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Focusing on Domestic & International Taxation,
Real Estate, Corporate, and Trust & Estate Matters.

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CLIENT ALERT



To: Clients and Friends
From: GRAY TOLUB LLP
Re: Important US Tax and Information Reporting
Deadlines
Date: June 15, 2015

This is a reminder to our clients and friends that there are two important deadlines for US tax and information reporting purposes that are coming soon.

First, US tax residents that are individuals and who live abroad have until June 15, 2015 to file their US tax return (Form 1040) or an extension. Attached to Form 1040 must include Form 8938, "Statement of Special Foreign Financial Assets," if you have a financial interest in "Specified Foreign Financial Assets" and you meet certain asset valuation thresholds. This requirement came into law as part of the Foreign Account Tax Compliance Act of 2010 ("FATCA"). Temporary regulations were issued in late 2011 and finalized in late 2014. Also, nonresident aliens may also have file a US income tax return (Form 1040NR) if they had US source income or were engaged in a US trade or business in 2014. The deadline is also June 15, 2015, unless you received wages subject to US income tax withholding. In that case, the deadline was April 15, 2015. As today is June 15, 2015, you should file an extension if you have not already done so or cannot file your US income tax return by the deadline. This extension will give you four extra months of time to file your US income tax return. Extensions are filed on Form 4868 "Application for Automatic Extension of Time To File US Individual Income Tax Return" and can be e-filed.

Second, US tax residents must also file Form 114, "Report of Foreign Bank and Financial Accounts," by June 30, 2015.

Our client alert discusses these reporting obligations in more detail.

Background

In general, US Federal income tax law requires US citizens and resident aliens to report any worldwide income, including income from foreign trusts and foreign bank and securities accounts.

Individual Income Tax Return.” Part III of Schedule B asks about the existence of foreign accounts, such as bank and securities accounts, and generally requires US citizens to report the country in which each account is located.

In addition, certain taxpayers may also have to complete and attach to their return Form 8938 “Statement of Special Foreign Financial Assets”. Generally, US citizens, resident aliens, and certain nonresident aliens must report specified foreign financial assets on this form if the aggregate value of those assets exceeds certain thresholds.

The Form 8938 requirement does not replace or otherwise affect a taxpayer’s obligation to file an FBAR Form 114.

US Income Tax Obligations For US Tax Residents

US citizens and resident aliens, including those with dual citizenship who have lived or worked abroad during all or part of 2014, may have a US tax liability and a filing requirement in 2015.

A filing requirement generally applies even if a taxpayer qualifies for tax benefits, such as the foreign earned income exclusion or the foreign tax credit, that substantially reduce or eliminate their US tax liability. These tax benefits are not automatic and are only available if an eligible taxpayer files a US income tax return.

The filing deadline is Monday, June 15, 2015, for US citizens and resident aliens whose tax home and abode are outside the United States. An automatic two-month extension applies in their cases, extending the deadline from April 15 to June 15. A further extension requires a separate extension form to be filed.

US tax residents who are individuals include US citizens, green card holders (“permanent residents”), as well as individuals who have “substantial presence” in the United States. Substantial presence is based on measuring days spent in the US. The substantial presence test is normally met for a particular calendar year if a foreign individual would be present in US on at least 31 days during the year and meets a 183-day test. The foreign individual meets the 183-day test if the sum of her days present in the US during the taxable year, plus one-third of the days present during the immediately preceding calendar year, plus one-sixth of the days present during the second preceding year sums to at least 183. A tax treaty may modify the outcome.

US source income includes earned income from sources within the US, such as, e.g., wages earned in the US, rental income from US real property, interest paid on certain debt issued by US obligors, and dividends paid by US corporations.

FBAR Filing Requirements

Taxpayers with a financial interest in, or signature or other authority over, foreign financial accounts whose aggregate value exceeded \$10,000 at any time during 2014 generally must file an FBAR.

The definition of financial account is broad and includes the following types of accounts (i) bank

accounts such as savings accounts, checking accounts, and time deposits, (ii) securities accounts such as brokerage accounts and securities derivatives or other financial instruments accounts, (ii) commodity futures or options accounts, (iii) insurance policies with a cash value (such as a whole life insurance policy), (iv) mutual funds or similar pooled funds (i.e., a fund that is available to the general public with a regular net asset value determination and regular redemptions), (v) any other accounts maintained in a foreign financial institution or with a person performing the services of a financial institution.

To determine whether the \$10,000 threshold was exceeded, you must (i) determine the maximum account value in the currency of the account and then (ii) convert the maximum account value for each account into United States dollars using the exchange rate on the last day of the calendar year.

The FBAR filing requirement is not part of filing a tax return. The FBAR Form 114 is filed separately and directly with FinCEN. The form must be e-filed.

Failure to file an FBAR when required to do so may result in civil penalties, criminal penalties, or both.

Form 8938 Requirements

Taxpayers with an interest in specified foreign financial assets must file Form 8938 if the value of those assets is more than the applicable reporting threshold.

Threshold for taxpayers living in the US. Unmarried taxpayers or married taxpayer filing separately satisfy the reporting threshold only if the total value of their specified foreign financial assets is more than \$50,000 on the last day of the tax year or more than \$75,000 at any time during the tax year. Married taxpayers filing a joint income tax return satisfy the reporting threshold only if the total value specified foreign financial assets is more than \$100,000 on the last day of the tax year or more than \$150,000 at any time during the tax year.

Threshold for taxpayers living outside the US. Unmarried taxpayers and married taxpayers filing separately satisfy the reporting threshold only if the total value of their specified foreign financial assets is more than \$200,000 on the last day of the tax year or more than \$300,000 at any time during the tax year. Married taxpayers filing a joint income tax return satisfy the reporting threshold only if the total value of their specified foreign financial assets is more than \$400,000 on the last day of the tax year or more than \$600,000 at any time during the tax year.

Thus, it is important to determine the total value of the specified foreign financial assets in which a taxpayer has an interest to figure out if the taxpayer would satisfy the reporting threshold that applies.

For the purpose of Form 8938, specified foreign financial assets include the following assets financial accounts maintained by a foreign financial institution, (stock or securities issued by someone that is not a US person, any interest in a foreign entity, and any financial instrument or contract that has an issuer or counterparty that is not a US person, if they are held for investment

(i.e., not used in a trade or business) and not held in an account maintained by a financial institution.

Moreover, a taxpayer has an interest in a specified foreign financial asset if any income, gains, losses, deductions, credits, gross proceeds, or distributions from holding or disposing of the asset are or would be required to be reported, included, or otherwise reflected on the taxpayer's income tax return. A taxpayer has an interest in a specified foreign financial asset even if there are no income, gains, losses, deductions, credits, gross proceeds, or distributions from holding or disposing of the asset included or reflected on a taxpayer's income tax return for this tax year.

