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Tax Attorneys for Tax Problems

Parent, Parent & Wynn LLP

144 South Main Street
Wallingford, CT 06492
(203) 269-6699
www.irsmedic.com

October 7, 2015

Internal Revenue Service
Attn: Christie Preston
Room 6129
1111 Constitution Ave. NW
Washington, DC 20224

RE: Comment from FR Doc. No: 2015-19521: Form 14653, Certification by U.S. Person Residing Outside of the United States for Streamlined Foreign Offshore Procedures, OMB Number: 1545-2241

Dear Ms. Preston:

We are responding to the Department of the Treasury's request for Comment on its request for OMB approval on the above-referenced form, associated with the IRS's Streamlined Foreign Offshore Procedures.

We have attempted to segregate our response into the categories of comments requested in the notice in the Federal Register.

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility:

The Streamlined Foreign Offshore Procedures call for taxpayers to amend their federal income tax returns for the "most recent 3 years for which the U.S. tax return due date (or properly extended due date) has passed." In a narrow category of cases, this results in the Streamlined department receiving amended tax returns that are beyond the Statute of Limitations on Assessment, resulting in taxpayers incurring costs to have tax returns prepared that the IRS does not have the power to accept. This happens in instances where a taxpayer filed the earliest of the years' tax returns by April 15th but filed for an extension prior to filing the most recent tax year prior to the Streamlined Submission. For example, a taxpayer filed his 2011 tax return before April 15, 2012. He then filed an extension for his 2014 tax return, and so his "amended return

period” was 2011-2013. He made a submission of his amended tax returns for 2011-2013 as required under the terms of the Streamlined Domestic Offshore Procedures on June 20, 2015. The IRS receives, but is unable to process, the amended tax return for 2011, because it is beyond the Statute of Limitations for Assessment for that year. While the Form 14654 does contain a waiver of the restrictions on assessment and collection of the miscellaneous offshore penalty, it does not have a similar restriction with regards to assessment and collection of tax and interest. While keeping the rule as it is may allow for a level of clarity that is desirable in this program, it also results in the IRS receiving amended returns that it is unable to process.

The Form 14653 contains a few provisions regarding requirements to retain records to be provided upon request in connection with the submission under the Streamlined Procedures. The requirement to retain records related to income and assets during the period covered by the delinquent or amended returns for three years after submission under the Streamlined Procedures appears to comply with other legal requirements and statutory time periods for assessment of taxes, barring the instances pertaining to our comment in the preceding paragraph. However, the form also contains a requirement that would require a taxpayer who had to file Delinquent FBARs under these procedures to retain all records related to their foreign financial accounts for six years from the date of the Streamlined Certification. This extends the requirement to retain records beyond the period that the IRS would actually have to assess penalties for failure to file FBARs or for failure to maintain records of account information related to the FBAR filing requirement. Therefore, this form appears to apply a requirement to retain records beyond the period prescribed in the laws that the program purports to be related to and serves no purpose, since the IRS would be unable to assess any penalties for failure to retain this information. Therefore, we recommend that this language is better tailored to match the relevant statutes of limitation.

(b) The accuracy of the agency’s estimate of the burden of the collection of information:

The estimate of the burden of collection of information provided does not appear to be based on any actual studies or other accurate measurements, especially since it perfectly equals the amount of time estimated for the Form 14654, Certification by U.S. Person Residing in the United States for Streamlined Domestic Offshore Procedures, which requires a detailed listing of foreign financial assets subject to the penalty for that program.

(c) Ways to enhance the quality, utility, and clarity of the information to be collected:

On the same topic of spouses submitting a joint Certification whenever they are submitting joint income tax returns, we have spoken with many individuals who, for one reason or another, need to come into compliance by reporting foreign income that should have been reported on a federal income tax return that was filed Jointly with a spouse, when for one reason or another, the spouse intending to go through the program will not be participating in the program with the spouse that they filed jointly with. The most common instance for this is with couples that have divorced or separated at some point between the start of the “amended return period” and the time that they would make the submission under the Streamlined Foreign Offshore Procedures. We have previously called the OVDP/Streamlined Hotline about these instances and have universally been informed that the taxpayer would be able to proceed through the program by themselves, without the involvement of their spouse. There is currently no written guidance addressing about this issue.

With regards to the OVDP/Streamlined Hotline, there is nowhere in any IRS materials that we have been able to find that advertises that the OVDP Hotline, which has existed at least since the 2012 program was unveiled, now accepts questions about the Streamlined Procedures. There is no reference to a hotline number within any of the Streamlined Procedures FAQs (either Domestic or Foreign); the only reference to this hotline is within the OVDP program information. So the people who would have most need for this service, people intending to represent themselves and needing information, are not being informed that they can seek information by calling this phone number.

The Form 14653 requests that taxpayers self-compute the amount of interest that they will owe on the additional tax owed on their amended returns. However, the IRS does not appear to offer any online calculators to calculate this.

Although the Streamlined Procedures contain an eligibility requirement similar to that within the OVDP, that the IRS must not have initiated a civil examination of the taxpayer's returns for any taxable year and that taxpayer must not be under criminal investigation by the IRS Criminal Investigation division, the IRS has not offered any PreClearance process similar to what is available under the OVDP program to allow taxpayers to determine whether there is any ongoing examination or criminal investigation for which they have not yet been contacted by the relevant department. Presumably, this will become more of an issue as the IRS continues to receive additional information from foreign government and foreign financial institutions through FATCA, through the non-prosecution programs for financial institutions, and through FATCA reporting or intergovernmental information exchanges. We recommend that an appropriate PreClearance process be instituted for this program.

The section requesting a narrative specifically requests that a taxpayer identify the name, address, telephone number, and description of advice received for any professional advisor on which the taxpayer relied. This implies that the IRS is compiling a list of professional advisors who incorrectly advised taxpayers for potential investigation or additional education, both of which would be excellent uses of this information. It would make this information clearer for data collection purposes if there was a special location for this information to be entered, rather than leaving it to the taxpayer to place this within the body of a narrative of facts. This would allow for quicker and easier identification of this information and an increased ability to locate the information for future use.

In our experience, many people seek the assistance of professionals in preparing this form. Therefore, it would seem to be appropriate to include a location for a professional to sign the declaration as well. This will also allow for enhanced professional review by the Office of Professional Responsibility, should it be found that some tax professionals are improperly submitting documents under these procedures. Similar reasons are used for having professionals sign on OVDP documents, IRS Collection Alternative requests, and tax returns that they prepare.

Many people who seek our advice about potentially pursuing the Streamlined Programs are concerned about the certification under penalties of perjury. Their concern is that if the IRS disagrees with their self-assessment of their legal state of mind and later determines that they were not "non-willful", that they will be subjected to penalties. It is our understanding that so long as the facts contained in the narrative statement, all factual information with regards to account information, and all other fact-based information on the form is accurate, and so long as

the person signing the form has a reasonable belief and understanding that their facts meet the provided description of non-willful conduct, that the taxpayer will not be subject to potential penalties for perjury. We recommend that the IRS clarify, on this form or in related program materials, what exactly the taxpayer is attesting is true, correct, and complete, when they are signing this form under penalties of perjury.

We thank you for your consideration of this information and we would be happy to provide any additional information or feedback should such be needed or beneficial to this process.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michelle D. Wynn", with a long horizontal flourish extending to the right.

Michelle D. Wynn
Partner

Form 14653 (January 2015)	Department of the Treasury - Internal Revenue Service Certification by U.S. Person Residing Outside of the United States for Streamlined Foreign Offshore Procedures	OMB Number 1545-2241
Name(s) of taxpayer(s)		TIN(s) of taxpayer(s)

Note: Spouses should submit a joint certification if they are submitting joint income tax returns under the Streamlined Foreign Offshore Procedures. If this certification is a joint certification, the statements will be considered made on behalf of both spouses, even though the pronoun "I" is used. If spouses submitting a joint certification have different reasons for their failure to report all income, pay all tax, and submit all required information returns, including FBARs, they must state their individual reasons separately in the required statement of facts.

Certification

I am providing delinquent or amended income tax returns, including all required information returns, 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. The tax and interest I owe for each year are as follows

Year (list years in order)	Amount of Tax I Owe (Form 1040, line 76, or Form 1040X, line 19)	Interest	Total
			\$0.00
			\$0.00
			\$0.00
Total	\$0.00	\$0.00	\$0.00

Note: Your payment should equal the total tax and interest due for all three years. You may receive a balance due notice or a refund if the tax or interest is not calculated correctly.

I failed to report income from one or more foreign financial assets during the above period.

I meet the non-residency requirements for the Streamlined Foreign Offshore procedures.

Note: Both spouses filing a joint certification must meet the non-residency requirements.

I meet all the other eligibility requirements for the Streamlined Foreign Offshore procedures.

