

# Banks in US sights amid tax amnesty

## IRS may prosecute HK institutions

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The US taxman's new amnesty for Americans with undisclosed foreign bank accounts is expected to draw thousands into coming clean - and could catch out banks in Hong Kong that have helped clients hide their wealth from Uncle Sam.

Already, financial institutions in Asia may be facing punitive action as a result of the first such amnesty, launched two years ago.

Information gained from that programme could lead to high-profile prosecutions of Hong Kong and Asian financial institutions over the next year, said Kurt Rademacher, a director of international tax practice for the US law firm Butler Snow.

The first amnesty led 15,000 taxpayers to make voluntary disclosures to the Internal Revenue Service (IRS) involving bank accounts they held in more than 60 countries.

Since that programme closed, another 3,000 individuals made voluntary disclosures about foreign bank accounts.

"Each individual was interviewed and asked the name of the lawyer, banker or accountant that helped set up their undisclosed account," Rademacher said.

"Now the IRS is using all the information it gleaned from those interviews as leads to find the banks involved and prosecute them.

"My suspicion is that they will go after a financial institution, rather than pursuing people piecemeal."

He said if the IRS broke down the records of a financial institution it had targeted then it would be able to get all their clients.

"It's quite likely that we'll see a large institution in the IRS's crosshairs in the next year," he said. "With the kind of effort and intention that the IRS is concentrating on Asia, it would be surprising if that institution did not have an Asian presence."

Rademacher was in the city last week for the Lex Mundi Asia Pacific

Regional Conference at the Conrad Hotel, Admiralty.

The US consulate general said 60,000 Americans lived in Hong Kong - both native-born and former Hong Kong emigrants to the United States who returned home after gaining American citizenship.

They are among the Americans worldwide targeted by the IRS' 2011 Offshore Voluntary Disclosure Initiative, which gives taxpayers with undisclosed foreign bank accounts and unpaid tax until August 31 to comply with US law and avoid possible criminal prosecution.

Most Americans in Hong Kong are not permanent residents. The majority come to the city to work in the highly paid financial sector. Others come to take up positions as teachers or lecturers.

All will be fair game for the IRS, but Hong Kong's evolving role as an international financial centre in Asia and its growing links with the mainland mean it is the city's big players that US prosecutors will be targeting in their campaign against federal tax evaders.

Their inquiries gained further momentum as a result of data acquired during their crackdown on Swiss banks.

US tax authorities inflicted a harsh lesson on Switzerland in 2009 by forcing the world's biggest offshore banking centre to lift its treasured bank secrecy and slapping a US\$780 million penalty on one bank, UBS, for helping wealthy Americans dodge federal taxes from 2000 to 2007.

UBS initially provided information on about 265 of its US customers, and later agreed to hand over an additional 4,500 names of clients.

Hong Kong shell companies or bank accounts were involved in more than half the tax evasion cases against American UBS clients made public so far. Of the 16 cases publicised by prosecutors since the US began investigating UBS, nine have involved Hong Kong entities.

Panama, Singapore, the Cayman Islands, the British Virgin Islands, Mexico and Liechtenstein have also been implicated, but Hong Kong entities were by far the most frequently used.

In the months since the UBS settlement, US authorities have been avidly pursuing offshore tax evasion. And as UBS cases were publicised and Hong Kong's involvement gained more prominence, many observers suggested that the city itself had become a target of investigation.

Last year, US tax lawyer Scott Michel said at a University of Hong Kong forum: "What happened in Switzerland is a taste of things to come, and I believe that the next focus of US law enforcement interest is going to be in

Asia."

That prediction proved right, as Hong Kong's frequent appearances in the UBS cases prompted a visit by US prosecutors, who met US consular officials and talked to local financial institutions.

Rademacher, the Butler Snow tax lawyer, said up to three IRS Criminal Investigation Division personnel were working in Hong Kong at one point last year and that 900 new international auditors had been recruited by the IRS.

"More people will also definitely come forward for the 2011 Offshore Voluntary Disclosure Initiative," he said. "Nobody expected 15,000 to sign up in 2009 for the first amnesty programme and since then the IRS has had a lot more success in piercing banks' secrecy all over the world."

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