

I am sorry what did you say? FBAR aka TD F 90-22.1

FBAR is an acronym for Foreign Bank Account Report, to be submitted to the IRS no later than the 30th of June the following year. It is a must filing with no tax due, however; it carries stiff penalties for non-filers. Non-Willful disregard of your FBAR filing obligation carries a penalty that is the highest of \$10,000 or 10% of what is in the Foreign Bank Account(s). Willful disregard may carry harsher penalties. The Service have made it clear that if you did not file your FBAR report for prior years you cannot amend your personal income tax return and send the FBAR with it, you have to go through a disclosure process.

This reporting requirement has its roots back in Title 31 of the U.S. Code. That title provides the powers to the Secretary of the Treasury to demand such filings like the FBAR. In prospect, things started to form by passing of the US Patriot Act of 2001. The FBAR report was a single sheet back then, now it is a five sheets report, with more check boxes one of them is an amended check box, in case you forgot an account or two.

Individuals, Partnerships, Corporations, Estates, Trusts and others are subject to filing the FBAR. For individuals, the FBAR reporting starts at Schedule B of your personal income tax return. In that Schedule you will declare if you are subject to the filing requirement of the FBAR or not. The filing requirements are a straight forward water mark, if the US person has at any point in time in a foreign bank account or accounts a balance of 10,000 US dollars. Note that it is at any point in time for the year you are reporting for and it can be one account or the multiple of accounts as long as the water mark is triggered. In addition to direct ownership, if the US person has control, signing authority or owned jointly by a non US person reporting on the accounts is triggered.

The IRS has had three amnesties so far for the non-filers to come forward and file late FBAR reports, provided they did not get any notice from the IRS. Recent news brought to our attention that foreign banks and foreign taxing authorities are agreeing to share information with the IRS regarding US persons who have accounts in foreign countries and or US persons claiming the payment of US taxes or US sourced income. Sharing of vital tax information is becoming the new norm, and with speedy exchange such information is readily available with a press of a button.

For more in depth discussion and personal analysis of your particular tax situation please give me a call at 973-553-2250.

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