

Have a Financial Interest in or Signature Authority over a Foreign Financial Account? Better Read This!

Article Highlights:

- Reporting Threshold
- FBAR Filing Due Date
- Penalties
- Overlooked Accounts

Each U.S. person who has a financial interest in or signature or other authority over any foreign financial accounts (including bank, securities, or other types of financial accounts in a foreign country) must report that relationship to the U.S. government each calendar year if the aggregate value of these financial accounts exceeds \$10,000 at any time during the calendar year.

The government uses this reporting mechanism as a means of uncovering hidden foreign accounts and ensuring that investment income earned in foreign countries by U.S. taxpayers is included on their U.S. tax returns. The Treasury Department has placed a new emphasis on foreign accounts, and taxpayers with a financial connection to a foreign country should determine whether or not they have a reporting requirement.

Reporting is accomplished by electronically filing Form FinCEN 114 commonly referred to as FBAR (for **Foreign Bank Account Report**), which is **due on or before June 30** of the succeeding year. No extensions are available for filing this form.

Penalties for failing to comply can be draconian. For non-willful violations, civil penalties up to \$10,000 may be imposed. The penalty for willful violations is the greater of \$100,000 or 50% of the account's balance at the time of the violation. A reasonable cause exception to the penalty is available for non-willful violations but not for willful violations.

Overlooked Accounts—Many taxpayers overlook the fact that they have a reporting requirement in such situations as:

- Family Accounts—Recent immigrants to the U.S. may still have parents or other family members residing in the “old” country, and those relatives may have included them on an account in a foreign country. This practice is common for some ethnic groups. The taxpayer may not really consider the account to be his or hers; nevertheless, it falls under the reporting requirement if he or she has signature or other authority over the account and its value exceeds \$10,000.
- Inherited Accounts—Accounts in a foreign country and inherited accounts fall under the FBAR reporting requirement, even if the funds are subsequently transferred to the U.S. The FBAR rules state that reporting is required if at any time during the year the foreign account exceeds \$10,000.
- Business Accounts—A corporate officer or Board member may have signature authority over a business account in a foreign country and may overlook the need to meet the FBAR reporting requirements.
- Foreign Financial Accounts—These financial accounts are maintained by foreign financial institutions and include other investment assets not held in accounts maintained by financial institutions. However, no reporting is required for interests that are held in a custodial account with a U.S. financial institution.

If you have questions regarding this reporting requirement or need assistance with the reporting, please contact this office.