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Can Foreign Account Nondisclosure Be A Conspiracy?

Any indictment makes you think, and ones based on foreign accounts are increasing. Examples include a medical device company owner, Ashvin Desai, [indicted](#) over HSBC accounts in India. Another was a Wisconsin physician, Dr. Arvind Ahuja, [indicted](#) on four counts of willfully filing materially false tax returns and four counts of failing to file Reports of Foreign Bank and Financial Accounts ([FBARs](#)). That was serious enough, but like the refrain from an old tune, the hits just keep on coming.



Image via nulengua

A superseding [indictment](#) alleges that Dr. Ahuja wired millions to HSBC accounts in India and Jersey which totaled over \$8 million in 2009. Not only did he fail to report the accounts on his tax returns and failed to file FBARs, says the indictment, but he had over \$1.2 million in unreported interest income. Here's where the plot thickens.

The indictment alleges Dr. Ahuja **conspired with HSBC bankers** in New York to conceal the accounts. One banker allegedly informed HSBC in India to hold all statements as the doctor didn't want any mail. Bankers also helped Dr. Ahuja access his funds while abroad and transferred money to other undeclared accounts, it is alleged. See [HSBC India Client Indicted by U.S. Over \\$8.7 Million Account](#).

Worldwide Income. U.S. citizens and permanent residents must report worldwide income on their U.S. income tax returns. Worldwide income means everything even if taxed somewhere else. If you have an interest in a foreign bank or financial account, you must also check “yes” (on [Schedule B](#)).

FBARs Too. All U.S. persons with foreign bank accounts must *also* file a Treasury Department Form, TD F 90-22.1—an [FBAR](#) by each June 30 for the preceding year. You must file an FBAR if the aggregate value of your foreign financial accounts exceeds \$10,000 at any time during the year. See [Get Ready For More FBAR Rules](#) and [IRS On What Is A Foreign Account](#).

[Is foreign account ignorance bliss?](#) Hardly. The IRS says a conscious effort to *avoid* learning about [FBAR reporting](#) might be “[willful](#).” The IRS says failing to learn of foreign account reporting requirements can be evidence of “willful blindness.” See [Internal Revenue Manual, 4.26.16.4.5.3, Paragraph 6](#).

Dr. Ahuja faces up to five years in prison and a \$250,000 fine for the conspiracy charge, *plus* up to three years in prison and a \$250,000 fine for *each* false tax return charge. What’s more, the FBAR charges can each yield up to 10 years in prison and a \$500,000 fine. Although Dr. Ahuja is presumed innocent unless and until proven guilty, these are frightening numbers.

Disclose? [It’s not too late to disclose foreign accounts](#). Taxpayers with continuing foreign account concerns may want to get some advice. Even though the latest special IRS 2011 [OVDI](#) program closed September 9, the IRS will *still* accept [voluntary disclosures](#). Historically, the IRS almost never prosecutes someone who steps forward before being caught. A voluntary disclosure is likely to be far, far cheaper than getting caught and what could follow.

Besides, there are few alternatives. Some taxpayers want to quietly amend tax returns and file FBARs but the IRS wants formal voluntary disclosures. See [“Quiet” Foreign Account Disclosure Not Enough](#).

For more, see:

[U.S. client tax indictment raises pressure on HSBC](#)

[Some Foreign Account Penalties Unfair, Says Taxpayer Advocate](#)

[IRS May Find “Innocent” FBAR Violation Willful](#)

[It’s Not Too Late For IRS Amnesty](#)

[Offshore Tax Amnesty Strikes Gold For California](#)

[IRS FATCA Guidance, Round 3](#)

[Does IRS Amnesty Go Beyond Foreign Accounts?](#)

[Even U.S. Branch Accounts Abroad Trigger FBAR!](#)

[Should You File FBAR For The First Time?](#)

[Are You Getting Enough FBAR?](#)

[Beware IRS And Foreign Account Data Swaps](#)

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