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Is Closing Foreign Bank Accounts An Alternative To Disclosure?

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Suppose you have a foreign bank account holding more than $10,000. You may have inherited it, used it to hide money during a dispute with your spouse or business partner, or just done it on a whim. Whatever the history, such an account today can feel like an albatross around your neck, weighing you down and seemingly threatening to do you in.

As you try to justify an easy way out, you might note that the account hardly throws off any income and you don't even receive statements. With the fees the foreign bank charges, it probably loses money. You might feel justified in sweeping the whole mess under the rug, trying to close up the little untidiness.

You'd have to be Rip Van Winkle not to know that foreign accounts and assets are being scrutinized by the IRS and FinCEN, the Treasury Department that reviews FBARs. See [5 Nations Join U.S. In Tax Evasion Crackdown](). The stakes are high, with huge civil penalties and even jail time possible for those who fail to come right. See [IRS Criminal Investigations On Rise](). And that brings up the inevitable quesiton: how to start to make it right without jumping into the IRS voluntary disclosure program and paying a 27.5 percent penalty on your highest account balance? See New IRS Offshore Amnesty Announced: Third Time's A Charm.

At tax return filing time, should you check the box on Schedule B noting that you have a foreign bank account? Should you report all of the income from your foreign accounts or assets? Should you file Form 8938? Should you file a Report of Foreign Bank and Financial Accounts (FBAR), Treasury Form TD F 90-22.1? Yes, yes, yes and yes.

But if you haven't come clean in the past, should you do so now? If you didn't disclose the account on your tax returns and owe tax from the past, you face a tough choice. See Should You File FBAR For The First Time? Staying hidden forever seems unlikely and is highly risky.

But if you file your first tax return reporting such items and/or your first FBAR and the IRS asks for past FBARs and asks questions about your past returns, you can't lie. The choices are tough enough that you should clearly get advice from an experienced tax lawyer based on a full disclosure of your facts.

Can't you just close your account and not try to fix the past? Perhaps you can even give the money to charity abroad without repatriating it? These are common fantasies, but they rarely serve as a *bona fide* way out of the mess.

After all, if you close your foreign account tomorrow, you still have income and reporting obligations from past years. You even have them for the current year up to the date of the closure. That exposure doesn't go away for at least 6 years. See Even The IRS Has Time Limits. That can be a long and agonizing wait as you hope you are not caught.

Plus, your account closure activity may cut off liability for future periods, but it could backfire. Quietly closing an account and disposing of the funds can be seen as evidence of consciousness of your guilt.

All in all, then, as tempting as it sounds, just closing your foreign account isn't a solution. A voluntary disclosure under the IRS program is best. In some cases, you may be able to do a "quiet disclosure," although that is something the IRS discourages. See Latest Foreign Account Prosecution Fuels Fears.

Not wanting to be discovered is a poor excuse for continuing to ignore the rules. You should start filing correctly, but you should also correct the past, and the best way to do so is a voluntary disclosure.

For more, see:

Primer For First Time FBAR Filers

IRS Form 8938 Or FBAR?

Got FBARs? But Which One?

Get Ready For More FBAR Rules

FATCA Makes Banks Shut Out Americans

Will IRS Get Fat Off FATCA?

Are Expats Derailing The FATCA Express?

Happy FATCA Filing Season

No Jail In UBS Tax Evasion Case

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