US Income Tax Obligations For Nonresidents Aliens

A nonresident alien must file Form 1040NR (US Nonresident Aliens Income Tax Returns) if any of the following four conditions applies:

- A nonresident alien engaged in a trade or business in the United States during 2014 must file even if (i) there was no income from a trade or business conducted in the United States, (ii) there was no US source income, or (iii) the income is exempt from US tax under a tax treaty or any section of the Internal Revenue Code.
- A nonresident alien not engaged in a trade or business in the United States during 2014 who (i) received income from US sources that is reportable as non-effectively connected income and (ii) not all of the US tax owned was withheld from that income.
- A taxpayer representing a deceased person who would have had to file Form 1040NR.
- A taxpayer representing an estate or trust that has to file Form 1040NR.

Form 1040NR and its Instructions can also be located at www.irs.gov.

Helpful Items

The IRS has provided a comparison of FBAR to Form 8938, a helpful FAQ on these forms, as well as an FBAR reference guide, which is reproduced below and can be located at www.irs.gov.

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ABOUT US

Our law firm focuses on domestic and international taxation, real estate, corporate, immigration, and trust and estate matters. Our core focus is international taxation. We also advise on other matters such as immigration law. Our clients primarily consist of high-net worth individuals, family offices, and multinational companies.

CONTACTS

If you have any questions regarding the matters discussed in this Client Alert, please contact the following members or anyone of your regular GRAY TOLUB LLP contacts.

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The contents herein may be considered attorney advertising.

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Comparison of Form 8938 and FBAR Requirements

The new Form 8938 filing requirement does not replace or otherwise affect a taxpayer's obligation to file FinCEN Form 114 (Report of Foreign Bank and Financial Accounts). Individuals must file each form for which they meet the relevant reporting threshold.

	Form 8938, Statement of Specified Foreign Financial Assets	FinCEN Form 114, Report of Foreign Bank and Financial Accounts (FBAR)
Who Must File?	Specified individuals, which include U.S. citizens, resident aliens, and certain non-resident aliens that have an interest in specified foreign financial assets and meet the reporting threshold	U.S. persons, which include U.S. citizens, resident aliens, trusts, estates, and domestic entities that have an interest in foreign financial accounts and meet the reporting threshold
Does the United States include U.S. territories?	No	Yes, resident aliens of U.S. territories and U.S. territory entities are subject to FBAR reporting
Reporting Threshold (Total Value of Assets)	\$50,000 on the last day of the tax year or \$75,000 at any time during the tax year (higher threshold amounts apply to married individuals filing jointly and individuals living abroad)	\$10,000 at any time during the calendar year
When do you have an interest in an account or asset?	If any income, gains, losses, deductions, credits, gross proceeds, or distributions from holding or disposing of the account or asset are or would be required to be reported, included, or otherwise reflected on your income tax return	Financial interest: you are the owner of record or holder of legal title; the owner of record or holder of legal title is your agent or representative; you have a sufficient interest in the entity that is the owner of record or holder of legal title. Signature authority: you have authority to control the disposition of the assets in the account by direct communication with the financial institution maintaining the account. See instructions for further details.
What is Reported?	Maximum value of specified foreign financial assets, which include financial accounts with foreign financial institutions and certain other foreign non-account investment assets	Maximum value of financial accounts maintained by a financial institution physically located in a foreign country
How are maximum	Fair market value in U.S. dollars in	Use periodic account statements to

How are maximum account or asset values determined and reported?	Fair market value in U.S. dollars in accord with the Form 8938 instructions for each account and asset reported Convert to U.S. dollars using the end of the taxable year exchange rate and report in U.S. dollars.	Use periodic account statements to determine the maximum value in the currency of the account. Convert to U.S. dollars using the end of the calendar year exchange rate and report in U.S. dollars.
When Due?	By due date, including extension, if any, for income tax return	Received by June 30 (no extensions of time granted)
Where to File?	File with income tax return pursuant to instructions for filing the return	File electronically through FinCEN's BSA E-Filing System . The FBAR is not filed with a federal tax return.
Penalties	Up to \$10,000 for failure to disclose and an additional \$10,000 for each 30 days of non-filing after IRS notice of a failure to disclose, for a potential maximum penalty of \$60,000; criminal penalties may also apply	If non-willful, up to \$10,000; if willful, up to the greater of \$100,000 or 50 percent of account balances; criminal penalties may also apply

Types of Foreign Assets and Whether They are Reportable

Financial (deposit and custodial) accounts held at foreign financial institutions	Yes	Yes
Financial account held at a foreign branch of a U.S. financial institution	No	Yes
Financial account held at a U.S. branch of a foreign financial institution	No	No
Foreign financial account for which you have signature authority	No, unless you otherwise have an interest in the account as described above	Yes, subject to exceptions
Foreign stock or securities held in a financial account at a foreign financial institution	The account itself is subject to reporting, but the contents of the account do not have to be separately reported	The account itself is subject to reporting, but the contents of the account do not have to be separately reported
Foreign stock or securities not held in a financial account	Yes	No
Foreign partnership interests	Yes	No
Indirect interests in foreign financial assets through an entity	No	Yes, if sufficient ownership or beneficial interest (i.e., a greater than 50 percent interest) in the entity. See instructions for further detail.
Foreign mutual funds	Yes	Yes
Domestic mutual	No	No

Domestic mutual fund investing in foreign stocks and securities		
Foreign accounts and foreign non-account investment assets held by foreign or domestic grantor trust for which you are the grantor	Yes, as to both foreign accounts and foreign non-account investment assets	Yes, as to foreign accounts
Foreign-issued life insurance or annuity contract with a cash-value	Yes	Yes
Foreign hedge funds and foreign private equity funds	Yes	No
Foreign real estate held directly	No	No
Foreign real estate held through a foreign entity	No, but the foreign entity itself is a specified foreign financial asset and its maximum value includes the value of the real estate	No
Foreign currency held directly	No	No
Precious Metals held directly	No	No
Personal property, held directly, such as art, antiques, jewelry, cars and other collectibles	No	No
'Social Security'-type program benefits provided by a foreign government	No	No



Basic Questions and Answers on Form 8938

Specified Foreign Financial Assets - Overview

Q1. [What are the specified foreign financial assets that I need to report on Form 8938?](#)

Specific Examples:

Cash or foreign currency, real estate, precious metals, art and collectibles

Q1. [I directly hold foreign currency \(that is, the currency isn't in a financial account\). Do I need to report this on Form 8938?](#)

