Tax Evasion: U.S. Could Reap Billions In Domestic Tax Evasion Fines

BNA Snapshot

- Offshore, onshore penalties now standardized
- Certainty about potential punishment needed

By Siri Bulusu

The IRS could collect billions in unpaid taxes and penalties on previously hidden money through a revamped program that lets tax cheats confess what they owe to avoid jail time.

Practitioners specializing in criminal tax emphasized that the scope of the program is much broader than it used to be, when there were separate channels for reporting offshore and onshore income and assets.

The Internal Revenue Service estimates that tax evasion costs about $400 billion each year, and the bulk of that comes from U.S.-based income and assets. Thus, a system that brings the same firepower to onshore assets as it does to offshore assets is the most potent way to recover evaded taxes, practitioners said.

“The domestic ramifications of this program will be much greater than what comes in from overseas because the pool of taxpayers it applies to is infinite—many more taxpayers have issues that are domestic,” said Jeffrey Neiman, a Miami-based tax partner at Marcus, Neiman & Rashbaum LLP and former trial attorney with the Department of Justice criminal and fraud sections.

The IRS said in a **memorandum** released Nov. 29 that it was consolidating its offshore voluntary disclosure program with the system under which individuals could disclose U.S. assets. Now, any disclosure of domestic income or assets made after Sept. 28 will see an automatic 75 percent penalty—a steep fine that will factor into whether people decide to come forward.

Domestic tax evasion can manifest itself as business owners accepting payments in cash or landlords pocketing rent payments without reporting that income to the IRS, according to practitioners.

‘Shiny and New’

The IRS declined to comment on why it combined the two programs. The previous offshore disclosure program ran from 2009 through September. The IRS can also pursue unpaid tax bills through audits, investigations, and in the U.S. Tax Court.

Centralizing the programs is common sense, Neiman said. The change brings some clarity to a high-stakes area because it is the first time the IRS has set standardized penalties for onshore and offshore cases, he said.

Under the previous regime, disclosures were handled on an office-by-office basis, he told Bloomberg Tax Nov. 30.

“If you're a small business with a tax problem and that problem has grown out of control year after year and you're afraid it's going to explode into criminal prosecution, you can now get things right and put it to bed and have your business move forward shiny and new,” Neiman said.

Needed Certainty

Practitioners said that even though penalty is steep, replacing the regional system will bring certainty for taxpayers who are weighing the consequences of coming forward.

Clients concerned about unreported assets have three options: do nothing and hope not to get caught, amend the false tax returns and see how the IRS responds, or voluntarily disclose the money and potentially avoid criminal prosecution, said Josh Ungerman, a former IRS senior trial attorney and Department of Justice special assistant U.S. attorney.

“This is a big deal for practitioners because they have to evaluate whether the taxpayer's behavior is subject to criminal or civil penalties,” said Ungerman, now a partner at Meadows, Collier, Reed, Cousins, Crouch & Ungerman LLP in Dallas.

To contact the reporter on this story: **Siri Bulusu** in Washington at **sbulusu@bloombergtax.com**

To contact the editors responsible for this story: Meg Shreve at **mshreve@bloombergtax.com**; Colleen Murphy at **cmurphy@bloombergtax.com**