

Am Law Lawyers Rush to Meet Client Needs By Tax Disclosure Deadline

By
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Be it last-minute deadlines, frantic clients, or impromptu therapy sessions, the dawn of a new tax day is here for many U.S. citizens.

October 15 is the amnesty deadline for Americans to file income tax returns with the IRS and voluntarily disclose assets stashed away in Swiss bank accounts or other offshore tax havens. And Am Law attorneys now find themselves swamped and trying to keep up with the workload.

"On top of making sure we have all these disclosures filed by close of business tomorrow, I'm still fielding calls from people who were either unaware of this [amnesty] initiative or had been holding out until the end," says Greenberg Traurig tax partner Barbara Kaplan in New York. "I expect that'll be the trend for the next 48 hours."

Clients walking through the firm's door or calling at the last minute still need to be vetted for potential conflicts, Kaplan says, adding that she has three lawyers assisting her full-time lawyers and another part-time. Most of the clients coming in at this point have either been referred to Kaplan or found her through the media, she says.

And unlike an understanding college professor willing to look the other way on a late assignment, the IRS deadline is hard and fast.

"Technically you have until midnight tomorrow night to get something postmarked, if you can find a post office that's still open," says Miller & Chevalier tax partner George Clarke III in Washington, D.C. "But a deadline is a deadline, if you miss it, too bad."

Clarke and a colleague at his firm are handling almost all of the tax amnesty work-- "that's meant the bulk of it is on us," he jokes. Forms have been filed for all clients, save for one that will be mailed tomorrow, he says. Clarke's crossing his fingers that there won't be any late-breaking emergencies.

Some of those turning to counsel as the deadline nears have made the decision not to come forward, Clarke says, noting he spoke to several individuals earlier this week that either went elsewhere or chose the non-disclosure route.

That's a risky decision fraught with complications and other mitigating factors, Kaplan says. (The Los Angeles Times reported earlier this week that many immigrant families now in the U.S.--many work in the entertainment industry--have been grappling with the implications of the deadline.)

"Some folks just want to take their chances and fly under the radar, while others have conflicting interests with family members or spouses," Kaplan says. "Most of the [clients] I'm seeing involve family groups and not just an isolated taxpayer."

Kaplan has recommended that most clients come forward. Letters by UBS to its U.S. clients notifying them that their account information will be turned over to the government has encouraged many to heed the advice to disclose, Kaplan says, adding that the Justice Department has queued up a list of 150 names from a list turned over in February for potential criminal prosecution.

Kaplan estimates that it will take the IRS at least a year to review the individual cases of those people coming forward with information. "We started voluntary disclosures before the initiative was even announced, and those cases have not yet concluded," she says. "The criminal investigation group [at the IRS] conducts the screening process at the front-end to make sure people qualify for voluntary disclosure. And that process is taking one-to-two months."

The Justice Department has charged five individuals--three former UBS employees and two non-UBS bankers--with helping American citizens avoid U.S. taxes. (Click here for a list of key figures in the government's tax evasion investigation.)

The government's chief whistleblower, former UBS private banker Bradley Birkenfeld, pled guilty to tax conspiracy charges in June 2008. Birkenfeld received a 40-month prison sentence in August after cooperating with prosecutors.

Another defendant, former UBS wealth management business chair Raoul Weil, was declared a fugitive by a federal court in January. Weil's lawyer, Aaron Marcu from Freshfields Bruckhaus Deringer, did not respond to a request for comment.

The three other defendants--Swiss bankers Mario Staggi and Hansruedi Schumacher and lawyer Matthias Rickenbach from Swiss firm Rickenbach & Partner--have also not yet entered appearances in a U.S. court. (A prosecutor in the case declined to name U.S. counsel for the trio.)

Reuters reports that the arrest of fugitive film director Roman Polanski in Switzerland on U.S. charges should give pause to Swiss bankers and lawyers with warrants out for their arrest, as traveling to other jurisdictions with less-lenient tax laws could put them at risk for extradition.