



IRS:CI

VOLUNTARY DISCLOSURE PRACTICE

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- Who is IRS-Criminal Investigation
- Who should Apply to the VDP
- Eligibility: Truthful, Timely, & Complete
- Disclosure Period
- From CI to Civil – Civil Penalty Framework
- Civil Resolution Process
- Available Resources
- Summary Statistics

Presentation Overview



Only an accountant could catch Al Capone...



The American tax laws are based on the premise that all income is taxable (including illegally earned income). In many instances, proving that a taxpayer willfully attempted to hide income from the Federal government is an integral part of proving other criminal activity including fraud, money laundering or Bank Secrecy Act violations. Criminal Investigation has statutory authority to investigate these crimes as well as tax crimes.

CI Mission

IRS Criminal Investigation (CI) 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.



History of Voluntary Disclosure Practice



- VDP is the longstanding practice of IRS-Criminal Investigation
- VDP was initiated as the Offshore Voluntary Disclosure Practice (“OVDP” see IRM 4.63.3)
- OVDP closed September 28, 2018
- Updated Voluntary Disclosure Practice was announced on November 2018 for willful actors with criminal exposure
 - CI IRM 9.5.11.9
 - IRM 4.63.3.26 Voluntary Disclosure Practice

Who Should Apply to the VDP



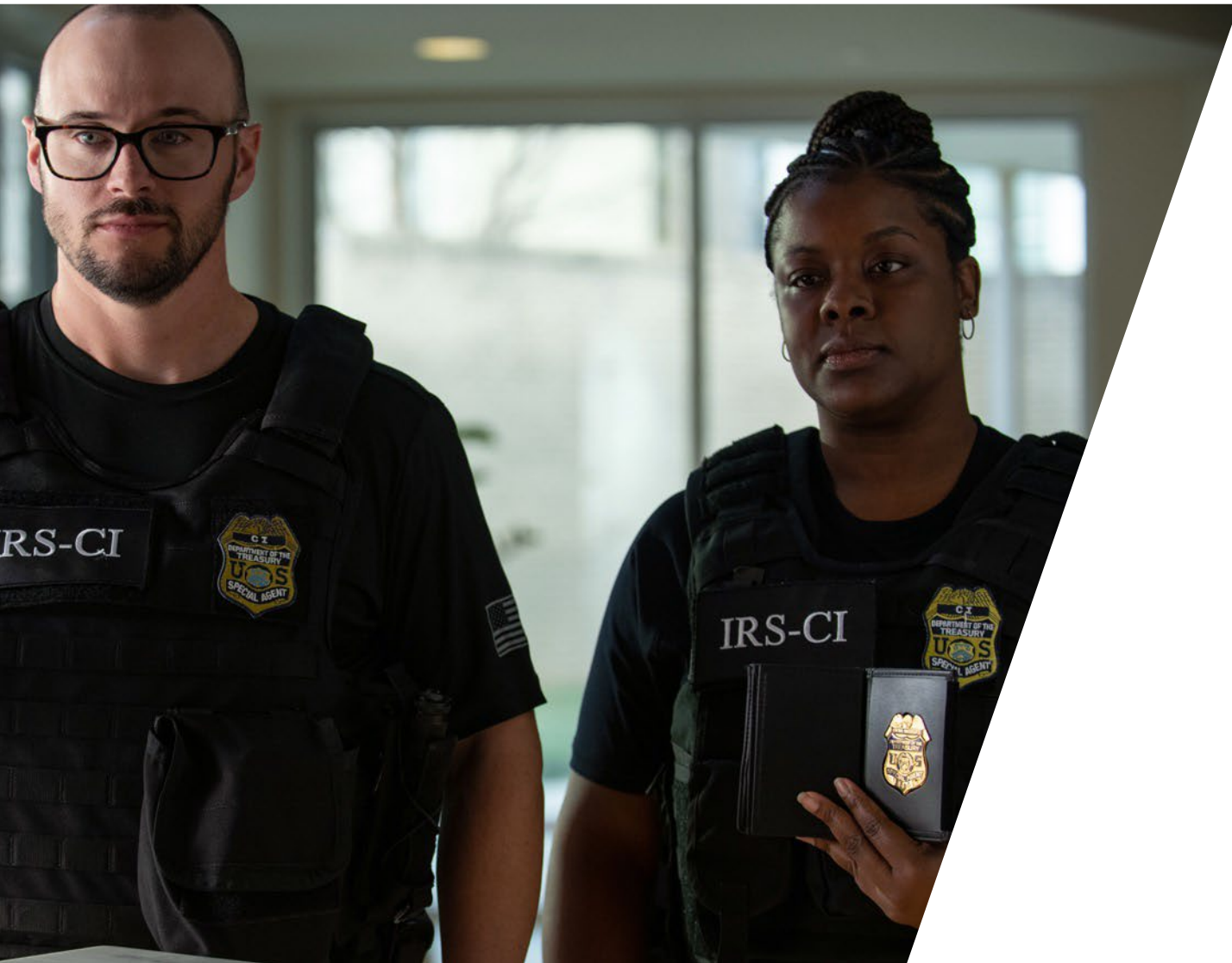
Taxpayers engaged in **willful** noncompliance with exposure to criminal liability for tax and tax-related crimes

- Become tax compliant and avoid potential criminal prosecution.



