




DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, DC 20224

SMALL BUSINESS/SELF-EMPLOYED DIVISION

April 15, 2026

Control Number: SBSE-04-0426-0027  
Expiration Date: April 15, 2028  
Impacted IRMs: 4.26.17

MEMORANDUM FOR:  
ALL SB/SE FIELD AND SPECIALTY EXAMINATION EMPLOYEES AND MANAGERS;  
ALL DIRECTORS, LB&I

FROM: Heather J Yocum  Digitally signed by Heather J. Yocum  
Date: 2026.04.15 10:46:43 -0400  
Adobe Acrobat version: 2025.001.20997  
Acting Director, Specialty Examination Policy

SUBJECT: Guidance on Imminent and Expired FBAR Statutes

This memorandum issues interim guidance for addressing imminent and expired statutes for Report of Foreign Bank and Financial Accounts (FBAR) cases. Please ensure this information is distributed to all affected employees within your organization.

**Purpose:** This memorandum is issued to notify IRS employees of procedural changes regarding statute protection for FBAR examinations, including cases in Currency Transaction Report (CTR) Operations.

**Procedural Change:** This memorandum provides specific guidance regarding:

- Imminent Statute Procedures (Attachment 1)
- Expired Statute Procedures (Attachment 2)

**Effect on Other Documents:** This guidance will be incorporated into IRM 4.26.17, Report of Foreign Bank and Financial Accounts (FBAR) Procedures, by a date not to exceed two years from the date of this memorandum.

**Effective Date:** This guidance is effective immediately.

**Contact:** Kelly Stephenson, Acting BSA Policy Program Manager

**Attachments:**

- Attachment 1 - Imminent Statute Procedures
- Attachment 2 - Expired Statute Procedures

**Distribution:** IRS.gov

## Attachment 1 - Imminent Statute Procedures

The following changes are effective immediately for IRM 4.26.17, Report of Foreign Bank and Financial Accounts (FBAR) Procedures.

### IRM 4.26.17.3.1.3, Extending the FBAR Statute of Limitations

- (1) No change.
- (2) No change.
- (3) No change.
- (4) No change.
  - a. No change.
  - b. No change.
  - c. For cases requiring Counsel review, there should be at least 135 days remaining on the FBAR statute of limitations when the FBAR case file is forwarded to Counsel. Counsel should review the case file within 45 days of receipt.
  - d. FBAR electronic processing packages must be sent to CTR (Currency Transaction Report) Operations for processing with at least 90 days remaining on the statute to allow enough time to process the case and assess the penalty. See IRM 4.26.17.4.6.1.
  - e. If an electronic processing package is sent to CTR Operations with less than 90 days (but more than 45) remaining on the FBAR statute of limitations for any of the FBAR periods included in the package, the examination group manager must include the CTR Operations Department Manager (DM) as a CC to the electronic processing package.
  - f. If less than 45 days remain on the statute, in addition to the procedures in (a), the Examination Area Director must send in the electronic processing package, on behalf of the group manager, following the procedures in IRM 4.26.17.4.6.1. The Examination Area Director will include the CTR Operations DM as a CC to the electronic processing package.

NOTE: Examination is responsible for the protection of the FBAR Statute of Limitations and must ensure timely and accurate assessment of any FBAR penalties.

- g. For guidelines related to FBAR statute of limitations matters in criminal referral cases and Criminal Investigation (CI) involvement in civil FBAR statute of limitations protection actions, see IRM 4.26.17.5.3, Fraud Referrals in FBAR Examinations, for more details.
- (5) No change.
- (6) No change.
- (7) No change.
- (8) No change.

(9) No change.

(10) No change.

## **Attachment 2 - Expired Statute Procedures**

The following changes are effective immediately for IRM 4.26.17, Report of Foreign Bank and Financial Accounts (FBAR) Procedures.

