



# Streamlined Filing Compliance Procedures for U.S. Taxpayers Residing in the United States Frequently Asked Questions and Answers

Effective for Streamlined Submissions Made On or After July 1, 2014

#	Questions	Answers
Q1.	Is the 5-percent penalty for Streamlined Domestic Offshore filers intended to reach foreign financial assets in which the taxpayer has no personal financial interest or only a partial interest?	No. Read literally, the third paragraph of the description of the scope of the Streamlined Domestic Offshore Procedures says that the penalty applies to all reportable but unreported foreign financial assets. However, the penalty is not intended to reach assets in which the taxpayer had no financial interest, such as an employer's account over which the taxpayer had only signature authority, or portions of assets in which the taxpayer had no personal financial interest. In order to address questions left open by the brief definition of assets in the penalty base in the Streamlined Domestic Offshore Procedures the Service will apply the principles announced in OVDP FAQs 31 through 33, 35.1, and 38 through 41.
Q2.	I am a U.S. resident making a Streamlined Domestic Offshore submission. In addition to foreign financial accounts and assets, I own an income producing rental property in a foreign jurisdiction that is not reportable on FBAR or Form 8938. Is the real estate included in the Streamlined Domestic Offshore penalty base?	No. Any asset (tax compliant or non-compliant) that was not the kind of asset reportable on either FBAR or Form 8938 is not included in the penalty base for the Streamlined Domestic Offshore Procedures.
Q3.	The Streamlined Domestic Offshore Procedures provide that foreign financial assets subject to the 5-percent penalty include assets that should have been, but were not, reported on Form 8938. The instructions for Form 8938 provide that any assets reported on timely filed Forms 3520 or 5471 need not be reported on Form 8938 for the same tax year. Are assets I report on delinquent Forms 3520 or 5471 excluded from the 5-percent penalty base?	No. The instruction referred to was designed to eliminate the burden of duplicate reporting and does not affect the definition of "foreign financial asset." All assets that meet the definition of "foreign financial asset" in the instructions for Form 8938 and not reported on that form should be included in the 5-percent penalty base, unless the taxpayer reported them on timely filed Forms 3520 or 5471.
Q4.	I am a U.S. resident making a Streamlined Domestic Offshore submission. I am the 100-percent owner of an incorporated business with various assets, including financial accounts. Does the 5-percent penalty base include the stock in the corporation or just the underlying financial	The penalty base includes the stock in the corporation (and not the underlying financial accounts) unless it is a disregarded entity for federal income tax purposes. Under the instructions for Form 8938, stock in a foreign corporation is a specified foreign financial asset. Whether the stock in the foreign

	accounts?	<p>corporation or the underlying foreign financial accounts are reportable on Form 8938, and therefore are included in the penalty base, depends on whether the corporation is a disregarded entity. If it is, the instructions require the reporting of the underlying foreign financial accounts, which would then be included in the penalty base. However, if the corporation is not a disregarded entity, then the instructions provide that the taxpayer is not considered the owner of the underlying assets solely as a result of the taxpayer's status as a shareholder.</p> <p>The same principle would apply to assets that are held in a foreign partnership or trust.</p>
Q5.	How should I value stock in a foreign corporation that is included in the 5-percent penalty base for Streamlined Domestic Offshore filers?	<p>Any reasonable method of valuing the stock, such as using the balance sheet on the Form 5471, for purposes of calculating the 5-percent penalty. No valuation discounts may be taken on foreign financial assets subject to the 5-percent penalty. The principles in 2014 OVDP FAQ 35.1 are applied to Streamlined Domestic Offshore submissions.</p>
Q6.	How do I calculate the 5-percent penalty for Streamlined Domestic Offshore filers?	<p>Begin the computation by identifying the assets included in the penalty base for each of the last six years. These assets include:</p> <ul style="list-style-type: none"> <li>• For each of the six years in the covered FBAR period, all foreign financial accounts (as defined in the instructions for FinCEN Form 114) in which the taxpayer has a personal financial interest that should have been, but were not reported, on an FBAR;</li> <li>• For each of the three years in the covered tax return period, all foreign financial assets (as defined in the instructions for Form 8938) in which the taxpayer has a personal financial interest that should have been, but were not, reported on Form 8938.</li> <li>• For each of the three years in the covered tax return period, all foreign financial accounts/assets (as defined in the instructions for FinCEN Form 114 or IRS Form 8938) for which gross income was not reported for that year.</li> </ul> <p>Once the assets in the penalty base have been identified for each year, enter the value of the taxpayer's personal financial interest in each asset as of December 31 of the applicable year on the Certification by U.S. Person Residing in the United States for Streamlined Domestic Offshore Procedures (Form 14654). For any year in which a foreign financial account was FBAR compliant and (for the most recent three years) in which a foreign financial asset was both Form 8938 and Form 1040 compliant, the amount entered</p>