If I failed to timely file correct and complete FBARs for any of the last six years, I have now filed those FBARs.

I agree to retain all records related to my income and assets during the period covered by my delinquent or amended returns until three years from the date of this certification. If I was required to file delinquent FBARs in accordance with these procedures, I also agree to retain all records (including, but not limited to, account statements) related to my foreign financial accounts until six years from the date of this certification. Upon request, I agree to provide all such records to the Internal Revenue Service.

My failure to report all income, pay all tax, and submit all required information returns, including FBARs, was due to non-willful conduct. I understand that 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.

I recognize that if the Internal Revenue Service receives or discovers evidence of willfulness, fraud, or criminal conduct, it may open an examination or investigation that could lead to civil fraud penalties, FBAR penalties, information return penalties, or even referral to Criminal Investigation.

Note: You must provide specific facts on this form or on a signed attachment explaining your failure to report all income, pay all tax, and submit all required information returns, including FBARs. Any submission that does not contain a narrative statement of facts will be considered incomplete and will not qualify for the streamlined penalty relief.

Provide specific reasons for your failure to report all income, pay all tax, and submit all required information returns, including FBARs. If you relied on a professional advisor, provide the name, address, and telephone number of the advisor and a summary of the advice. If married taxpayers submitting a joint certification have different reasons, provide the individual reasons for each spouse separately in the statement of facts. The field below will automatically expand to accommodate your statement of facts.

Under penalties of perjury, I declare that I have examined this certification and all accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete.

Signature of Taxpayer	Name of Taxpayer	Date
Signature of Taxpayer (if joint certification)	Name of Taxpayer (if joint certification)	Date

For Estates Only

Signature of Fiduciary	Date
Title of Fiduciary (e.g., executor or administrator)	Name of Fiduciary

Privacy Act and Paperwork Reduction Notice

We ask for the information on this certification by U.S. person residing in the United States for streamlined domestic offshore procedures to carry out the Internal Revenue laws of the United States. Our authority to ask for information is sections 6001, 6109, 7801, 7803 and the regulations thereunder. This information will be used to determine and collect the correct amount of tax under the terms of the streamlined filing compliance program. You are not required to apply for participation in the streamlined filing compliance program. If you choose to apply, however, you are required to provide all the information requested on the streamlined certification. You are not required to provide the information requested on a document that is subject to the Paperwork Reduction Act unless the document displays a valid OMB control number. Books or records relating to a document or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103. Section 6103, however, allows or requires the Internal Revenue Service to disclose or give this information to others as described in the Internal Revenue Code. For example, we may disclose this information to the Department of Justice to enforce the tax laws, both civil and criminal, and to cities, states, the District of Columbia, and U.S. commonwealths or possessions to carry out their tax laws. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. Failure to provide this information may delay or prevent processing your application. Providing false information may subject you to penalties. The time needed to complete and submit the streamlined certification will vary depending on individual circumstances. The estimated average time is: 2 hour



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Internal Revenue Service
Attn: Christie Preston
Room 6129
1111 Constitution Ave. NW
Washington, DC 20224

**RE: Comment from FR Doc. No: 2015-19521: Form 14708, Streamlined Domestic Penalty
Reconsideration Request Related to Canadian Retirement Plans, OMB Number: 1545-2241**

Dear Ms. Preston:

We are responding to the Department of the Treasury's request for Comment on its request for OMB approval on the above-referenced form, associated with the IRS's Streamlined Domestic Offshore Procedures.

We have attempted to segregate our response into the categories of comments requested in the notice in the Federal Register.

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility:

The form currently requests that the taxpayer provide his or her telephone number, presumably to allow the taxpayer to be contacted with regards to the request. However, the form does not include any location where the taxpayer could request that his or her representative be contacted in place of the taxpayer, where a valid Form 2848 is on file. We recommend that a section is added allowing the taxpayer to designate that any contact should proceed through a representative and to list the representative's name and contact information.

The form currently requests that the taxpayer provide his or her email address, presumably to allow the taxpayer to be contacted with regards to the request. However, the IRS has expressed that its position is that email is not secure and therefore will not communicate with taxpayers via email, although some offices will if the taxpayer provides a specific request for such contact via

email and is apprised of the risks and so long as the IRS employee follows certain safeguards. Though we are wholeheartedly in favor of the IRS implementing procedures to allow for email correspondence, since the IRS has made it a policy not to do so, there appears to be no legitimate reason to request that taxpayers provide their email addresses on this or other IRS forms.

The Form 14708 contains a requirement that would require a taxpayer to retain all records related to their Canadian retirement plans and all assets subject to the 5% miscellaneous offshore penalty for six years from the date of the request for penalty reconsideration request. As noted in our response on Form 14654, this extends the requirement to retain records beyond the period that the IRS would actually have to assess penalties for failure to file FBARs or for failure to maintain records of account information related to the FBAR filing requirement. Therefore, this form appears to apply a requirement to retain records beyond the period prescribed in the laws that the program purports to be related to and serves no purpose, since the IRS would be unable to assess any penalties for failure to retain this information. Therefore, we recommend that this language is better tailored to match the relevant statutes of limitation.

(b) The accuracy of the agency's estimate of the burden of the collection of information:

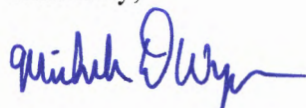
While the form as currently drafted includes an OMB number, it does not currently contain any estimate of the burden of collection of information, so we cannot determine whether the estimated burden is accurate.

(c) Ways to enhance the quality, utility, and clarity of the information to be collected:

The current draft version of the form does not allow information to be saved in the form. We recommend that the final version of the form allow information to be saved in the electronic version of the form to allow for revisions and edits to the form prior to submission.

We thank you for your consideration of this information and we would be happy to provide any additional information or feedback should such be needed or beneficial to this process.

Sincerely,



Michelle D. Wynn
Partner

Form **14708**
(June 2015)

Department of the Treasury - Internal Revenue Service

**Streamlined Domestic Penalty Reconsideration
Request Related to Canadian Retirement Plans**

OMB Number
1545-2241

Note: Before completing this form, please review the "Streamlined Filing Compliance Procedures for U.S. Taxpayers Residing in the United States Frequently Asked Questions and Answers" on www.irs.gov.

Name(s) of taxpayer(s)

TIN(s) of taxpayer(s)

Mailing address of taxpayer(s)

Telephone number of taxpayer(s)

Email address of taxpayer(s)

Note: If spouses previously submitted a joint certification, both spouses must sign this form. If this reconsideration request is a joint request, the statements will be considered made on behalf of both spouses, even though singular pronouns are used.

In my original Form 14654, Certification by U.S. Person Residing in the United States for Streamlined Domestic Offshore Procedures, I included the value of my interest in one or more **Canadian** retirement plans described in Rev. Proc. 2014-55 ("Canadian retirement plans") in the Highest Account Balance/Asset Value and paid the 5% miscellaneous offshore penalty on my **Canadian** retirement plans. I certify that I am an "eligible individual" as defined in section 4.01 of Rev. Proc. 2014-55.

I have reviewed my original Form 14654, Certification by U.S. Person Residing in the United States for Streamlined Domestic Offshore Procedures, and the documents I relied upon in preparing my certification. I have recomputed the Highest Account Balance/Asset Value and the Miscellaneous Offshore Penalty for my 3-year covered tax return period and 6-year covered FBAR period by removing the value of my **Canadian** retirement plans as follows:

Line 1. Previously Reported Miscellaneous Offshore Penalty

1. _____

Line 2. Revised Miscellaneous Offshore Penalty

2. _____

Line 3. Requested Refund of Miscellaneous Offshore Penalty (*line 1 minus line 2*)

3. _____

If your revised Highest Account Balance/Asset Value is for a year different from the Highest Account Balance/Asset Value in your original certification, please note the change below:

Original Highest Account Balance/Asset Value year

Revised Highest Account Balance/Asset Value year

Please identify your **Canadian** retirement plans below. If you need more space, you may attach additional pages to this form.

Name of Financial Institution	Address of Financial Institution	Account Number	Year-End Balance For Year With Highest Account Balance (State In U.S. Dollars)

I agree to retain all records (including, but not limited to, account statements) related to my **Canadian** retirement plans and all assets subject to the 5% miscellaneous offshore penalty until six years from the date of this penalty reconsideration request. Upon request, I agree to provide all such records to the Internal Revenue Service.

I agree that any determination made in relation to my penalty reconsideration request is final and may not be appealed.

Under penalties of perjury, I declare that I have examined this penalty reconsideration request and all accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete.

