

Will IRS Find Your Small Foreign Bank Account?

Over the last five years, the IRS campaign against unreported income and undisclosed foreign accounts has morphed from a focus on Swiss banks and large accounts to a kind of everyman's tax disclosure. Sure, there are thresholds, including the rule that you don't need to [file annual FBARs](#) if you have \$10,000 or less in your accounts. But remember, that is in the **aggregate**, so having three accounts with \$4,000 each puts you over. See [FBAR Form and Instructions](#).



Plus, the \$10,000 ceiling is judged every single day of the year. If you **ever** go over \$10,000 in the aggregate at any point during the year, you must file. Remember too that even this FBAR threshold isn't applicable to income taxes. If small accounts produce income, you must report it.

Say you have a foreign account with \$8,000 at all times during the year, and it produces \$400 of interest income. Even though the account isn't subject to FBAR rules, you must report the income. And most foreign banks don't send you handy [Form 1099](#)-type reminders at tax time.

Does the IRS care about small foreign accounts and income? If you fail to file FBARs and/or fail to report income, can you go to jail or face huge fines or penalties? These are common questions, and there's no easy answer.

First, consider whether your failing is only in taxes, only FBARs or both. See [IRS Gives Big Break To Some Offshore Account Holders](#). As explained there, if your problem is **only** FBARs, the IRS wants you to file back FBARs and explain that you didn't know. Ask that no penalties should be imposed.

There's no guarantee, but you will probably be fine. Besides, the alternative of doing nothing is probably much riskier. The IRS has made clear that non-compliant accounts—and there's no threshold for what accounts are too small to ignore—can be dealt with severely.

FBAR penalties can be enormous, a civil penalty of \$10,000 for each non-willful violation. If your violation is **willful**, the penalty is the greater of \$100,000 or 50% of the amount in the account for **each** violation. Each year you didn't file is a **separate violation**.

Criminal penalties are even more frightening, including a fine of \$250,000 and 5 years of imprisonment. If the FBAR violation occurs while violating another law (such as tax law, which it often will) the penalties are increased to \$500,000 in fines and/or 10 years of imprisonment. Many violent felonies are punished less harshly. See [Is Filing Your First FBAR Admitting To A Crime?](#)

Plus, the assessment of a civil penalty does not preclude criminal penalties or prosecution. Fortunately, one IRS official has said that the IRS may decide to [simply issue a warning letter](#) rather than to assess penalties. The IRS's goal is compliance with the rules, the IRS suggests, **not** just collecting penalties.

If your problem is only taxes and not FBAR failures, small amounts of unreported income can be handled in one of several ways. A formal [voluntary disclosure](#) is probably safest. Yet for some, it can be perfectly OK to amend the tax returns and send in the extra amount. However, if your problem is **both** unreported income and unfiled FBARs, be careful.

The IRS cautions people who try to fix it quietly without going into one of the IRS programs (the OVDP or Streamlined Programs noted here: [Should U.S. Citizens Abroad Pick Streamlined IRS Program Or OVDP?](#)). You could run afoul of the IRS view that quiet disclosures will be dealt with severely. See [Despite Offshore Haul, IRS Hunts Quiet Disclosures, First Time FBARs](#).

Whatever you do, remember, small amounts and small accounts may not raise the same kinds of big ticket issues. Nevertheless, there's no small fry rule at the IRS. Even small amounts of income and account balances can be

worth addressing. It's far better to address these issues than to worry endlessly over not being in compliance with the rules.

You can reach me 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.