

Part III - Administrative, Procedural, and Miscellaneous

INSTRUCTIONS FOR PERSONS ANSWERING QUESTIONS RELATING TO FOREIGN FINANCIAL ACCOUNTS ON 2010 FEDERAL INCOME TAX AND INFORMATION RETURNS

Notice 2011-31

This Notice provides guidance to taxpayers regarding how to answer questions related to foreign financial accounts (FFA) found on 2010 federal income tax and information returns, e.g., Schedule B of Form 1040, the “Other Information” section of Form 1041, Schedule B of Form 1065, and Schedule N of Form 1120, among others.

On February 26, 2010, the Financial Crimes Enforcement Network (FinCEN), a bureau within the Treasury Department, published a notice of proposed rulemaking (75 FR 8844) proposing amendments to the Bank Secrecy Act implementing regulations relating to the Form TD F 90-22.1, Report of Foreign Bank and Financial Accounts (FBAR), found at 31 CFR 1010.350 (formerly 31 CFR 103.24). Proposed revisions to the instructions for the FBAR were included as an attachment to the notice of proposed rulemaking. On February 24, 2011, FinCEN published final FBAR regulations (76 FR 10234). The final FBAR regulations are effective on March 28, 2011, and apply to FBARs required to be filed by June 30, 2011, with respect to foreign financial accounts maintained in calendar year 2010, as well as to FBARs for future calendar years. On March 21, 2011, the IRS posted revised FBAR instructions (titled DRAFT Final

Instructions) on irs.gov at www.irs.gov/businesses/small/article/0,,id=148849,00.html.

On March 26, 2011, the IRS published a revised FBAR form with accompanying instructions that reflect the amendments made by the final FBAR regulations.¹ There is no substantive difference between the text of the posted instructions (titled DRAFT Final Instructions) and the instructions that accompany the revised FBAR form, although the format of the instructions has changed.

In light of the recent publication of the final FBAR regulations, the posting of revised FBAR instructions, and the publication of a revised FBAR form with accompanying instructions, the Treasury Department and the IRS provide the following guidance concerning the FFA-related questions on 2010 federal income tax and information returns:

For Returns Filed Before March 28, 2011

Before March 28, 2011, which is the first date on which the final FBAR regulations become effective, the existing FBAR regulations (last amended April 1987) remain effective and may be referenced, along with other then-existing FBAR guidance, when answering FFA-related questions on 2010 tax and information returns.

Alternatively, persons filing a return before March 28, 2011, may reference the recently published final FBAR regulations and revised FBAR instructions (including the instructions, titled DRAFT Final Instructions, which were posted on irs.gov on March 21, 2011) when answering the FFA-related questions on 2010 returns. The IRS will take into account the recently published final FBAR regulations and the revised FBAR

¹ Filers are advised that although the instructions to the FBAR form are being revised in light of the final FBAR regulations, the data items appearing in the body of the FBAR form remain unchanged.

instructions when evaluating the reasonableness of a person's response to the FFA-related questions on 2010 tax and information returns.

For Returns Filed On or After March 28, 2011

Beginning March 28, 2011, the recently published final FBAR regulations will be effective and should be referenced, along with the revised FBAR form and instructions, when answering FFA-related questions on 2010 tax and information returns.

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