Signature of Taxpayer	Name of Taxpayer	Date
Signature of Taxpayer (if joint certification)	Name of Taxpayer (if joint certification)	Date

For Estates Only

Signature of Fiduciary	Date
Title of Fiduciary (e.g., executor or administrator)	Name of Fiduciary

This document and any attachments must be sent to:

Internal Revenue Service
3651 South I-H 35
Stop 4305 AUSC
Attn: Streamlined Unit
Austin, TX 78741

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RE: Comment from FR Doc. No: 2015-19521: Form 14654, Certification by U.S. Person Residing in the United States for Streamlined Domestic Offshore Procedures, OMB Number: 1545-2241

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We are responding to the Department of the Treasury's request for Comment on its request for OMB approval on the above-referenced form, associated with the IRS's Streamlined Domestic Offshore Procedures.

We have attempted to segregate our response into the categories of comments requested in the notice in the Federal Register.

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility:

The Streamlined Domestic Offshore Procedures call for taxpayers to amend their federal income tax returns for the "most recent 3 years for which the U.S. tax return due date (or properly extended due date) has passed." In a narrow category of cases, this results in the Streamlined department receiving amended tax returns that are beyond the Statute of Limitations on Assessment, resulting in taxpayers incurring costs to have tax returns prepared that the IRS does not have the power to accept. This happens in instances where a taxpayer filed the earliest of the years' tax returns by April 15th but filed for an extension prior to filing the most recent tax year prior to the Streamlined Submission. For example, a taxpayer filed his 2011 tax return before April 15, 2012. He then filed an extension for his 2014 tax return, and so his "amended return

period” was 2011-2013. He made a submission of his amended tax returns for 2011-2013 as required under the terms of the Streamlined Domestic Offshore Procedures on June 20, 2015. The IRS receives, but is unable to process, the amended tax return for 2011, because it is beyond the Statute of Limitations for Assessment for that year. While the Form 14654 does contain a waiver of the restrictions on assessment and collection of the miscellaneous offshore penalty, it does not have a similar restriction with regards to assessment and collection of tax and interest. While keeping the rule as it is may allow for a level of clarity that is desirable in this program, it also results in the IRS receiving amended returns that it is unable to process.

The Form 14654 contains a few provisions regarding requirements to retain records to be provided upon request in connection with the submission under the Streamlined Procedures. The requirement to retain records related to income and assets during the period covered by the delinquent or amended returns for three years after submission under the Streamlined Procedures appears to comply with other legal requirements and statutory time periods for assessment of taxes, barring the instances pertaining to our comment in the preceding paragraph. However, the form also contains a requirement that would require a taxpayer to retain all records related to their foreign financial assets for six years from the date of the Streamlined Certification. This extends the requirement to retain records beyond the period that the IRS would actually have to assess penalties for failure to file FBARs or for failure to maintain records of account information related to the FBAR filing requirement. Therefore, this form appears to apply a requirement to retain records beyond the period prescribed in the laws that the program purports to be related to and serves no purpose, since the IRS would be unable to assess any penalties for failure to retain this information. Therefore, we recommend that this language is better tailored to match the relevant statutes of limitation.

(b) The accuracy of the agency’s estimate of the burden of the collection of information:

The estimate of the burden of collection of information provided does not appear to be based on any actual studies or other accurate measurements. The estimate provided does not seem to take into account the time required to research the relevant law and guidance to be able to complete the certification. However, barring the research time necessary to determine the impact of relevant laws and guidance, the time estimate appears reasonably accurate for the average individual preparing this form on his/her own, taking into account the wide disparity in time necessary based on individual circumstances.

(c) Ways to enhance the quality, utility, and clarity of the information to be collected:

There is a typographical error in the “Note” directly under the boxes for the Name and TIN of the taxpayers. This paragraph states that spouses should submit a joint certification if they are submitting joint income tax returns under the Streamlined Foreign Offshore Procedures when the form that this phrase is written on is for the Streamlined Domestic Offshore Procedures.

On the same topic of spouses submitting a joint Certification whenever they are submitting joint income tax returns, we have spoken with many individuals who, for one reason or another, need to come into compliance by reporting foreign income that should have been reported on a federal income tax return that was filed Jointly with a spouse, when for one reason or another, the spouse intending to go through the program will not be participating in the program with the spouse that they filed jointly with. The most common instance for this is with couples that have

divorced or separated at some point between the start of the “amended return period” and the time that they would make the submission under the Streamlined Domestic Offshore Procedures. We have previously called the OVDP/Streamlined Hotline about these instances and have universally been informed that the taxpayer would be able to proceed through the program by themselves, without the involvement of their spouse. There is currently no written guidance addressing about this issue.

With regards to the OVDP/Streamlined Hotline, there is nowhere in any IRS materials that we have been able to find that advertises that the OVDP Hotline, which has existed at least since the 2012 program was unveiled, now accepts questions about the Streamlined Offshore Procedures. There is no reference to a hotline number within any of the Streamlined Offshore Procedures FAQs (either Domestic or Foreign); the only reference to this hotline is within the OVDP program information. So the people who would have most need for this service, people intending to represent themselves and needing information, are not being informed that they can seek information by calling this phone number.

The Form 14654 requests that taxpayers certify, in accordance with the program eligibility requirements, that they have previously filed original tax returns for the 3 years within the tax return look-back period. However, there is no detail available in any of the program information about the effects of a late-filed tax return. So, it remains unclear whether a taxpayer would remain eligible for the program if they filed original tax returns for all three of the prior years, but did so after the due date but prior to their Streamlined Submission.

The Form 14654 requests that taxpayers self-compute the amount of interest that they will owe on the additional tax owed on their amended returns. However, the IRS does not appear to offer any online calculators to calculate this.

It would be beneficial if the Form 14654 allowed for expanding numbers of rows in listing the foreign financial assets subject to the penalty or if there was an IRS form for an addendum to this form. Currently, the form simply specifies to attach a continuation sheet if necessary and that if a continuation sheet is attached, the taxpayer TIN(s) must be printed and it must be signed with the taxpayer name(s).

Pursuant to the FAQs for this program, the 5% penalty is not intended to apply to assets in which the taxpayer has no financial interest or the portion of assets over which the taxpayer does not have a financial interest. However, there is nowhere on the form where a taxpayer can indicate that he is discounting the value of his interest in a foreign financial asset as a result of only having a financial interest in a portion of the foreign asset. Assuming that the processing department that receives these forms is reviewing the forms to ensure accuracy, failure to allow any place for a taxpayer to make such an indication would cause unnecessary inquiries to be made by IRS personnel.

There are various assets which would be included on the FBARs and Forms 8938 for the relevant years which would not be included within the penalty computation. However, there is no location to specify which assets the taxpayer has self-determined are not includable within the penalty base or why such assets were excluded. This reduces the ability of the IRS to accurately identify taxpayer mistakes in determining which accounts should and should not be included within the penalty base.


The section requesting a narrative specifically requests that a taxpayer identify the name, address, telephone number, and description of advice received for any professional advisor on which the taxpayer relied. This implies that the IRS is compiling a list of professional advisors who incorrectly advised taxpayers for potential investigation or additional education, both of which would be excellent uses of this information. It would make this information clearer for data collection purposes if there was a special location for this information to be entered, rather than leaving it to the taxpayer to place this within the body of a narrative of facts. This would allow for quicker and easier identification of this information and an increased ability to locate the information for future use.

In our experience, many people seek the assistance of professionals in preparing this form. Therefore, it would seem to be appropriate to include a location for a professional to sign the declaration as well. This will also allow for enhanced professional review by the Office of Professional Responsibility, should it be found that some tax professionals are improperly submitting documents under these procedures. Similar reasons are used for having professionals sign on OVDP documents, IRS Collection Alternative requests, and tax returns that they prepare.

Many people who seek our advice about potentially pursuing the Streamlined Programs are concerned about the certification under penalties of perjury. Their concern is that if the IRS disagrees with their self-assessment of their legal state of mind and later determines that they were not "non-willful", that they will be subjected to penalties. It is our understanding that so long as the facts contained in the narrative statement, all factual information with regards to account information, and all other fact-based information on the form is accurate, and so long as the person signing the form has a reasonable belief and understanding that their facts meet the provided description of non-willful conduct, that the taxpayer will not be subject to potential penalties for perjury. We recommend that the IRS clarify, on this form or in related program materials, what exactly the taxpayer is attesting is true, correct, and complete, when they are signing this form under penalties of perjury.

We thank you for your consideration of this information and we would be happy to provide any additional information or feedback should such be needed or beneficial to this process.

Sincerely,



Michelle D. Wynn
Partner

Form 14654 (January 2015)	Department of the Treasury - Internal Revenue Service Certification by U.S. Person Residing in the United States for Streamlined Domestic Offshore Procedures	OMB Number 1545-2241
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Name(s) of taxpayer(s)	TIN(s) of taxpayer(s)
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Note: Spouses should submit a joint certification if they are submitting joint income tax returns under the Streamlined Foreign Offshore Procedures. If this certification is a joint certification, the statements will be considered made on behalf of both spouses, even though the pronoun "I" is used. If spouses submitting a joint certification have different reasons for their failure to report all income, pay all tax, and submit all required information returns, including FBARs, they must state their individual reasons separately in the required statement of facts.