		on the form will be zero. Once the asset values have been entered on the form, add up the totals for each year and select the highest aggregate amount as the base for the 5-percent penalty.
Q7.	I am a U.S. resident who filed compliant tax returns (including Forms 8938) and FBARs for the most recent three years for which tax returns were due. However, I failed to properly report a foreign financial asset in years prior to that and did not make a voluntary disclosure. I am otherwise eligible to make a Streamlined Domestic Offshore submission. May I make a streamlined submission and, if so, how is the 5 percent penalty calculated?	You may make a streamlined submission. Because the most recent three years are fully compliant, there will be no assets in the penalty base for those years. Follow the procedure in answer 6 above for the three years prior to that to calculate the aggregate year-end account balances and year-end asset values for each of those three years. The penalty is 5 percent of the highest aggregate amount. When making your submission, attach the certification to a Form 1040X for only the most recent tax year for which you filed an income tax return showing a zero change in tax. Please write "Streamlined Domestic Offshore" in red ink at the top of the Form 1040X.
Q8.	I have a Canadian registered retirement savings plan (RRSP), registered retirement income fund (RRIF), or other similar Canadian retirement plan. I am an "eligible individual" as defined in § 4.01 of Rev. Proc. 2014-55. Under the procedures in effect prior to the issuance of Rev. Proc. 2014-55, I did not make a timely election under Article XVIII(7) of the U.S.–Canada income tax treaty to defer U.S. income tax on undistributed income earned by my Canadian retirement plan. How should I report my Canadian retirement plan with my Streamlined submission, and will it be included in the penalty base?	Under § 4.02 of Rev. Proc. 2014-55, you are treated as having made the election. <u>See</u> Rev. Proc. 2014-55, § 7. Your Canadian retirement plan will not be included in the 5-percent penalty base. In the narrative statement of facts on Form 14654, please state that you are an "eligible individual" under Rev. Proc. 2014-55. You may need to report your Canadian retirement plan on FBARs or Forms 8938. Please refer to the instructions for these forms for more information.
Q9.	Same facts as FAQ 8 except my Canadian retirement plan is the only foreign financial asset I own or control, and, consequently, I had no unreported gross income from any foreign financial assets. Do I need to report my Canadian retirement plan under the Streamlined Domestic Offshore Procedures?	No. You do not need to report your interest in the Canadian retirement plan under the Streamlined Domestic Offshore Procedures. Please file any required delinquent FBARs pursuant to the Delinquent FBAR Submission Procedures and any required delinquent Forms 8938 with a reasonable cause statement pursuant to the Delinquent International Information Return Submission Procedures.
Q10.	Same facts as FAQ 8 except I am not an "eligible individual" because I reported as gross income on a U.S. Federal income tax return some or all of the accrued but undistributed earnings in my Canadian retirement plan. <u>See</u> § 4.01 C) of Rev. Proc. 2014-55. But I now realize I could have deferred the tax on the accrued but undistributed earnings in my Canadian	If you submit amended income tax returns through the Streamlined Domestic Offshore Procedures and meet the requirements discussed below, you will be afforded relief consistent with Rev. Proc. 2014-55 for the tax years included in your submission. This procedure is not available if you reported as gross income on a U.S. Federal income tax return accrued but undistributed earnings in a Canadian retirement plan for one or more tax years beyond the scope of your

