

Part III. Administrative, Procedural, and Miscellaneous

Statute of Limitations and Exchange of Information Concerning Certain Individuals Filing Income Tax Returns With the U.S. Virgin Islands

Notice 2007-31

SECTION 1. PURPOSE

This notice announces that for taxable years ending on or after December 31, 2006, the U.S. federal statute of limitations for all U.S. citizens and residents claiming to be *bona fide* residents of the U.S. Virgin Islands generally will commence upon the filing of an income tax return with the U.S. Virgin Islands.

This notice amends and supplements Notice 2007-19, 2007-11 I.R.B. 689, which the Treasury Department and the Internal Revenue Service (IRS) issued on February 21, 2007. Notice 2007-19 provided interim rules under sections 932(c) and 7654(e) concerning the statute of limitations on assessment of the U.S. income tax liability (if any) of a U.S. citizen or resident alien who takes the position that he or she is a *bona fide* resident of the U.S. Virgin Islands and the U.S. filing obligations of such an individual. It also announced that the Treasury Department and the IRS were studying the feasibility of an automatic exchange of information program with the U.S. Virgin Islands and the elimination of the reporting requirements set forth in the notice.

Since the issuance of Notice 2007-19, the U.S. Virgin Islands Bureau of Internal Revenue (BIR) and the IRS have entered into a new working arrangement concerning the routine (automatic) exchange of information (the "Working Arrangement") under the Tax Implementation Agreement between the United States of America and the Virgin Islands dated February 24, 1987 (the "Implementation Agreement"). In light of the Working Arrangement, this notice also provides new interim rules under sections 932(c) and 7654(e) concerning the statute of limitations on assessment and U.S. filing obligations of

certain individuals who file returns with the U.S. Virgin Islands. Finally, this notice announces that the Treasury Department and the IRS intend to issue regulations under sections 932(c) and 7654(e) that incorporate these new interim rules. Until the regulations are issued, taxpayers may rely on this notice (and when appropriate, may also rely on Notice 2007-19).

SECTION 2. EXCHANGE OF INFORMATION

On March 21, 2007, the IRS and BIR officials serving as the competent authorities of the United States and the U.S. Virgin Islands, respectively, entered into the Working Arrangement, which provides guidelines and procedures for the routine exchange of information under the Implementation Agreement. The Working Arrangement applies to taxable years ending on or after December 31, 2006. The Working Arrangement will be terminated if for any reason the Implementation Agreement is terminated. The Working Arrangement may also be terminated upon written notice by either the IRS or the BIR. The text of the Working Arrangement is attached.

SECTION 3. INTERIM RULES

Under the authority of section 7654(e), an individual income tax return filed under section 932(c)(2) with the U.S. Virgin Islands by a U.S. citizen or resident alien (USVI Form 1040) who takes the position that he or she is a *bona fide* resident of the U.S. Virgin Islands for the entire taxable year (or an individual who files a joint return for the taxable year with such an individual) will be deemed to be a U.S. income tax return of that individual for purposes of section 6501(a), provided that the IRS and BIR have entered into an agreement for the routine exchange of information satisfying the requirements of the Commissioner of the IRS. The Working Arrangement announced in section 2 of this notice satisfies this condition. Therefore, a return filed with the U.S. Virgin Islands under section 932(c)(2) will be deemed to be a U.S. income tax return for purposes of

section 6501(a) as described in this paragraph. In the event that the Working Arrangement is terminated and in the absence of a successor agreement, the interim rules provided in Notice 2007-19 will apply.

For example, assume that N, a U.S. citizen and calendar year taxpayer, takes the position that he is a *bona fide* resident of the U.S. Virgin Islands for the 2006 taxable year. On March 30, 2007, N files USVI Form 1040 (2006) with the U.S. Virgin Islands. N does not file Form 1040, *U.S. Individual Income Tax Return* (U.S. Form 1040), with the IRS (as described previously in Notice 2007-19). Under these circumstances and the rules provided in this notice, the 3-year period of limitations under section 6501(a) will expire on April 15, 2010, and the IRS will make no further assessment of income tax for N's 2006 taxable year after that date except as otherwise authorized by section 6501.

SECTION 4. EFFECTIVE DATE

This notice applies for taxable years ending on or after December 31, 2006.

With respect to taxable years ending before December 31, 2006, the interim rules provided in Notice 2007-19 are still effective if a taxpayer so chooses. Consequently, a "non-covered person" within the meaning of Notice 2007-19 may choose to apply the interim rules of that notice to a taxable year ending before December 31, 2006, by filing U.S. Form 1040 with the IRS as provided in the notice. A "covered person" within the meaning of Notice 2007-19 who chooses to apply the interim rules of that notice to a taxable year ending before December 31, 2006, need only provide the documentation specified in the notice upon examination.

SECTION 5. DRAFTING INFORMATION

The principal author of this notice is J. David Varley of the Office of Associate Chief Counsel (International). For further information regarding this notice, contact Mr. Varley at (202) 435-5262 (not a toll-free call).

**WORKING ARRANGEMENT BETWEEN
INTERNAL REVENUE SERVICE
DEPUTY COMMISSIONER (INTERNATIONAL), LMSB
AND
BUREAU OF INTERNAL REVENUE
UNITED STATES VIRGIN ISLANDS
CONCERNING ROUTINE (AUTOMATIC) EXCHANGE OF INFORMATION**

I. Introduction

This Working Arrangement between the competent authorities of the United States and the U.S. Virgin Islands (the “parties”) sets forth the agreement of the parties with respect to an initiative to facilitate information sharing for tax administration purposes in conjunction with Internal Revenue Service (IRS) Notices 2007-19 and 2007-31.