Certification

I am providing amended income tax returns, including all required information returns, 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. I previously filed original tax returns for these years. The tax and interest I owe for each year are as follows

Year (list years in order)	Amount of Tax I Owe (Form 1040X, line 19)	Interest	Total
			\$0.00
			\$0.00
			\$0.00
Total	\$0.00	\$0.00	\$0.00

I failed to report income from one or more foreign financial assets during the above period.

I meet all the eligibility requirements for the Streamlined Domestic Offshore procedures.

If I failed to timely file correct and complete FBARs for any of the last 6 years, I have now filed those FBARs.

During each year in either my 3-year covered tax return period or my 6-year covered FBAR period, my foreign financial assets subject to the 5% miscellaneous offshore penalty were as follows

Year

Name, City, and Country of Financial Institution/Description of Asset	Account Number	Year Account Was Opened or Asset Was Acquired	Year-End Balance/ Asset Value (state in US Dollars)
Total			\$0.00

If you held no assets subject to the 5% miscellaneous offshore penalty during this year enter "N/A" next to "Total" in the above table. Attach a continuation sheet if necessary. If you attach a continuation sheet, it must be signed with taxpayer name(s) and TIN(s) printed.

Year

Name, City, and Country of Financial Institution/Description of Asset	Account Number	Year Account Was Opened or Asset Was Acquired	Year-End Balance/ Asset Value (state in US Dollars)
Total			\$0.00

If you held no assets subject to the 5% miscellaneous offshore penalty during this year enter "N/A" next to "Total" in the above table. Attach a continuation sheet if necessary. If you attach a continuation sheet, it must be signed with taxpayer name(s) and TIN(s) printed.

Year

Name, City, and Country of Financial Institution/Description of Asset	Account Number	Year Account Was Opened or Asset Was Acquired	Year-End Balance/ Asset Value (state in US Dollars)
Total			\$0.00

If you held no assets subject to the 5% miscellaneous offshore penalty during this year enter "N/A" next to "Total" in the above table. Attach a continuation sheet if necessary. If you attach a continuation sheet, it must be signed with taxpayer name(s) and TIN(s) printed.

Year

Name, City, and Country of Financial Institution/Description of Asset	Account Number	Year Account Was Opened or Asset Was Acquired	Year-End Balance/ Asset Value (state in US Dollars)
Total			\$0.00

If you held no assets subject to the 5% miscellaneous offshore penalty during this year enter "N/A" next to "Total" in the above table. Attach a continuation sheet if necessary. If you attach a continuation sheet, it must be signed with taxpayer name(s) and TIN(s) printed.

Year

Name, City, and Country of Financial Institution/Description of Asset	Account Number	Year Account Was Opened or Asset Was Acquired	Year-End Balance/ Asset Value (state in US Dollars)
Total			\$0.00

If you held no assets subject to the 5% miscellaneous offshore penalty during this year enter "N/A" next to "Total" in the above table. Attach a continuation sheet if necessary. If you attach a continuation sheet, it must be signed with taxpayer name(s) and TIN(s) printed.

Year

Name, City, and Country of Financial Institution/Description of Asset	Account Number	Year Account Was Opened or Asset Was Acquired	Year-End Balance/ Asset Value (state in US Dollars)
Total			\$0.00

If you held no assets subject to the 5% miscellaneous offshore penalty during this year enter "N/A" next to "Total" in the above table. Attach a continuation sheet if necessary. If you attach a continuation sheet, it must be signed with taxpayer name(s) and TIN(s) printed.

Year

Note: Use this seventh year only if your 3-year covered tax return period does not completely overlap with your 6-year covered FBAR period (for example, if your 3-year covered tax return period is 2011 through 2013 because the due date for your 2013 tax return is passed, but your covered FBAR period is 2007 through 2012 because the due date for the 2013 FBAR has not passed).

Name, City, and Country of Financial Institution/Description of Asset	Account Number	Year Account Was Opened or Asset Was Acquired	Year-End Balance/ Asset Value (state in US Dollars)
Total			\$0.00

If you held no assets subject to the 5% miscellaneous offshore penalty during this year enter "N/A" next to "Total" in the above table. Attach a continuation sheet if necessary. If you attach a continuation sheet, it must be signed with taxpayer name(s) and TIN(s) printed.

The assets listed in this certification are my only foreign financial assets subject to the 5% miscellaneous offshore penalty.

My penalty computation is as follows

Highest Account Balance/Asset Value (enter the highest total balance/asset value among the years listed above)	
Miscellaneous Offshore Penalty (Highest Account Balance/Asset Value from above multiplied by 5%)	

My payment information is as follows

Total Tax and Interest Due	
Miscellaneous Offshore Penalty	
Total Payment	

Note: Your payment should equal the total tax and interest due for all three years, plus the miscellaneous offshore penalty. You may receive a balance due notice or a refund if the tax, interest, or penalty is not calculated correctly.

In consideration of the Internal Revenue Service's agreement not to assert other penalties with respect to my failure to report foreign financial assets as required on FBARs or Forms 8938 or my failure to report income from foreign financial assets, I consent to the immediate assessment and collection of a Title 26 miscellaneous offshore penalty for the most recent of the three tax years for which I am providing amended income tax returns. I waive all defenses against and restrictions on the assessment and collection of the miscellaneous offshore penalty, including any defense based on the expiration of the period of limitations on assessment or collection. I waive the right to seek a refund or abatement of the miscellaneous offshore penalty.

I agree to retain all records (including, but not limited to, account statements) related to my assets subject to the 5% miscellaneous offshore penalty until six years from the date of this certification. I also agree to retain all records related to my income and assets during the period covered by my amended income tax returns until three years from the date of this certification. Upon request, I agree to provide all such records to the Internal Revenue Service.

My failure to report all income, pay all tax, and submit all required information returns, including FBARs, was due to non-willful conduct. I understand that 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.

I recognize that if the Internal Revenue Service receives or discovers evidence of willfulness, fraud, or criminal conduct, it may open an examination or investigation that could lead to civil fraud penalties, FBAR penalties, information return penalties, or even referral to Criminal Investigation.

Note: You must provide specific facts on this form or on a signed attachment explaining your failure to report all income, pay all tax, and submit all required information returns, including FBARs. Any submission that does not contain a narrative statement of facts will be considered incomplete and will not qualify for the streamlined penalty relief.

Provide specific reasons for your failure to report all income, pay all tax, and submit all required information returns, including FBARs. If you relied on a professional advisor, provide the name, address, and telephone number of the advisor and a summary of the advice. If married taxpayers submitting a joint certification have different reasons, provide the individual reasons for each spouse separately in the statement of facts. The field below will automatically expand to accommodate your statement of facts.

Under penalties of perjury, I declare that I have examined this certification and all accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete.

Signature of Taxpayer	Name of Taxpayer	Date
Signature of Taxpayer <i>(if joint certification)</i>	Name of Taxpayer <i>(if joint certification)</i>	Date

For Estates Only

Signature of Fiduciary	Date
Title of Fiduciary <i>(e.g., executor or administrator)</i>	Name of Fiduciary

Privacy Act and Paperwork Reduction Notice

We ask for the information on this certification by U.S. person residing in the United States for streamlined domestic offshore procedures to carry out the Internal Revenue laws of the United States. Our authority to ask for information is sections 6001, 6109, 7801, 7803 and the regulations thereunder. This information will be used to determine and collect the correct amount of tax under the terms of the streamlined filing compliance program. You are not required to apply for participation in the streamlined filing compliance program. If you choose to apply, however, you are required to provide all the information requested on the streamlined certification. You are not required to provide the information requested on a document that is subject to the Paperwork Reduction Act unless the document displays a valid OMB control number. Books or records relating to a document or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103. Section 6103, however, allows or requires the Internal Revenue Service to disclose or give this information to others as described in the Internal Revenue Code. For example, we may disclose this information to the Department of Justice to enforce the tax laws, both civil and criminal, and to cities, states, the District of Columbia, and U.S. commonwealths or possessions to carry out their tax laws. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. Failure to provide this information may delay or prevent processing your application. Providing false information may subject you to penalties. The time needed to complete and submit the streamlined certification will vary depending on individual circumstances. The estimated average time is: 2 hour



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Tax Attorneys for Tax Problems

Parent, Parent & Wynn LLP

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Wallingford, CT 06492
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October 7, 2015

Internal Revenue Service
Attn: Christie Preston
Room 6129
1111 Constitution Ave. NW
Washington, DC 20224

RE: Comment from FR Doc. No: 2015-19521: Form 14453, Penalty Computation Worksheet, OMB Number: 1545-2241

Dear Ms. Preston:

We are responding to the Department of the Treasury's request for Comment on its request for OMB approval on the above-referenced form, associated with the IRS's Offshore Voluntary Disclosure Program.