	<p>retirement plan. Additionally, I have other tax compliance issues that need to be corrected through a Streamlined submission.</p> <p>How do I correct my reporting of accrued but undistributed earnings in my Canadian retirement plan, and will my Canadian retirement plan be included in the penalty base?</p>	<p>Streamlined submission. Additionally, this procedure is not available if you failed to report any and all distributions received from the plan as if you had made an election under Article XVIII(7) of the U.S.–Canada income tax treaty. <u>See</u> § 4.01 D) of Rev. Proc. 2014-55. In these cases, you must seek the consent of the Commissioner as directed by § 4.04 of Rev. Proc. 2014-55.</p> <p>If you qualify to use this procedure, your Canadian retirement plan will not be included in the 5-percent penalty base. In the narrative statement of facts on Form 14654, please state that you have met the other requirements to be an “eligible individual” under § 4.01 of Rev. Proc. 2014-55. <u>See</u> A), B), and D) of § 4.01 of Rev. Proc. 2014-55. Please also state that the reporting of accrued but undistributed earnings was limited to the tax years in your Streamlined submission. You may need to report your Canadian retirement plan on FBARs or Forms 8938. Please refer to the instructions for these forms for more information.</p>		
Q11.	<p>Same facts as FAQ 8 except I am not an “eligible individual” because I reported as gross income on a U.S. Federal income tax return some or all of the accrued but undistributed earnings in my Canadian retirement plan. <u>See</u> § 4.01 C) of Rev. Proc. 2014-55. But I now realize I could have deferred the tax on the accrued but undistributed earnings in my Canadian retirement plan. Additionally, I have <u>no</u> other tax compliance issues that need to be corrected through a Streamlined submission</p>	<p>You should not use the Streamlined Domestic Offshore Procedures because you have no tax compliance issues beyond reporting accrued but undistributed earnings in your Canadian retirement plan. Therefore, you should follow normal procedures for filing amended income tax returns or seek the consent of the Commissioner as directed by § 4.04 of Rev. Proc. 2014-55.</p> <p>You may need to report your Canadian retirement plan on FBARs or Forms 8938. Please refer to the instructions for these forms for more information.</p>		
Q12.	<p>I made a Streamlined Domestic Offshore submission and provided amended income tax returns, a Form 14654, Certification by U.S. Person Residing in the United States for Streamlined Domestic Offshore Procedures, and payment of all tax, penalty, and interest. I recently realized that I included in the highest account balance/asset value of my foreign financial assets my Canadian registered retirement savings plan (RRSP), registered retirement income fund (RRIF), or other similar Canadian retirement plan. Further, I am an “eligible individual” as defined in section 4.01 of Rev. Proc. 2014-55. May I request reconsideration of the miscellaneous offshore penalty amount due to the inclusion of my Canadian retirement plan in the penalty base? How do I do so?</p>	<p>Yes, you may request reconsideration of the miscellaneous offshore penalty amount. Complete and sign Form 14708, Streamlined Domestic Penalty Reconsideration Request Related to Canadian Retirement Plans (form pending publication as of the date of posting of this FAQ), and mail it to:</p> <p>Internal Revenue Service 3651 South I-H 35 Stop 4305 AUSC Attn: Streamlined Unit Austin, TX 78741</p> <p><b>Example:</b> The taxpayer reported on her original certification a highest account balance/asset value of \$130,000, consisting of year-end balances of the following foreign financial assets:</p> <table data-bbox="711 1997 1187 2032"> <tr> <td>Checking account</td> <td>\$10,000</td> </tr> </table>	Checking account	\$10,000
Checking account	\$10,000			

Savings account	\$20,000
RRSP account	<u>\$100,000</u>
Total	\$130,000

The taxpayer computed the miscellaneous offshore penalty as \$6,500 (\$130,000 x 5%). The taxpayer would like to request reconsideration of the miscellaneous offshore penalty amount. She computes her revised highest account balance/asset value as follows:

Checking account	\$10,000
Savings account	<u>\$20,000</u>
Total	\$30,000

After removing the value of the RRSP, the revised miscellaneous offshore penalty amount is \$1,500 (\$30,000 x 5%). In completing Form 14708, the taxpayer should enter \$6,500 on Line 1, \$1,500 on Line 2, and \$5,000 on Line 3.

