



# Internal Revenue Service

DEPARTMENT OF THE TREASURY

## LB&I Concept Unit

<b>Unit Name</b>	FinCEN Form 114 – Report of Foreign Bank and Financial Accounts (FBAR)	
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# General Overview

## FinCEN Form 114 – Report of Foreign Bank and Financial Accounts (FBAR)

The Bank Secrecy Act (BSA) gave the U.S. Department of the Treasury authority to collect information from United States persons (USP) who have financial interests in, or signature authority or other authority over, bank, securities, or other financial accounts in a foreign country. This authority was delegated to the Financial Crimes and Enforcement Network (FinCEN) and redelegated to the Internal Revenue Service (IRS) by Memorandum of Agreement (see Internal Revenue Manual (IRM) Exhibit 4.26.1-2). This authority includes investigating possible civil violations, assessing and collecting civil penalties, and issuing administrative rulings.

The BSA requires a USP to file FinCEN Form 114, *Report of Foreign Bank and Financial Accounts* (FBAR) for each calendar year during which the aggregate amount(s) in the foreign account(s) exceeded \$10,000, valued in United States (U.S.) dollars, at any time during the calendar year. The provision also requires maintenance and retention of FBAR records for a period of five years.

The FinCEN Form 114a, *Record of Authorization to Electronically File FBARs* is another FBAR form which addresses the needs of individuals who file jointly with a spouse or who prefer to submit FBARs via third party preparers. This form is not filed but prepared and kept for recordkeeping purposes.

# General Overview (cont'd)

## FinCEN Form 114 – Report of Foreign Bank and Financial Accounts (FBAR)

### What Is the Purpose of an FBAR?

An FBAR is an information report required to be filed for each calendar year during which a USP had a financial interests in, or signature authority or other authority over, a bank, securities, or other financial account(s) in a foreign country and the aggregate amount(s) in the account(s) exceeded \$10,000, valued in U.S. dollars, at any time during the calendar year. The FBAR is required because foreign financial institutions may not be subject to the same reporting requirements as domestic financial institutions. The FBAR is a tool used by the U.S. government to identify persons who may be using foreign financial accounts to circumvent U.S. law. Information contained in FBARs can be used to identify or trace funds used for illicit purposes or to identify unreported income maintained or generated abroad.

### What Is the Due Date of an FBAR?

For calendar years 2016 and later: The annual due date for filing an FBAR to report foreign financial accounts is April 15<sup>th</sup>.  
For calendar years 2015 and earlier: The annual due date for filing an FBAR to report foreign financial accounts is June 30<sup>th</sup>.

FinCEN grants filers failing to meet the FBAR annual due date of April 15<sup>th</sup> an automatic extension to October 15<sup>th</sup> each year. Specific requests for this extension are not required.

### What is the Statute of Limitations for assessment of civil FBAR penalties?

The Service can assess civil FBAR penalties for six years from the date of the transaction.

In the case of filing violations, the date of the transaction is the due date for filing the FBAR.

In the case of a recordkeeping violation, the date of the transaction is the date that the examiner first requests the required records via a summons.

# General Overview (cont'd)

## FinCEN Form 114 – Report of Foreign Bank and Financial Accounts (FBAR)

### Where to File an FBAR?

The FBAR must be electronically filed through the FinCEN's BSA E-Filing System at [BSAefiling.fincen.treas.gov](https://BSAefiling.fincen.treas.gov). This form is not filed with the filer's federal income tax return.

### What Are the FBAR Penalties?

Failure to file an FBAR when required to do so may result in civil penalties, criminal penalties, or both. Assertion of penalties depends on facts and circumstances.

### What Is the Purpose of This Practice Unit?

The purpose of this concept unit is to highlight the FBAR filing and recordkeeping requirements. It explains:

- Who must file an FBAR;
- The FBAR filing exceptions; and
- The FBAR recordkeeping requirements.

# Detailed Explanation of the Concept

## FinCEN Form 114 – Report of Foreign Bank and Financial Accounts (FBAR)

USP with a financial interest in, or signature or other authority over, one or more foreign financial accounts with an aggregate value greater than \$10,000 at any time during a calendar year is required to file FBARs. There are filing exceptions to the FBAR reporting requirements. A USP with FBAR filing requirements also has record keeping requirements.