We have attempted to segregate our response into the categories of comments requested in the notice in the Federal Register.

Overall, the April 2014 version of this form, the version currently in use, is the most easy to use of all OVDP forms currently released.

(c) Ways to enhance the quality, utility, and clarity of the information to be collected:

Currently, information is not able to be saved in the electronic version of the form. We recommend that the form be revised to allow information to be saved in the electronic version of the form, as this improves the ability to carefully review and edit information.

It would be best if this form could have a location to enter the financial institution name, or description of asset, in addition to the account number.

It would also be ideal if there were some location on this form to explain special circumstances, such as transfers between accounts, that would reduce the value listed on the Penalty

Computation Worksheet from what is being reported on the FBARs. Allowing space to indicate this directly on the form would reduce unnecessary back and forth between the Revenue Agents and taxpayers when the Revenue Agents are certifying this information.

We thank you for your consideration of this information and we would be happy to provide any additional information or feedback should such be needed or beneficial to this process.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michelle D. Wynn", is positioned above the printed name.

Michelle D. Wynn
Partner

Penalty Computation Worksheet

OMB Number
1545-2241

Taxpayer name

Identifying number

Enter the account number for each offshore account for each applicable tax year. Enter the appropriate tax year for each account. If you have additional accounts, use the "Add New Account Number" button. For each year of your voluntary disclosure, provide the highest balance in the account (or fair market value of the asset).

Account Number	2010							
Highest Aggregate Balance (in U.S. Dollars)								

Offshore Penalty Computation

Highest aggregate balance is in year

Multiply the highest aggregate balance by the appropriate penalty amount (27.5% or 50%) to determine the Calculated Offshore Penalty. **Enter the result here.**

Highest aggregate balance in USD is

Taxpayer/Representative Signatures

Under the penalties of perjury, I declare that I examined the facts stated in this Penalty Computation Worksheet, including any accompanying documents, and, to the best of my knowledge and belief, they are true, correct, and complete.

Signature of Taxpayer

Date signed

Signature of Taxpayer

Date signed

Signature of Representative

Date signed

Privacy Act and Paperwork Reduction Act Notice

We ask for the information on this penalty computation worksheet to carry out the Internal Revenue laws of the United States. Our authority to ask for information is sections 6001, 6109, 7801, 7803 and the regulations thereunder. This information will be used to determine and collect the correct amount of tax under the terms of the offshore voluntary disclosure program. You are not required to apply for participation in the offshore voluntary disclosure program. If you choose to apply, however, you are required to provide all the information requested on the penalty computation worksheet.

You are not required to provide the information requested on a document that is subject to the Paperwork Reduction Act unless the document displays a valid OMB control number. Books or records relating to a document or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103. Section 6103, however, allows or requires the Internal Revenue Service to disclose or give this information to others as described in the Internal Revenue Code. For example, we may disclose this information to the Department of Justice to enforce the tax laws, both civil and criminal, and to cities, states, the District of Columbia, and U.S. commonwealths or possessions to carry out their tax laws. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. Failure to provide this information may delay or prevent processing your application. Providing false information may subject you to penalties.

The time needed to complete and submit the penalty computation worksheet will vary depending on individual circumstances. The estimated average time is: 2 hours.

If you have comments concerning the accuracy of this time estimate or suggestions for making the penalty computation worksheet simpler, we would be happy to hear from you. Comments should be sent to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, SE:W:CAR:MP:T:T:SP, Washington, DC 20224.



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October 7, 2015

Internal Revenue Service
Attn: Christie Preston
Room 6129
1111 Constitution Ave. NW
Washington, DC 20224

RE: Comment from FR Doc. No: 2015-19521: Form 14452, Foreign Account or Asset Statement, OMB Number: 1545-XXXX or OMB Number: 1545-2241 (see Para. 3 below)

Dear Ms. Preston:

We are responding to the Department of the Treasury's request for Comment on its request for OMB approval on the above-referenced form, associated with the IRS's Offshore Voluntary Disclosure Program.

We have attempted to segregate our response into the categories of comments requested in the notice in the Federal Register.

There was an issue with this form, though. The Form 14452 that was sent to our office by Mr. R. Joseph Durbala, when we requested the versions of the forms for which approval was being sought, indicates that it was last revised January 2013 and is not the same form which is currently being used which was last revised March 2013. We have assumed that the correct version of the form for which comment is being sought is the March 2013 version currently in use.

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility:

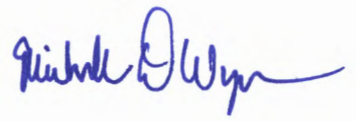
Line 17 of the form requests "FMV at 12/31/2010 if the asset is still owned." This date does not appear to have any relevance to the program requirements, including computation of the penalty, and there does not appear to be any other reason for the question to be asked.

(c) Ways to enhance the quality, utility, and clarity of the information to be collected:

There should be a location, most logically next to Line 1 requesting "Name of Foreign Financial Institution," to enter the account number for the account being discussed on the Foreign Account or Asset Statement as many taxpayers have multiple accounts with the same financial institution.

We thank you for your consideration of this information and we would be happy to provide any additional information or feedback should such be needed or beneficial to this process.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michelle D. Wynn", is written over a light gray rectangular background.

Michelle D. Wynn
Partner

Form 14452 (March 2013)	Department of the Treasury—Internal Revenue Service	Statement of
	Foreign Account or Asset Statement	OMB Number 1545-2241
Name		Social Security Number

Submit a **separate** Statement for each foreign account or asset included in your voluntary disclosure. At least one Statement must be submitted. Respond to each applicable question in the space provided—attachments are appropriate should additional space be necessary.

1. Name of Foreign Financial Institution

2. Country where Institution is located

3. Contact person at this Institution

4. Is the offshore account a bank account holding cash, money market, or CD ☐ Yes ☐ No

5. Is the offshore account a custodial account holding securities ☐ Yes ☐ No

6. Is the offshore account another type of account or asset ☐ Yes ☐ No

7. If so, what type of account or asset

Bank or Financial Accounts

8. Source of funds within the account

9. Name under which the account was held

10. If held by an entity, type of entity

11. Date account was opened

12. Date account was closed

13. Does the account include Passive Foreign Investment Company (PFIC) or mutual funds

☐ Yes

☐ No

☐ Other

Other Assets (real estate, artwork, bullion, etc.)

14. Description and location of the asset

15a. Purchase price

15b. Date acquired

16a. Sales price (if sold)

16b. Date of disposition

17. FMV at 12/31/2010 if asset is still owned

The highest value of this account and/or fair market value of asset over the period of the voluntary disclosure should be included on the Penalty Computation Worksheet.

Privacy Act and Paperwork Reduction Act Notice

We ask for the information on this foreign account or asset statement to carry out the Internal Revenue laws of the United States. Our authority to ask for information is sections 6001, 6109, 7801, 7803 and the regulations thereunder. This information will be used to determine and collect the correct amount of tax under the terms of the offshore voluntary disclosure program. You are not required to apply for participation in the offshore voluntary disclosure program. If you choose to apply, however, you are required to provide all the information requested on the foreign account or asset statement.

You are not required to provide the information requested on a document that is subject to the Paperwork Reduction Act unless the document displays a valid OMB control number. Books or records relating to a document or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103. Section 6103, however, allows or requires the Internal Revenue Service to disclose or give this information to others as described in the Internal Revenue Code. For example, we may disclose this information to the Department of Justice to enforce the tax laws, both civil and criminal, and to cities, states, the District of Columbia, and U.S. commonwealths or possessions to carry out their tax laws. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. Failure to provide this information may delay or prevent processing your application. Providing false information may subject you to penalties.

The time needed to complete and submit the foreign account or asset statement will vary depending on individual circumstances. The estimated average time is: 2 hour.

If you have comments concerning the accuracy of this time estimate or suggestions for making the foreign account or asset statement simpler, we would be happy to hear from you. Comments should be sent to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, SE:W:CAR:MP:T:T:SP, Washington, DC 20224.



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October 7, 2015

Internal Revenue Service
Attn: Christie Preston
Room 6129
1111 Constitution Ave. NW
Washington, DC 20224

RE: Comment from FR Doc. No: 2015-19521: Form 14454, Attachment to Offshore Voluntary Disclosure Letter, OMB Number: 1545-XXXX or OMB Number: 1545-2241 (see Para. 3 below)

Dear Ms. Preston:

We are responding to the Department of the Treasury's request for Comment on its request for OMB approval on the above-referenced form, associated with the IRS's Offshore Voluntary Disclosure Program.

We have attempted to segregate our response into the categories of comments requested in the notice in the Federal Register.

