



## Robert W. Wood

THE TAX LAWYER

Apr. 5 2012 — 12:02 am

### More On IRS Form 8938 vs. FBAR

In [IRS Form 8938 Or FBAR?](#), I listed filing rules and differences between the new IRS Form 8938 and the [FBAR](#). Here are a few more.

<b>Types of Foreign Assets and Whether They are Reportable</b>		
	<b>Form 8938</b>	<b>FBAR</b>
<b>Financial (deposit &amp; custodial) accounts held at foreign financial institutions</b>	Yes	Yes
<b>Financial account held at a foreign branch of a U.S. financial institution</b>	No	Yes
<b>Financial account held at a U.S. branch of a foreign financial institution</b>	No	No
<b>Foreign financial account for which you have signature authority</b>	No, unless you otherwise have an interest in the account as described above.	Yes, subject to exceptions.

<b>Foreign stock or securities held in a financial account at a foreign financial institution</b>	The account itself is subject to reporting, but the contents of the account do not have to be separately reported.	The account itself is subject to reporting, but the contents of the account do not have to be separately reported.
<b>Foreign stock or securities not held in a financial account</b>	Yes	No
<b>Foreign partnership interests</b>	Yes	No
<b>Indirect interests in foreign financial assets through an entity</b>	No	Yes, if sufficient ownership or beneficial interest ( <i>i.e.</i> , a greater than 50% interest) in the entity.
<b>Foreign mutual funds</b>	Yes	Yes
<b>Domestic mutual fund investing in foreign stocks and securities</b>	No	No
<b>Foreign accounts and foreign non-account investment assets held by foreign or domestic grantor trust for which you are the grantor</b>	Yes, as to both foreign accounts and foreign non-account investment assets.	Yes, as to foreign accounts.
<b>Foreign-issued life insurance or</b>	Yes	Yes

<b>annuity contract with a cash-value</b>		
<b>Foreign hedge funds and foreign private equity funds</b>	Yes	No
<b>Foreign real estate held directly</b>	No	No
<b>Foreign real estate held through a foreign entity</b>	No, but the foreign entity itself is a specified foreign financial asset and its maximum value includes the value of the real estate.	No
<b>Foreign currency held directly</b>	No	No
<b>Precious metals held directly</b>	No	No
<b>Personal property, held directly (such as art, antiques, jewelry, cars and other collectibles)</b>	No	No
<b>Social Security-type program benefits provided by a foreign government</b>	No	No

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](#)

*Robert W. Wood practices law with [Wood LLP](#), in San Francisco. The author of more than 30 books, including *Taxation of Damage Awards & Settlement Payments* (4th Ed. 2009 with 2012 Supplement, [Tax Institute](#)), he can be reached at [Wood@WoodLLP.com](mailto:Wood@WoodLLP.com). This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.*