If taxpayers do **not** have criminal exposure they should consider:

- Filing Delinquent/Amended Returns
- Streamlined Filing Compliance Procedures
- Delinquent International Information Return
- Delinquent Foreign Bank Account Report (FBAR) Procedures



Eligibility: Truthful, Timely & Complete

- Criminal Investigation determines eligibility:
- Timeliness – IRS has *not*:
 - Commenced a civil exam or criminal investigation
 - Received info from a third party alerting to non-compliance
 - Acquired info directly from a criminal enforcement action
- Cooperation
 - Determining tax liability and reporting requirements
 - Submitting all returns and requested documents
 - Making good faith arrangements to pay tax, interest, and penalties.
 - Assisting investigation of professional enablers
- Cannot involve illegal source income

Disclosure Period

- In general, 6 years Title 26 Income Tax and FBAR
 - Shorter - noncompliance is not present in all years
 - Longer – if it is in Gov't and TP best interest to extend
- Determined based on Form 14457 Part II submission date
 - Form 14457 Part I – Preclearance takes minimum 30 days but can take 60 days or longer
- Examples can be found in Field Examiners Guide, Instructions to Form 14457 and IRM 4.63.3.26.3



Penalty Framework

- One-year Fraud Penalty on year with highest tax deficiency
 - If related corporation is involved, both individual and corporation have a civil fraud penalty for the highest year (not the aggregate highest year)
- Willful FBAR per IRM 4.26.16 and 4.26.17
 - No mitigation since Civil Fraud penalty applies
 - Generally, one Willful FBAR penalty of 50% applied to year with HAB
 - Approval required by VDP FBAR Coordinator & VDP FBAR Counsel
 - Allocate FBAR penalty to VDP years with open FBAR statutes
- International Information Return penalties based upon facts and circumstances
- Specialty Issues (ex. E&G, Empl. Tax) have different VDP penalty framework with similar structures.
- Any deviation to the penalty framework must be approved by VDP Counsel

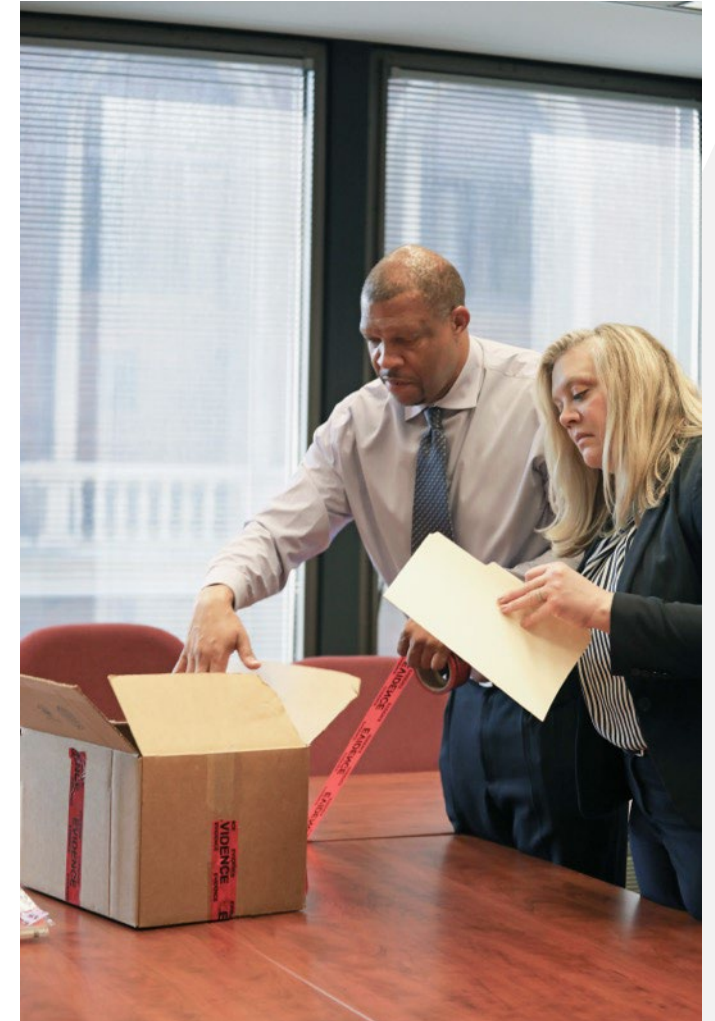


Resolution Process

- Case closes with a Form 906 Closing Agreement for income tax issues, detailing the facts and the application of the fraud penalty applied.
- FBAR cases close with FBAR agreement detailing the facts and the amount of the willful FBAR penalty applied.
- A checklist is used to ensure all required steps were followed.

Available Resources

- [CI VDP Landing Page on irs.gov](#)
- [CI IRM 9.5.11.9 \(04-27-21\)](#)
- [Instructions to Form 14457](#)
- [IRM 4.63.3](#)



VDP Summary Statistics

VDP Received Submissions (since 2009)

- Domestic – 2,893
- International – 56,232

Declined Submissions (since 2009)

- POA/Taxpayer No Response or Incomplete – 1,129
- Ongoing Criminal Case – 84
- Ongoing Civil Exam – 67
- Illegal Source Income – 24

Questions?

