



Robert W. Wood THE TAX LAWYER

Apr. 23 2012 — 6:10 am

Who Pays Tax On Joint Bank Accounts?

This question seems simple but is important. After all, if you're a U.S. citizen or permanent resident, you must report your worldwide income to the IRS even if you're paying tax on it somewhere else. See [Expats Lobby For Tax on Residence, Not Worldwide Income](#).

Moreover, you must file an [FBAR](#) every year disclosing your bank accounts if their aggregate value exceeds \$10,000 at any time during the year. See [IRS Form 8938 Or FBAR? The penalties for either failure are big, potentially even criminal](#). See [Can Foreign Account Nondisclosure Be A Conspiracy?](#)

Paying taxes is required for both citizens and non-citizens. (Photo credit: Wikipedia)

For all of those reasons, it's important to know if you are a mere signatory on an account without a beneficial interest in it. That could mean you have FBAR filing obligations but that you don't have income when the account earns interest. That could mean, for example, that you might need to file some back FBARs and disclose the account to the IRS,

but might not need to go into the IRS voluntary disclosure program (since you don't owe any tax). See [Is Closing Foreign Bank Accounts An Alternative To Disclosure?](#)

How do you know if you meet this fact pattern or how these accounts are evaluated? If A and B have a joint interest-earning bank account producing \$100 of income, who pays tax on it? Perhaps it only seems fair for each person to have \$50 of income, but it is often not that simple.

If A's Social Security number is linked to the account, won't A receive a [Form 1099-INT](#) from the bank for all the interest? If so, A may feel forced to pay all the tax. Yet some taxpayers finesse the situation by reflecting the Form 1099 on their return but showing a deduction for the interest paid to their co-account holder.

With foreign accounts the stakes are particularly high. With a foreign bank, there will be no IRS Form 1099 to alert the holders about the income and its reporting. Moreover, nettlesome questions about FBARs and tax return reporting are likely to arise. If you are a signatory, you should file an FBAR.

But do you also have income from the account that must be reported to the IRS? You may have a formal or informal power of attorney or other signature authority without beneficial ownership. With informal family dealings, each person may not be certain what he has.

Often, who owns the account under prevailing local law should control. But the IRS and the courts will generally evaluate the facts and the conduct of the parties and look for beneficial ownership. That means the local law owner may be different from the beneficial owner.

The facts and documents are important. Whatever you do, be careful and get some advice about your situation.

For more, see:

[Who Pays Tax On Joint Bank Accounts?](#)

[FBARs & FATCA Form 8938: Maddening Duplication?](#)

[Is Closing Foreign Bank Accounts An Alternative To Disclosure?](#)

[More On IRS Form 8938 vs. FBAR](#)

[IRS Form 8938 Or FBAR?](#)

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

[Despite FATCA, FBAR Penalties Still Under Fire](#)

[Government Extends FBAR Filing Time](#)

[Dual Citizen Tax Relief From IRS](#)

[Got FBARs? But Which One?](#)

[Get Ready For More FBAR Rules](#)

[Oh Canada! Hating FBARs And FATCA](#)

[New FBAR Filing Deadline Approaching](#)

[E-Filing And Other FBAR Quirks](#)

[Some Foreign Account Penalties Unfair, Says Taxpayer Advocate](#)

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

*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.*