There was an issue with this form, though. The Form 14454 that was sent to our office by Mr. R. Joseph Durbala, when we requested the versions of the forms for which approval was being sought, indicates that it was last revised January 2013 and is not the same form which is currently being used which was last revised July 2014. We have assumed that the correct version of the form for which comment is being sought is the July 2014 version currently in use.

(c) Ways to enhance the quality, utility, and clarity of the information to be collected:

Line 2 requests that taxpayer enter the "Country, including address, where the account was established". This question could more clearly be written as "Address, including country, where the account was established."

Line 10e. requests that a taxpayer list the financial institution (complete with location), the name on the account, the amount of the transfer, and the date of transfer for any deposits to the foreign financial account for which the Attachment is being prepared that were made by funds transferred from other financial institutions. For taxpayers who frequently interacted with multiple different accounts, there would be several transfers which would need to be listed. We would recommend having these questions be in a form where the person completing the form could have multiple different lines of this information to accommodate multiple different transfers. This could be done by re-organizing the fields to be filed into a table and allowing for additional rows to be added (like on the Form 14453, Penalty Computation Worksheet).

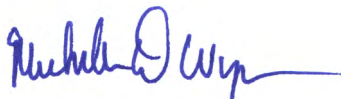
We have the same comments for Line 11e as we did for Line 10e. Line 11e also contains a typographical error where it repeats the same language as was listed in Line 10e. Line 11e should be revised to read "If funds were transferred to other financial institutions, provide the following information:" (emphasis added).

It is unclear what Line 12d is requesting. Perhaps a better wording would be "Provide the following information about the Financial Institution in the United States to which the funds were transferred" if that is what is being requested here.

There appears to be a typographical error on the Privacy Act and Paperwork Reduction Notice. The last sentence in the first paragraph of this section states "If you chose to apply, however, you are required to provide all the information requested on the foreign account or asset statement" (emphasis added). Since this line is on the Form 14457, Offshore Voluntary Disclosure Letter, and far more documents are requested than the foreign account or asset statement, it is our assumption that this line is meant to read "If you chose to apply, however, you are required to provide all the information requested on the attachment to offshore voluntary disclosure letter" (emphasis added).

We thank you for your consideration of this information and we would be happy to provide any additional information or feedback should such be needed or beneficial to this process.

Sincerely,



Michelle D. Wynn
Partner

Please ensure all pages of Form 14454 include your name, the last four digits of your taxpayer identification number, the name of the foreign financial institution, and the account number for which you are responding.

For **each** foreign financial account of which you have control or are a beneficial owner, provide the following information.

Taxpayer Name		Last Four Digits of Taxpayer Identification Number	
1a. Foreign Financial Institution Name		1b. Account Number	
2. Country, including address, where the account was established (If different, country, including address, where account is currently located)		3. Date the account was opened DO NOT LEAVE BLANK (if unsure, please estimate)	
		4a. Is the account still open? <input type="checkbox"/> Yes <input type="checkbox"/> No	
		4b. If "No," when was the account closed	
5. Identify the individual(s), affiliates and/or organization(s) (e.g., banks, independent financial advisors, trust or corporate service providers) who advised or assisted you in opening and using/maintaining the account. Include contact information for individual(s), affiliates, and/or organization(s)			

6a. Explain all communications you had regarding the opening and use/maintenance of the account. Identify the individuals (whether affiliated with the foreign financial institution or independent from the financial institution), dates, and form (e.g., face-to-face meeting, phone, email, fax, etc.) of the communication.

6b. Any meetings, phone calls, faxes, emails, or any other communications from these individuals to you in the U.S.?

Taxpayer ☐ Yes ☐ No

Spouse ☐ Yes ☐ No

Related entities ☐ Yes ☐ No

If "Yes," where

6c. Are any of the individuals a business person (advisor), accountant, attorney, or return preparer in the U.S.?

Taxpayer ☐ Yes ☐ No

Spouse ☐ Yes ☐ No

Related entities ☐ Yes ☐ No

If "Yes," identify which organization(s)

7. With respect to communications you had about your foreign financial account, provide the following:

7a. Did a representative of the foreign financial institution or advisor visit you in the United States regarding the offshore account?

Taxpayer ☐ Yes ☐ No

Spouse ☐ Yes ☐ No

Related entities ☐ Yes ☐ No

7b. Did a representative of the foreign financial institution or advisor suggest to you the use of offshore accounts, offshore investments, offshore entities, or particular foreign countries as a way of avoiding the disclosure of your ownership of the account or avoiding taxes?

Taxpayer ☐ Yes ☐ No

Spouse ☐ Yes ☐ No

Related entities ☐ Yes ☐ No

If "Yes," provide the dates and locations for all meetings

Taxpayer Name	Last Four Digits of Taxpayer Identification Number
1a. Foreign Financial Institution Name	1b. Account Number

7c. Did a representative of the foreign financial institution or advisor suggest to you the use of practices, such as holding mail at the institution, using prepaid phone cards, using credit or debit cards, communicating via fax or email, bank storage of account documentation, or conducting face-to-face meetings, to avoid the disclosure of your ownership of the account?

Taxpayer ☐ Yes ☐ No

Spouse ☐ Yes ☐ No

Related entities ☐ Yes ☐ No

7d. Did a representative of the foreign financial institution, one of its U.S. subsidiaries, or advisor provide services in the U.S. related to offshore accounts (e.g., facilitating opening accounts, reviewing account activity, forwarding account statements, providing investment and/or tax advice, etc.)?

Taxpayer ☐ Yes ☐ No

Spouse ☐ Yes ☐ No

Related entities ☐ Yes ☐ No

7e. Did a representative of the foreign financial institution or advisor suggest you meet in a jurisdiction outside the U.S. and other than where the institution is located?

Taxpayer ☐ Yes ☐ No

Spouse ☐ Yes ☐ No

Related entities ☐ Yes ☐ No

If "Yes," provide the dates and locations for all meetings _____

7f. Did a representative of the foreign financial institution or advisor suggest you either not file a voluntary disclosure with the IRS or repatriate the foreign funds into the U.S.?

Taxpayer ☐ Yes ☐ No

Spouse ☐ Yes ☐ No

Related entities ☐ Yes ☐ No

7g. Did an advisor or other person attempt to influence you to move funds from one foreign financial institution to another or from one foreign country to another?

Taxpayer ☐ Yes ☐ No

Spouse ☐ Yes ☐ No

Related entities ☐ Yes ☐ No

8a. What documentation was received by or shown to you regarding opening and maintenance of the account (e.g., account statements, account opening documents, etc.)?

8b. Who showed you the documentation and when?

8c. Did you retain any of the documents?

Taxpayer ☐ Yes ☐ No

Spouse ☐ Yes ☐ No

Related entities ☐ Yes ☐ No

If "Yes," identify the documents retained _____

If "No," explain why you did not retain them _____

9. Were you able to make deposits to or withdrawals from your account through the use of a U.S. domestic branch office of the foreign financial institution?

Taxpayer ☐ Yes ☐ No

Spouse ☐ Yes ☐ No

Related entities ☐ Yes ☐ No

Taxpayer Name	Last Four Digits of Taxpayer Identification Number
1a. Foreign Financial Institution Name	1b. Account Number

10a. Did you or someone on your behalf make deposits (beyond the initial opening deposit) to the account?

Taxpayer ☐ Yes ☐ No
 Spouse ☐ Yes ☐ No
 Related entities ☐ Yes ☐ No

Entity name _____ Telephone number _____

Address _____

If "Yes," respond to the following:

10b. How did you make a deposit (e.g., in person, online, phone, ATM, use of third-party, etc.)? _____

10c. What form were the deposits in (e.g., cash, check, wire, traveler's check, etc.)? _____

10d. What documents did you receive when a deposit was made (e.g., receipt, credit memo, etc.)? _____

10e. If funds were transferred from other financial institutions, provide the following information:

Financial Institution(s)/Location(s) _____

Name on account(s) _____

Amount of transfer(s) _____

Date(s) of transfer _____

11a. Did you or someone on your behalf withdraw money from the account?

Taxpayer ☐ Yes ☐ No
 Spouse ☐ Yes ☐ No
 Related entities ☐ Yes ☐ No

Entity name _____ Telephone number _____

Address _____

If "Yes," respond to the following:

11b. How were the funds withdrawn (e.g., in person, online, phone, ATM, use of third-party, etc.)? _____

11c. What form were the withdrawals in (e.g., cash, check, wire, debit, etc.)? _____

11d. What documents were received when a withdrawal was made (e.g., receipt, debit memo, etc.)? _____

11e. If funds were transferred from other financial institutions, provide the following information:

Financial Institution(s)/Location(s) _____

Name on account(s) _____

Amount of transfer(s) _____

Date(s) of transfer _____

12a. Did you move any funds into the United States during the life of the account?

