

2011 Foreign Financial Account Reporting Requirements

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U.S. citizens or residents who owned, directly or indirectly through an entity, or who had power of attorney/signature authority over one or more foreign financial accounts with an aggregate value exceeding \$10,000 at ANY point in time during 2011 may be required to report such foreign financial accounts. The definition of a reportable foreign financial account includes any investment account, brokerage account, certain pension funds, cash value life insurance or annuity policy, mutual fund, some commodity accounts, and other types of foreign financial accounts.

U.S. citizens and residents with a reportable foreign financial account are required to file a Form TD F 90-22.1, Report of Foreign Bank and Financial Accounts, (FBAR). The due date of the FBAR is June 30th. Unlike other IRS forms, the FBAR MUST be received by June 30th, not mailed June 30th. FBARs may now be filed electronically in certain situations.

In addition to the FBAR, certain U.S. taxpayers holding specified foreign financial assets with an aggregate value exceeding \$50,000 in 2011 need report information about those assets on new Form 8938, Statement of Specified Foreign Financial Assets, which must be attached to the taxpayer's annual income tax return. Higher asset thresholds apply to U.S. taxpayers who file a joint tax return or who reside abroad. If a taxpayer filed their 2011 income tax return and did not attach a required Form 8938, the income tax return will not be deemed "complete."

If the taxpayer is required to file a Form 8938, be aware that other IRS forms, such as Form 3520, Form 3520-A, Form 5471, Form 8621, Form 8865, or Form 8891 may also be required.

Due to the overwhelming penalties, we highly recommend that all U.S. citizens or residents holding an asset offshore seek proper legal advice to determine if they now possess an FBAR, Form 8938 or other filing obligation.