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THE TAX LAWYER

Nov. 22 2011 — 6:04 am

Get Ready For More FBAR Rules



Image via answers.com

If you don't know what an [FBAR](#) is but you have a foreign bank account, you'd better read up. See [Are You Getting Enough FBAR?](#) FBARs (Report of Foreign Bank and Financial Accounts) are now ubiquitous. You include foreign income on your tax return, but if you have \$10,000 or more overseas, you must file an FBAR [annually](#) to disclose the location and amount of your accounts.

Penalties for failing to file FBARs can be severe, including a civil penalty of \$10,000 for each non-willful violation. But if your violation is found to be **willful**, the

penalty is the greater of \$100,000 or 50% of the amount in the account for **each** violation. What's worse, each year you don't file is a **separate violation**. FBARs are regulated by the U.S. Treasury's Financial Crimes Enforcement Network known as [FinCEN](#) and are used primarily by law enforcement.

Many U.S. citizens and permanent residents [didn't know](#) about these rules until recently, but it's harder to remain [ignorant](#) today. The IRS says that with hardly any diligence, you could have learned of these requirements by reading tax forms and instructions. See [IRS May Find](#)

[“Innocent” FBAR Violation Willful](#). The IRS says failing to follow-up on this knowledge may be “willful blindness.” See [Excerpt From Internal Revenue Manual, 4.26.16.4.5.3, Paragraph 6](#) and [Some Foreign Account Penalties Unfair, Says Taxpayer Advocate](#).

But soon you may have **another** FBAR to worry about. What’s a “**Tax FBAR?**” The IRS and Treasury Department already get the income reported from foreign accounts on your tax return, and they get FBARs. Why not integrate this info? More importantly, what about FATCA with its web of reporting requirements? See [Stripping FATCA From Our Diet](#).

Congress amended [Section 6038D](#) to provide for a new Form 8938 in the Hiring Incentives to Restore Employment Act of 2010 ([P.L. 111-147](#)). [Draft Form 8938 instructions](#) were released on September 28th.

FATCA vs. FBAR? The filing thresholds are different, with FATCA requiring U.S. taxpayers to report foreign accounts and assets with an aggregate value exceeding [\\$50,000](#). Required reporting includes:

- Any financial account maintained by an FFI;
- Any stock or security issued by a non-U.S. person;
- Any financial interest or contract held for investment that has a non-U.S. issuer or counterparty; and
- Any interest in a foreign entity. That means taxpayers who purchase foreign real estate through an entity are covered.

Get ready for wrinkles to be ironed out in advance of the 2011 tax return filing season.

For more, see:

[Expats Call For FATCA Repeal](#)

[Please Sir, Can I Have Some More FATCA?](#)

[FBAR And FATCA Haters Unite](#)

[Oh Canada! Hating FBARs And FATCA](#)

[New FBAR Filing Deadline Approaching](#)

[Tax Amnesty Goes Hollywood](#)

[It's Not Too Late To Disclose Foreign Accounts](#)

[Is Foreign Account Ignorance Bliss?](#)

[E-Filing And Other FBAR Quirks](#)

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