



Foreign Financial Assets Filing Requirement

Now that you have filed your 1040, you may think you don't have to worry about IRS issues for awhile. However, this may not be the case.

Many US citizens and residents have requirements to file FinCEN Form 114, which is due on June 30, 2016.

To find out if you are required to file this Department of Treasury form, you will need to answer two questions. These questions are found on Schedule B of your tax return, but FinCEN Form 411 must be filed separately and is due on a different date. The questions are as follows:

1. **Did you have an interest or signature authority over any foreign financial accounts during 2015?**
2. **Did the aggregate value of those foreign financial accounts exceed US\$10,000 at any time during 2015?**

If your answers are "YES" to both of the above questions, you are required to file FinCEN Form 114 (formerly TD F 90-22.1) - Report of Foreign Bank and Financial Accounts (also known as the "FBAR") with the Treasury Department by June 30, 2016.

Seems straightforward but following are some examples from the IRS FBAR Reference Guide which might require the filing of this form by the unsuspecting taxpayer:

- Megan, a US resident, has a power of attorney on her elderly parent's accounts in Canada, but she has never exercised the power of attorney. Megan is required to file an FBAR if the power of attorney gives her signature authority over the financial accounts and the accounts (including any of her own) total over \$10,000.
- Julia is a US person who is employed by an Irish company and has signature authority over her employer's foreign financial accounts. She may be required to file an FBAR if these accounts (and any of her own) total over \$10,000.
- Kristin, a US person, owns foreign financial accounts A,B and C with account balances of \$3,000, \$1,000 and \$8,000 respectively. These accounts do not produce income. Kristin is required to report the accounts because the aggregate value is over \$10,000.

Foreign saving/retirement accounts can also cause a US person to be required to file. A Canadian Registered Retirement Savings Plan (RRSP), Canadian Tax-Free Savings Account (TFSA), Mexican Individual retirement account (Fondos para el Retiro) and Mexican Administradoras de Fondos para el Retiro (AFORE) would each be considered reportable accounts if the amount is over the \$10,000 threshold.

However, foreign securities purchased through a financial institution located within the United States does not require reporting on the FBAR.

No extension of time to file is available for this form, it must be filed electronically, and a penalty of up to \$10,000 can be asserted for each failure to file. To file the report directly, you can go to: <http://bsaefiling.fincen.treas.gov/NoRegFBARFiler.html>. You can also contact us at Griffing & Company, P.C. for help in preparing and filing this form for you.

This reporting requirement applies to individual, partnership, corporation, as well as fiduciary taxpayers.

TO AVOID PENALTY, PLEASE CONTACT US AS SOON AS POSSIBLE IF THE FOREIGN ACCOUNTS (FBAR) REPORTING APPLIES TO YOU OR YOUR BUSINESS.

Additional Reporting Requirement for Specified Foreign Financial Assets

In addition to the FBAR, U.S. Citizens, resident aliens and certain nonresident aliens must report ownership interest in specified foreign financial assets on Form 8938 with their income tax return if the aggregate value of those assets exceeds certain thresholds.

For taxpayers living in the United States, the threshold for a single filer is \$50,000 (\$100,000 for joint filers) of total foreign assets on the last day of the year or more than \$75,000 (\$150,000 for joint filers) during the year.

For taxpayers living outside the United States who satisfy the presence abroad test, the threshold for a single filer is \$200,000 (\$400,000 for joint filers) of total foreign assets on the last day of the year or more than \$300,000 (\$600,000 for joint filers) during the year.

PLEASE CONTACT US AS SOON AS POSSIBLE IF THIS APPLIES TO YOU. IF YOU HAVE FILED YOUR 2015 TAX RETURN, YOU WILL NEED TO FILE AN AMENDED RETURN TO ADD FORM 8938.



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