Analysis	Resources
<p><u>Who Must File an FBAR?</u></p> <p>To determine if an FBAR is required, each one of the following filing criteria must be met:</p> <ul style="list-style-type: none"> <li>▪ The filer is a USP;</li> <li>▪ The USP has a financial interest in the financial account(s) or signature or other authority over the financial account(s);</li> <li>▪ The financial account(s) is in a foreign country; and</li> <li>▪ The aggregate amount(s) in the account(s) valued in U.S. dollars exceed \$10,000 at any time during the calendar year.</li> </ul> <p> <b>CAUTION:</b> The determination of whether an individual is a U.S. resident for FBAR purposes should be made without regard to elections under Internal Revenue Code (IRC) 6013(g) or 6013(h). See 31 CFR 1010.350(b)(2) and IRC 7701(b) (including a first-year residency election different from IRC 6013(g) or (h) elections.) For example, a non-resident alien, who made an IRC 6013(g) election to file joint income tax returns with their U.S. spouse is generally not subject to FBAR filing requirements.</p>	<ul style="list-style-type: none"> <li>▪ 31 USC 5314</li> <li>▪ 31 CFR 1010.350</li> <li>▪ IRC 6013(g) and (h)</li> <li>▪ IRC 7701(b)</li> <li>▪ IRM 4.26.16.2</li> <li>▪ IRM 4.26.16.2.1</li> <li>▪ IRM 4.26.16.2.2</li> <li>▪ IRM 4.26.16.2.3</li> <li>▪ IRM 4.26.16.2.4</li> <li>▪ Pub. 4261 - <i>Do You Have a Foreign Financial Account?</i></li> <li>▪ Pub. 5569 - <i>Report of Foreign Bank &amp; Financial Accounts (FBAR) Reference Guide</i></li> <li>▪ FinCEN Form 114 - <i>Report of Foreign Bank and Financial Accounts</i></li> </ul>

# Detailed Explanation of the Concept (cont'd)

## FinCEN Form 114 – Report of Foreign Bank and Financial Accounts (FBAR)

### Analysis

### Resources

#### Is the Filer a USP?

A USP means:

- A citizen or resident of the U.S.;
- An entity, including but not limited to, a corporation, partnership, trust, or limited liability corporation created, organized, or formed under the laws of the U.S., any state, the District of Columbia, any territory or possession of the U.S., or an Indian tribe;
- To determine if the filer is a resident of the U.S., the residency tests under IRC 7701(b) must be applied, which includes the green card test (lawful permanent resident status) and the substantial presence test (numerical formula that measures days present in the U.S.); or
- The U.S. includes the states, the District of Columbia, all U.S. territories (e.g., American Samoa, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, Guam, and the U.S. Virgin Islands), and the Indian lands as defined in the Indian Gaming Regulatory Act.



**CAUTION:** U.S. tax treaty provisions do not affect residency status for FBAR purposes. The federal tax treatment of a USP does not determine whether the person must file an FBAR. FBARs are required under the BSA provisions of Title 31 of the United States Code (USC) not under any provisions of Title 26 of the USC.

Entities that are USP and are disregarded for tax purposes may be required to file an FBAR. This statement is derived from an example provided by IRM section 4.26.16.2.1(2) Example (11-06-2015).

- 31 CFR 1010.350(b)
- 31 CFR 1010.100(hhh)
- IRC 7701(b)
- IRM 4.26.16.2.1
  
- Practice Unit - *Substantial Presence Test*
- Practice Unit - *Determining Tax Residency Status of Lawful Permanent Residents*
- Practice Unit - *First-Year Election Under IRC 7701(b)(4)*
- Pub. 5569 - *Report of Foreign Bank & Financial Accounts (FBAR) Reference Guide*
- *Indian Gaming Regulatory Act*

