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THE TAX LAWYER

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IRS Form 8938 Or FBAR?

If you have a foreign bank account or assets, you hopefully know how many IRS eyes are on you. See [5 Nations Join U.S. In Tax Evasion Crackdown](#). While it's perfectly legal to have money or assets overseas, disclosure and worldwide tax reporting are key. And the issues are getting more rather than less complicated.



Image via telegraph.co.uk

You must report your worldwide income on your U.S. tax return. Plus, if your foreign assets meet certain criteria, this year you must file a [Form 8938](#), Statement of Specified Foreign Financial Assets. Finally, if you have more than \$10,000 at any time during the year overseas, you must file a Form TD F 90-22.1, Report of Foreign Bank and Financial Accounts ([FBAR](#)).

The new IRS Form 8938 does not replace the FBAR. Here's what you need to know about each.

| | Form 8938 | FBAR |
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| Who must file? | U.S citizens, resident aliens, and certain non-resident aliens that have an interest in specified foreign financial assets | U.S. citizens, resident aliens, trusts, estates, and domestic entities that have |

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| | and meet the reporting threshold. | an interest in foreign financial accounts and meet the reporting threshold. |
| Does the U.S. include U.S. territories? | No | Yes, resident aliens of U.S territories and U.S. territory entities are subject to FBAR reporting. |
| Reporting Threshold (Total Value of Assets) | \$50k on the last day of the year or \$75k at any time. | \$10k at any time during the calendar year. |
| When do you have an interest in an account or asset? | If any income, gains, losses, deductions, credits, gross proceeds, or distributions would be reportable on your tax return. | Financial interest or signature authority. |
| What is reported? | Highest value. | Maximum value of financial accounts maintained by a financial institution physically located in a foreign country. |
| How are maximum account or asset values determined and reported? | Fair market value in U.S. dollars using the end of year exchange rate. | Use account statements to determine the maximum value using the end of the year exchange rate. |
| When due? | By due date, including extension, if any, for | Received by June 30 (no |

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| | income tax return. | extensions of time granted). |
| Where to file? | File with your income tax return. | Mail to: Department of the Treasury P.O. Box 32621 Detroit, MI 48232. For express mail to: IRS Enterprise Computing Center Attn: CTR Operations, Mailroom, 4th Fl. 985 Michigan Ave., Detroit, MI 48226. Certain individuals may file electronically at BSA E-Filing System . |
| Penalties | Up to \$10k for failure to disclose and an additional \$10k for each 30 days of non-filing after IRS notice of a failure to disclose, for a potential maximum penalty of \$60k; criminal penalties may also apply. | If non-willful, up to \$10k; if willful, up to the greater of \$100k or 50 percent of account balances; criminal penalties may also apply. |

For more, see:

[FATCA Makes Banks Shut Out Americans](#)

[Will IRS Get Fat Off FATCA?](#)

[Are Expats Derailing The FATCA Express?](#)

[Happy FATCA Filing Season](#)

[IRS Exempts Many Expats From FATCA](#)

[FBAR And FATCA Haters Unite](#)

[FACTA Further Erodes Taxpayer Protections Afforded By The Statute Of Limitations](#)

[IRS Criminal Investigations On Rise](#)

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

[Stripping FATCA From Our Diet](#)

[Tony Blair Is Britain's Buffett As Top 50% Tax Rate Teeters](#)

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