



Robert W. Wood

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IRS On What Is A “Foreign Account”

If you have a foreign bank account with \$10,000 or more at any point during the year, you need to file a report annually. File a Treasury Form [TD F 90-22.1](#), Report of Foreign Bank and Financial Accounts—referred to as an FBAR. Separate from tax returns, FBARs are due each June 30 for the preceding year. See [Ten Things To Know About Offshore Bank Accounts](#). Of course, you must report any income from the account (along with the rest of your worldwide income) on your tax return, and check the “yes” box on [Schedule B](#) that you have a foreign account.

But the FBAR disclosure is the detailed one. And penalties for failure to comply are distinct from the penalties for an incomplete tax return. FBAR penalties can be extreme: prison for up to ten years and up to \$500,000 for each FBAR failure. FBAR rules have long been in the law—the [Bank Secrecy Act](#) dates to 1970.

Even so, many taxpayers and even professionals didn’t know about the rules until recently. Yet hoping you’re not caught—or that if you are discovered you can plead innocence—could require an awfully long wait (forever actually) before you’re truly in the clear. In fact, if you fail to file an FBAR, you can’t run out the clock.

The IRS generally has three years after a return is filed to audit or six years in cases of substantial (25%) understatements of income. See [IRS Wins Big In Six Year Audit Push](#). But if a tax return or FBAR is *never* filed, the statute of limitations never runs. See [Even The IRS Has Time Limits](#). That’s one reason many people who didn’t comply in the past are

taking advantage of the IRS's latest amnesty program. See [IRS Offshore Amnesty: Second \(Last\) Chance](#).

Non-Accounts? The IRS published final regulations regarding FBAR filings that include some important clarifications. See [Federal Register, February 24, 2011](#). For example, some types of accounts are not treated as foreign accounts triggering a filing obligation. Thus, an account with a financial institution in the U.S. isn't "foreign."

Likewise, 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. Also, officers or employees who have signature authority over their employer's foreign accounts need not personally maintain records of the accounts.

For more, see:

[Ten Facts About Tax Expatriation](#)

[Ten Ways To Audit Proof Your Tax Return](#)

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

[IRS FAQs Regarding FBAR — Filing Requirements](#)

[FinCEN Issues Final Rule on FBAR Responsibilities](#)

*Robert W. Wood practices law with [Wood & Porter](#), 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@woodporter.com. This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.*