# Detailed Explanation of the Concept (cont'd)

## FinCEN Form 114 – Report of Foreign Bank and Financial Accounts (FBAR)

Analysis	Resources
<p><u>Is It a Financial Account in a Foreign Country?</u></p> <p><u>Financial Accounts:</u></p> <p>A reportable financial account includes the following:</p> <ul style="list-style-type: none"> <li>▪ Bank accounts (such as savings accounts, checking accounts, and time deposits);</li> <li>▪ Securities accounts (such as brokerage accounts and securities derivatives or other financial instruments accounts);</li> <li>▪ Commodity futures or options accounts;</li> <li>▪ Insurance or annuity policies with a cash value (such as a whole life insurance policy);</li> <li>▪ Mutual funds or similar pooled funds (such as a fund that is available to the general public with a regular net asset value determination and regular redemptions); or</li> <li>▪ Any other accounts maintained in a foreign financial institution or other person engaged in the business of banking.</li> </ul> <p>The following are not considered financial accounts:</p> <ul style="list-style-type: none"> <li>▪ Stocks, bonds, or similar financial instruments held directly by the person;</li> <li>▪ Real estate or an account holding solely real estate (such as Mexican "fideicomiso");</li> <li>▪ Precious metals, precious stones, or jewels held directly by the person; or</li> <li>▪ A safety deposit box.               <ul style="list-style-type: none"> <li>– A reportable account may exist where the financial institution providing the safety deposit box has access to the contents and can dispose of the contents upon instruction from, or prearrangement with, the person.</li> </ul> </li> </ul> <p> <b>CAUTION:</b> The FBAR regulations do not require the reporting of foreign hedge funds and private equity funds.</p>	<ul style="list-style-type: none"> <li>▪ 31 CFR 1010.350(c)</li> <li>▪ IRM 4.26.16.2.2</li>   <li>▪ IRM 4.26.16.2.2(2)</li>   <li>▪ IRM 4.26.16.2.2(3)</li> </ul>

# Detailed Explanation of the Concept (cont'd)

## FinCEN Form 114 – Report of Foreign Bank and Financial Accounts (FBAR)

### Analysis

### Resources

Is It a Financial Account in a Foreign Country? (cont'd)

Financial Account Exceptions:

The following are not considered reportable financial accounts for FBAR purposes:

- Correspondent/Nostro accounts;
- Owned by a governmental entity;
- Owned by an international financial institution;
- Maintained on a U.S. military banking facility;
- Held in an individual retirement account (IRA) of which you are an owner or beneficiary;
- Held in a retirement plan of which you are a participant or beneficiary; or
- Part of a trust of which you are a beneficiary, if a USP (trust, trustee of the trust or agent of the trust) files an FBAR reporting these accounts.

- IRM 4.26.16.2.2.1

# Detailed Explanation of the Concept (cont'd)

## FinCEN Form 114 – Report of Foreign Bank and Financial Accounts (FBAR)

Analysis	Resources
<p><u>Is It a Financial Account in a Foreign Country? (cont'd)</u></p> <p><u>Foreign Country:</u></p> <p>A foreign country includes all geographical areas located outside of the U.S.</p> <p>A financial account is “foreign” for FBAR purposes when it is located outside of the U.S.</p> <p>The U.S. includes:</p> <ul style="list-style-type: none"> <li>▪ The states of the U.S. and the District of Columbia;</li> <li>▪ The territories of the U.S. (Commonwealth of Northern Mariana Islands, American Samoa, Guam, Commonwealth of Puerto Rico, and U.S. Virgin Islands);</li> <li>▪ The Indian lands.</li> </ul> <p>The location of an account, not the nationality of the financial institution with which the account is held, determines whether the account is in a foreign country. Any financial account (except accounts maintained with a U.S. military banking facility) that is located in a foreign country should be reported, even if the account is held with a branch of a U.S. financial institution located abroad. Accounts of foreign financial institutions located in the U.S. are not considered foreign accounts for FBAR.</p>	<ul style="list-style-type: none"> <li>▪ 31 CFR 1010.100 (hhh)</li> <li>▪ IRM 4.26.16.2.5</li> <li>▪ <i>Indian Gaming Regulatory Act</i></li> </ul>

