

# I.R.S. eases some rules for taxpayers outside U.S.

WASHINGTON

## Measures to crack down on tax cheats described as 'too harsh' by official

BY BRIAN KNOWLTON

The Internal Revenue Service is revising its rules to fine-tune a crackdown on tax cheats overseas so that it does not unduly burden small taxpayers guilty only of an innocent oversight.

The agency said it would lower or eliminate some fines for failing to disclose offshore accounts, while tightening other requirements.

"A compliance regime that is too harsh won't net the desired result," the I.R.S. commissioner, John Koskinen, said in a statement on Wednesday.

He acknowledged that the changes to the agency's offshore voluntary compliance programs, which provide a path for people to make things right, were partly a response to feedback from angry taxpayers and to sharp criticism from the agency's own taxpayer advocate.

Overseas tax-collection efforts, drastically increased by the agency in recent years, have drawn intense criticism from overseas Americans and the groups representing them. They say the pressure is so great and potential penalties so high that growing numbers of expatriates have renounced their citizenship.

Nina E. Olson, the taxpayer advocate, wrote in her latest annual report that the voluntary disclosure programs, while designed for "bad actors," instead "burdened 'benign actors' who inadvertently violated the rules." Taken together with other tightened rules, she wrote, there was a potential for "draconian penalties."

The changes to the agency's offshore voluntary compliance programs — programs that the I.R.S. says have brought in \$6.5 billion in revenue — have hit small taxpayers disproportionately, according to Ms. Olson's report.

She found that the median penalty in 2009 for taxpayers with the smallest accounts was nearly six times the average unpaid tax, double the rate for those with the largest accounts. "Thus," she

wrote, "the I.R.S. has extracted the most extreme penalties from unrepresented taxpayers with small accounts who were voluntarily trying to correct a mistake."

The agency said Wednesday that the voluntary disclosure program was being expanded to include more taxpayers. Until now, a taxpayer could participate in the voluntary compliance program only if the unpaid tax was \$1,500 or less a year — a low ceiling that most people exceeded. There will now be no threshold.

If the agency accepts claims — including a taxpayer's certification that failure to file previously was "non-willful" — overseas taxpayers will face no penalties but be liable for taxes owed for three previous years.

But anyone remaining out of compliance could now face penalties of up to 50 percent of the balance in an account — up from 27.5 percent at present.

In a statement, Ms. Olson said the changes did not address all her concerns but amounted to "a significant step in the right direction."

Those changes come even as overseas financial institutions brace for new reporting requirements beginning July 1. That is when thousands of foreign financial institutions will be required to report to the I.R.S. the foreign accounts of "U.S. persons" under the Foreign Accounts Tax Compliance Act, or Fatca.

The agency had earlier delayed the Fatca rollout, then eased its compliance standard, saying that it would not immediately seek to impose penalties on noncompliant financial institutions so long as they make a "good-faith effort" to comply.

So far, however, "they haven't defined what a good-faith effort is," said Denise Hintzke, the head of Deloitte's global Fatca unit.

She said that most of the financial companies she has worked with on Fatca were prepared for the July 1 deadline, but that some — probably wrongly — did not believe it applied to them.

But the definition of foreign financial institutions is so sweeping, she said, that it can include "companies making cars or in the hotel industry."

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