2014 Streamlined Offshore Filing Program Eligibility Individual or Estate Streamlined Foreign Offshore Procedures Consequences Yes 1 File delinquent 1040s/1041s for prior 3 years and make all available elections for retirement income deferrals*** 2 File all delinquent international information Failure to report income from a foreign returns (e.g. 5471, 3520, 8938) financial asset ("FFA") or pay the tax; failure to file int'l info returns; failure to 3 File delinquent FBARs for prior 6 years file an FBAR with respect to FFA was non-willful* 4 Pay all tax and interest upon filing the returns Yes 5 No penalties of any kind (failure to file, failure to Willing to certify subject to penalties for pay, accuracy related, FBAR) for anything reported on the return**** perjury that noncompliance was not 6 No automatic audit**** willful 7 Participation in OVDP (i.e. criminal shield) not Yes permitted No Not under civil examination for ANY Ineligible Streamlined Domestic Offshore Procedures reason Consequences: 1 File amended 1040s/1041s for prior 3 years with Yes all delinquent international information returns (e.g. 5471, 3520, 8938) and make all available Not under Criminal Investigation elections for retirement income deferrals No 2 File FBARs for prior 6 years 3 Pay tax and interest; Penalty = 5% of the highest Yes aggregate year end balance/value of all subject FFAs over the 3/6 year period 4 No automatic audit or other penalties In OVDP 5 Participation in OVDP (i.e. criminal shield) not permitted Yes prepared by No Entered OVDP before July 1, 2014 David Neufeld, Esq. <u>David@DavidNeufeldLaw.com</u> Yes Princeton, NJ 609-919-0919 Have not yet received a Closing No © 2014 David S. Neufeld Agreement Yes Fails to satisfy the Substantial Presence **Eligible for Streamlined** Nο US Citizen, Permanent Resident or Test during any 1 of most recent 3 year estate of same for which filing due date (as extended) Foreign Offshore Procedures has passed Yes No Physically outside the US for at least 330 Νọ full days during any 1 of most recent 3 years for which filing due date (as extended) has passed** Previously filed all 1040s/1041s for each **Eligible for Streamlined** of most recent 3 years for which filing **Domestic Offshore** Yes due date (as extended) has passed **Procedures** No US abode for any 1 of most recent 3 No years for which filing due date (as extended) has passed** Yes **₽**No **Eligible for Streamlined** Ineligible **Foreign Offshore Procedures**

- * Negligence, inadvertance or mistake, good faith misunderstanding of the law
- ** These are the non-residence requirements, which must operate for both spouses if joint filers. The rules under section 911 are invoked for some parts of this rule but not others. (1) It is not clear if this 330 day rule is the same as the 330 days out of the rolling 365 day period under section 911 or a new rule that is strictly within a calendar year; it appears to be the latter. (2) This rule focuses on days outside the US whereas section 911 refers to days in a foreign country; not the same thing. (3) The definition of "abode" in the section 911 regs are specifically invoked; temporary presence in the US and maintenance of a dwelling in the US do not necessarily mean the abode is in the US.
- *** Reference to "prior 3 years" or "prior 6 years" means the three or six years immediately preceding for which the filing deadlines as extended have expired. That means if the due date for the immediately preceding year is still open the operative period leapfrogs back to the year before that one.
- **** There may still be an audit in due course under normal procedures and penalties assessed for other items; also if the original return was fraudulent or the FBAR non-compliance willful.