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On Tax Day, Report Offshore Accounts Too

April 17 this year is tax filing day, but it is also the due date for FBARs to report foreign accounts. The U.S. Treasury Department's Financial Crimes Enforcement Network (FinCEN) issued a [reminder](#) of the due date for filing FinCEN Form 114, *Report of Foreign Bank and Financial Accounts*(FBAR), to report foreign financial accounts held in 2017. For over a decade, the IRS has made a major push for Americans to report their offshore income and assets. It can sometimes feel like the IRS does not want to you have *anything anywhere* that is not 100% American.



Actually, you are free to *have* it, but you had better *report* it. Much of the hullabaloo about offshore assets started when the IRS went after Swiss banking. Americans are required to report their worldwide income. There have been many criminal cases, and a vastly larger number of civil

ones about this issue. Large numbers of taxpayers in the last decade have stepped forward in one of several IRS disclosure programs.

After getting bruised in court battles with the IRS, in 2009, UBS [paid \\$780 million](#) to settle charges that it helped wealthy Americans evade taxes. Other Swiss banks followed suit. The episode triggered [thousands of voluntary](#)

[disclosures to the IRS](#), and changed bank secrecy forever. Eventually, the Swiss Parliament passed a measure enabling banks to hand over client identities to American authorities without violating Swiss bank-secrecy laws. Then, in 2010, the U.S. passed [FATCA](#), the Foreign Account Tax Compliance Act.

Most people are surprised to learn that [FBARs](#)—also now called FinCEN Form 114, *Report of Foreign Bank and Financial Accounts*, have existed since 1970. They are filed with FinCEN, the Financial Crimes Enforcement Network, part of the Treasury Department. That itself is a little scary. FinCEN regulations say you must file if you have a financial interest in, or signature authority over, foreign financial accounts with a total value exceeding \$10,000 during the previous calendar year. The due date this year is April 17, but if you extend your tax return due date, your extension extends your FBAR due date too.

In the meantime, don't forget about [FATCA](#), which spans the globe with a network of reporting that is unparalleled in the world. America is requiring foreign banks and governments to hand over secret bank data about depositors. Non-U.S. banks and financial institutions around the world must reveal American account details or risk big penalties. Offshore banks that do not hand over Americans are withholding at 30% on most transactions. Non-compliant institutions are frozen out of U.S. markets, so there is little choice but to comply. FATCA cuts off companies from access to critical U.S. financial markets if they fail to pass along American data. More than 100 nations have agreed to the law. Countries must agree to the law or face dire repercussions.

For years, the [IRS has been warning offshore account holders to disclose before it's too late](#). Then just this year, the [IRS announced that it would end the Offshore Voluntary Disclosure Program](#) on September 28, 2018. Those who are still exposed might want to give it a second look. After all, under FATCA, banks everywhere want to know [if you are compliant with the IRS](#). The IRS's long-running Offshore Voluntary Disclosure Program ([OVDP](#)) remains the safest program, with amnesty even for willful acts. But for those with the right facts, the IRS [Streamlined program](#) is simpler and less costly.

For alerts to future tax articles, email me at Wood@WoodLLP.com. This discussion is not legal advice.