



Robert W. Wood

THE TAX LAWYER

Jul. 21 2011 — 8:49 am

E-Filing And Other FBAR Quirks

You may fear the IRS. But it is the Financial Crimes Enforcement Network—also known as [FinCEN](#)—that is responsible for [FBAR](#) (Report of Foreign Bank and Financial Accounts) filing and administration. FinCEN's mission? To enhance U.S. national security, deter and detect criminal activity, and safeguard financial systems from abuse by promoting transparency in the U.S. and international financial systems.

Up until now it has not been possible to e-file FBAR forms. Your 2010 FBAR was due June 30, 2011, so you may have just filed it. But if you are filing late—and oddly, there appears not to be a penalty for late filing—or considering next year, there's good news that e-filing is now available. Click [here](#), then follow the [instructions](#) to complete and file the FBAR online.

Currently, FinCEN can only accept FBAR e-filings when one signature is required. A spouse who is included as a joint owner and who does not file a separate FBAR must also sign. Unfortunately, the e-filing process will not yet allow for both signatures on the same electronic form. That means if you file an FBAR jointly with your spouse, you can't e-file.

Paper FBAR forms will still be accepted until further notice. Remember that unlike [tax returns](#), FBARs are not considered filed when they are mailed. They are only considered filed when they are *actually received*.

That rule makes e-filing especially attractive, since one need not wait for the transit time for a paper form. Of course, whether you are paper filing

or e-filing, keep a copy of the return as well as proof that it was timely filed.

Remember, FBARs are only part of a 3 part obligation:

1. **Report All Your Worldwide Income.** Your U.S. tax return must report it all, even if you pay tax elsewhere.
2. **Check the Foreign Account Box on Schedule B to Your 1040.** If you have \$10,000 or more, disclose that you have foreign accounts on your tax return.
3. **File an FBAR Annually.** If you have \$10,000 or more, file an FBAR [annually](#).

If you didn't file your first FBAR by June 30, 2011 and are still trying to determine what to do, you're not alone. You could enter the IRS [OVDI](#) program that ends August 31 (in some cases it can be extended to November 29, 2011). See [IRS Updates Voluntary Disclosure Amnesty: What You Should Know](#).

Many U.S. citizens and permanent residents [didn't know](#) about these rules until recently. But it's harder today to remain [ignorant](#). As you evaluate alternatives, consider what the IRS says is "willful." See [IRS May Find "Innocent" FBAR Violation Willful](#).

The IRS says that with hardly any diligence, you ***could have*** learned of these requirements easily. A person with foreign accounts ***should*** read the information the government specifies in its tax forms and instructions. The IRS says failing to follow-up on this knowledge may provide evidence of "willful blindness." See [Excerpt From Internal Revenue Manual, 4.26.16.4.5.3, Paragraph 6](#) and [Some Foreign Account Penalties Unfair, Says Taxpayer Advocate](#).

For more, see:

[FBAR And FATCA Haters Unite](#)

[Stripping FATCA From Our Diet](#)

[It's Not Too Late For IRS Amnesty](#)

[Beware Foreign Trust Reporting to IRS](#)

[Are You Getting Enough FBAR?](#)

[New Worries Over E-Filing Taxes](#)

[E-Filing And IRS Website](#)

*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, [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.*