

Foreign Reporting Requirements

The reporting requirements for assets held overseas are changing and the penalties for failure to report them are becoming increasingly severe. Taxpayers are not required to report all foreign holdings. If, for example you hold stock in a foreign company through a U.S. broker, those holdings do not have to be separately reported. However, if you hold any other types of foreign assets, including bank accounts, securities accounts or property, they may require reporting. Be sure to let us know. If you have any doubt as to whether any of your assets are considered foreign for reporting purposes, please discuss your holdings with us.

1. Foreign Accounts (FBAR)

Taxpayers who have an interest in, or signature or other authority over a financial account in a foreign country – such as a bank account, securities account, or other financial account – are required to file FinCEN 114, Report of Foreign Bank and Financial Accounts (FBAR), if the aggregate value of all such financial accounts exceeds \$10,000 at any time during the calendar year; whether or not you received any income from the account. The FBAR is not filed with your return. Instead, it is filed electronically with the Financial Crimes Enforcement Network by October 15th of the year following the calendar year reported. Additionally, income from the account is reportable on your income tax return as interest, dividends or capital gains as applicable. Failure to file income from foreign bank accounts on your income tax returns, or to file the separate FBAR form, carries serious consequences including large monetary penalties and in some cases, criminal penalties.

2. Foreign Assets (Form 8938)

Any individual who, during the tax year, holds an interest in a “specified foreign financial asset”, with an aggregate value of all foreign financial assets exceeding certain dollar thresholds, must attach form 8938, Statement of Specified Foreign Financial Assets, with this required information, to their income tax return.

A specified foreign financial asset means any financial account maintained by a foreign financial institution, stock or security issued by a person other than a U.S. person, any financial instrument or contract held for investment that has an issuer or counterparty that is other than a U.S. person, and any interest in a foreign entity. Rental properties in countries outside the U.S., only if held in a trust or other entity, fall within this definition.

You are required to file form 8938 if the fair market value (reasonable estimates are allowed) of the asset is more than specified thresholds. Married living in the U.S. 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. Unmarried or married filing separate living in the U.S. is half these amounts. This new reporting does not replace the Foreign Bank and Financial Accounts (FBAR) requirements above, and is considered a separate filing.

If you purchase, inherit or otherwise acquire assets you believe may meet the reporting requirements for either the Foreign Bank and Financial Accounts or the Specified Foreign Financial Assets, please let us know immediately; the penalty for failure to disclose is severe.

If you are a U.S. citizen or resident alien with a foreign trust, possibly for foreign beneficiaries, there are additional annual reporting requirements. If you are an officer, director, or owner in a company with foreign accounts or investments, there are other reporting requirements. All and all, there are over 15 different foreign reporting forms. Don't get caught owing penalties for missing one of these informational returns.