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Guide to Foreign Bank and Financial Accounts (FBAR)

Under the Bank Secrecy Act, United States persons every year must report certain foreign financial accounts to the Treasury Department by filing a Report of Foreign Bank and Financial Accounts (FBAR) on FinCEN Form 114 and keep certain records of those accounts.

Who must File

A United States person, including a citizen, resident, corporation, partnership, limited liability company, trust, and estate, 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 value of the account(s) exceeds \$10,000 at any time during the calendar year. Failure to file this form may result in civil and/or criminal penalties.

There are some exemptions that you may do not need to report foreign financial accounts. For instance, if the accounts are owned by a governmental entity or an international financial institution, maintained on a United States military banking facility, you are not required to report foreign financial accounts.

When to File

The FBAR is an annual report, due April 15 following the calendar year reported. There is an automatic extension to October 15 if you fail to meet the FBAR annual due date of April 15. You do not need to request an extension to file the FBAR. You may be subject to civil monetary penalties and/or criminal penalties for FBAR reporting violations. Assertion of penalties depends on facts and circumstances.

How to File

You must file the FBAR electronically through the Financial Crimes Enforcement Network's BSA E-Filing System. The FBAR should be filed separately with the federal tax return. If you choose to paper-file FBAR, you must call FinCEN's Regulatory Helpline to request an exemption from e-filing. If FinCEN approves your request, FinCEN will send you the paper FBAR form to complete and mail to the IRS at the address in the form's instructions.

Other Compliance

Under the Bank Secrecy Act, you must keep records for each account you must report on an FBAR. The records (for example, bank statements or a copy of a filed FBAR) should include following information:

1. Name on the account
2. Account number
3. Name and address of the foreign bank
4. Type of account
5. Maximum value during the year

You must keep these records for five years from the due date of the FBAR. You may be subject to civil monetary penalties and/or criminal penalties for FBAR recordkeeping violations. Assertion of penalties depends on facts and circumstances.

Filing Delinquent FBARs

Failure to file an FBAR (i.e. filed after October 15 of the year following the reporting year or not at all) is a violation and may subject you to penalties. If you have not been contacted by IRS about a late FBAR and are not under civil or criminal investigation by IRS, you should file late FBARs and, to keep potential penalties to a minimum as soon as possible.

When you file the late FBAR, you should make selection from the drop-down list to indicate the late filing reason. If one of the provided selections does not explain the reason, you should select “other” and provide a written explanation in the text box provided.

The IRS will not impose a penalty for the failure to file the delinquent FBARs if you properly reported on your U.S. tax returns, and paid all tax on, the income from the foreign financial accounts reported on the delinquent FBARs, and you have not previously been contacted regarding an income tax examination or a request for delinquent returns for the years for which the delinquent FBARs are submitted.

If you have already received the penalty notice, please contact IRS as soon as possible. In some circumstances, the IRS may agree to waive the penalties if you have the reasonable cause and the violation is non-wilful. First Time Abatement (FTA) may also be applied. FTA is available to the taxpayer who failed to file the FBAR the first time an FBAR was required to be filed by the taxpayer.

If you wish to obtain more information or assistance, please visit our official website at www.kaizencpa.com or contact us through the following means:

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