### **IRM 4.26.17.1.7, Terms**

- (1) No change
- (2) No change
- (3) No change
- (4) No change
- (5) In this section of the IRM, whenever the term “barred assessment” is used, the definition of such term is a civil FBAR penalty that has not been timely assessed within the period prescribed in 31 USC 5321(b)(1). See IRM 4.26.17.3.1.1, FBAR Statute of Limitations on Assessments, and IRM 4.26.17.3.1.3, Extending the FBAR Statute of Limitations.
- (6) In this section of the IRM, whenever the term “barred referral” is used, the definition of such term is a failure to refer an FBAR penalty assessment to the Department of Justice for the commencement of civil action within the time prescribed by 31 USC 5321(b)(2). See IRM 4.26.17.3.1.2, FBAR Statute of Limitations on Commencing Civil Action. The date on which the period of limitations expires to commence a civil action to recover assessed FBAR penalties is referred to as the Civil Action Statute Expiration Date (CASED).

### **IRM 4.26.17.3.1.5, Expired Statute Procedures**

- (1) Form 3999-A, Statute Expiration Report For FBAR, must be prepared if:
  - An examination year controlled on ERCS or considered open per the FBAR Database where the ASSED has passed in the Field,
  - CTR Operations receives a request for assessment prior to the ASSED, but fails to make the assessment before the ASSED, or
  - CTR Operations fails to send an FBAR penalty assessment to Counsel for referral to the Department of Justice for collection before the CASED when required to do so per IRM 25.3.2.3, Criteria for Bringing Suit.

#### **IRM 4.26.17.3.1.5.1, Form 3999-A, Statute Expiration Report**

- (1) Form 3999-A will be prepared and assembled by the Business Operating Division (BOD) responsible for the loss of the assessment or the function/organization responsible for the lack of appropriate action that allowed the ASSED to expire without a valid penalty assessment being made. Refer to IRM 25.6.1.13.2.5, Identifying the Responsible Area, for assistance in making this determination.

- (2) SB/SE examiners should follow IRM 25.6.1.13.2.8.1, Procedures for the Submission of SB/SE Statute Expiration Reports, with the exception of using Form 3999-A instead of Form 3999, Statute Expiration Report.
- (3) LB&I examiners should follow IRM 25.6.1.13.2.9.1, Procedures for the Submission of LB&I Statute Expiration Reports, with the exception of using Form 3999-A instead of Form 3999.
- (4) If a barred assessment is discovered by a CTR Operations employee, but it is determined that the responsible employee for the expiration is assigned to another BOD, CTR Operations will prepare a memorandum and forward it to the appropriate BOD Headquarters Office for routing to the responsible area, as the responsible BOD will prepare Form 3999-A. The CTR Operations employee will:
  - Send a memorandum with the case file to the appropriate BOD (e.g., LB&I, SBSE, Appeals. etc.) within 10 calendar days from date of discovery, including the date of discovery, a brief description of known facts, and amount of loss in the memorandum.
  - Remove any information pertaining to the closure of the case from the FBAR database, including the *Date Closed from Group*, *Time on case*, and *Disposition* fields.
- (5) If a barred assessment is discovered by a CTR Operations employee and the barred case was sent in for electronic processing with more than 15 days left on the ASER, the discovering CTR Operations employee will:
  - Send a memorandum to the CTR Operations DM within 10 calendar days from the date of discovery.
  - Alert the Exam group that the assessment period has expired and instruct them to prepare the physical file for closure to CTR Operations.
  - Prepare Form 3999-A.
- (6) If a properly assessed penalty meeting the criteria for filing suit in IRM 25.3.2.3, Criteria for Filing Suit, is not referred to Counsel within 300 days of the CASED and the case was not previously with the Independent Office of Appeals on a post-assessment basis, the CTR Operations employee making the discovery must:
  - Email the Litigation & Advisory Division Counsel (International) contact to see if a referral can still be completed.
  - Prepare a memorandum detailing the facts of the case and Form 3999-A if a referral is not able to timely be completed and email the prepared documents to the CTR Operations DM within 10 calendar days from the date of discovery.

**IRM 4.26.17.3.1.5.2, Closing Cases Involving Barred Assessments**

- (1) Place a copy of the fully completed Form 3999-A in the case file.
- (2) Follow IRM 4.26.17.4.1, Closing the FBAR Case – No Action, for procedures on

closing the FBAR year as a No Action closure.

**IRM 4.26.17.3.1.5.3, Closing Cases Involving Barred Referrals**

- (1) Place a copy of the fully completed Form 3999-A in the case file.
- (2) Refer the debt to BFS for collection action to resume, when appropriate. See IRM 4.26.17.4.4(12), Closing the FBAR Case – Payment and Collection.