Q2. [Does foreign real estate need to be reported on Form 8938?](#)

Q3. [I directly hold tangible assets for investment, such as art, antiques, jewelry, cars and other collectibles, in a foreign country. Do I need to report these assets on Form 8938?](#)

Q4. [I directly hold precious metals for investment, such as gold, in a foreign country. Do I need to report these assets on Form 8938?](#)

Q5. [This tax year I sold precious metals that I held for investment to a foreign person. Do I have to report the sales contract on Form 8938?](#)

Foreign stocks or securities

Q1. [I acquired or inherited foreign stock or securities, such as bonds. Do I need to report those on Form 8938?](#)

Q2. [I directly hold shares of a U.S. mutual fund that owns foreign stocks and securities. Do I need to report the shares of the U.S. mutual fund or the stocks and securities held by the mutual fund on Form 8938?](#)

Safe deposit box

Q1. [I have a safe deposit box at a foreign financial institution. Is the safe deposit box itself considered a financial account?](#)

Foreign Financial Institution Investment Account

Q1. [I have a financial account maintained by a foreign financial institution that holds investment assets. Do I need to report the financial account if all or any of the investment assets in the account are stock, securities, or mutual funds issued by a U.S. person?](#)

U.S.-Based Financial Accounts (including U.S. mutual funds, IRAs, 401(k) plans, etc.)

Q1. [I have a financial account with a U.S. branch of a foreign financial institution. Do I need to report this account on Form 8938?](#)

Q2. [I have a financial account maintained by a U.S. financial institution \(including U.S. mutual funds, IRAs and 401\(K\) Plans\) that holds foreign stock and securities. Do I need to report the financial account or its holdings?](#)

Q3. [I own foreign stocks and securities through a foreign branch of a U.S.-based financial institution. Do I need to report the account or its holdings on Form 8938?](#)

Foreign pensions, deferred compensation plans, or foreign 'social security'

Q1. [I have an interest in a foreign pension or deferred compensation plan. Do I need to report it on Form 8938?](#)

Q2. [I am a U.S. taxpayer and have earned a right to foreign social security. Do I need to report this on Form 8938?](#)

Q3. [I am a beneficiary of a foreign estate. Do I need to report my interest in a foreign estate on Form 8938?](#)

Reporting, filing and valuation requirements

Q1. [I am a U.S. taxpayer but am not otherwise required to file an income tax return. Do I need to file Form 8938?](#)

Q2. [If I have to file Form 8938, am I required to report all of my specified foreign financial assets regardless of whether the assets have a de minimis maximum value during the tax year?](#)

Q3. [I filed my income tax return but now realize that I should have filed Form 8938 with my return. What should I do?](#)

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[Q4. Do I have to file both Form 8938 and FinCEN Form 114. Report of Foreign Bank and Financial Accounts \(FBAR\)?](#)

[Q5. I have numerous specified foreign financial assets to report on Form 8938. Is there a continuation sheet for the Form 8938?](#)

[Q6. Am I required to hire a certified appraiser or actuary to determine the fair market value of a specified foreign financial asset? For example, if I have a foreign defined benefit plan, am I required to obtain the services of an actuary?](#)

[Q7. How do I value my interest in a foreign pension or deferred compensation plan for purposes of reporting this on Form 8938?](#)

Specified Foreign Financial Assets - Overview

Q1. What are the specified foreign financial assets that I need to report on Form 8938?

If you are required to file Form 8938, you must report your financial accounts maintained by a foreign financial institution. Examples of financial accounts include:

- Savings, deposit, checking, and brokerage accounts held with a bank or broker-dealer.

And, to the extent held for investment and not held in a financial account, you must report stock or securities issued by someone who is not a U.S. person, any other interest in a foreign entity, and any financial instrument or contract held for investment with an issuer or counterparty that is not a U.S. person. Examples of these assets that must be reported if not held in an account include:

- Stock or securities issued by a foreign corporation;
- A note, bond or debenture issued by a foreign person;
- An interest rate swap, currency swap, basis swap, interest rate cap, interest rate floor, commodity swap, equity swap, equity index swap, credit default swap or similar agreement with a foreign counterparty;
- An option or other derivative instrument with respect to any of these examples or with respect to any currency or commodity that is entered into with a foreign counterparty or issuer;
- A partnership interest in a foreign partnership;
- An interest in a foreign retirement plan or deferred compensation plan;
- An interest in a foreign estate;
- Any interest in a foreign-issued insurance contract or annuity with a cash-surrender value.

The examples listed above do not comprise an exclusive list of assets required to be reported.

[Return to top](#)

Specific Examples:

Cash or foreign currency, real estate, precious metals, art and collectibles

Q1. I am a U.S. taxpayer but am not required to file an income tax return. Do I need to file Form 8938?

Taxpayers who are not required to file an income tax return are not required to file Form 8938.

Q2. Does foreign real estate need to be reported on Form 8938?

Foreign real estate is not a specified foreign financial asset required to be reported on Form 8938. For example, a personal residence or a rental property does not have to be reported.

If the real estate is held through a foreign entity, such as a corporation, partnership, trust or estate, then the interest in the entity is a specified foreign financial asset that is reported on Form 8938, if the total value of all your specified foreign financial assets is greater than the reporting threshold that applies to you. The value of the real estate held by the entity is taken into account in determining the value of the interest in the entity to be reported on Form 8938, but the real estate itself is not separately reported on Form 8938.

Q3. I directly hold foreign currency (that is, the currency isn't in a financial account). Do I need to report this on Form 8938?

Foreign currency is not a specified foreign financial asset and is not reportable on Form 8938.

Q4. I am a beneficiary of a foreign estate. Do I need to report my interest in a foreign estate on Form 8938?

Generally, an interest in a foreign estate is a specified foreign financial asset that is reportable on Form 8938 if the total value of all of your specified foreign financial assets is greater than the reporting threshold that applies to you.

Q5. I acquired or inherited foreign stock or securities, such as bonds. Do I need to report these on Form 8938?

Foreign stock or securities, if you hold them outside of a financial account, must be reported on Form 8938, provided the value of your specified foreign financial assets is greater than the reporting threshold that applies to you. If you hold foreign stock or securities inside of a financial account, you

do not report the stock or securities on Form 8938. For more information regarding the reporting of the holdings of financial accounts, see FAQs 8 and 9.

[Return to top](#)

Foreign stocks or securities

Q1. I directly hold shares of a U.S. mutual fund that owns foreign stocks and securities. Do I need to report the shares of the U.S. mutual fund or the stocks and securities held by the mutual fund on Form 8938?

