

International Criminal Tax Enforcement Updates From Voluntary Disclosure to FATCA



IRS Criminal Investigation
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New York Field Office
March 12, 2015

The Mission of IRS-CI:

Criminal Investigation serves the American public by investigating potential criminal violations of the Internal Revenue Code and related financial crimes in a manner that fosters confidence in the tax system and compliance with the law.

CI Enforcement Priorities 2014

Core Mission Tax

- International Tax Fraud
- Fraud Referral Program
- Abusive Tax Schemes
- Return Preparer Fraud
- Questionable Refund Fraud
- Employment Tax

Other Financial Crimes

- Public Corruption
- Virtual Currency
- Cyber Crimes
- Frivolous Arguments Program (FRAG)
- Narcotics Related Financial Crimes
- Transnational Organized Crime

“...You can hide, but not forever.”

Today’s agreement with Liechtensteinische Landesbank AG... serves as another reminder for U.S. tax cheats who mistakenly believe that their offshore bank will never turn over their account files to U.S. authorities. To them we say, **you can hide, but not forever.**”

- Preet Bharara, US Attorney, SDNY

July 30, 2013



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In the news ...

THE UNITED STATES DEPARTMENT OF JUSTICE

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BERMUDA | Monday November 10, 2014

The Royal Bank

News Business Sport Lifestyle

Butterfield vows to cooperate in probe

By Raymond Hainey

Published Nov 15, 2013 at 9:00 am (Updated Nov 15, 2013 at 8:11 am)

7 Comments

non-prosecution agreement (NPA) with the U.S. Department of Justice to pay \$4.4 million to the United States. The NPA was entered into as part of the Group's remedial measures, voluntary self-reporting and the production of approximately 110 client files for non-compliant U.S. tax returns.

REUTERS EDITION: US

HOME BUSINESS MARKETS WORLD POLITICS TECH OPINION BREAKINGVIEWS UNITED STATES

Ex-banker at Switzerland's Rahn & Bodmer charged in U.S. for tax scheme

BY NATE RAYMOND

NEW YORK | Fri Nov 14, 2014 8:56am EST

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Ex-banker at Switzerland's Rahn & Bodmer charged in U.S. for tax scheme

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Switzerland opens criminal investigation into several individuals in forex case

ANALYSIS & OPINION

Cap in hand 4E: the pressure on the SNB to defend its franc limit

(Reuters) - A former vice president at Swiss private bank Rahn & Bodmer was indicted in the United States on charges of conspiring to help Americans evade taxes by using secret accounts. Martin Dunki, who retired from the bank in 2012, was charged with one count of conspiracy in an indictment filed in federal court in New York. The bank was not named in court papers, but was described as purporting to be the oldest private bank in Zurich, a description that Rahn & Bodmer uses on its website.

"Martin Dunki went to great lengths to help his U.S. taxpayer clients secret away millions of dollars in Swiss bank accounts," Manhattan U.S. Attorney Preet Bharara said in a statement.

Dunki, 66, who lives in Switzerland, has not been arrested and has no known lawyer, according to U.S. prosecutors. He could not be reached for comment.

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IRS Voluntary Disclosure Practice

- IRM Section 9.5.11.9**
- 2009 OVDP**
- 2011 OVDI**
- 2012 OVDP**
- 2014 OVDP changes**



- Corporations
- Partnerships
- International Businesses**
- Small Businesses & Self Employed

Foreign Financial Institutions or Facilitators



1. UBS AG
2. Credit Suisse AG, Credit Suisse Fides, and Clariden Leu Ltd.
3. Wegelin & Co.
4. Liechtensteinische Landesbank AG
5. Zurcher Kantonalbank
6. swisspartners Investment Network AG, swisspartners Wealth Management AG, swisspartners Insurance Company SPC Ltd., and swisspartners Versicherung AG
7. CIBC FirstCaribbean International Bank Limited, its predecessors, subsidiaries, and affiliates
8. Stanford International Bank, Ltd., Stanford Group Company, and Stanford Trust Company, Ltd.
9. The Hong Kong and Shanghai Banking Corporation Limited in India (HSBC India)
10. The Bank of N.T. Butterfield & Son Limited (also known as Butterfield Bank and Bank of Butterfield), its predecessors, subsidiaries, and affiliates



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2014 Streamlined Procedure

- US residents now eligible
- No longer \$1500 or less of tax
- Eliminating the risk questionnaire
- **Non-Willful Certification**
 - Form 14653 Non US Resident
 - Form 14654 US Resident



Internal Revenue Service

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Willfulness

- **Forms 14653 and 14654**
 - **Signed under the penalties of perjury!**

My failure to report all income, pay all tax, and submit all required information returns, including FBARs, was due to non-willful conduct. I understand that non-willful 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.

Willfulness

According to **IRM 4.26.16.4.5.3** the test for willfulness is whether there was a voluntary, intentional violation of a known legal duty.

- Knowledge of Reporting Requirement
- Made conscious choice not to comply

Examples of Willfulness

“Conduct intended to Conceal”

1. Setting up Trusts, Foundations or other structures
2. Having mail holds on account (no statements sent)
3. Non US passport
4. Personal visits
5. Patterns of failing to file FBAR
6. Filing FBARs for some accounts and not others
7. Code words over phone
8. Moving accounts from bank to bank
9. Actively directing or trading in US Securities
10. Repatriation of funds/Cash Transactions

Streamlined or OVDP?

Is violation is Willful? – Use OVDP

Is violation Non-Willful? – Use Streamlined

FATCA

Foreign Account Tax Compliance Act

Individuals:

- Form 8938 – Statement of Specified Foreign Financial Assets
 - » Assets greater than \$50,000
 - » Filed yearly with US Income tax return
 - » Effective 2012
 - » Still File FBAR if required

FATCA

Foreign Account Tax Compliance Act

Foreign Financial Institutions (FFI):

- Register with IRS and agree to report on US Taxpayer accounts
- 30% Withholding on certain US source payments made to them for failure to register
- Effective July 1, 2014

FATCA

Foreign Account Tax Compliance Act

Governments:

- Intergovernmental Agreements (IGA)
- International Data Exchange
 - Model 1 – Foreign Government to IRS
 - Model 2 – FFI to IRS
- Effective July 1, 2014



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Questions?

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