

# International Tax | The Foreign Bank Account Report (FBAR) + Filing Requirements

Lauren Huster, CPA, MBA, Director, International Tax

Michael O'Hara, CPA, Senior Manager, International Tax

April 2023

Michael O'Hara:

Thank you for joining us today. I'm Michael O'Hara, joined by my colleague, Lauren Huster. Lauren, I was hoping you could tell us about the foreign bank account report, otherwise known as the FBAR?

Lauren Huster:

Yeah, absolutely. I would say it's probably the most common international form that you see, and a lot of people have heard about it and they know something about it, but they don't know all the nuances. So kind of high level what it is, it is a foreign bank account report that you report with the IRS. There is no tax due. It's all information-related, but it's for a US person. But when I say US person, we've got to include if you're a resident, a citizen, corporation, LLC, really the laundry list goes on, but if you're any of those individuals that are a US person and then you have a bank account that is outside the US, and then those bank accounts are greater than \$10,000, then you have this filing requirement that goes along with your individual tax returns.

Michael O'Hara:

Can you please explain that \$10,000 filing requirement?

Lauren Huster:

Yeah, I would say that probably is what trips people up the most. If you have five bank accounts and they had \$2,000 in each account, you would get to \$10,000 and you need to report each of the accounts. Another common mistake that I see is, let's say you have Bank A and you had \$10,000 in June, and then you transferred all that money in July, so now Bank B has \$10,000. People will only look at the one account, but you've got to look at each account for the whole year and look at the greatest amount, and you're looking at foreign currency a lot of the time, so you do need to convert it to US dollars. But when you were filing in that situation, you would have two bank accounts both at \$10,000, if that was the highest amount for the year.



Michael O'Hara:

Is there anything else we need besides the amounts, when we're reporting this?

Lauren Huster:

Yeah, it can be cumbersome because you need a lot of information and you've got to look at it through the year. But information that you would need would be bank account name, their address, what type of account, common would be checking, savings, really all of the detail of the account that you need, in addition to that amount.

Michael O'Hara:

And you mentioned signature authority. What type of information is needed from that?

Lauren Huster:

Yeah, so if you have signature authority, you also have a filing requirement. While you yourself may not have access to all of the bank account information, the company who owns the bank account would and they should provide that to you. It is common, I would say, that a lot of the companies that have the bank accounts, would file it on your behalf.

So let's say you're the CEO of a US company that has foreign accounts, they would file it for you, but they would let you know because they would need information from you. Another aspect that I see a lot is that people will say, "Well, I don't have ultimate authority on the account." The IRS broadly defines it like they like to do. So if you can cut a check, if you can call the bank on behalf, have any idea of being able to transfer money, then you have signature authority and you need to file this foreign bank account report.

Michael O'Hara:

With many international forms, we see significant penalties. Is it the same with FBAR?

Lauren Huster:

It is. And unfortunately those penalties apply whether or not you have financial interest or you're just a signer on the account. So it's important to get it right. It can be if they say if it's non-willful, it can be \$10,000, but if it's willful, it can be a \$100,000 per year or even 50% of the bank account. So you see that racked up pretty quickly.

There is a lot of litigation going on as to what is willful and what is not, gray area again, tax loves that, but on an individual tax return, there is a question on the Schedule B that says, "Do you have financial interest or signature authority on a foreign bank account?" And if you file that on your return, if you have any interest or dividends, then you've answered that question. So if you've answered that no, but you did, the IRS says that's willful. Again, a lot of litigation, but those penalties could be really steep. So if



you think at any point you would potentially have this, it's good to talk to someone and make sure you're being compliant, before the IRS contacts you.

Michael O'Hara:

Are there any other forms that we need to look out for on top of FBAR, when it comes to bank reporting?

Lauren Huster:

Yeah. So potentially you could also file a Form 8938, which is just a statement of specified assets, and it just takes what's on the FBAR and then is more comprehensive. So just because you file an FBAR, doesn't mean you have to file it, but it's a high likelihood.

Michael O'Hara:

You say the 8938 is more comprehensive than the FBAR. What type of accounts are commonly missed on the FBAR?

Lauren Huster:

Yeah. So people will hear FBAR and just think, "Okay, checking, savings. That's all." Common items that we see would be certificates of deposit, mutual funds, if you have a life insurance with a cash value at the end, or another common one are foreign pensions, and there is a blurb in the IRS that says IRAs aren't included, but then certain foreign pensions are. So really it's best to just give all the information you can and then let the accountants decide if it needs to be reported, because again, steep penalties if you miss one.

Michael O'Hara:

Right. And is there anything else that really comes to mind that you wanted to mention?

Lauren Huster:

Yeah, I think that's probably the main gist of it. One thing I'll say is a common situation, is if you have a family that moves to the US. Once they become US citizens, everyone in the family could potentially have this filing requirement if they have bank accounts outside.

So let's say a married couple moves from Germany to the US, the wife and child have no income, but they do have a bank account, they still have a filing requirement. They don't necessarily need to have a Social Security or an ITIN, they can file with passport. But it's really best to just again, give all the information that you can and then let the accountants decide from there if it's needed, because it's just the safest route. Thank you for joining us today and if you need any additional information, please go to [barnesdennig.com](http://barnesdennig.com).