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Even U.S. Branch Accounts Abroad Trigger FBAR!

With June 30 mere days away, you may be fretting about [FBARs](#), especially if it's your first. See [Should You File FBAR For The First Time?](#) If you have foreign bank accounts holding more than \$10,000 in the aggregate any time during 2010, you can face big penalties or even jail if you fail to file by June 30, 2011. The FBAR, Report of Foreign Bank and Financial Accounts (Treasury Form [TD F 90-22.1](#)) should not be taken lightly.

You should file if you are in the process of coming clean with your foreign accounts under the [OVDI](#). Even if you've only done a pre-clearance, you should probably still file your FBAR. See [FAQ 23](#). It's a tougher call if you have never filed and are not willing to clean up the past.

But must you file an FBAR even if the **only** foreign account you have is at a foreign branch of a U.S. bank? Yes, so says the IRS. If the branch is located in a foreign country, even if it is owned by a U.S. bank, it's still considered a foreign financial institution for purposes of the FBAR rules. See [Foreign Accounts With Domestic Banks Are Subject to FBAR Rules](#).

Here are some basics about FBARs:

1. **No E-Filing/Receipt by Due Date.** FBARs **can't** be e-filed, and aren't governed by the usual "mailing is filing" rule applicable to tax returns. Make sure your FBAR is **received** by June 30.

2. **Who Must File?** U.S. taxpayers including citizens, residents, and entities that have foreign financial accounts totaling more than \$10,000 at any point during the year.
3. **What's an Account?** Foreign bank and brokerage accounts are generally included, as are offshore mutual funds or pooled investments. However, hedge and private equity funds generally don't count. An account with a U.S. institution that holds foreign assets doesn't require a filing as long as you can't directly access foreign assets maintained in a foreign institution. But as noted above, foreign branches of U.S. institutions are treated as foreign.
4. **FBAR Penalties.** The penalties for failure to file an FBAR are considerably worse than tax penalties. Failing to file an FBAR can carry a civil penalty of \$10,000 for each non-willful violation. But if your violation is found to be *willful*, the penalty is the greater of \$100,000 or 50 percent of the amount in the account for *each* violation—and each year you didn't file is a *separate violation*.

For more, see:

[Are You Getting Enough FBAR?](#)

[IRS On What Is A "Foreign Account"](#)

[Latest Foreign Account Prosecution Fuels Fears](#)

[Still Have A Foreign Bank Account?](#)

[What To Do If Your Foreign Account Is A PFIC](#)

[Still More Foreign Account Worries!](#)

[Six Questions About Secret Foreign Bank Accounts](#)

[Ten Things To Know About Offshore Bank Accounts](#)

[Sacre Bleu! The Foreign-Account Penalty](#)

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