# Detailed Explanation of the Concept (cont'd)

FinCEN Form 114 – Report of Foreign Bank and Financial Accounts (FBAR)	
Analysis	Resources
<p><u>Does the USP Have a Financial Interest, Signature or Other Authority Over the Foreign Financial Account?</u></p> <p><u>Direct Financial Interest:</u></p> <ul style="list-style-type: none"> <li>▪ A USP has a financial interest in each account for which such person is the owner of record or has legal title, whether the account is maintained for his own benefit or for the benefit of others including non-USPs.</li> <li>▪ If an account is maintained in the name of two persons jointly, or if several persons each own a partial interest in an account, each of those USPs has a financial interest in that account and, generally, each person must file the FBAR except in the case of a married couple where one spouse may file the FBAR.</li> </ul> <p> <b>CAUTION:</b> Because the FBAR is a report of foreign financial accounts, the entire account value for jointly-owned accounts is reported on each FBAR. Accounts are not prorated for a person's percentage of ownership interest.</p>	<ul style="list-style-type: none"> <li>▪ 31 CFR 1010.350(e)(1)</li> <li>▪ IRM 4.26.16.2.3</li>   <li>▪ IRM 4.26.16.2.3(1)</li> <li>▪ IRM 4.26.16.3.4</li> </ul>

# Detailed Explanation of the Concept (cont'd)

FinCEN Form 114 – Report of Foreign Bank and Financial Accounts (FBAR)	
Analysis	Resources
<p><u>Does the USP Have a Financial Interest, Signature or Other Authority Over the Foreign Financial Account? (cont'd)</u></p> <p><u>Indirect Financial Interest:</u></p> <p>A USP has an “other financial interest” in each bank, securities, or other financial account in a foreign country for which the owner of record or holder of legal title is:</p> <ul style="list-style-type: none"> <li>▪ An agent, nominee, or attorney acting on behalf of the USP;</li> <li>▪ A corporation and the USP owns more than 50% of total value of stock or more than 50% of voting power for all stock;</li> <li>▪ A partnership and the USP owns more than 50% of profits or capital of partnership;</li> <li>▪ A trust and USP is grantor and owner under U.S. tax regulations; or</li> <li>▪ A trust and USP has ownership interest in assets or earnings of more than 50%.</li> </ul> <p>The family attribution rules under Title 26 of the USC do not apply to FBAR reporting.</p> <p>Anti-avoidance rule: A USP that causes an entity including, but not limited to, a corporation, partnership, or trust, to be created for the purpose of evading the FBAR reporting and/or recordkeeping requirements shall have a financial interest in any bank, securities, or other financial account in a foreign country for which the entity is the owner of record or holder of legal title.</p>	<ul style="list-style-type: none"> <li>▪ 31 CFR 1010.350(e)(2)</li> <li>▪ IRM 4.26.16.2.3(2)</li> <li>▪ IRC 671 – 679</li> <li>▪ 31 CFR 1010.350(e)(2)(iii)</li> <li>▪ 31 CFR 1010.350(e)(2)(iv)</li> <li>▪ 31 CFR 1010.350(e)(3)</li> <li>▪ IRM 4.26.16.2.3 (3)</li> <li>▪ IRM 4.26.16.2.3 (4)</li> </ul>

# Detailed Explanation of the Concept (cont'd)

FinCEN Form 114 – Report of Foreign Bank and Financial Accounts (FBAR)	
Analysis	Resources
<p><u>Does the USP Have a Financial Interest, Signature or Other Authority Over the Foreign Financial Account? (cont'd)</u></p> <p><u>Signature or Other Authority Over an Account:</u></p> <ul style="list-style-type: none"><li>▪ An individual has signature or other authority over an account if that individual (alone or in conjunction with another) can control the disposition of money, funds or other assets held in a financial account by direct communication (whether in writing or otherwise) to the person with whom the financial account is maintained.</li><li>▪ Individuals with only the authority to buy or sell investments within the account, but no authority to disburse assets from the account are not considered as having signature authority.</li><li>▪ Individuals with supervisory authority over the individuals who communicate with the person with whom the account is maintained are not considered as having signature authority. FinCEN clarified that approving a disbursement that a subordinate orders is not considered signature authority.</li></ul>	<ul style="list-style-type: none"><li>▪ IRM 4.26.16.2.4</li><li>▪ 31 CFR 1010.350(f)</li></ul>

# Detailed Explanation of the Concept (cont'd)

## FinCEN Form 114 – Report of Foreign Bank and Financial Accounts (FBAR)

### Analysis

### Resources

Does the Aggregate Amount(s) in the Account(s) Valued in U.S. Dollars Exceed \$10,000 at Any Time During the Calendar Year?

