

FBAR Filings: Financial Interest/Signatory Authority

The FBAR is not a tax return. The FBAR is a financial disclosure (i.e., a report of the Taxpayer's foreign financial accounts). The FBAR must be filed even if the reported accounts generate no interest or other taxable income. All income earned on the foreign account must be reported on the tax return of the beneficial owner which is an entirely separate reporting from the FBAR. However, once a Taxpayer discloses a foreign account on their Form 1040 Schedule B, the FBAR must be filed.

The FBAR form is designed to disclose the US Taxpayer's connection to a foreign financial account. The form details the US Taxpayer (e.g., name, address, identification number and balance held in the account over \$10,000). The form asks for the name of the financial institution, the country and the account number for each account, if more than one. If there are joint owners, their names and identification numbers are requested and if the person who is reporting claims to have no financial interest in the account (such as a person holding a power of attorney or a corporate officer who has no shares in the corporation), then the name and the identification number of the beneficial owner must be disclosed.

Any US Person who has a financial interest in, or signatory authority over, any financial accounts in a foreign country if the total value of such accounts exceeds \$10,000 at any time during the calendar year must file a FBAR. The accounts in Puerto Rico, Guam, and the Northern Mariana Islands, American Samoa, and the US Virgin Islands are exceptions to this rule (see IRS Manual Workbook on Foreign Bank and Financial Accounts, FBAR 11/16/06).

US Taxpayers include resident aliens and other foreign individuals who are considered US Persons under the Substantial Presence Test (i.e., because of the time spent in the US in a given year [IRC §§7701(b)(1)(A)(ii) and 7701(b)(3)]). (FBAR rules also apply to a domestic trust, estate, partnership or corporation.)

A US Taxpayer has a required financial interest in an account if they:

1. Are the owner of the account.
2. Have legal title to the account (even if it is for someone else's benefit).

Both financial interest and the signatory authority generate the requirement to file the FBAR. When the account is in joint names, all joint owners must file their own FBAR (even though the funds may belong to only one of them). An exception to the joint account rule applies only if the joint owners are husband and wife (if they live together).

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