

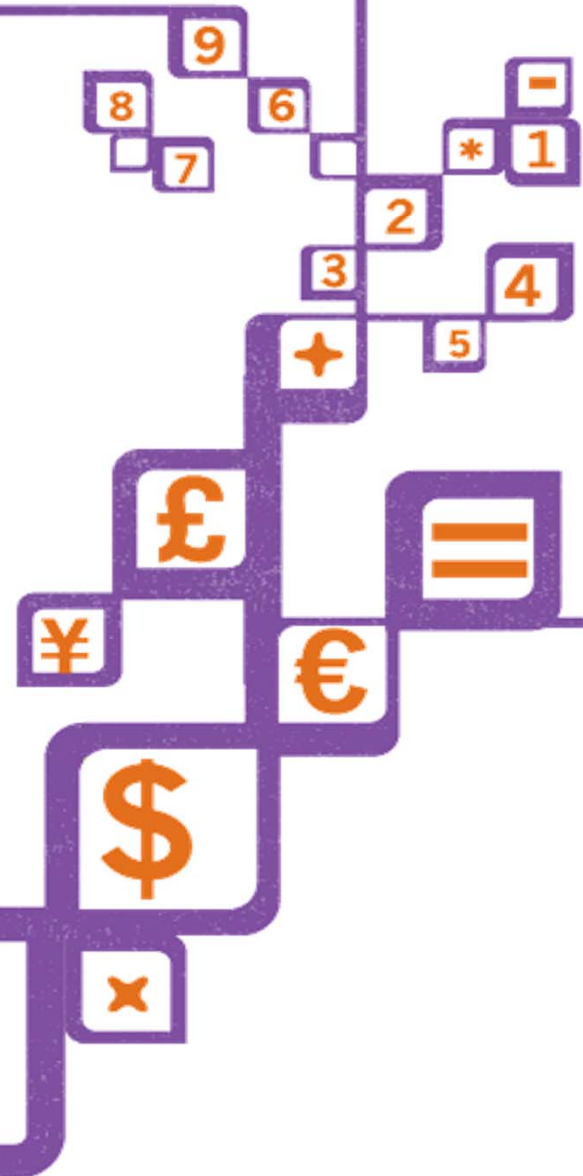


Grant Thornton

An instinct for growth™

## Streamlined Filing Compliance Procedures

Offshore accounts Amnesty program  
for U.S. taxpayers



## What is this program about?

The modified Streamlined Filing Compliance Procedures which came into effect on July 1, 2014 is targeted towards

- Taxpayers who have failed to report foreign financial assets and pay taxes in respect of those assets; and
- This failure was due to "non-willful" conduct on their part.

The most attractive benefit of this program is "**No Penalties**" for taxpayers residing outside the U.S. and qualifying for the Streamlined Foreign Offshore Procedures.

Taxpayers living in the U.S. may be eligible for the Streamlined Domestic Offshore procedures. However there is a 5% penalty on unreported foreign financial assets

## Streamlined Foreign Offshore Procedures

In order to be eligible, Individual U.S. taxpayers, or estates of individual U.S. taxpayers, must:

- meet the applicable non-residency requirement;
- have failed to report the income from a foreign financial asset and pay tax as required by U.S. law, and may have failed to file an FBAR (FinCEN Form 114, previously Form TD F 90-22.1) with respect to a foreign financial account; and
- certify that such failures resulted from non-willful conduct.

## Streamlined Domestic Offshore Procedures

In order to be eligible Individual U.S. taxpayers, or estates of individual U.S. taxpayers, must:

- fail to meet the applicable non-residency requirement;
- have previously filed a U.S. tax return (if required) for each of the most recent 3 years for which the U.S. tax return due date (or properly applied for extended due date) has passed;
- have failed to report the income from a foreign financial asset and pay tax as required by U.S. law, and may have failed to file an FBARs and/or international information returns; and
- certify that such failures resulted from non-willful conduct.

## What is "Non-willful" conduct?

One of the key features of the Streamlined Filing procedures is that the taxpayer is required to certify, under penalties of perjury, that his/her conduct in failing to report foreign financial assets was "non-willful".

In this program "Non-willful" conduct is defined as conduct that is due to

- negligence;
- inadvertence;
- mistake; or
- conduct that is the result of good faith misunderstanding of the law

Taxpayers have to provide reasons and facts to substantiate their claim of "non-willful" conduct in their certification

## Non-residency requirement

Individual U.S. citizens or lawful permanent residents (green card holders), or estates of U.S. citizens or lawful permanent residents, meet the applicable non-residency requirement if,

- in **any one or more** of the most recent three years for which the U.S. tax return due date (or properly applied for extended due date) has passed,
  - the individual did not have a U.S. abode; and
  - the individual was physically outside the United States for at least 330 full days.

## What needs to be filed?

The taxpayer needs to file

- Delinquent or Amended **Tax returns** for the most recent **3 year** period for which the due date (or properly applied for extended due date) has passed
- **FBARs** for the most recent **6 year** period for which the FBAR due date has passed
- **Certification**, signed under penalties of perjury -
  - that Taxpayer is eligible for the Streamlined Foreign Offshore Procedures;
  - that all required FBARs have now been filed; and
  - that the failure to file tax returns, report all income, pay all tax, and submit all required information returns, including FBARs, resulted from **non-willful conduct**.



## What are the economic consequences?

The taxpayer is liable to pay the applicable tax and interest owed on the returns filed for the most recent 3 years.

