



Offshore voluntary disclosure - what you need to know

Making an offshore voluntary disclosure - what you need to know

On 30 November 2009 the Commissioner of Taxation announced an update to the offshore voluntary disclosure initiative for taxpayers who have omitted foreign income or capital gains or who have over-claimed deductions.

This initiative is open to those who hold or have held, either directly or indirectly, an offshore account or investment or have participated in an offshore tax arrangement. Some taxpayers are excluded from taking up this initiative and the exclusions are detailed below. This offer will end on 30 June 2010.

What is the Tax Office doing?

We are increasing our focus on Australian taxpayers who may have undisclosed offshore income (including capital gains) or over-claimed deductions involving international transactions. Our compliance activities include an increase in the number of audits we conduct. We are improving our ability to identify taxpayers involved in these activities through enhanced use of AUSTRAC data. To further improve this detection process, we are also talking with financial institutions and utilising our information gathering powers to obtain information from local and offshore financial institutions, as well as directly from overseas jurisdictions.

There is nothing wrong with holding an offshore account or investing overseas as long as you pay any tax due. Generally, under Australian tax law, a resident is subject to Australian tax on all income from inside or outside of Australia.

Eligible taxpayers who contact us before they are the subject of an audit and make a full voluntary disclosure will receive benefits including reduced shortfall penalties.

We are asking you to review your tax returns. If there has been an omission you should provide a voluntary disclosure detailing your understated income. The primary tax and interest will be payable. However, you can request a further reduction of any penalties or interest charged or additional time to pay based on your personal circumstances. If we are to assist you in this you will need to provide the full details of the circumstances in writing.

Does this affect me?

If you have declared all income (including capital gains) it is unlikely you have a tax liability. However you may have a tax liability if you have:

- undisclosed income (including capital gains), or over-claimed deductions
- participated in an offshore tax arrangement, including arrangements using offshore entities such as partnerships, foundations, trusts and companies.

You may wish to contact us or an independent professional adviser to discuss your circumstances and determine whether you have a tax liability. If you want to talk to us about your potential tax liability you can ring us on our contact numbers below.

How can I make a voluntary disclosure?

You can make an offshore voluntary disclosure in two ways. They are:

- **a named disclosure** which reveals your identity and all information requested in the disclosure form, or
- **a no-name disclosure** which is anonymous but still includes all information requested in the disclosure form except for your name and other details that may identify you.

In the form you must make a full and true disclosure of all matters material to assessing your taxation liability. Additionally you must disclose all tax liabilities including goods and services tax (GST). Your voluntary disclosure must be made in writing by completing an [Offshore voluntary disclosure statement](#) (NAT 71149).

We will confirm receipt of your disclosure statement. We may also contact you to follow up or clarify issues.

We will assess the disclosure and inform you whether we accept the disclosure under this initiative and provide an indication of whether the Tax Office would be likely to undertake an investigation into your circumstances to determine whether there is any potential breach of the criminal law.

You will receive a Notice of Amended Assessment for each year amended and you should pay the amended assessments by the due date. If you have difficulties meeting your payment obligations, contact us on **13 28 61** and we will work with you to develop a payment plan that takes your personal circumstances into account.

For further information about how to make a disclosure and to download a copy of the disclosure form go to [Offshore voluntary disclosure – frequently asked questions](#) on our website at www.ato.gov.au/voluntarydisclosureinitiative. To order a printed copy of the disclosure form, take note of the NAT number – NAT 71149 – and go to our [Online publications ordering service](#), or phone **1300 720 092**.

What are the benefits of making an offshore voluntary disclosure?

If you make an offshore voluntary disclosure and your additional taxable income is \$20,000 or less in a year you will not have to pay a shortfall penalty for that year.

If the additional taxable income exceeds \$20,000 in a financial year you will be entitled to a reduced shortfall penalty of 10% of your additional liability for that year.

The General interest charge (GIC) for the 2003 and 2004 financial years will be reduced to the base rate and GIC will be reduced to nil for any tax shortfalls for years prior to 2003.

We will also assess your disclosure and provide an indication of whether the Tax Office is likely to investigate the circumstances surrounding your voluntary disclosure for any potential criminal law breaches.

Who is eligible for the reduced shortfall penalties?

The offshore voluntary disclosure initiative and related benefits including reduced shortfall penalties are not available to anyone who:

- is already under audit by the Tax Office, including as part of Project Wickenby, and this audit is connected to the omitted income, capital gains or over-claimed deductions you want to disclose
- is the recipient of a notice requiring you to produce information relating to omitted offshore income to the Tax Office
- has breached the criminal law to derive foreign income (broader than tax evasion)
- has acquired offshore assets using income from a breach of the criminal law (broader than tax evasion)
- has been involved in marketing or otherwise encouraging others to enter into tax evasion schemes, or
- is under investigation or the subject of a search warrant by the Australian Tax Office, Australian Federal Police or the Australian Crime Commission in respect to taxation offences.

You may still make a voluntary disclosure in the circumstances above. Each case will be considered on a case-by-case basis taking individual circumstances into account.

More information

You can find further information on our website www.ato.gov.au including:

- [Tax havens and tax administration](#) (NAT 10567)
- [Taxpayers charter](#) – what you need to know (NAT 2548)
- [Offshore voluntary disclosure – frequently asked questions](#)

Ring us on **13 28 61** (within Australia) for general enquiries about offshore voluntary disclosure or to obtain a printed copy of the above publications. For complex enquiries call us on 1300 132 346.



Phone calls are confidential and you may choose to remain anonymous.