This example assumes that the revised highest account balance/asset value is in the same year as the original certification. But the revised highest account balance/asset value may be for a different year. If your revised highest account balance/asset value is for a different year than that in your original certification, please complete the appropriate section of Form 14708 to indicate the change.

Q13 What facts do I need to include in completing the narrative statement of facts portion of the Form 14654?

Provide specific reasons for your failure to report all income, pay all tax, and submit all required information returns, including FBARs. Include the whole story including favorable and unfavorable facts. Specific reasons, whether favorable or unfavorable to you, should include your personal background, financial background, and anything else you believe is relevant to your failure to report all income, pay all tax, and submit all required information returns, including FBARs. Additionally, explain the source of funds in all of your foreign financial accounts/assets. For example, explain whether you inherited the account/asset, whether you opened it while residing in a foreign country, or whether you had a business reason to open or use it. And explain your contacts with the account/asset including withdrawals, deposits, and investment/management decisions. Provide a complete story about your foreign financial account/asset. The following points address common situations that may apply to you:

- We realize that many taxpayers failed to acknowledge their financial interest in or signature authority over foreign financial accounts on Form 1040, Schedule B. If you (or your return preparer) inadvertently checked “no” on Schedule B, line 7a, simply provide your explanation.
- We realize that some taxpayers that owned or controlled a foreign entity (e.g., corporation, trust, partnership, IBC, etc.) failed to properly report ownership of the entity or transactions with the foreign entity. If you (or your return preparer) inadvertently failed to report ownership or control of the foreign entity or transactions with the foreign entity, explain why and include your understanding of your reporting obligations to the IRS and to foreign jurisdictions.
- If you relied on a professional advisor, provide the name, address, and telephone number of the advisor and a summary of the advice. Also provide background such as how you came into contact with the advisor and frequency of communication with the advisor.
- If married taxpayers submitting a joint certification have different reasons, provide the individual reasons for each spouse separately in the statement of facts.

Q14 In one or more 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 filed joint income tax returns. But my spouse/former spouse will not sign joint amended returns or a joint certification on Form 14654 for a Streamlined submission. What can I do? Am I precluded from using the Streamlined Domestic Offshore Procedures?

We understand that in certain cases (including but not limited to separation or divorce), your spouse/former spouse may not be willing to sign joint amended income tax returns or a joint certification on Form 14654. You may submit a joint amended income tax return with only your signature to Streamlined Domestic Offshore Procedures so long as your joint amended return shows a net increase in tax. Please explain your inability to secure your spouse's/former spouse's signature in the narrative statement of facts on Form 14654. And write “SDO FAQ 14” in red ink in the area for your spouse's signature on the amended returns and Form 14654. As a matter of routine processing, the Service will request the other spouse's signature on joint amended returns with only one signature. If at the time the Service makes a request for your spouse's/former spouse's signature on a joint amended return or joint certification you are still unable to secure your spouse's/former spouse's signature, please respond to the inquiry by referencing this FAQ. You may not submit a joint amended income tax return with only your signature to Streamlined Domestic Offshore Procedures

		showing a <b>net decrease in tax or an increase in credit.</b>
Q15	Who can I contact if I have general questions about the terms of the Streamlined Filing Compliance Procedures or completing Form 14654?	If you have questions about the terms of the Streamlined Filing Compliance Procedures or completing Form 14654, you may contact the OVDP Hotline at 267-941-0020. The OVDP Hotline will not provide case-specific or legal advice.

*Page Last Reviewed or Updated: 07-Jan-2016*