If you directly hold shares of a U.S. mutual fund you do not need to report the mutual fund or the holdings of the mutual fund.

Q2. I have a financial account maintained by a U.S. financial institution (including U.S. mutual funds, IRAs and 401(K) Plans) that holds foreign stock and securities. Do I need to report the financial account or its holdings?

You do not need to report a financial account maintained by a U.S. financial institution or its holdings. Examples of financial accounts maintained by U.S. financial institutions include:

- U.S. Mutual fund accounts
- IRAs (traditional or Roth)
- 401 (k) retirement plans
- Qualified U.S. retirement plans
- Brokerage accounts maintained by U.S. financial institutions

[Return to top](#)

Safe deposit box

Q1. I have a financial account maintained by a foreign financial institution that holds investment assets. Do I need to report the financial account if all or any of the investment assets in the account are stock, securities, or mutual funds issued by a U.S. person?

If you have a financial account maintained by a foreign financial institution and the value of your specified foreign financial assets is greater than the reporting threshold that applies to you, you need to report the account on Form 8938. A foreign account is a specified foreign financial asset even if its contents include, in whole or in part, investment assets issued by a U.S. person. You do not need to separately report the assets of a financial account on Form 8938, whether or not the assets are issued by a U.S. person or non-U.S. person.

[Return to top](#)

Foreign Financial Institution Investment Account

Q1. I have a financial account with a U.S. branch of a foreign financial institution. Do I need to report this account on Form 8938?

A financial account, such as a depository, custodial or retirement account, at a U.S. branch of a foreign financial institution is an exception to the general rule that a financial account maintained by a foreign financial institution is specified foreign financial asset. A financial account maintained by a U.S. branch or U.S. affiliate of a foreign financial institution does not have to be reported on Form 8938 and any specified foreign financial assets in that account also do not have to be reported.

[Return to top](#)

U.S.-Based Financial Accounts (including U.S. mutual funds, IRAs, 401 (k) plans, etc.)

Q1. I own foreign stocks and securities through a foreign branch of a U.S.-based financial institution. Do I need to report these on Form 8938?

If a financial account, such as a depository, custodial or retirement account, is held through a foreign branch or foreign affiliate of a U.S.-based financial institution, the foreign account is not a specified foreign financial asset and is not required to be reported on Form 8938

Q2. I have an interest in a foreign pension or deferred compensation plan. Do I need to report it on Form 8938?

If you have an interest in a foreign pension or deferred compensation plan, you have to report this interest on Form 8938 if the value of your specified foreign financial assets is greater than the reporting threshold that applies to you.

Q3. How do I value my interest in a foreign pension or deferred compensation plan for purposes of reporting this on Form 8938?

In general, the value of your interest in the foreign pension plan or deferred compensation plan is the fair market value of your beneficial interest in the plan on the last day of the year. However, if you do not know or have reason to know based on readily accessible information the fair market value of

your beneficial interest in the pension or deferred compensation plan on the last day of the year, the maximum value is the value of the cash and/or other property distributed to you during the year. This same value is used in determining whether you have met your reporting threshold.

If you do not know or have reason to know based on readily accessible information the fair market value of your beneficial interest in the pension plan or deferred compensation plan on the last day of the year and you did not receive any distributions from the plan, the value of your interest in the plan is zero. In this circumstance, you should also use a value of zero for the plan in determining whether you have met your reporting threshold. If you have met the reporting threshold and are required to file Form 8938, you should report the plan and indicate that its maximum is zero.

[Return to top](#)

Foreign pensions, deferred compensation plans, or foreign 'social security'

Q1. I am a U.S. taxpayer and have earned a right to foreign social security. Do I need to report this on Form 8938?

Payments or the rights to receive the foreign equivalent of social security, social insurance benefits or another similar program of a foreign government are not specified foreign financial assets and are not reportable.

Q2. If I have to file Form 8938, am I required to report all of my specified foreign financial assets regardless of whether the assets have a de minimis maximum value during the tax year?

If you meet the applicable reporting threshold, you must report all of your specified foreign financial assets, including the specified foreign financial assets that have a de minimis maximum value during the tax year. For exceptions to reporting, see Exceptions to Reporting on page 6 of the instructions for Form 8938.

Q3. I filed my income tax return but now realize that I should have filed Form 8938 with my return, what should I do?

If you omitted Form 8938 when you filed your income tax return, you should file Form 1040X, Amended U.S. Individual Income Tax Return, with your Form 8938 attached.

[Return to top](#)

Reporting, filing and valuation requirements

Q1. Do I have to file both Form 8938 and FinCEN Form 114, Report of Foreign Bank and Financial Accounts (FBAR)?

The filing of Form 8938 does not relieve you of the separate requirement to file the FBAR if you are otherwise required to do so, and vice-versa. Depending on your situation, you may be required to file Form 8938 or the FBAR or both forms, and certain foreign accounts may be required to be reported on both forms.

Q2. I have numerous specified foreign financial assets to report on Form 8938. Is there a continuation sheet for the Form 8938?

If you have more than one account or asset to report in Part I or Part II of Form 8938, or more than one issuer or counterparty to report in Part II of Form 8938, copy as many blank Parts I and/or II as you need to complete, and attach them to Form 8938. Check the "If you have attached additional sheets, check here" box at the top of Form 8938.

Q3. I directly hold tangible assets for investment, such as art, antiques, jewelry, cars and other collectibles, in a foreign country. Do I need to report these assets on Form 8938?

No. Directly held tangible assets, such as art, antiques, jewelry, cars and other collectibles, are not specified foreign financial assets.

Q4. I directly hold precious metals for investment, such as gold, in a foreign country. Do I need to report these assets on Form 8938?

No. Directly held precious metals, such as gold, are not specified foreign financial assets. Note, however, that gold certificates issued by a foreign person may be a specified foreign financial asset that you would have to report on Form 8938, if the total value of all your specified foreign financial assets is greater than the reporting threshold that applies to you.

Q5. This tax year I sold precious metals that I held for investment to a foreign person. Do I have to report the sales contract on Form 8938?

The contract with the foreign person to sell assets held for investment is a specified foreign financial asset investment asset that you have to report on Form 8938, if the total value of all your specified foreign financial assets is greater than the reporting threshold that applies to you.

Q6. I have a safe deposit box at a foreign financial institution. Is the safe deposit box itself considered to a financial account?

No, a safe deposit box is not a financial account.

Q7. Am I required to hire a certified appraiser or actuary to determine the fair market value of a specified foreign financial asset? For example, if I have a foreign defined benefit plan, am I required to obtain the services of an actuary?