To determine if an FBAR is required for a calendar year where the aggregate amount(s) in the foreign financial account(s) exceeded \$10,000, valued in US dollars, at any time during that calendar year, each account must be valued separately as follows:

- Determine the maximum value in locally denominated currency. The maximum value of an account is the largest amount of currency and non-monetary assets that appear on any quarterly or more frequent account statement issued for the applicable year. If no period account statements are issued, then the maximum account asset value is the largest amount of currency and non-monetary assets in the account at any time during the year.
- Convert the maximum value into U.S. dollars by using the official exchange rate in effect at the end of the year at issue for converting the foreign currency into U.S. dollars. Generally, the official Treasury Reporting Rates of Exchange for the last day of the calendar year in issue should be used and be found at the Bureau of the Fiscal Service website at [fiscaldata.treasury.gov/datasets/treasury-reporting-rates-exchange/treasury-reporting-rates-of-exchange](https://fiscaldata.treasury.gov/datasets/treasury-reporting-rates-exchange/treasury-reporting-rates-of-exchange).

After separately valuing the accounts and converting into U.S. dollars, all reportable accounts should be aggregated, including:

- Solely-owned accounts;
- Jointly-owned accounts;
- Direct financial interest accounts;
- Indirect financial interest accounts; and
- Signature authority accounts.

- IRM 4.26.16.2.2.2
- [FiscalData.Treasury.gov](https://fiscaldata.treasury.gov) – *Treasury Reporting Rates of Exchange*

- IRM 4.26.16.2.6
- IRM 4.26.16.2.3
- IRM 4.26.16.2.4

# Detailed Explanation of the Concept (cont'd)

FinCEN Form 114 – Report of Foreign Bank and Financial Accounts (FBAR)	
Analysis	Resources
<p><u>Does the Aggregate Amount(s) in the Account(s) Valued in U.S. Dollars Exceed \$10,000 at Any Time During the Calendar Year? (cont'd)</u></p> <p>A USP with a financial interest in or signature authority over one or more but fewer than 25 accounts, who is unable to determine whether the maximum value of these accounts exceeded \$10,000 at any time during the calendar year, should complete the applicable parts of the FBAR for each of these accounts and check the box in Item 15a “amount unknown.”</p> <p>A USP only needs to provide the number of financial accounts and certain other basic information on the report and will be required to provide detailed information concerning each account when the IRS or FinCEN requests it, if:</p> <ul style="list-style-type: none"> <li>▪ The USP has a financial interest in 25 or more foreign financial accounts;</li> <li>▪ The USP has signature or other authority over 25 or more foreign financial accounts.</li> </ul>	<ul style="list-style-type: none"> <li>▪ 31 CFR 1010.350(g)</li> <li>▪ IRM 4.26.16.2.2.2 (3)</li> <li>▪ BSAefiling.fincen.treas.gov - <i>FinCEN's BSA E-Filing System</i></li> <li>▪ IRM 4.26.16.3.6</li> <li>▪ IRM 4.26.16.3.7</li> </ul>

# Detailed Explanation of the Concept (cont'd)

## FinCEN Form 114 – Report of Foreign Bank and Financial Accounts (FBAR)

Analysis	Resources
<p><u>What Are the FBAR Filing Exceptions?</u></p> <p>The following exceptions apply to the FBAR filing requirements:</p> <ul style="list-style-type: none"> <li>▪ Consolidated FBAR: An entity that is a USP and which owns directly or indirectly more than 50% interest in one or more other entities required to file an FBAR is permitted to file a consolidated FBAR on behalf of itself and such other entities.</li> <li>▪ Individual Retirement Account (IRA) Owners and Beneficiaries (U.S. plans only): An owner or beneficiary of an IRA or Roth IRA is not required to file an FBAR with respect to a foreign financial account held by or on behalf the IRA.</li> <li>▪ Participants in and Beneficiaries of Tax-Qualified Retirement Plans (U.S. plans only): A participant in or beneficiary of a retirement plan is not required to file an FBAR with respect to a foreign financial account held by or on behalf of the retirement plan.</li> <li>▪ Trust Beneficiaries: A trust beneficiary with a direct or indirect financial interest in more than 50% of the trust assets or receives more than 50% of the trust's current income is not required to report the trust's foreign financial accounts on an FBAR if the trust, trustee of the trust, or agent of the trust: (1) is a USP; and (2) files an FBAR disclosing the trust's foreign financial accounts.</li> </ul>	<ul style="list-style-type: none"> <li>▪ 31 CFR 1010.350(g)</li> <li>▪ IRM 4.26.16.3.3</li> <li>▪ IRM 4.26.16.3.9</li> <li>▪ Pub. 5569 - <i>Report of Foreign Bank &amp; Financial Accounts (FBAR) Reference Guide</i></li> <li>▪ 31 CFR 1010.350(e)(2)(iv)</li> </ul>

