

# Streamlined Filing Compliance Procedures

## Getting compliant on your taxes

### Frequently Asked Questions

1- Why do I owe the IRS taxes if I am not a US citizen and I do not live in the US full time?

US citizens, permanent residents (green card holders) and people with a substantial presence in the United States (i.e., if they lived in the US for 183 days or more in a three year period according to a specific IRS formula, explained here) have to file a tax return with the IRS reporting all of their annual income, even if it is earned outside the US. The IRS refers to them as “US persons for tax purposes.”

2- I was not aware of my tax obligations in the US. I have not filed taxes with the IRS for several years, but I want to get this straightened out. What can I do?

The streamlined foreign offshore procedure is for non-resident taxpayers who the IRS has determined have been non-willful in their tax delinquency. The taxpayer must submit tax returns for all the years they failed to file, and also submit six years of FBARs, or Foreign Bank Account Reports, for any accounts in foreign institutions that have an aggregate value of over \$10,000.

3- Will I still be liable for penalties and interest if I complete the streamlined foreign offshore procedure to the IRS' satisfaction?

You will have to pay all the taxes and interest you owe, but the IRS will not require the taxpayer pay penalties, including accuracy-related penalties, information return penalties and FBAR penalties. This is one of the ways they encourage delinquent non-resident taxpayers to get compliant. But your return is still be subject to examination and adjustments which may carry various penalties if your return was incorrect.

4- My lawyer has been told by the IRS that I have been willfully non-compliant in failing to file tax returns for several years. I have decided to remedy this situation. Is there a program for taxpayers like me?

The voluntary disclosure can be used to rectify willful noncompliance, but the program requires timely disclosure and full cooperation with the IRS in order to counter an accusation of criminal liability. Besides the potential for criminal prosecution, there can be a substantial civil penalty for fraud levied against willfully non-compliant taxpayers. The paperwork requirements are arduous and there are several items that are at the discretion of the examiners, providing willfully non-compliant taxpayers with an incentive to fully cooperate with the IRS and make restitution in a timely manner.

5- Do I need to hire a tax attorney to get compliant on my back taxes, or can I do it myself?

Although there is no requirement that an attorney be involved in filing your streamlined foreign offshore procedure it would be beneficial to hire an experienced international tax attorney to be sure you are complying with all of the IRS' rules and submit complete paperwork. A misstep during this process can be extremely costly and may result in adverse results for the taxpayer.

As for the voluntary disclosure, the taxpayer is tremendously exposed. The IRS is already aware of the taxpayer's noncompliance, and many people who fall into the category of willfully noncompliant are engaged in some form of criminal activity. The voluntary disclosure process is rigorous. It would be a mistake to think a layperson could successfully navigate voluntary disclosure, and the penalty for an error is loss of freedom and money. Best practice is to get a skilled and experienced attorney.