

# Don't Get Burned by the FBAR

## New Filing Requirements

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Change is on the horizon for taxpayers with foreign accounts whose total value exceeded \$10,000 at any time during 2013. Not only must they file a new form called Financial Crimes Enforcement Network (FinCEN) Form 114, *Report of Foreign Bank and Financial Accounts* (FBAR) with the Treasury Department – the form MUST be filed *electronically*. Paper forms will no longer be accepted. This FBAR takes the place of the old version, TD F 90-22.1.

### What is the filing deadline?

The deadline to file is June 30, 2014. The FBAR must be accepted *before* that date to be considered timely filed – no extensions, even if you received one for your tax return. The FBAR is only available online through the Bank Secrecy Act (BSA) E-Filing System. Filers can enter the calendar year reported, including past years. There is also an option to “explain a late filing”. If your explanation is lengthy, you can select “other” to provide further details or to indicate if the filing is in conjunction with an IRS compliance program.

### Who needs to file an FBAR?

Any U.S. person or entity with any foreign holdings totaling more than \$10,000 for the calendar year must file an FBAR. Taxpayers must disclose foreign financial assets including bank accounts, securities, investments, and some pensions and life insurance plans. If you have a foreign financial account, you may be required to file an FBAR even if the account doesn't bring in any taxable income.

### What is the penalty for not filing?

A minimum penalty of \$10,000 per account is applied to each year that the FBAR is filed late, or not at all. For willful violations, penalties can reach up to the greater of \$100,000 or 50% of the highest account balance in any year. The taxpayer may also face criminal charges.

### Do other forms need to be filed with the FBAR?

Taxpayers with foreign financial assets may also need to file a Form 8938, *Statement of Specified Foreign Financial Assets*. It may include some assets not listed on the FBAR. Form 8938 must be filed with Form 1040 by April 15, or by the extension date if you filed for one.

If you are not sure you need to file these forms, and/or you need help doing so, please contact your Henry & Horne, LLP tax advisers for further assistance.

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