Taxpayer ☐ Yes ☐ No
 Spouse ☐ Yes ☐ No
 Related entities ☐ Yes ☐ No

Entity name _____ Telephone number _____

Address _____

If "Yes," respond to the following:

12b. In what form did you move the funds (e.g., cash, check, wire, bank checks, etc.)? _____

12c. Did you engage in any transactions or series of transactions or use any third parties or other methods or schemes to move the money back into the United States (e.g., loans, business invoices, other entities, third parties, etc.)? If yes, explain and identify all individuals and entities involved

Taxpayer Name	Last Four Digits of Taxpayer Identification Number
1a. Foreign Financial Institution Name	1b. Account Number

12d. Provide the following information about the Financial Institution:

Financial Institution(s)/Location(s) _____

Name on account(s) _____

Amount of transfer(s) _____

Date(s) of transfer _____

13a. Did you move any funds to a country outside the jurisdiction of the country where the account was held?

Taxpayer ☐ Yes ☐ NoSpouse ☐ Yes ☐ NoRelated entities ☐ Yes ☐ No

Entity name _____ Telephone number _____

Address _____

13b. If funds were transferred to other financial institutions, provide the following information:

Financial Institution(s)/Location(s) _____

Name on account(s) _____

Amount of transfer(s) _____

Date(s) of transfer _____

14a. Are there other individuals affiliated with the account(s)?

Taxpayer ☐ Yes ☐ NoSpouse ☐ Yes ☐ No

14b. If "Yes," identify each person affiliated with each account, including the nature of their relationship to the account (e.g., owner, beneficial owner, power of attorney, signatory authority, etc.)

15a. Is an entity affiliated with the account(s)?

Taxpayer ☐ Yes ☐ NoSpouse ☐ Yes ☐ No

If "Yes," respond to the following for each entity:

15b. Identify the entity, including the nature of its relationship to the account (e.g., nominee owner, beneficial owner, power of attorney, parent entity of corporate account holder, etc.)

15c. Identify the entity's formal structure (e.g., corporation, foundation, trust, etc.) _____

15d. Identify the country where the entity was organized _____

15e. Identify the individual(s) and/or organization(s) (e.g., the foreign bank, an outside professional, etc.) who suggested forming the entity and who formed the entity

15f. Identify the individual(s) or organization(s) that managed the entity _____

15g. Is the entity still in existence?

Taxpayer ☐ Yes ☐ NoSpouse ☐ Yes ☐ No

Taxpayer Name	Last Four Digits of Taxpayer Identification Number
1a. Foreign Financial Institution Name	1b. Account Number

15h. Was a business person (advisor), accountant, attorney, or return preparer in the U.S. involved in setting up the entity or in advising its use?

Taxpayer ☐ Yes ☐ No

Spouse ☐ Yes ☐ No

If "Yes," identify the individual(s) _____

15i. Was a U.S. bank, brokerage firm or other financial services company involved in setting up the entity or in advising its use?

Taxpayer ☐ Yes ☐ No

Spouse ☐ Yes ☐ No

If "Yes," identify the bank, firm, or company _____

Privacy Act and Paperwork Reduction Act Notice

We ask for the information on this foreign account or asset statement to carry out the Internal Revenue laws of the United States. Our authority to ask for information is sections 6001, 6109, 7801, 7803 and the regulations thereunder. This information will be used to determine and collect the correct amount of tax under the terms of the offshore voluntary disclosure program. You are not required to apply for participation in the offshore voluntary disclosure program. If you choose to apply, however, you are required to provide all the information requested on the foreign account or asset statement.

You are not required to provide the information requested on a document that is subject to the Paperwork Reduction Act unless the document displays a valid OMB control number. Books or records relating to a document or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103. Section 6103, however, allows or requires the Internal Revenue Service to disclose or give this information to others as described in the Internal Revenue Code. For example, we may disclose this information to the Department of Justice to enforce the tax laws, both civil and criminal, and to cities, states, the District of Columbia, and U.S. commonwealths or possessions to carry out their tax laws. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. Failure to provide this information may delay or prevent processing your application. Providing false information may subject you to penalties.

The time needed to complete and submit the foreign account or asset statement will vary depending on individual circumstances. The estimated average time is: 2 hour.

If you have comments concerning the accuracy of this time estimate or suggestions for making the foreign account or asset statement simpler, we would be happy to hear from you. Comments should be sent to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, SE:W:CAR:MP:T:T:SP, Washington, DC 20224.



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Tax Attorneys for Tax Problems

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Wallingford, CT 06492
(203) 269-6699
www.irsmedic.com

October 7, 2015

Internal Revenue Service
Attn: Christie Preston
Room 6129
1111 Constitution Ave. NW
Washington, DC 20224

RE: Comment from FR Doc. No: 2015-19521: Form 14457, Offshore Voluntary Disclosure Letter, OMB Number: 1545-XXXX or OMB Number: 1545-2241 (see Para. 3 below)

Dear Ms. Preston:

We are responding to the Department of the Treasury's request for Comment on its request for OMB approval on the above-referenced form, associated with the IRS's Offshore Voluntary Disclosure Program.

We have attempted to segregate our response into the categories of comments requested in the notice in the Federal Register.

There was an issue with this form, though. The Form 14457 that was sent to our office by Mr. R. Joseph Durbala, when we requested the versions of the forms for which approval was being sought, indicates that it was last revised January 2013 and is not the same form which is currently being used which was last revised July 2014. We have assumed that the correct version of the form for which comment is being sought is the July 2014 version currently in use.

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility:

Question 6 asks "Have any of the offshore accounts you are disclosing been identified by the IRS as ineligible for this program?" More than a year ago, the IRS indicated that it would create a "black list" of foreign institutions where if a taxpayer had accounts with that institution, the IRS would not allow them to make a voluntary disclosure. But, when the IRS issued its revised program terms in 2014, it apparently decided instead to create a list of financial institutions for

which there would be an increased Miscellaneous Offshore Penalty if the taxpayer had accounts with that institution. Since the IRS has not established any method or circumstances under which accounts would be identified as being “ineligible for the program” there is no reason for this question. It may be more useful to substitute a question about whether the taxpayer has accounts which are on the list of financial institutions for which there is an increased penalty.

Question 9 asks whether the taxpayer believes that the IRS has obtained information concerning his/her tax liability. Presumably any person who has an account with a financial institution or a financial institution in a foreign country that has indicated a willingness to make reports under the FATCA reporting obligations or intergovernmental agreement would have reason to believe that the IRS has received information about his/her tax liability. This question would also not have any bearing on program eligibility or a difference in how the OVDP matter would be considered by the IRS. Therefore, this question appears to serve no useful purpose.

(c) Ways to enhance the quality, utility, and clarity of the information to be collected:

The form appears to be misleading as to the requirements with regards to spousal participation in the program. At the top of the form, it states: “If you filed jointly at any point during the past eight years, your spouse should also apply for the OVDP by answering the questions below.” The FAQs for the program indicate that spouses have a decision whether to submit a joint or separate disclosure and all references to spouses indicate that the relevant steps should be completed if each spouse “desires” or “wishes” to participate in the program. There are occasionally situations where one taxpayer intends to proceed through the OVDP and, for a myriad of possible reasons, their spouse for some or all of the OVDP period does not intend to proceed through the program at all. In our experience, it has been the long-standing practice of the IRS to allow only one spouse to enter the OVDP, but to strongly encourage the other spouse to participate as well. However, this practice is not reflected in writing anywhere, other than a negative inference from the FAQ, and the language of the Disclosure Letter gives a person the impression that having only one spouse participate in the program is not permissible. We recommend that the IRS address such a situation in writing and revise the language on the Disclosure Application in accordance with the written guidance.

On Line 1f-1g, the form requests that the taxpayer and spouse separately list their “Passport Number(s)” and “Country(ies).” However, there is not space to list multiple entries in any of these fields even though many participants would have passports issued by multiple different countries.

On Line 1.i. – Line 1.k., the form requests that the taxpayer and spouse separately list their “Bank Name(s)”, “Name on Bank Account,” and “Bank Account Number(s).” However, there is not space to list multiple entries in any of these fields even though, in our experience, taxpayers participating in the program typically have more than one bank account. Additionally, this request is duplicative as it will also be listed on the relevant attachments.

There is a “Note” between Line 1 and Line 2 that indicates that Estates must include a court document or Form 56 verifying who is authorized to sign the Form 2848. However, nowhere on the form, within the FAQ, or on the “How to Make an Offshore Voluntary Disclosure Page,” does it indicate that a Form 2848 should be submitted with the Disclosure Application if a representative is being appointed.

Some IRS Revenue Agents involved in the OVDP process allow/request authorized representatives to communicate with them via email (while observing the safeguards that have been established for email communications). Additionally, the draft Form 14708 requested taxpayer email addresses, indicating that the IRS intends to expand employee usage of email for communication. If this is a trend that the IRS is seeking to encourage, it would make sense to request the email address for Authorized Representatives along with the other contact information being requested on Line 2.