You may determine the fair market value of a foreign financial account for the purpose of reporting its maximum value based on periodic account statements unless you have reason to know that the statements do not reflect a reasonable estimate of the maximum value of the account during the tax year. For a specified foreign financial asset not held in a financial account, you may determine the fair market value of the asset for the purpose of reporting its maximum value based on information publicly available from reliable financial information sources or from other verifiable sources. Even if there is no information from a reliable financial information source or other verifiable source, you do not need to obtain an appraisal by a third party in order to reasonably estimate the asset's maximum value during the tax year.

[Return to top](#)

Page Last Reviewed or Updated: 24-May-2015

IRS FBAR Reference Guide

IRS Reference Guide on the Report of Foreign Bank and Financial Accounts (FBAR)

This Guide is provided to educate and assist U.S. persons who have the obligation to file the FBAR; and for the tax professionals who prepare and electronically file FBAR reports on behalf of their clients. This Guide also supports IRS examiners in their efforts to consistently and fairly administer the FBAR examination and penalty programs.

- [Introduction](#)
- [Objectives](#)
- [Purpose of the FBAR](#)
- [Who Must File the FBAR?](#)
- [Who is a United States Person?](#)
- [Financial Account](#)
- [Maximum Account Value](#)
- [Financial Interest](#)
- [Signature Authority](#)
- [Reporting Jointly Held Accounts](#)
- [Modified Reporting Requirements](#)
- [Filing Exceptions](#)
- [Recordkeeping](#)
- [Penalties](#)
- [Procedural and Reporting Information](#)
- [Putting It All Together](#)
- [Exercises](#)

Introduction

The Bank Secrecy Act (BSA) gave the Department of Treasury authority to collect information from United States persons who have financial interests in or signature authority over financial accounts maintained with financial institutions located outside of the United States. This provision of the BSA requires that a [FinCEN Report 114](#), Report of Foreign Bank and Financial Accounts (FBAR) be filed if the aggregate maximum values of the foreign financial accounts exceed \$10,000 at any time during the calendar year. FinCEN Report 114 supersedes Treasury Form TD F 90-22.1 and is available online only through the [BSA E-Filing System](#).

In April, 2003, the Financial Crimes and Enforcement Network (FinCEN) delegated enforcement authority regarding the FBAR to the Internal Revenue Service (IRS). The IRS is now responsible for:

- Investigating possible civil violations;
- Assessing and collecting civil penalties; and
- Issuing administrative rulings.

Objectives

- Learn the purpose of the FBAR regulations
- Determine who must file the FBAR
- Determine the FBAR filing requirements
- Determine who is exempt from the FBAR filing requirements
- Understand the civil and criminal penalties that may be applicable for noncompliance with the FBAR filing requirements

Purpose of the FBAR

Overseas financial accounts are maintained by U.S. persons for a variety of legitimate reasons, including convenience and access. The FBAR is required because foreign financial institutions may not be subject to the same reporting requirements as domestic financial institutions. The FBAR is also a tool used by the United States government to identify persons who may be using foreign financial accounts to circumvent United States law. Information contained in FBARs can be used to identify or trace funds used for illicit purposes or to identify unreported income maintained or generated abroad.

Who Must File the FBAR?

A United States person must file an FBAR if that person has a financial interest in or signature authority over any financial account(s) outside of the United States and the aggregate maximum value of the account(s) **exceeds \$10,000 at any time** during the calendar year.

Who is a United States Person?

A “United States person” means:

- A citizen or resident of the United States;
- An entity created or organized in the United States or under the laws of the United States. The term “entity” includes but is not limited to, a corporation, partnership, and limited liability company;
- A trust formed under the laws of the United States; or
- An estate formed under the laws of the United States.

Disregarded Entities: Entities that are United States persons and are disregarded for tax purposes may be required to file an FBAR. The federal tax treatment of an entity does not affect the entity’s requirement to file an FBAR. FBARs are required under a Bank Secrecy Act provision of Title 31 and not under any provisions of the Internal Revenue Code.

United States Resident: A United States resident is an alien residing in the United States. To determine if the filer is a resident of the United States, apply the residency tests in 26 U.S.C. § 7701(b). When applying the § 7701(b) residency tests use the following definition of United States: United States includes the States, the District of Columbia, all United States territories and possessions (e.g., American Samoa, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, Guam, and the United States Virgin Islands), and the Indian lands as defined in the Indian Gaming Regulatory Act.

- **Example:** Matt is a citizen of Argentina. He has been physically present in the United States every day of the last three years. Because Matt is considered a resident by application of the rules under 26 U.S.C. § 7701(b), he is required to file an FBAR.
- **Example:** Kyle is a permanent legal resident of the United States. Kyle is a citizen of the United Kingdom. Under a tax treaty, Kyle is a tax resident of the United Kingdom and elects to be taxed as a resident of the United Kingdom. Kyle is required to file an FBAR. Tax treaties with the United States do not affect FBAR filing obligations.

Financial Account

Financial account includes the following types of accounts:

- Bank accounts such as savings accounts, checking accounts, and time deposits,
- Securities accounts such as brokerage accounts and securities derivatives or other financial instruments accounts,
- Commodity futures or options accounts,
- Insurance policies with a cash value (such as a whole life insurance policy),
- Mutual funds or similar pooled funds (i.e., a fund that is available to the general public with a regular net asset value determination and regular redemptions),

- Any other accounts maintained in a foreign financial institution or with a person performing the services of a financial institution.
 - **Example:** A Canadian Registered Retirement Savings Plan (RRSP), Canadian Tax-Free Savings Account (TFSA), Mexican individual retirement accounts (Fondos para el Retiro) and Mexican Administradoras de Fondos para el Retiro (AFORE) are foreign financial accounts reportable on the FBAR.
 - **Example:** Foreign hedge funds and private equity funds are not reportable on the FBAR. The FBAR regulations issued by FinCEN on February 24, 2011 do not require the reporting of these funds at this time.

A financial account is foreign when it is located outside of the United States, which includes the following places:

- United States, including the District of Columbia;
- United States territories and possessions, such as:
 - Commonwealth Northern Mariana Islands
 - District of Columbia
 - American Samoa
 - Guam
 - Commonwealth of Puerto Rico
 - United States Virgin Islands
 - Trust Territories of the Pacific Islands
- Indian lands as defined in the Indian Gaming Regulatory Act.

Typically, a financial account that is maintained with a financial institution located outside of the United States is a foreign financial account.

- **Example:** An account maintained with a branch of a United States bank that is physically located in Germany is a foreign financial account.
- **Example:** An account maintained with a branch of a French bank that is physically located in Texas is not a foreign financial account.
- **Example:** Ed, a United States citizen, purchased securities of a French company through a securities broker located in New York. Ed is not required to report these securities because he purchased the securities through a financial institution located in the United States.

