



## **Do you know the purpose of the Streamlined Filing Compliance Procedures?**

Streamlined Filing Compliance Procedures (Streamlined) is one of the options available for US Taxpayers with unreported foreign financial assets and income. It is intended for the Taxpayers that have acted **non-willfully**. The Streamlined process is available to US individual Taxpayers and Estates that have failed to report foreign financial assets and pay all the taxes due with respect to those assets. The Individuals and Estates cannot be under IRS examination, and they both must have a valid tax identification number.

Individual Taxpayers or Estates using Streamlined filing Compliance Procedures must be able to certify that their failures to report are related to non-willful conduct. According to IRS: "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". "Willful is voluntary, conscious, and intentional". The certification of non-willful conduct to IRS is a written statement signed under penalties of perjury. It certifies the non-willful conduct of the Taxpayer with respect to all foreign activities and assets. IRS provides the following guidance to Taxpayers with respect to the explanation of non-willful conduct:

- Provide specific reasons and background for the failure to report all income, pay all tax, and submit all required information returns, including FBARs,
- Include the whole story including the unfavorable and favorable facts. Include personal background, financial background, and anything else relevant to the failure to report all income, pay all tax, and submit all required information returns, including FBARs.
- Explanation of the source of funds in all the foreign financial accounts/assets. For example, explain whether the accounts/assets were inherited, whether the accounts/assets were opened while residing in a foreign country, or whether there was a business reason to open or use it.
- Explanation of the Taxpayer's contacts with the account/asset including withdrawals, deposits, and investment/management decisions. Provide a complete story about the foreign financial account/asset.

IRS acknowledges that common situations for Taxpayers are that they:

- Failed to acknowledge their financial interest in or signature authority over foreign financial accounts on Form 1040, Schedule B.

- Realized that they owned or controlled a foreign entity (e.g., corporation, trust, partnership, IBC, etc.) and failed to properly report ownership of the entity or transactions with the foreign entity. If Taxpayer (or the return preparer) inadvertently failed to report ownership or control of the foreign entity or transactions with the foreign entity, an explanation as to why, including the understanding of the Taxpayer's reporting obligations to the IRS and to foreign jurisdictions.
- Relied on a professional advisor; then provide the name, address, and telephone number of the advisor and a summary of the advice. Also provide background such as how the Taxpayer came into contact with the advisor and frequency of communication with the advisor.
- Married taxpayers submitting a joint certification that contains different reasons must provide the individual reasons for each spouse separately in the statement of facts.

IRS states that there are Taxpayers that need protection from criminal prosecution because their failures have been of the non-willful variety. The program is designed to assist Taxpayers with coming into compliance, and willingly remedy their past mistakes. Its purpose is to provide Taxpayers with an option for becoming compliant and to remain compliant after the process.

Don't be a victim of your own making. Consult your tax specialist now.