“The real things to know is that folks will stand to lose more than they will to win.” Pug Pearson on poker.

The IRS has invited all 52,000 Americans that maintain secret accounts at UBS to a game of poker. Ditto Americans with accounts in other Swiss and foreign banks such as Credit Suisse. What happens to those that don’t come to the table or think Uncle Sam is bluffing?

The rules of the current voluntarily disclosure initiative are easy. Disclose unreported income from foreign accounts by September 23 and simply pay tax, interest and penalties on all unreported income. But fail to come forward and you risk even higher penalties and possibly prison.

As I have previously blogged (see www.mahanylaw.com/mahanylaw for the complete blog), the IRS and the Swiss government have agreed for the release of the names of approximately 5000 of UBS estimated 52,000 account holders. Unfortunately for those account holders, there is no way of knowing if their name will be on the list of 5000. A gambler might think those are pretty good odds. But the stakes are quite high for those that lose. The odds of avoiding criminal prosecution are even better; the IRS and Justice Department simply do not have enough personnel to prosecute more than a couple hundred foreign account holder cases per year.

What does this mean? The chances of the IRS getting your name from UBS are relatively small. And the odds of going to jail if they do identify you are even smaller. Many people, however, are unwilling to take the risk no matter what the odds.

Antecdotal reports suggest many folks are using the current amnesty program to come into compliance. What the government and media do not report is that those same reports say that many more are simply choosing to roll the dice. For those that choose to take their chance with Lady Luck, remember the IRS’ first contact policy.

Generally the federal government will not prosecute people for unreported income if the taxpayer approaches the IRS first. When I was revenue commisioner for the State of Maine, we had a slogan during one of our amnesty events, “Get to us before we get to you.” This means if the guys and gals with guns and badges make the first contact, all bets are off.

In 2009, the United States and the G-20 group of industrialized nations has eliminated almost every so-called tax haven country left in the world. Already this year, San Marino, Luxembourg, Liechtenstein, Gibraltar, Switzerland and now Monaco have signed tax exchange agreements with the I.R.S. Whether you believe these agreements and the tax laws are Constitutional or not, the government is beefing up its audit and criminal tax staffing and adding powerful new tools to its arsenal - tools such as the tax exchange agreements.

Taxpayers (and non-filers) are at a crossroads - dig in and fight (but understand the risks) or choose to fight another day by entering into voluntary compliance agreements with the IRS.

Note that although the government is cracking down on unreported offshore accounts and income, use of offshore constructs and accounts for asset protection and risk diversification remains a viable strategy. Contact MahanyLaw or speak to your asset protection attorney to insure your offshore asset protection structure is both effective and legal. Properly reporting your foreign source income does not mean that your asset protection plan is effective. It simply means that you won't go to jail.

[Fellow Christian Exodus members are welcome to contact me with questions or for a no fee consultation. See my website, www.mahanylaw.com, for contact details.]