Maximum Account Value

The maximum value of an account is a reasonable approximation of the greatest value of currency or nonmonetary assets in the account during the calendar year. Periodic account statements may be relied upon to determine the maximum value of the account, provided that the statements fairly reflect the maximum account value during the calendar year.

How to determine the maximum value of a foreign financial account: Determine the maximum account value in the currency of the account. After the maximum value of the account is determined, convert the maximum account value for each account into United States dollars using the exchange rate on the last day of the calendar year.

- **Example:** A foreign financial account that is located in Japan would typically be valued in Yen. Determine the maximum value of the account in Yen. Next, convert the maximum value of the account into United States dollars.

When converting between a foreign currency and United States dollars, use the [Treasury Reporting Rates of Exchange](#) for the last day of the calendar year. If no Treasury Financial Management Service rate is available, use another verifiable exchange rate and provide the source of that rate. In valuing currency of a country that uses multiple exchange rates, use the rate that would apply if the currency in the account were converted into United States dollars on the last day of the calendar year.

- **Example:** Craig, a United States person, owns foreign financial accounts X, Y, and Z with maximum account values of \$100, \$12,000 and \$3,000, respectively. Craig is required to file an FBAR because the

aggregate value of the accounts is \$15,100. Craig must report foreign financial accounts X, Y, and Z on the FBAR even though accounts X and Z have maximum account values below \$10,000.

- **Example:** Kristin, a United States person, owns foreign financial accounts A, B and C with account balances of \$3,000, \$1,000 and \$8,000, respectively. Kristin is required to report accounts A, B and C because the aggregate value of the accounts is over \$10,000. It does not matter that no single account exceeded \$10,000.
- **Example:** Diane, a United States person, owns a foreign financial account with a maximum value of \$15,000 but the account does not produce income. Diane is required to file an FBAR to report the account. Whether or not an account produces income does not affect the requirement to file an FBAR.

Financial Interest

A United States person has a financial interest in the following situations:

1. The United States person is the owner of record or holder of legal title, regardless of whether the account is maintained for benefit of the United States person or for the benefit of another person, including non-United States persons.
2. The owner of record or holder of legal title is a person acting as an agent, nominee, attorney, or a person acting on behalf of the United States person with respect to the account.
 - **Example:** John is a United States citizen. His brother Paul maintains bank accounts in Mexico on behalf of John. The accounts are held in Paul's name but Paul only accesses the accounts in accordance with his brother's instructions. John has a financial interest in the Mexican bank accounts for FBAR reporting purposes. If his brother Paul is a United States citizen or resident, he also has an FB AR reporting requirement with respect to the accounts.
3. The owner of record or holder of legal title is a corporation in which a United States person owns directly or indirectly: (i) more than 50 percent of the total value of shares of stock; or (ii) more than 50 percent of the voting power of all shares of stock.
 - **Example:** A Florida corporation that owns 100 percent of a Spanish company that has foreign financial accounts has to file an FBAR because the corporation is a United States person and it directly owns more than 50 percent of the total value of the shares of stock of the Spanish company that is the owner of record or holder of legal title.
 - **Example:** A United States person who owns 75 percent of the Florida corporation in the previous example has to file an FBAR because he indirectly owns more than 50 percent of the total value of shares of stock of the foreign corporation that owns foreign financial accounts.
4. The owner of record or holder of legal title is a partnership in which the United States person owns directly or indirectly: (i) an interest in more than 50 percent of the partnership's profits (distributive share of partnership income taking into account any special allocation agreement); or (ii) an interest in more than 50 percent of the partnership capital.
5. The owner of record or holder of legal title is a trust of which the United States person: (i) is the trust grantor; and (ii) has an ownership interest in the trust for United States federal tax purposes. See 26 U.S.C. §§ 671-679 to determine if a grantor has an ownership interest in a trust.
 - **Example:** Diana, a United States citizen, is a grantor of a Foreign Asset Protection Trust but does not control trust assets nor does she receive distributions from the trust. Diana, as grantor and deemed owner of the trust assets for federal tax purposes, is required to report the trust's foreign financial accounts.
6. The owner of record or holder of legal title is a trust in which the United States person has a greater than 50 percent present beneficial interest in the assets or income of the trust for the calendar year.
 - **Example:** Amy, a United States citizen, has a remainder interest in a trust that has a foreign financial account. Amy is not required to report the trust's foreign financial account because a remainder interest is not considered a present beneficial interest for FBAR purposes.
7. The owner of record or holder of legal title is any other entity in which the United States person owns directly or indirectly more than 50 percent of the voting power, total value of equity interest or assets, or interest in profits.

Signature Authority

Signature authority is the authority of an individual (alone or in conjunction with another individual) to control the disposition of assets held in a foreign financial account by direct communication (whether in writing or otherwise) to the bank or other financial institution that maintains the financial account.

- **Example:** Megan, a United States resident, has a power of attorney on her elderly parents' accounts in Canada, but she has never exercised the power of attorney. Megan is required to file an FBAR if the power of attorney gives her signature authority over the financial accounts. Whether or not the authority is ever exercised is irrelevant to the FBAR filing requirement.

Reporting Jointly Held Accounts

If two persons jointly maintain a foreign financial account, or if several persons each own a partial interest in an account, then each United States person has a financial interest in that account and each person must report the entire value of the account on an FBAR.

Limited Joint Filing by Spouses: The spouse of an individual who files an FBAR is not required to file a separate FBAR if the following conditions are met: (1) all the financial accounts that the non-filing spouse is required to report are jointly owned with the filing spouse; (2) the filing spouse reports the jointly owned accounts on a timely filed FBAR electronically signed (PIN) in item 44; and (3) the filers have completed and signed [Form 114a](#), Record of Authorization to Electronically File FBARs (maintained with the filers records). Otherwise, both spouses are required to file separate FBARs and each spouse must report the entire value of the jointly owned accounts.

Modified Reporting Requirements

Reporting a Financial Interest in 25 or More Foreign Financial Accounts: A United States person with a financial interest in 25 or more foreign financial accounts should check the Yes box in Part I, item 14a, and indicate the number of accounts in the space provided. The United States person should not complete Part II or Part III of the report but maintain records of the information. If the group of entities covered by a consolidated report has a financial interest in 25 or more foreign financial accounts, the reporting parent corporation need only complete Part V (for consolidated reporting), items 34 through 42, for the identity information of the account owners, but need not complete the account information.