Under the Streamlined Foreign Offshore Procedures, taxpayers will **not be subject** to

- failure-to-file and failure-to-pay penalties,
- accuracy-related penalties,
- information return penalties, or
- FBAR penalties.

Under the Streamlined Domestic Offshore Procedures, taxpayers will not be subject to

- accuracy-related penalties,
- information return penalties, or
- FBAR penalties.

However taxpayers filing under the Streamlined Domestic Offshore Procedures will be subject to the **Title 26**

**miscellaneous offshore penalty** which is equal to

- 5 % of the highest aggregate balance/value of the taxpayer's foreign financial assets that are subject to the miscellaneous offshore penalty during the years in the covered tax return period and the covered FBAR period.

## What happens next?

This is a filing program and unlike the Offshore Voluntary Disclosure Program (OVDP), there is no closing agreement signed with the IRS. Returns filed under these procedures will be processed like any other returns submitted to the IRS.

Returns submitted under these procedures will not be selected automatically for audit. They may be selected for random audit under the existing audit selection process. They may however be subject to verification procedures as regards accuracy and completeness based on the information that the IRS may have received from banks and other financial institutions.

Once a taxpayer has filed returns under the streamlined procedures, he or she is expected to comply with U.S. tax filing requirements in the subsequent years.

## Contact us for a consultation

Our US tax services group has helped several taxpayers living in India evaluate and get back on track with their US Tax compliances through the Streamlined Filing Compliance Procedures program.

To know more about how we can assist you, please contact.

### Lloyd Pinto

**Director – US Tax**

**T +91 22 66262600**

**M +91 9820715742**

**E [lloyd.pinto@in.gt.com](mailto:lloyd.pinto@in.gt.com)**



# About Grant Thornton India LLP

Grant Thornton in India is one of the largest assurance, tax, and advisory firms in India. With over 2,500 professional staff across 13 offices, the firm provides robust compliance services and growth navigation solutions on complex business and financial matters through focused practice groups. The firm has extensive experience across a range of industries, market segments, and geographical corridors. It is on a fast-track to becoming the best growth advisor to dynamic Indian businesses with global ambitions. With shorter decision-making chains, more senior personnel involvement, and empowered client service teams, the firm is able to operate in a coordinated way and respond with agility.

The firm's strong Subject Matter Expertise (SME) focus not only enhances the reach but also helps deliver bespoke solutions tailored to the needs of its clients.

To know more about Grant Thornton in India LLP, please visit [www.grantthornton.in](http://www.grantthornton.in) or contact any of our offices as mentioned below or write to us at [contact@in.gt.com](mailto:contact@in.gt.com)

<b>NEW DELHI</b> National Office Outer Circle L 41 Connaught Circus New Delhi 110 001 T +91 11 4278 7070	<b>AHMEDABAD</b> BSQUARE Managed Offices, 7th Floor, Shree Krishna Center, Nr. Mithakali Six Roads, Navrangpura, Ahmedabad 380009 T +91 7600001620	<b>BENGALURU</b> "Wings", 1st floor 16/1 Cambridge Road Ulsoor Bengaluru 560 008 T +91 80 4243 0700	<b>CHANDIGARH</b> B-406A, 4th Floor L&T Elante Office Building Industrial Area Phase-I Chandigarh – 160002 T +91 172 4338 000
<b>CHENNAI</b> Arihant Nitco Park, 6th floor No.90, Dr. Radhakrishnan Salai Mylapore Chennai 600 004 T +91 44 4294 0000	<b>GURGAON</b> 21st floor, DLF Square Jacaranda Marg DLF Phase II Gurgaon 122 002 T +91 124 462 8000	<b>HYDERABAD</b> 7th floor, Block III White House Kundan Bagh, Begumpet Hyderabad 500 016 T +91 40 6630 8200	<b>KOCHI</b> 7th Floor, Modayil Centre point, Warriam road junction, M.G.Road, Kochi 682 016 T +91 484 40064541
<b>KOLKATA</b> 10C Hungerford Street 5th floor Kolkata 700 017 T +91 33 4050 8000	<b>MUMBAI</b> 16th floor, Tower II Indiabulls Finance Centre SB Marg, Elphinstone (W) Mumbai 400 013 T +91 22 6626 2600	<b>MUMBAI</b> 9th Floor, Classic Pentagon, Nr Bisleri factory, Western Express Highway, Andheri (E) Mumbai 400 099 T +91 22 6176 7800	<b>NOIDA</b> Plot No. 19A, 7th Floor Sector – 16A, Noida – 201301 T +91 120 7109001
<b>PUNE</b> 401 Century Arcade Narangji Baug Road Off Boat Club Road Pune 411 001 T +91 20 4105 7000			



Follow us @GrantThorntonIN

© 2015 Grant Thornton India LLP. All rights reserved.

"Grant Thornton in India" means Grant Thornton India LLP, a member firm within Grant Thornton International Ltd, and those legal entities which are its related parties as defined by the Companies Act, 2013 read in conjunction with the applicable Accounting Standards issued by the Institute of Chartered Accountants of India.

Grant Thornton India LLP (formerly Grant Thornton India) is registered with limited liability with identity number AAA-7677 and has its registered office at L-41 Connaught Circus, New Delhi, 110001.

References to Grant Thornton are to Grant Thornton International Ltd (Grant Thornton International) or its member firms. Grant Thornton International and the member firms are not a worldwide partnership. Services are delivered independently by the member firms.