# Detailed Explanation of the Concept (cont'd)

## FinCEN Form 114 – Report of Foreign Bank and Financial Accounts (FBAR)

### Analysis

### Resources

What Are the FBAR Filing Exceptions? (cont'd)

Signature Authority Exceptions:

An officer or employee of the following institutions need not report signature or other authority over a foreign financial account owned or maintained by the institution if the officer or employee has no financial interest in the account:

- A financial institution that is registered with and examined by the Securities and Exchange Commission or Commodity Futures Trading Commission;
- A bank that is examined by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, or the National Credit Union Administration;
- An authorized service provider for a foreign financial account owned or maintained by an investment company that is registered with the Securities and Exchange Commission;
- An entity that has a class of equity securities registered (or American depository receipts registered) under section 12(g) of the Securities Exchange Act;
- An entity with a class of equity securities listed (or American depository receipts listed) on any U.S. national securities exchange; or
- An officer or employee of a U.S. subsidiary of an entity with a class of equity securities listed (or American depository receipts listed) on any U.S. national securities exchange does not need to report signature or other authority over accounts of the subsidiary if the entity files a consolidated FBAR listing the accounts of the subsidiary.

- IRM 4.26.16.2.4.1

- 31 CFR 1010.350(f)(2)

- Pub. 5569 - *Report of Foreign Bank & Financial Accounts (FBAR) Reference Guide*

# Detailed Explanation of the Concept (cont'd)

## FinCEN Form 114 – Report of Foreign Bank and Financial Accounts (FBAR)

### Analysis

### Resources

What Are the FBAR Filing Exceptions? (cont'd)

Exceptions for Certain Accounts Jointly Owned by Spouses:

The spouse of an individual who files an FBAR is not required to file a separate FBAR if all the following conditions are met:

- All the financial accounts that the non-filing spouse is required to report are jointly owned with the filing spouse;
- The filing spouse reports the jointly owned accounts on a timely, electronically filed FBAR; and
- Both spouses have completed and signed Part I of FinCEN Form 114a, Record of Authorization to Electronically File FBARs (the filing spouse completes Part II of Form 114a in its entirety).

If the above conditions are not met, both spouses are required to file separate FBARs, and each spouse must report the entire value of the jointly owned accounts.



**CAUTION:** The completed Form 114a is not filed but must be retained for five years and provided to the IRS or FinCEN upon request.

- IRM 4.26.16.3.4
- FinCEN Form 114a - *Record of Authorization to Electronically File FBARs*

# Detailed Explanation of the Concept (cont'd)

FinCEN Form 114 – Report of Foreign Bank and Financial Accounts (FBAR)	
Analysis	Resources
<p><u>What Are the FBAR Filing Exceptions? (cont'd)</u></p> <p><u>FBAR Filing Requirement for USP Residing and Employed Outside the United States:</u></p> <p>The FBAR filing instructions allow for modified reporting by a USP who meets all three of the following criteria:</p> <ul style="list-style-type: none"><li>▪ Resides outside the U.S.;</li><li>▪ Is an officer or employee of an employer located outside the U.S.; and</li><li>▪ Has signature authority over a foreign financial account(s) of that employer.</li></ul> <p>In such cases, the USP should file the FBAR by:</p> <ul style="list-style-type: none"><li>▪ Completing filer information;</li><li>▪ Omitting account information; and</li><li>▪ Completing employer information one time only.</li></ul>	<ul style="list-style-type: none"><li>▪ IRM 4.26.16.3.8</li></ul>

# Detailed Explanation of the Concept (cont'd)

## FinCEN Form 114 – Report of Foreign Bank and Financial Accounts (FBAR)

### Analysis

### Resources

#### What Are the Recordkeeping Requirements?

- If an FBAR is required, records are to be made and retained by each person having financial interests in or signature or other authority over any reportable foreign financial accounts. Such records shall contain:
  - The name in which each such account is maintained;
  - The number or other designation identifying such account;
  - The name and address of the foreign financial institution or other person with whom such account is maintained;
  - The type of such account; and
  - The maximum value of each such account during the reporting period.
- Such records shall be retained for a period of 5 years from the FBAR due date for that calendar year and shall be kept at all times available for inspection as authorized by law.
- A filer who has financial interest in or signature or other authority over 25 or more foreign financial accounts must also comply with the record keeping requirements and provide detailed information concerning each account to the IRS or FinCEN upon request.