Line 3 of the form asks taxpayers to indicate whether the Voluntary Disclosure is Offshore Only or is for both Offshore and Domestic issues. If a taxpayer indicates both Offshore and Domestic issues are present, the department processing these requests will then send an Application for Domestic Voluntary Disclosure (which is not presently publicly available on the IRS website). It would be helpful to make that form publicly available and to direct taxpayers to submit that form if checking the box that the disclosure is for both offshore and domestic issues.

Line 4 asks taxpayers to answer “How did you learn about the Offshore Voluntary Disclosure Program?” Our assumption is that this is being asked, at least in part, to aid the IRS in targeting which efforts have been most effective to alert people about the program. To aid in better identifying these efforts, offering a preset selection menu (either as a drop down menu or check box), and allowing a category for “Other” for write-in answers, would allow the IRS to more quickly identify and make use of this information. That method would also allow for use of automated programs that could scan for such information and compile a database of the answers to allow for better and easier access to the information.

Line 10 requests that taxpayers indicate the Highest Aggregate Account/Asset Value per year. The PDF form allows for people to check multiple different value ranges per year. Adjusting the available fields in this section to allow only one value range to be selected could reduce the frequency of improper entries.

While Line 10 requests that taxpayers indicate the Highest Aggregate Account/Asset Value per year, Line 10a only requests that taxpayers list their foreign accounts and does not request any information about other foreign assets. Similarly, there is no requirement to submit an Offshore Voluntary Disclosure Letter Attachment for foreign assets that are not financial accounts. Therefore, at no point during the Disclosure Application process would the IRS learn if a taxpayer had, for example, multiple foreign rental properties that would be disclosed or multiple foreign business entities, if the taxpayer did not have control (or beneficial ownership) over the entity’s financial accounts.

With regards to Line 10a and 11a, for taxpayers who have many different accounts that are being reported, which is quite common, there is insufficient space available to list all foreign accounts that would need to be listed. Having this field be an expanding field that would expand to fit the size of the information being entered would better accommodate such situations. Alternatively, the request for this information could be removed from the form since these entries should match the entries for which the taxpayers are required to submitted Disclosure Letter Attachments.

In our experience, many people seek the assistance of professionals in preparing this form. Therefore, it would seem to be appropriate to include a location for a professional to sign the declaration as well. This will also allow for enhanced professional review by the Office of

Professional Responsibility, should it be found that some tax professionals are improperly submitting documents under these procedures. Similar reasons are used for having professionals sign on OVDP documents, IRS Collection Alternative requests, and tax returns that they prepare.

There appears to be a typographical error on the Privacy Act and Paperwork Reduction Notice. The last sentence in the first paragraph of this section states "If you chose to apply, however, you are required to provide all the information requested on the foreign account or asset statement" (emphasis added). Since this line is on the Form 14457, Offshore Voluntary Disclosure Letter, and far more documents are requested than the foreign account or asset statement, it is our assumption that this line is meant to read "If you chose to apply, however, you are required to provide all the information requested on the offshore voluntary disclosure letter" (emphasis added).

We thank you for your consideration of this information and we would be happy to provide any additional information or feedback should such be needed or beneficial to this process.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michelle D. Wynn", is written over a light blue rectangular background.

Michelle D. Wynn
Partner

Form **14457**
(July 2014)

Department of the Treasury—Internal Revenue Service
Offshore Voluntary Disclosure Letter

OMB Number
1545-2241

If taxpayer has domestic issues only, please have them apply for a traditional voluntary disclosure.

Submit Form 14457 to: Internal Revenue Service
Voluntary Disclosure Coordinator
1-D04-100
2970 Market Street
Philadelphia, PA 19104

To assist in a timely determination of acceptance into the Voluntary Disclosure Program (for Voluntary Disclosures involving offshore accounts), the Taxpayer must address **all** of the following items. All answers and attachments must be in English.

If you filed jointly at any point during the past eight years, your spouse should also apply for the OVDP by answering the questions below.

Date		
1a. Name Taxpayer	1b. Taxpayer Identification Number Taxpayer	1c. Date of Birth Taxpayer
Spouse	Spouse	Spouse
1d. Address Taxpayer	1e. Telephone number Taxpayer	
Spouse	Spouse	
1f. Passport Number(s) Taxpayer	1g. Country(ies) Taxpayer	1h. Current Occupation Taxpayer
Spouse	Spouse	Spouse
1i. Bank Name(s) Taxpayer	1j. Name on Bank Account Taxpayer	1k. Bank Account Number(s) Taxpayer
Spouse	Spouse	Spouse

Note: Estates must include a court document or Form 56 verifying who is authorized to sign the Form 2848.

2a. Taxpayer Representative	2b. Phone Number
-----------------------------	------------------

2c. Address of Taxpayer Representative

3. Type of Voluntary Disclosure ☐ Offshore Only ☐ Offshore and Domestic

4. How did you learn about the Offshore Voluntary Disclosure Program?

5. Identify the Source of Funds

- ☐ U.S. Wages ☐ U.S. Business Income ☐ Gift/Inheritance ☐ Foreign Wages
☐ Foreign Business Income ☐ Illegal Source ☐ Other
a. Explanation

6. Have any of the offshore accounts you are disclosing been identified by the IRS as ineligible for this program?

- Taxpayer ☐ Yes ☐ No
Spouse ☐ Yes ☐ No

7. Has anyone, including a foreign government or a foreign financial institution, advised you that your offshore account records, which are the subject of this voluntary disclosure, were susceptible to being turned over to the U.S. Government pursuant to an official request?

- Taxpayer ☐ Yes ☐ No
Spouse ☐ Yes ☐ No

a. If "Yes," did you or anyone on your behalf submit documents in opposition?

- Taxpayer ☐ Yes ☐ No
Spouse ☐ Yes ☐ No

- b. If "Yes," were copies of those documents provided to the Attorney General of the United States as required by 18 USC §3506?
- Taxpayer ☐ Yes ☐ No
- Spouse ☐ Yes ☐ No
8. Disclose if you or any related entities currently under audit or criminal investigation by the Internal Revenue Service or any other law enforcement authority?
- a. Has the IRS notified you, your spouse or any related entities that it intends to commence an examination or investigation?
- Taxpayer ☐ Yes ☐ No
- Spouse ☐ Yes ☐ No
- Related entities ☐ Yes ☐ No
- b. Are you, your spouse or any related entities under criminal investigation by any law enforcement authority?
- Taxpayer ☐ Yes ☐ No
- Spouse ☐ Yes ☐ No
- Related entities ☐ Yes ☐ No
- c. If "Yes," please explain.

9. Do you believe that the IRS has obtained information concerning your tax liability? ☐ Yes ☐ No
- If "Yes," please specify.

10. Please check the box to estimate the annual range of the highest aggregate value of your offshore accounts.

Highest Aggregate Account/Asset Value	Tax Year	Tax Year	Tax Year	Tax Year	Tax Year	Tax Year	Tax Year	Tax Year
\$0 to \$100,000								
\$100,000 to \$1,000,000								
\$1,000,000 to \$2,500,000								
\$2,500,000 to \$10,000,000								
\$10,000,000 to \$100,000,000								
Greater than \$100,000,000								

a. Please list all of your accounts

11. Please check the box to estimate the range of potential total unreported *income* from the offshore account(s) during each disclosure period.

Estimated Total Unreported Income	Tax Year	Tax Year	Tax Year	Tax Year	Tax Year	Tax Year	Tax Year	Tax Year
\$0 to \$100,000								
\$100,000 to \$1,000,000								
\$1,000,000 to \$2,500,000								
\$2,500,000 to \$10,000,000								
Greater than \$10,000,000								

a. Please list all of your accounts for which there is unreported income

For each foreign financial account of which you have control or are a beneficial owner, complete the attached Form 14454, Attachment to Offshore Voluntary Disclosure Letter. Please ensure all pages of the attachment include your name, the last four digits of your taxpayer identification number, the name of the foreign financial institution, and the account number for which you are responding.

To be included with all Forms 14457:

By signing this document, I certify that I am willing to continue to cooperate with the Internal Revenue Service, including in assessing my income tax liabilities and making good faith arrangements to pay all taxes, interest, and penalties associated with this voluntary disclosure.

Under penalties of perjury, I declare that I have examined this document, all attachments, and accompanying statements, and to the best of my knowledge and belief, they are true, correct, and complete.

Signature of Taxpayer	Print Name	Date

Signature of Taxpayer's Spouse	Print Name	Date

Signature must be original (must be mailed), preferably in blue ink. Photocopied, facsimile, or electronic signatures are not acceptable. The power of attorney may not sign the voluntary disclosure letter on behalf of the taxpayers.

IRS reserves the right to make further contacts with the taxpayer to clarify his/her submission.

Privacy Act and Paperwork Reduction Act Notice

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