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IRS Says What To Do About Foreign Accounts On 2010 Returns

With the upcoming April 18th IRS filing deadline, you'll soon need to decide if you're going on [automatic extension](#) or filing your return on time. But whenever you file your return, the IRS has [issued instructions](#) to make sure you handle the foreign account portions of it correctly. That's important, since quite apart from people who may have intentionally failed to report foreign accounts, there have probably been significant numbers of innocents who couldn't navigate or didn't understand the rules.

The Basics. If you have a foreign bank account with \$10,000 or more at any point during the year, you need to file a report annually. File a Treasury Form [TD F 90-22.1](#), Report of Foreign Bank and Financial Accounts—referred to as an FBAR. Separate from tax returns, FBARs are due each June 30 for the preceding year. See [Ten Things To Know About Offshore Bank Accounts](#). Of course, you must report any income from the account (along with the rest of your worldwide income) on your tax return, and check the “yes” box on [Schedule B](#) that you have a foreign account.

The FBAR disclosure is the detailed one, and penalties for failure to comply are distinct from the penalties for an incomplete tax return. FBAR penalties can be extreme: prison for up to ten years and up to \$500,000 for each FBAR failure.

Which Rules? The confusion relates to which set of FBAR rules and regulations you're reviewing. Here's a timeline.

- **February 26, 2010:** The Treasury Department's [Financial Crimes Enforcement Network](#)—otherwise known as FinCEN—publishes proposed amendments to the [Bank Secrecy Act](#) implementing FBAR regulations, including proposed revisions to the FBAR instructions.
- **February 24, 2011:** FinCEN publishes final FBAR regulations. See [Federal Register, February 24, 2011](#).
- **March 21, 2011:** IRS posts revised [FBAR instructions](#) on its website.
- **On March 26, 2011:** The IRS publishes a [revised FBAR form](#) with accompanying instructions reflecting the amendments made by the final FBAR regulations.
- **March 28, 2011:** The final FBAR regulations are effective, applying to FBARs due June 30, 2011 and in the future.

If you filed your return before March 28, 2011—the first date on which the final FBAR regulations became effective—the ***old 1987 version*** of the FBAR regulations control and can be relied upon. Alternatively, the IRS says you can apply the recently published guidance (in the final FBAR Regulations and the revised FBAR instructions).

If you file your return after March 28, 2011, use ***only the new*** FBAR Regulations, the new FBAR form and the new instructions to the form.

For more, see:

[Six Questions About Secret Foreign Bank Accounts](#)

[IRS FAQs Regarding FBAR – Filing Requirements](#)

[FinCEN Issues Final Rule on FBAR Responsibilities](#)

[IRS On What Is A “Foreign Account”](#)

[Tax Amnesty: IRS Voluntary Disclosure Part Deux](#)

[IRS Foreign Account Disclosure: What About The States?](#)

[IRS Offshore Amnesty: Second \(Last\) Chance](#)

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