

FAQS: REPORT OF FOREIGN BANK AND FINANCIAL ACCOUNTS (FBAR)

THE BASICS

What is an FBAR?

The form known as the FBAR is actually FinCEN Form 114 which came out of the Banking Secrecy Act and was originally known as TD F 90-22.1. It is an informational form providing disclosure of non-US bank and financial accounts. The form is due by US citizens and residents with more than an aggregate amount of \$10,000 at any point during the tax year in non-US bank and financial accounts, or with signature authority over more than \$10,000 in non-US accounts. The threshold is checked using the FBAR published rate for non-US dollar accounts.

When is the FBAR due?

The 2015 form was due 30 June 2016 and no extension was available. Next year the due date will follow the tax return deadline.

Do I need to find the exchange rate on the day of the highest balance?

No. The IRS publishes an official rate to use each year for this form, and for 2015 this rate related to GBP was \$1.00=£0.675.

Do I simply include my bank accounts for reporting purposes?

No. The form includes much more than just your bank account. See 'What 'Accounts' are Included' for more detail.

Can I send this form by post?

No. The form can only be e-filed.

Do I have to include accounts with zero balances, or balances under \$10,000?

Yes, if the aggregate balance exceeded \$10,000 at any point during the year. In that case all accounts need to be disclosed.

Do I include an approximate figure if I don't know the value in one or more of my accounts?

No, unless disclosed. If you are not able to obtain the account balance you can show the account as balance unknown. Ideally any estimated figures should be disclosed in the notes.

I have more than 25 accounts – do I have to file the form?

Yes, if the value threshold is met. Fortunately the information disclosure on the form is reduced if you have more than 25 accounts owned, or more than 25 accounts over which you have signature authority. The information is required to be collated and

IN 2017 THE FORM
WILL BE DUE 15
APRIL AND THEN
FOLLOW THE TAX
RETURN DEADLINE.

made available if requested.

Do children need to file FBAR forms?

Yes. There is no exemption from filing based on age; although a minor child would not be able to sign their own form and this would need to be authorised by a parent signing on behalf of the minor child.

FIRST TIME FILERS

I just found out about this form and have been advised to start with 2010! Should I wait to file until my returns are ready?

The FBAR's are filed separately from tax returns, but the reason for the late submission must be explained and should link to the disclosure advice for the returns, if applicable.

Can I still file if I do not yet have my US Social Security Number or ITIN?

Yes. Please provide details from an official foreign government document and make a note to amend the FBAR when your number becomes available.

FILING A LATE OR INCORRECT FORM

What happens if I missed the 30 June 2016 deadline?

We recommend filing a complete and accurate form as soon as possible. Voluntary disclosure of information is a mitigating factor the IRS will consider to determine if penalties should be assessed, and the amount. If the form is filed late, or needs amendment at a later date, a detailed explanation will be required.

Is there a penalty associated with late filing of this form, or mistakes?

Yes. The penalties for this form can be severe. You may see \$10,000 mentioned and this is the most common civil penalty if a penalty is appropriate. It is generally best to make the correction through a disclosure program which will determine the penalty level. In most cases no penalty is assessed, but the penalty can be 5%, 27.5% or even up to 50% of your applicable balances.

WHAT 'ACCOUNTS' ARE INCLUDED?

What kind of 'Accounts' need to be included?

This form includes a wide range of items, some of which you may not think of in this context. In addition to checking and savings accounts, it includes:

- Investment accounts
- ISAs
- Pensions over which you have investment discretion
- Life insurance plans with a cash surrender value
- Annuities with a cash value
- Accounts owned indirectly through partnerships trusts and companies
- You may even need to declare online accounts such as PayPal if you have had a positive balance in the account

**THERE IS NO
EXEMPTION FROM
FILING BASED ON
AGE...**

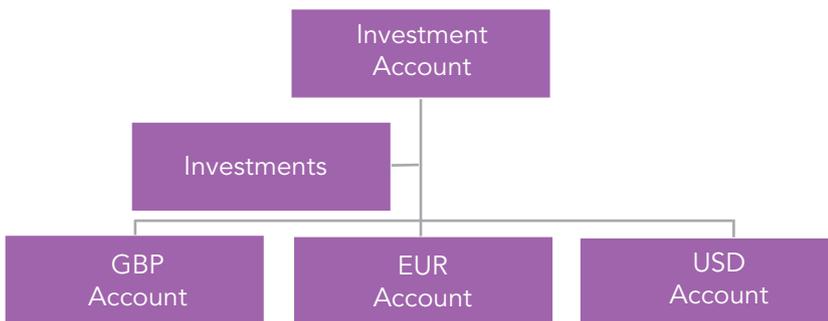
**THERE IS A PENALTY
ASSOCIATED WITH
LATE FILING OF THIS
FORM...**

- Mortgage debt is not required to be included but if you have an offset account with your mortgage this may require further review.

This is not an exhaustive list...!

My account shows several different accounts within an overall account. What should I include?

Our general advice on sub-accounts is to include the aggregate value of the overall account, and also individually list the sub-accounts. This can happen for example when you have different currency accounts. For example for an account structured as below we recommend listing four account entries on the FBAR.



YOU MAY EVEN NEED TO DECLARE ONLINE ACCOUNTS SUCH AS PAYPAL IF YOU HAVE HAD A POSITIVE BALANCE IN THE ACCOUNT.

If I own a controlling interest in a company do I have to include the company accounts on the form?

The most important thing to remember is the concept of the FBAR is to promote financial transparency. Therefore no matter how you structure the business it is likely the accounts will need to be reported on the FBAR, and you should file the FBAR.

If my funds moved from one account to another this seems to duplicate amounts if I look just at the highest balance. Is that correct?

Yes. Duplicate balances can often occur and are expected. If a percentage penalty calculation is required for late or amended forms the duplicate amounts are eliminated before the penalty is calculated.

Can I include just half of jointly owned accounts?

No. The whole value is considered when determining if you need to file and should be declared if you need to file. These accounts are shown in a separate jointly owned account section so the US Treasury is aware that the whole value is not your own.

Can I include my spouse's accounts on my own form?

Sometimes. The form is almost always filed on a separate basis. It is possible to file a form which covers both you and your US citizen/resident spouse if you have joint accounts together, but where your spouse does not also have other accounts to declare.

OUR ADVICE ON SUB-ACCOUNTS IS TO INCLUDE THE AGGREGATE VALUE OF THE OVERALL ACCOUNT, AND ALSO INDIVIDUALLY LIST THE SUB-ACCOUNTS...

SIGNATURE AUTHORITY ACCOUNTS

I have signature authority over hundreds of company accounts in my role as an employee of the business. How much information do I need to provide?

If your signature authority includes more than 25 accounts the information provided is limited to showing the name and address of each business, rather than details of each account, and your role for the business. Your employer can also arrange to file an FBAR on your behalf for such accounts and allow you to therefore file a separate FBAR for all other accounts.

If I have signature authority over company, partnership, or trust accounts. Should I report these in the signature authority section?

It depends. If you have a controlling interest you may need to include the accounts as your own accounts.

Do I need to include family member's accounts on my own form?

If an account is not beneficially owned by you but you have signature authority over the account, these should be included in your signature authority pages. Your family members may also need to file their own form if they are a US citizen or resident to declare the account.

OTHER

Do I have to show the other joint account holder's name on the form if they do not want to be named?

Yes, you do need to show the other account holder's name, address, and US identification number if they have one.

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