Reporting Signature Authority Over 25 or More Foreign Financial Accounts: A United States person who has signature authority over 25 or more foreign financial accounts should check the Yes box in Part I, Item 14b, and indicate the number of accounts in the space provided. Complete Part IV, Items 34-43, for each person for which the filer has signature authority.

- **Example:** Doug has a financial interest in 12 foreign financial accounts and signature authority over 17 foreign financial accounts. Doug must complete the entire FBAR because he has a financial interest in fewer than 25 foreign financial accounts and signature authority over fewer than 25 foreign financial accounts.

Reporting for United States Persons Employed and Residing Outside of the United States: A United States person who is an officer or employee employed and residing outside of the United States and who has signature authority over a foreign financial account that is owned or maintained by the individual's employer is only required to complete Part I and Part IV, Items 34-43 of the FBAR, as well as the signature section of the FBAR.

- **Example:** Julia is a United States person who lives in Ireland and is employed by an Irish company. She is only required to complete Part I and Part IV, Items 34-43, and the signature section of the FBAR to report her signature authority over the foreign financial accounts of her employer.
- **Example:** Given the above example, if Julia lived in the United States she would not be able to take advantage of the modified reporting requirement.

Filing Exceptions

The following persons are exempted from the FBAR filing requirement:

- **Consolidated FBAR.** A United States person that is an entity and is named in a consolidated FBAR filed by a greater than 50 percent owner is not required to file a separate FBAR.
- **IRA Owners and Beneficiaries.** An owner or beneficiary of an IRA is not required to report a foreign financial account held in the IRA.
- **Participants in and Beneficiaries of Tax-Qualified Retirement Plans.** A participant in or beneficiary of a retirement plan described in Internal Revenue Code § 401(a), 403(a), or 403(b) is not required to report a foreign financial account held by or on behalf of the retirement plan.
- **Signature Authority.** Individuals who have signature authority over, but no financial interest in, a foreign financial account are not required to report the account in the following situations:
 1. An officer or employee of a bank that is examined by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, or the National Credit Union Administration is not required to report signature authority over a foreign financial account owned or maintained by the bank.
 2. An officer or employee of a financial institution that is registered with and examined by the Securities and Exchange Commission or Commodity Futures Trading Commission is not required to report signature authority over a foreign financial account owned or maintained by the financial institution.
 3. An officer or employee of an Authorized Service Provider is not required to report signature authority over a foreign financial account that is owned or maintained by an investment company that is registered with the Securities and Exchange Commission. Authorized Service Provider means an entity that is registered with and examined by the Securities and Exchange Commission and provides services to an investment company registered under the Investment Company Act of 1940.
 4. An officer or employee of an entity that has a class of equity securities listed (or American depository receipts listed) on any United States national securities exchange is not required to report signature authority over a foreign financial account of such entity.
 5. An officer or employee of a United States subsidiary is not required to report signature authority over a foreign financial account of the subsidiary if its United States parent has a class of equity securities listed on any United States national securities exchange and the subsidiary is included in a consolidated FBAR report of the United States parent.
 6. An officer or employee of an entity that has a class of equity securities registered (or American depository receipts in respect of equity securities registered) under section 12(g) of the Securities Exchange Act is not required to report signature authority over a foreign financial account of such entity.
- **Trust Beneficiaries.** A trust beneficiary with a direct or indirect financial interest in more than 50 percent of the trust assets or income is not required to report the trust's foreign financial accounts on an FBAR if the trust, trustee of the trust, or agent of the trust: (1) is a United States person; and (2) files an FBAR disclosing the trust's foreign financial accounts.

The following types of foreign financial accounts are excepted from the FBAR filing requirement:

- **Certain Accounts Jointly Owned by Spouses.** The spouse of an individual who files an FBAR is not required to file a separate FBAR if certain conditions are met as previously discussed; refer to "Reporting Jointly Held Accounts."
- **Correspondent/Nostro Account.** Correspondent or nostro accounts (maintained by banks and used solely for bank-to-bank settlements) are not required to be reported.
- **Governmental Entity.** A foreign financial account of any governmental entity is not required to be reported by any person.
 - **Example:** A state administered college or university is not required to file an FBAR because it is a governmental entity.
 - **Example:** A government employee retirement or welfare benefit plan is not required to file an FBAR because it is a governmental entity.
- **International Financial Institution.** A foreign financial account of any international financial institution (if the United States government is a member) is not required to be reported by any person. Examples are the World Bank and the International Monetary Fund (IMF).

- **United States Military Banking Facility.** A financial account maintained with a financial institution located on a United States military installation is not required to be reported, even if that military installation is outside of the United States.

Recordkeeping

Generally, records of accounts required to be reported on the FBAR should be kept for five years from the due date of the report, which is June 30 of the year following the calendar year being reported. The records should contain the following:

- Name maintained on each account.
- Number or other designation of the account.
- Name and address of the foreign bank or other person with whom the account is maintained.
- Type of account.
- Maximum value of each account during the reporting period.

Retaining a copy of the filed FBAR can help to satisfy the record keeping requirements. An officer or employee, however, who files an FBAR to report signature authority over an employer's foreign financial account is not required to personally retain records regarding these foreign financial accounts.

Penalties

Failure to file an FBAR when required to do so may result in civil penalties, criminal penalties, or both. When a United States person learns that an FBAR should have been filed for a previous year, the filer should electronically file the delinquent FBAR report using the [BSA E-Filing System](#) website. The system allows the filer to enter the calendar year reported, including past years, on the online FinCEN Report 114. It also offers an option to "explain a late filing" or to select "Other" to enter up to 750-characters within a text box where the filer can provide a further explanation of the late filing or indicate whether the filing is made in conjunction with an IRS compliance program. If the foreign financial account is properly reported on a late-filed FBAR, and IRS determines that the FBAR violation was due to reasonable cause, no penalty will be imposed. For additional guidance when circumstances, such as natural disasters, prevent the timely filing of an FBAR, see FinCEN guidance, [FIN-2013-G002](#) (June 24, 2013).

The following chart highlights the civil and criminal penalties that may be asserted for not complying with the FBAR reporting and recordkeeping requirements.

