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### Primer For First Time FBAR Filers

*For more information on FBARs, see [Should You File FBAR For The First Time?](#)*

Six months ago I asked if you should file your [first FBAR](#), or Report of Foreign Bank and Financial Accounts, Treasury Form [TD F 90-22.1](#). Since then, I've been presented with this question across many fact patterns, so here's an update.



First, those in the IRS Offshore Voluntary Disclosure Initiative ([OVDI](#)) program have made their decision: they are filing delinquent and/or amended FBARs as part of the program. Every June 30, they will need to file again as long as they maintain foreign accounts holding \$10,000 or more in the aggregate.

Those not in the OVDI program could still come forward and make a voluntary disclosure under traditional IRS rules. See [It's Not Too Late To Disclose Foreign Accounts](#). They too will be filing past due FBARs and committing to file them prospectively as long as they are required.

If you haven't disclosed your foreign accounts on your tax return and haven't **previously** filed FBARs, **should** you? You can face big

penalties or even [jail](#) if you fail to file. For the basic rules of FBAR filings, see [Are You Getting Enough FBAR?](#) Starting to file FBARs can appear to be a “[quiet disclosure](#),” something the IRS discourages. See [FAQ 15](#). Some taxpayers consider:

- Starting to file FBARs prospectively but not trying to address the past;
- Filing three years of past due FBARs, one per envelope, so as not to draw undue attention;
- Filing six years of past due FBARs, one per envelope; or
- Filing three, six or perhaps even eight years of FBARs with a letter to the IRS explaining that you didn't know of the filing requirement, are now complying, and asking that no penalties be imposed.

Then there are those whose total income on their tax returns might be accurate, but who did not disclose their foreign accounts, did not make a voluntary disclosure, and do not intend to do so. Some may even not feel comfortable filing past due FBARs under any of these circumstances. Yet if you reported all income from your foreign account(s) or wouldn't have had to pay additional U.S. tax even if you had (for example, because of foreign tax credits), you should file an FBAR.

In fact, the [2011 FAQs](#) state that such filers were not required to enter the OVDI. See [FAQ 17](#), suggesting that no post-OVDI voluntary disclosure is required either. Thus, starting to file FBARs makes sense, whether or not you try to correct the past with late FBARs. The IRS **could** assess penalties for your past failure to file FBARs, but you could explain and dispute the penalties. Alternatively, you could explain with your first FBAR that you previously were not aware of filing requirements.

If you reported all the foreign income—or wouldn't owe more tax even if you had—your big failure was the FBARs. Even though it could mean you'll face a dispute about penalties, starting to file seems the smarter move. If you didn't disclose the accounts on your tax returns and owe tax from the past, you face a tough choice.

If you file your first FBAR and the IRS asks for past FBARs or asks questions about your past returns, you can't lie. See [When IRS Criminal Agents Come Calling](#). Still, trying to stay beneath the radar is risky. Get some advice and be careful.

For more, see:

[Offshore Tax Amnesty Strikes Gold For California](#)

[Get Ready For More FBAR Rules](#)

[IRS To Let Some Bow Out Of Swiss Account Disclosure Program](#)

[The IRS Grills Taxpayers on Offshore Accounts](#)

[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](#)

[Should You File FBAR For The First Time?](#)

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

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