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FBARs For Foreign Accounts Are Due June 30. Should You File For The First Time?

Missing a filing deadline is not something to take lightly, especially when the IRS, the Financial Crimes unit of the Treasury Department, and the Justice Department are all over FBARs these days. June 30, 2015 is the filing deadline for 2014 FBARs—also called Form 114. [FinCEN](#) now requires that you [file your FBAR, Form 114](#) electronically. And unlike the April 15 tax return filing deadline that can be extended, the FBAR deadline is not extendable.

If you had foreign accounts in 2014 that in the aggregate topped \$10,000 at any time during the year, you should file on time, right? The default answer is yes, clearly. Given the Draconian FBAR penalties—that can include willful and nonwillful civil penalties and even criminal violations—FBARs are nothing to ignore.

Yet that is precisely why some people think twice. Will filing one FBAR prompt questions about whether you had the account in the past? Why didn't you file then? Since the statute of limitations for civil or criminal violations is generally six years, opening yourself up to that kind of exposure is frightening.



For some taxpayers, there is no perfect answer. You don't want to ignore a filing obligation now that you know about FBARs. But one should consider where you are going long term with your issues, how quickly you plan to act, and whether you have good and accurate information to file now. If you are just addressing foreign accounts and income for the first time, filing a first FBAR on time may even be a mistake.

Why? You want to have an organized plan for what you are doing and how you are doing it. Will you go Streamlined or OVDP? Which tax years will count? Will you do a quiet disclosure or just start filing prospectively? Do you have all your accounts now or only some? Do you have statements?

It can be wise to think these issues through before acting. You don't want to rush to file and have to amend it shortly thereafter. These forms are filed under penalties of perjury. Plus, some worry that once you file your first FBAR, they might ask questions. Is filing your first FBAR admitting to a crime? Hardly, but this is a common worry.

Some taxpayers consider filing on time to be paramount. They don't want to be seen as ignoring the rules, which could risk civil penalties or even criminal charges. However, if you file currently and not for the past, aren't you asking for trouble? A GAO report on [offshore tax evasion said the IRS was missing our on quiet disclosures](#). Although the reports says the IRS has done a good job with collecting \$5.5 billion in taxes and penalties from around 40,000 offshore disclosures, the IRS could do more.

In fact, the GAO says the IRS is well aware that many people with offshore accounts are making quiet disclosures. Classically, a quiet disclosure involves filing one or more FBARs and one or more amended tax returns. Just ease in to reporting the offshore accounts, the theory suggests, and maybe the IRS will not notice and will not penalize you. In reality, though, it can be a dangerous path.

The GAO analyzed amended tax returns, matched them to offshore accounts and found even more quiet disclosures than the IRS. First time reporters of offshore accounts have skyrocketed, and the GAO urged the IRS to find them and crack down.

The IRS is missing out on many. Find them, says the GAO, and collect those billions in taxes and penalties. In fact, the GAO says the IRS should identify and pursue quiet disclosures. The IRS can just look at Schedule B to your Form 1040. Is the "I have a foreign account" box checked? If it wasn't checked the prior year, GAO says IRS should check it out.

The same with new FBARs. Why didn't you file an FBAR last year, sir? Just when was that account opened anyhow? Audits, investigations, and conceivably even prosecution in extreme cases. How many and how serious they will be is anyone's guess. But with the changes to the OVDP and the new Streamlined program, consider that June 30 deadline carefully. Taking time to plan ahead and be careful may make sense.

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