Violation	Civil Penalties	Criminal Penalties	Comments
Negligent Violation	Up to \$500	N/A	31 U.S.C. § 5321(a)(6)(A) 31 C.F.R. 103.57(h) Does not apply to individuals.
Non-Willful Violation	Up to \$10,000 for each negligent violation	N/A	31 U.S.C. § 5321(a)(5)(B)
Pattern of Negligent Activity	In addition to penalty under § 5321(a)(6)(A) with respect to any such violation, not more than \$50,000	N/A	31 U.S.C. 5321(a)(6)(B) Does not apply to individuals.
Willful - Failure to File FBAR or retain records of account	Up to the greater of \$100,000, or 50 percent of the amount in the account at the time of the violation.	Up to \$250,000 or 5 years or both	31 U.S.C. § 5321(a)(5)(C) 31 U.S.C. § 5322(a) and 31 C.F.R. § 103.59(b) for criminal. The penalty applies to all U.S. persons.
Willful - Failure to File FBAR or retain records of account while violating certain other laws	Up to the greater of \$100,000, or 50 percent of the amount in the account at the time of the violation.	Up to \$500,000 or 10 years or both	31 U.S.C. § 5322(b) and 31 C.F.R. § 103.59(c) for criminal The penalty applies to all U.S. persons.
Knowingly and Willfully Filing False FBAR	Up to the greater of \$100,000, or 50 percent of the amount in the account at the time of the violation.	\$10,000 or 5 years or both	18 U.S.C. § 1001, 31 C.F.R. § 103.59(d) for criminal. The penalty applies to all U.S. persons.
Civil and Criminal Penalties may be imposed together. 31 U.S.C. § 5321(d).			

It is possible to assert civil penalties for FBAR violations in amounts that exceed the balance in the foreign financial account.

Procedural and Reporting Information

Fulfilling the Reporting Requirement: Filers report their foreign accounts by: (1) completing FBAR-related questions on federal tax and information returns, such as questions 7a and 7b on Form 1040 Schedule B, box 3 on the Form 1041 "Other Information" section, box 10 on Form 1065 Schedule B, or boxes 6a and 6b on Form 1120 Schedule N, as applicable; and (2) completing and timely electronically filing the FBAR.

Due Date: The FBAR is a calendar year report and must be received by the Department of Treasury on or before June 30th of the year following the calendar year being reported. The granting, by the IRS, of an extension to file federal income tax returns does not extend the due date for filing an FBAR. Filers cannot request an extension of the FBAR due date.

If a filer does not have all the available information to file the return by June 30, the filer should file as complete a return as possible by June 30 and amend the report when additional or new information becomes available. Refer to

the [BSA Electronic Filing Requirements](#) Attachment B – Error Correction Instructions for information regarding filing amended FBARs.

Where to File an FBAR: The FBAR is not to be filed with the filer's Federal tax return. Electronic filing of FBARs became mandatory on July 1, 2013. FBARs are filed through the [BSA E-Filing System](#). Electronic filing is a quick and secure way for individuals to file FBARs. Filers will receive an acknowledgment of each submission.

Resources for FBAR Filers: Help in completing FBAR is available Monday - Friday, 8 a.m. to 4:30 p.m. Eastern Time, at 866-270-0733 (toll-free inside the U.S.) or 313-234-6146 (not toll-free, for callers outside the U.S.). Questions regarding the FBAR can be sent to FBARquestions@irs.gov.

Help with electronic filing technical questions is available at BSAEfilinghelp@fincen.gov or through the BSA E-Filing Help Desk at 866-346-9478. The E-Filing Help Desk is available Monday through Friday from 8 a.m. to 6 p.m. Eastern Time.

Answers to questions regarding BSA Regulations should be directed to FinCEN's Regulatory Helpline at 800-949-2732 or (if calling from outside the United States) 703-905-3975.

Putting It All Together

In this lesson you learned:

- What is the purpose of the FBAR regulation
- Who must file the FBAR
- What are the FBAR filing requirements
- What civil and criminal penalties may be assessed for noncompliance with FBAR filing and recordkeeping requirements
- Who is exempt from the FBAR filing requirement

Exercises

1. True or False

All foreign financial accounts of United States persons must be reported to the Department of Treasury.

2. Which of the following is a United States person? (Circle all that apply)

- a. a United States citizen
- b. a domestic limited liability company
- c. a domestic partnership
- d. a domestic trust or estate
- e. all of the above

3. True or False

A life insurance policy with a cash value may be a type of foreign financial account.

4. True or False

An FBAR is not required if the foreign financial account generates neither interest nor dividend income.

5. True or False

If a person has a foreign account in the year 2014 that requires reporting, the FBAR is due April 15, 2015.

6. As a general rule, how long should account holders keep records of the accounts required to be reported on the FBAR?
 - a. 3 years

- b. 5 years
 - c. 7 years
 - d. 10 years
7. Does a United States person need to file an FBAR for his Eurodollar account in the Cayman Islands?
8. A N.Y. corporation owns a foreign company that has foreign financial accounts. The N.Y. corporation will file an FBAR reporting the foreign company's accounts. Does a shareholder who owns 65 percent of the company's stock need to file an FBAR?
9. True or False

Accounts in United States military banking facilities, operated by a United States financial institution to serve United States Government installations abroad, are not required to be reported on a FBAR.

(See Exhibit 1 for answers to exercises.)

Exhibit 1, Answers to Exercises

1. False

United States person are only required to report a financial interest in or signature authority over foreign financial accounts if the aggregate maximum values of the accounts exceeds \$10,000 at any time during the calendar year.

2. e.

All of the choices are a United States person. A United States person is:

- A citizen or resident of the United States
- A domestic entity, including but not limited to a corporation, partnership, and limited liability company created or organized in the United States or under the laws of the United States
- A domestic corporation
- A domestic estate or trust

3. True

A financial account includes, but is not limited to, a securities, brokerage, savings, demand, checking, deposit, time deposit, or other account maintained with a financial institution (or other person performing the services of a financial institution). A financial account also includes a commodity futures or options account, an insurance policy with a cash value (such as a whole life insurance policy), an annuity policy with a cash surrender value, and shares in a mutual fund or similar pooled fund (i.e., a fund that is available to the general public with a regular net asset value determination and regular redemptions).

4. False

An FBAR must be filed whether or not the foreign financial account generates any income.

5. False

The FBAR is due by June 30, 2015. The FBAR must be received by the Department of Treasury on or before June 30th of the year after the account holder meets the more than \$10,000 threshold.

6. b.

Generally, records of accounts required to be reported on the FBAR should be kept for five years from the due date of the report, which is June 30th of the year following the calendar year being reported. The records should contain the following:

- Name maintained on each account.
- Number or other designation of the account.

- Name and address of the foreign bank or other person with whom the account is maintained.
- Type of account.
- Maximum value of each account during the reporting period.

7. Yes

The Cayman Islands account is a foreign account.

8. Yes

An FBAR must be filed by any owner that directly or indirectly owns more than 50 percent of the total value of the shares of stock.

9. True

Accounts in United States military banking facilities, operated by a United States financial institution to serve United States Government installations abroad, are not required to be reported.