News & Updates

GRIFFING & COMPANY, P.C.

Certified Public Accountants and Consultants

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Breaking Down Foreign Bank Account Reporting ("FBAR")

Our newsletters tend to focus on domestic tax filing, so we wanted to dedicate a Foreign Bank Account Reporting ("FBAR") article to Americans living abroad or U.S. filers with non-U.S. accounts. Since FBAR filings are typically forgotten about, we have compiled some important information to better understand it.

FBAR has been around for a while, as it was made by the US in an effort to keep track of those keeping money in offshore accounts. Those who file the form aren't taxed on the balances of their accounts – this is just done as a method for record keeping. Keep in mind, though, not filing could potentially result in heavy financial and legal penalties.

It's not unusual to have a financial account located outside the U.S. if you're an American living abroad. However, you may have special reporting requirements just for having financial assets in these foreign accounts.

How do you know if the FBAR applies to you? Let's take a look at some important criteria to see if filing the form would be in your best interest. First, FBAR applies to *all* US persons, not just citizens, who meet the reporting threshold. This means: citizens, resident aliens, estates, domestic entities, and trusts. Now, what exactly is the reporting threshold that was just mentioned? That amount is $10,000 USD *or more* at any point during the tax year. Even if the balance was only $10,000 for, like, a minute. The $10,000 threshold is also an aggregate amount, meaning it applies to the total of all your accounts.

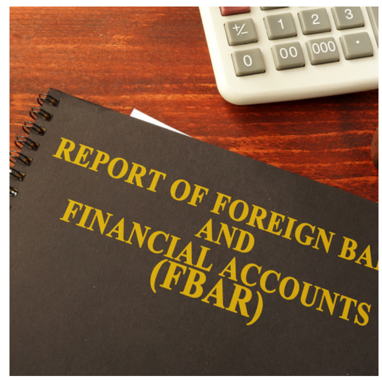
FBAR also applies to all foreign accounts where you have signature authority (some level of control through direct communication with the financial institution) or financial interest (determined by who the owner of record/legal title is). The signatory requirement often catches certain key employees or officers who have signatory over non-U.S. business accounts.

Furthermore, reporting requirements also apply to the following:

- Foreign Retirement accounts
- Foreign assets like stock or securities held in a foreign account
- Financial account at a US bank held in a foreign branch
- Accounts you don't own but are able to control
- Foreign mutual funds like insurance/annuity contact with a cash value

In general, it’s good practice to maintain proper record keeping. Submitted forms for FBAR filing must include the following information:

- The name on the account(s)
- The number/other designation of the account
- The type of account
- The maximum value of each account during the reporting period (converted to USD using the end of year exchange rate)
- The name and address of the institution or other person with whom the account is maintained



To file, you will use either FinCen 114 for yourself, or FinCen 114a to give a party authority to file on your behalf. The deadline to submit this is April 15th each year, but it’s automatically extended to October 15th.

If you didn’t file due to not knowing about the reporting obligation, you can be fined $10,000 per violation. If you purposely avoided it, the fine could go to $100,000 or 50% of the balance of the account at the time of the violation, whichever is greater.

If you’ve never filed an FBAR, don’t worry. There’s an amnesty program the IRS made to help you get caught up called Streamlined Filing Procedures. This is available to US persons living in the US and abroad who didn’t know about their obligations to report. There used to be some restrictions, but they have been lifted to make it easier for those to get caught up. One of those changes are that there are no late filing penalties! However, if you live in the U.S., a 5% offshore penalty does apply. If you haven’t already, you will need to file the last 3 years of federal tax returns and the last 6 years of FBAR filings. However, don’t wait to get caught up! Once you identify that you have a delinquent FBAR filing requirement, it is best to get your filing requirements caught up as quickly as possible to minimize penalties.

You may also need to complete and attach FATCA Form 8938 to your return if the aggregate value of specified foreign financial assets exceeds certain thresholds. This is different from the FBAR in that the reporting thresholds are higher, the form is filed with the IRS as part of your return, and it requires financial institutions to report directly to the IRS. This form does *not* replace or affect your responsibility to file the FinCen 114 form (FBAR).

Depending on your unique situation regarding FBAR filing requirements, our tax advisors can help you decide on your best course of action.

Please do not hesitate to call or email info@griffing.com for any questions you may have.

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