBAR-Submission-Procedures	https://www.irs.gov/Individuals/International-Taxpayers/U-S-Taxpayers-Residing-in-the-United-States	http://www.irs.gov/Individuals/International-Taxpayers/U-S-Taxpayers-Residing-Outside-the-United-States	http://www.irs.gov/Individuals/International-Taxpayers/Offshore-Voluntary-Disclosure-Program-Frequently-Asked-Questions-and-Answers-2012-Revised		*50% in cases where you have assets at a financial institution listed here: http://www.irs.gov/Businesses/International-Businesses/Foreign-Financial-Institutions-or-Facilitators