**CAUTION:** An officer or employee who files an FBAR to report signature authority over an employer's foreign financial account is not required to personally retain records regarding these foreign financial accounts.

- 31 CFR 1010.420
- 31 CFR 1010.350
- IRM 4.26.16.4
  
- IRM 4.26.16.4.1
  
- Pub. 5569 - *Report of Foreign Bank & Financial Accounts (FBAR) Reference Guide*

# Index of Referenced Resources

## FinCEN Form 114 – Report of Foreign Bank and Financial Accounts (FBAR)

31 CFR 1010.100 (hhh)

31 CFR 1010.350

31 CFR 1010.420

31 USC 5314

FinCEN Form 114 - *Report of Foreign Bank and Financial Accounts*

FinCEN Form 114a - *Record of Authorization to Electronically File FBARs*

*Indian Gaming Regulatory Act*

IRC 671 – 679

IRC 6013(g) and (h)

IRC 7701(b)

IRM 4.26.16 - *Report of Foreign Bank and Financial Accounts (FBAR)*

Pub. 4261 - *Do You Have a Foreign Financial Account?*

Pub. 5569 - *Report of Foreign Bank & Financial Accounts (FBAR) Reference Guide*

FiscalData.Treasury.gov - *Treasury Reporting Rates of Exchange*

BSAefiling.fincen.treas.gov - *FinCEN's BSA E-Filing System*

# Training and Additional Resources

FinCEN Form 114 – Report of Foreign Bank and Financial Accounts (FBAR)	
Type of Resource	Description(s)
Saba Meetings	<ul style="list-style-type: none"><li>▪ <i>Back to Basics-Follow the Money FBAR-Filing Req</i> – 2021 CPE Saba Meeting</li></ul>
White Papers/Guidance	<ul style="list-style-type: none"><li>▪ Audit Tools – FinCEN Form 114 (FBAR) Desk Guide</li><li>▪ Audit Tools – LB&amp;I FBAR Website – FBAR Exam Resources</li></ul>
Other Training Materials	<ul style="list-style-type: none"><li>▪ Filing the FBAR Using the “Online” form <a href="https://bsaefiling.fincen.treas.gov/docs/FBAR_ONLINEEFILING.pdf">https://bsaefiling.fincen.treas.gov/docs/FBAR_ONLINEEFILING.pdf</a></li><li>▪ BSA Electronic Filing Requirements For Report of Foreign Bank and Financial Accounts (FinCEN Form 114) FBAR – Electronic Filing Instructions <a href="https://www.fincen.gov/sites/default/files/shared/FBAR%20Line%20Item%20Filing%20Instructions.pdf">https://www.fincen.gov/sites/default/files/shared/FBAR%20Line%20Item%20Filing%20Instructions.pdf</a></li></ul>

# Glossary of Terms and Acronyms

Term/Acronym	Definition
BSA	Bank Secrecy Act
CFR	Code of Federal Regulations
FBAR	FinCEN Form 114, <i>Report of Foreign Bank and Financial Accounts</i>
FinCEN	Financial Crimes and Enforcement Network
IRA	Individual Retirement Account
IRC	Internal Revenue Code
IRM	Internal Revenue Manual
IRS	Internal Revenue Service
LB&I	Large Business & International
U.S.	United States
USC	United States Code
USP	United States Person

# Index of Related Practice Units

Associated UIL(s)	Related Practice Unit
9431	<i>Determining Tax Residency Status of Lawful Permanent Residents</i>
9431	<i>First-Year Election Under IRC 7701(b)(4)</i>
9431	<i>Substantial Presence Test</i>
9435	<i>Basic Offshore Structures Used to Conceal U.S. Person's Beneficial Ownership of Foreign Financial Accounts and Other Assets</i>