



## Foreign Bank Account Reporting Don't Forget!

If you have an ownership interest in a "foreign account," you may need to report it. **The deadline for 2006 is June 30, 2007.** Note that this is not a tax filing, but rather merely a disclosure required to be made to the U.S. Treasury.

Form TD F 90-22.1, Report of Foreign Bank and Financial Accounts ("FBAR"), must be filed by U.S. persons annually if they have an ownership interest in, or signature authority over, one or more financial accounts with an aggregate value in excess of \$10,000 in a foreign country at any point during the preceding calendar year. **The filing is required even if there is no income earned on the account.** Note that while the information required is not terribly burdensome, the penalties for noncompliance can be (possible monetary fines and prison time for willful violations of the disclosure requirements).

In general, U.S. persons must disclose any financial account that is located in a foreign country, even if it is held at an affiliate of a U.S. bank or other financial institution. Conversely, accounts at U.S. branches of foreign banks or institutions need not be reported.

For purposes of this disclosure, a U.S. person includes all U.S. individuals (whether citizens or resident aliens), estates, trusts, partnerships and corporations. Nonresident aliens are not required to file a FBAR unless they meet a "substantial presence" test.

Accounts for which a FBAR may need to be filed include any accounts for which the taxpayer has signing authority (or other control over) that hold liquid assets or marketable securities, including (but not limited to) bank accounts, foreign mutual funds, and exchange traded funds.

Accounts for which the taxpayer holds a Power of Attorney or a custodial account for a minor also require a FBAR. A trustee, personal representative, president of a corporation, general partner or a managing member of an LLC, for example, could be treated as having signature authority or

other authority over a financial account held by the entity and thus a reporting obligation. There are also additional situations in which several persons may have a FBAR reporting requirement with respect to the same account (e.g., joint accounts and accounts held by tenants in common).

As if the requirements weren't complicated enough already, there are also situations in which a person may be treated as holding a financial interest in an account that is not even held in their name. These include shareholders who own more than 50% of the total stock (directly and/or indirectly) of a corporation, partners who have a greater than 50% interest in profits of a partnership, or a trust beneficiary who has a more than 50% interest in either the assets or the income of the trust.

Fortunately, accounts for which the taxpayer has investment authority, but not disbursement or distribution authority, do not have a FBAR reporting requirement.

As noted above, the penalties for failure to comply with the reporting requirements for foreign accounts can be **very severe**. Accordingly, it is important to make sure all required disclosures are made. If you have any accounts you have questions about, please be sure to contact us so that we may assist you in determining your filing requirements prior to the due date. If you're feeling adventurous, the IRS has a copy of the form and instructions on its website at <http://www.irs.gov/pub/irs-pdf/f90221.pdf>

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