

QUICKSHEET: FBAR Disclosure

The IRS has been increasing their efforts to bring U.S. persons living outside the United States and U.S. persons who have foreign financial and business dealings into compliance on filing obligations imposed by both the Internal Revenue Service and the U.S. Treasury Department. H&R Block has every reason to believe that the push towards total compliance will only increase in the coming months and years. Your H&R Block U.S. Tax Specialist will help you discern what your obligations may be and to assist you in completing the required forms.

The U.S. government's principal purpose for collecting the information is to assure maintenance of reports where such reports or records have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings.

To determine whether the FBAR is required ALL the following must apply:

- The filer is a U.S. person
- The U.S. person has a financial account(s)
- The financial account is in a foreign country
- The U.S. person has a financial interest in or other authority over the foreign financial account, and
- The aggregate amounts(s) in the account(s) valued in U.S. dollars exceed \$10,000 at any time during the calendar year

If a report is required, certain records must also be kept.

Who

- A citizen of the United States - whether by birth or naturalization
- Green card holders - expired or current
- Non-U.S. citizens who meet the substantial presence test - even if for tax purposes they file as a non-resident. This includes snowbirds who have not filed *Form 8840 Closer Connections* and individuals who claim U.S. non-residency under the United States/Canada Tax Treaty
- An alien who makes the first-year election to file as a U.S. tax resident
- Certain business entities.

What

Foreign Financial Account

- The location of the account, not the nationality of the financial institution, is the determining factor whether an account is U.S. or foreign for FBAR purposes. Any financial account, other than an account at a U.S. military banking facility, which is located in a foreign country, should be reported - even if the account is held with a branch of a U.S. financial institution located abroad.

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- Types of accounts that require disclosure include, but are not limited to:
 - Bank accounts such as: savings, demand, chequing, time deposit, TFSA
 - Bank accounts set up to secure a credit card
 - A whole life insurance policy having a cash surrender value
 - An annuity policy with a cash value
 - Securities - brokerage, stocks, bonds, derivatives, commodities, futures, any financial instruments
 - Accounts in which assets are held in a commingled fund and the owner holds an equity interest in the fund- mutual funds, RPP, defined contribution retirement plans,
 - Any pooled fund that is available to the general public with a regular net asset value and regular redemptions,
 - Any other account maintained at a financial institution -RESP, DPSP, ESPP, etc...
 - Accounts belonging to your employer or family members that you have signing authority over

Signature or Other Authority Over an Account

A person has signature authority over an account if that person can control the disposition of money or other property in it by delivery of a document containing his signature (or his signature and that of one or more other persons) to the financial institution where the account is maintained.

A person has other authority if the person can exercise power comparable to signature authority over an account by communication to the financial institution where the account is maintained, either orally or by some other means.

Account Valuation

The maximum value of an account is the largest amount of currency and non-monetary assets that appear on any quarterly or more frequent account statement issued for the applicable year.

These amounts should be converted to U.S. dollars using the exchange rate in place on December 31 of the year being reported.

Record Keeping

Each person must maintain the following records for a minimum of 5 years:

- Name in which the account is maintained
- Account number or designation
- Name and address of the foreign bank or other institution where the account is maintained
- Type of account
- Maximum value of the account during the reporting period

Penalties

Civil and criminal penalties can be assessed for negligence, pattern of negligence, and failure to file or failure to file a complete FBAR - whether due to a willful disregard of a legal obligation or ignorance of the requirement to disclose foreign financial accounts on an annual basis.

Monetary penalties coupled with interest assessments can be very large and sometimes exceed the value of the account not disclosed. The penalty for failure to file can be \$10,000 per year and can only be waived by showing reasonable cause.

Missed Filings

If you have not filed FBARs for any previous year, it is important to file them as soon as possible. Your H&R Block tax professional can help you with this.

When

FinCEN114 must be E-Filed with the Department of Treasury no later than April 15 of each year. For 2019, the due date is April 15, 2019, and for Maine and Massachusetts residents it is April 17th because of the Patriot's and Emancipation Day holidays.

There is an automatic extension to October 15 if you do not file the FinCEN114 by April 15, 2019.

Where and How

Your U.S. Tax Specialist is able to E-File your FBAR requirements. If you chose to file this reporting requirement yourself, review the instructions on the Financial Crimes Enforcement Network's webpage.

<http://bsaefiling.fincen.treas.gov/main.html>

- FinCEN114 is NOT part of your U.S. tax return; do not send to the IRS.



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FBAR Client Disclosure

I/we _____ / _____ have been made aware of the rules surrounding the obligation to file FinCEN114 – Report of Foreign Bank and Financial Accounts.

____ / ____ I/we have disclosed all accounts as described above, their account numbers and balance information to my tax professional to prepare and E-File the FinCEN114 for me. FinCEN114a has been signed.

____ / ____ I/we choose to E-File the FinCEN114 myself and have been made aware of the requirement to file it no later than April 15, 2020*

____ / ____ I/we do have not an aggregate amounts(s) in the account(s) valued in U.S. dollars exceed \$10,000 at any time during the calendar year.

Name (Please print)

Name (Please print)

Signature

Signature

Date _____

Date _____

*FinCEN allows an automatic extension to October 15.

(Must be signed by the client and kept in the client office folder. May make a copy for the client)