II. Authority

The authority for this Working Arrangement is the Tax Implementation Agreement between the United States of America and the Virgin Islands dated February 24, 1987 (the “Implementation Agreement”). Pursuant to Article 4(2)(c) of the Implementation Agreement, this Working Arrangement expands the information to be routinely (automatically) exchanged by the U.S. Virgin Islands to the IRS under Article 4(2)(b) of the Implementation Agreement.

III. Purpose

This Working Arrangement serves to carry out the purposes of Notices 2007-19 and 2007-31, by establishing a new routine exchange of information program between the IRS and the U.S. Virgin Islands Bureau of Internal Revenue (BIR) concerning income tax information of certain taxpayers who file an income tax return with U.S. Virgin Islands under section 932(c)(2) of the Internal Revenue Code of 1986, as amended (the “Code”). The IRS will use the information to identify and examine such taxpayers and to encourage those taxpayers to comply with U.S. federal income tax laws and regulations. This Working Arrangement and any requests for information or information exchanged pursuant to it and the Implementation Agreement constitute tax convention information under Code section 6105.

IV. Procedures and Requirements

Unless otherwise agreed to by the parties or specified in the request for information, the parties agree as follows:

- A. The IRS will specify the information to be provided by the BIR in a written request for information to the BIR.
- B. The BIR will provide electronic files of the requested information, including all income tax returns with schedules, statements, and attachments. The electronic files will be saved, indexed, and transmitted by the BIR to the IRS in accordance with instructions provided in the request for information.
- C. All income tax returns will be date stamped by the BIR in a clearly legible manner that does not obstruct any taxpayer information on the return.
- D. The BIR will provide all requested information in accordance with the following schedule:
 1. With respect to all income tax returns that are timely filed with the BIR, within 90 days after the original due date or, to the extent the taxpayer timely files pursuant to a valid extension, within 90 days after the extended due date.
 2. With respect to all delinquent returns, amended returns, and any other requested information filed with the BIR and not covered by paragraph D.1. (above), within 90 days after the end of the calendar-year quarter during which the requested information was received by the BIR.

V. Disclosure, Safeguards, and Recordkeeping Requirements

- A. All information obtained under this Working Arrangement must be safeguarded in accordance with the Implementation Agreement as well as the safeguards described in IRS Publication 1075, *Tax Information Security Guidelines for Federal, State, and Local Agencies*.
- B. Nothing in this Working Arrangement will cause the IRS or BIR to disclose information that is normally protected by governmental, attorney/client, or attorney work product privileges consistent with applicable laws, or any other information that is prohibited from disclosure. See IRM Section 11.3.32.17, *Restrictions on Disclosure of Returns and Return Information*.
- C. Neither the IRS nor the BIR will disclose return information that would identify a confidential informant or seriously impair any civil or criminal tax investigation.

D. To the extent the BIR withholds a tax return and/or return information pursuant to paragraphs B. or C. (above), the BIR will provide the IRS with a privilege log that explains in sufficient detail the reason(s) for withholding the information.

VI. Costs

Pursuant to Article 5(3) of the Implementation Agreement, the IRS and the BIR agree not to charge each other for the costs of reproduction of information routinely exchanged. Further, prior to making any claim for reimbursement of extraordinary costs incurred in providing assistance, the BIR will consult with and provide an estimate of such costs to the IRS.

VII. Third Party Rights

This Working Arrangement does not confer any rights or benefits on any third party.

VIII. Taxable Periods

This Working Arrangement applies to income tax returns and other information filed with the USVI for taxable years ending on or after December 31, 2006.

IX. Amendment or Termination

This Working Arrangement will become effective on the date of the last signature below and will remain in force until terminated. This Working Arrangement will terminate on the first of the following to occur:

A. Termination of the Implementation Agreement, in which event this Working Arrangement will automatically terminate on the date on which termination of the Implementation Agreement becomes effective pursuant to Article 9 of the Implementation Agreement; or

B. Mailing or other delivery of written notice of termination by the IRS or the BIR to the other party. However, not less than 30 days prior to delivering such written notice, the terminating party must advise the other party in writing of its reasons for wishing to terminate this Working Arrangement. A notice of termination will be effective with respect to taxable years ending on or after December 31st of the following year. For example, if the BIR provides written notice to the IRS on August 31, 2009, that it is exercising its rights under this termination clause, then the BIR will be relieved of its responsibilities under this Working Arrangement with respect to taxable years ending on or after December 31, 2010.

X. Limitations

The terms of this Working Arrangement are not intended to alter, amend, or rescind any provisions of U.S. federal law. Any provision of this Working Arrangement that conflicts with U.S. federal law will be null and void. Nor are the terms of this Working Arrangement intended to alter, amend, or rescind any provisions of the Implementation Agreement now in effect. In any situation where a conflict arises between the provisions of this Working Arrangement and the Implementation Agreement, the provisions of the latter will govern.

XI. Approvals

For the Virgin Islands Bureau of Internal Revenue:

By: Gizette L. Thomas
Acting Director
U.S. Virgin Islands Bureau of Internal Revenue
Signed at _____, this ____ day of _____, 2007.

For the Internal Revenue Service:

By: Frank Y. Ng
Deputy Commissioner (International), LMSB
Internal Revenue Service
Signed at Washington, DC this ____ day of _____, 2007.