

## How Do I Choose the Right Offshore Disclosure Attorney?

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The offensive against undeclared offshore account holders has become a feeding frenzy for tax lawyers who are trying to get your offshore voluntary disclosure case. The reasons are obvious: (1) you have a very big problem with the United States Government because you are out of compliance; (2) you are extremely concerned that you and possibly other family members may be going to prison if you are on the UBS list; and, (3) you are worried that you will lose all of the money that you set aside for a rainy day. This situation is the perfect storm for the client and the perfect opportunity for the opportunistic lawyer.

You have to be very careful about choosing the right attorney to handle your offshore disclosure case. This article will help you identify some serious red flags **before** you retain an attorney. If you have already retained an attorney, it is not too late to make a change.

The major **RED FLAGS** that you have the wrong attorney for your case are listed below:

1. **The attorney is scaring the hell out of you during the initial consultation.** Scare tactics are used by some attorneys to close the deal. It is true that prison is a real possibility for certain undeclared offshore account holders who are not eligible for the voluntary disclosure program. However, the vast majority of taxpayers will likely find that they are eligible for the voluntary disclosure program. By definition, the voluntary disclosure program eliminates almost all risk of a criminal prosecution;
2. **The attorney has been quoted in the press identifying the specific number of UBS clients that they claim to represent.** The attorney is using this as marketing technique to get more cases and make more money. In my opinion, this practice is very un-ethical. Client confidentiality is a fundamental principal of the practice of law. An attorney should not be identifying the number of clients that they represent to anyone; especially the public at large. Consider the following example: An attorney is asserting to the media that he represents 50 UBS clients, but the attorney only files 30 voluntary disclosure requests with the IRS. The attorney has essentially just advised the IRS that he represents 20 clients with undeclared offshore accounts that have elected NOT to come forward. If you are 1 of the 20 clients that elected not to come forward, I suspect that you will not be too comfortable wearing the bulls eye that your attorney just painted on you.
3. **The attorney is prescribing the offshore voluntary disclosure program as the remedy to your situation without exploring the possibility of filing amended returns with a reasonable cause statement.** The primary intent of

the voluntary disclosure program is to give taxpayers who were knowingly and intentionally violating the law an opportunity to avoid criminal prosecution. If you have reasonable cause for the compliance errors, you can probably avoid the significant penalties that are part of the offshore voluntary disclosure program.

4. **The attorney does not seem to know the latest news regarding UBS, HSBC, and Credit Suisse and is speaking in general terms about the voluntary disclosure process.** The offshore banking offensives are evolving quickly. Likewise the IRS procedures used to handle a disclosure case are also evolving quickly. If the attorney cannot give you the latest updates on the offensives against UBS, HSBC, and, Credit Suisse or the offshore voluntary disclosure program, you will most certainly second guess this attorney's advice at some point in the process. There is also a very good chance that you will be forced to make a critical decision without a proper understanding of the ramifications of that decision. How can the attorney properly advise you if he is not spotting the issues because he does not understand the nuances of the program?
5. **Is the attorney that you met with during the initial consultation going to be the attorney that is actually handling your case?** It is common practice for many large firms to have the key attorney meet with you for purposes of getting the retainer agreement in place. Once you are out the door, the key attorney may be passing your file off to a young green associate. This is particularly true if your case is a small case for a big firm. Even if you have a significant relationship with the firm, you have to be certain that you have the right person handling the case.
6. **The attorney does not seem to have any novel opinion or insight into the UBS case outside of what you can read in the press for yourself.** The press should NOT be the attorney's primary source of information. The attorney should be able to develop and articulate their own opinions based upon their contacts within the DOJ and IRS. The attorney should also have experience handling cases with earlier offshore disclosure programs such as the OVCI and LCCI programs.

So how do you choose the right attorney? First, you have to confirm that the attorney has the right qualifications and is currently working offshore voluntary disclosure cases. Then, it really comes down to following your instincts and choosing an attorney that you trust. You must be comfortable with your attorney because you are the person that will have to live with the results of the representation.

Since July 2008, we have been tracking the daily news related to the UBS. The most newsworthy articles are posted to our website. My contacts within the government help us get the best and latest information possible for our clients.

Most importantly, we are representing numerous clients in the current offshore initiative. We also represented numerous clients in the two prior offshore disclosure initiatives (OVCI & LCCI). Let us help you with your offshore problem. Isn't time to start sleeping well again?

**Please call 305-576-4242 to schedule a consultation.**

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