



Robert W. Wood

THE TAX LAWYER

Apr. 18 2012 — 6:06 am

10 IRS Rules for Stress-Free Foreign Accounts

It is common to wonder if closing a foreign bank account can solve disclosure problems. See [Is Closing Foreign Bank Accounts An Alternative To Disclosure?](#) Unfortunately, it can't. As numerous [prosecutions](#) make clear, the stakes have never been higher and the potential liabilities can be staggering. Consider these 10 rules:



- 1. You Must Report Worldwide Income.** You must report your [worldwide income](#) on your U.S. income tax return. Plus, if you have an interest in a foreign bank or financial account you must check “yes” (on Schedule B). This is true even if you live outside the U.S. or pay foreign taxes on your foreign income.
- 2. FBARs Too.** Tax return filing alone isn't enough. All U.S. persons with foreign bank accounts exceeding \$10,000 at any time during the year must file an FBAR by each June 30. See [Primer For First Time FBAR Filers.](#)
- 3. New Form.** Now with your tax return, you may also need to file an IRS [Form 8938](#) to report your foreign accounts and assets. See [IRS Form 8938 Or FBAR?](#) and [More On IRS Form 8938 vs. FBAR.](#)

4. There Are Big Penalties. Failures can be considered tax evasion and fraud. The criminal statute of limitations is six years. Plus, the statute of limitations never expires on civil tax fraud.

5. FBAR Penalties Are Worse. The [penalty](#) for failing to file an FBAR is \$10,000 for each non-willful violation. If willful, the penalty is the greater of \$100,000 or 50 percent of the amount in the account for each violation. Each year you didn't file is a separate violation. See [Despite FATCA, FBAR Penalties Still Under Fire](#).

6. You Can Even Go To Jail. Tax evasion can carry a prison term of up to five years and a fine of up to \$250,000. Filing a false return can mean up to three years in prison and a fine of up to \$250,000. Failing to file a tax return can mean a one year prison term and a fine of up to \$100,000. Failing to file FBARs can be criminal too with monetary penalties up to \$500,000 and prison for up to ten years. See [IRS May Find "Innocent" FBAR Violation Willful](#).

7. Voluntary Disclosure Is Still An Option. If you admit your failures to the IRS and say you want to make it right, you've made a "voluntary disclosure." You will pay back taxes and penalties but not be prosecuted. See [Revised IRS Voluntary Disclosure Practice](#).

8. "Quiet Disclosures" Are Discouraged. A "quiet" disclosure is a correction of past tax returns and FBARs without drawing attention to what you are doing. The IRS warns against it. See ["Quiet" Foreign Account Disclosure Not Enough](#).

9. Prospective Compliance Only Is Risky. Can you start filing complete tax returns and FBARs prospectively, but not try to fix the past? Maybe, but the risk is that your past non-compliance will be noticed and it may then be too late to make a voluntary disclosure.

10. Disclosure Is The Key. You can have money and investments anywhere in the world as long as you disclose your foreign accounts. When in doubt, disclose. See [IRS Form 8938 Or FBAR?](#) There's widespread confusion, misinformation and noncompliance. See [More On IRS Form 8938 vs. FBAR](#). Get some professional advice and try to get your situation resolved.

For more, see:

[New IRS Offshore Amnesty Announced: Third Time's A Charm](#)

[Happy FATCA Filing Season](#)

[Tax Amnesty Goes Hollywood](#)

[IRS May Find "Innocent" FBAR Violation Willful](#)

[IRS Updates Voluntary Disclosure Amnesty: What You Should Know](#)

[Government Extends FBAR Filing Time](#)

[FBARs Exempt From E-Filing Mandate](#)

*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. This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.*