

603 TAB TAX RETURNS

Copy of Original Filed Form 1040 for Counsel Review

Form 1040 Department of the Treasury - Internal Revenue Service (99) U.S. Individual Income Tax Return 2012 OMB No. 1545-0074 IRS Use Only - Do not write or staple in this space.

For the year Jan. 1-Dec. 31, 2012, or other tax year beginning , 2012, ending , 20 See separate instructions.

Your first name and initial Last name Your social security number

If a joint return, spouse's first name and initial Last name Spouse's social security number

Home address (number and street). If you have a P.O. box, see instructions. Apt. no. Make sure the SSN(s) above and on line 6c are correct.

City, town or post office, state, and ZIP code. If you have a foreign address, also complete spaces below (see instructions). Presidential Election Campaign

Foreign country name Foreign province/state/county Foreign postal code Check here if you, or your spouse if filing jointly, want \$3 to go to this fund. Checking a box below will not change your tax or refund. You Spouse

Filing Status 1 Single 2 Married filing jointly (even if only one had income) 3 Married filing separately. Enter spouse's SSN above and full name here. 4 Head of household (with qualifying person). (See instructions.) If the qualifying person is a child but not your dependent, enter this child's name here. 5 Qualifying widow(er) with dependent child

Exemptions 6a Yourself. If someone can claim you as a dependent, do not check box 6a. 6b Spouse. Boxes checked on 6a and 6b No. of children on 6c who: lived with you did not live with you due to divorce or separation (see instructions) Dependents on 6c not entered above Add numbers on lines above

Income 7 Wages, salaries, tips, etc. Attach Form(s) W-2 7 8a Taxable interest. Attach Schedule B if required 8a 8b Tax-exempt interest. Do not include on line 8a 8b 9a Ordinary dividends. Attach Schedule B if required 9a 9b Qualified dividends 9b 10 Taxable refunds, credits, or offsets of state and local income taxes 10 11 Alimony received 11 12 Business income or (loss). Attach Schedule C or C-EZ 12 13 Capital gain or (loss). Attach Schedule D if required. If not required, check here 13 14 Other gains or (losses). Attach Form 4797 14 15a IRA distributions 15a b Taxable amount 15b 16a Pensions and annuities 16a b Taxable amount 16b 17 Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E 17 18 Farm income or (loss). Attach Schedule F 18 19 Unemployment compensation 19 20a Social security benefits 20a b Taxable amount 20b 21 Other income. List type and amount 21 22 Combine the amounts in the far right column for lines 7 through 21. This is your total income 22

Adjusted Gross Income 23 Educator expenses 23 24 Certain business expenses of reservists, performing artists, and fee-basis government officials. Attach Form 2106 or 2106-EZ 24 25 Health savings account deduction. Attach Form 8889 25 26 Moving expenses. Attach Form 3903 26 27 Deductible part of self-employment tax. Attach Schedule SE 27 28 Self-employed SEP, SIMPLE, and qualified plans 28 29 Self-employed health insurance deduction 29 30 Penalty on early withdrawal of savings 30 31a Alimony paid b Recipient's SSN 31a 32 IRA deduction 32 33 Student loan interest deduction 33 34 Tuition and fees. Attach Form 8917 34 35 Domestic production activities deduction. Attach Form 8903 35 36 Add lines 23 through 35 36 37 Subtract line 36 from line 22. This is your adjusted gross income 37

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Form 1040 (2012)

Page 2

Tax and Credits

38 Amount from line 37 (adjusted gross income) **38**

39a Check You were born before January 2, 1948, Blind. **Total boxes**
 if: Spouse was born before January 2, 1948, Blind. **checked** ▶ **39a**

b If your spouse itemizes on a separate return or you were a dual-status alien, check here ▶ **39b**

40 **Itemized deductions** (from Schedule A) or your **standard deduction** (see left margin) **40**

41 Subtract line 40 from line 38 **41**

42 **Exemptions.** Multiply \$3,800 by the number on line 6d. **42**

43 **Taxable income.** Subtract line 42 from line 41. If line 42 is more than line 41, enter -0- **43**

44 **Tax** (see instructions). Check if any from: **a** Form(s) 8814 **b** Form 4972 **c** 962 election **44**

45 **Alternative minimum tax** (see instructions). Attach Form 6251 **45**

46 Add lines 44 and 45 **46**

47 Foreign tax credit. Attach Form 1116 if required **47**

48 Credit for child and dependent care expenses. Attach Form 2441 **48**

49 Education credits from Form 8863, line 19 **49**

50 Retirement savings contributions credit. Attach Form 8880 **50**

51 Child tax credit. Attach Schedule 8812, if required. **51**

52 Residential energy credits. Attach Form 5695 **52**

53 Other credits from Form: **a** 3800 **b** 8801 **c** **53**

54 Add lines 47 through 53. These are your **total credits** **54**

55 Subtract line 54 from line 46. If line 54 is more than line 46, enter -0- ▶ **55**

Other Taxes

56 Self-employment tax. Attach Schedule SE **56**

57 Unreported social security and Medicare tax from Form: **a** 4137 **b** 8919 **57**

58 Additional tax on IRAs, other qualified retirement plans, etc. Attach Form 5329 if required **58**

59a Household employment taxes from Schedule H **59a**

b First-time homebuyer credit repayment. Attach Form 5405 if required **59b**

60 Other taxes. Enter code(s) from instructions **60**

61 Add lines 55 through 60. This is your **total tax** **61**

Payments

62 Federal income tax withheld from Forms W-2 and 1099 **62**

63 2012 estimated tax payments and amount applied from 2011 return **63**

64a **Earned income credit (EIC)** **64a**

b Nontaxable combat pay election **64b**

65 Additional child tax credit. Attach Schedule 8812 **65**

66 American opportunity credit from Form 8863, line 8 **66**

67 Reserved **67**

68 Amount paid with request for extension to file **68**

69 Excess social security and tier 1 RRTA tax withheld **69**

70 Credit for federal tax on fuels. Attach Form 4136 **70**

71 Credits from Form: **a** 2439 **b** Reserved **c** 8801 **d** 8885 **71**

72 Add lines 62, 63, 64a, and 65 through 71. These are your **total payments** **72**

Refund

73 If line 72 is more than line 61, subtract line 61 from line 72. This is the amount you **overpaid** **73**

74a Amount of line 73 you want **refunded to you**. If Form 8888 is attached, check here ▶ **74a**

Direct deposit? **b** Routing number ▶ **c** Type: Checking Savings

See instructions. ▶ **d** Account number

75 Amount of line 73 you want **applied to your 2013 estimated tax** ▶ **75**

Amount You Owe

76 **Amount you owe.** Subtract line 72 from line 61. For details on how to pay, see instructions ▶ **76**

77 Estimated tax penalty (see instructions) **77**

Third Party Designee

Do you want to allow another person to discuss this return with the IRS (see instructions)? **Yes. Complete below.** **No**

Designee's name ▶ Phone no. ▶ Personal identification number (PIN) ▶

Sign Here

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Joint return? See instructions. Keep a copy for your records.

Your signature	Date	Your occupation	Daytime phone number
Spouse's signature. If a joint return, both must sign.	Date	Spouse's occupation	If the IRS sent you an Identity Protection PIN, enter it here (see inst.)

Paid Preparer Use Only

Print/Type preparer's name Preparer's signature Date Check if self-employed PTIN

Firm's name ▶ Firm's EIN ▶

Firm's address ▶ Phone no. ▶

Copy of Original Form 1040 Schedule B for Counsel Review

SCHEDULE B (Form 1040A or 1040)

Interest and Ordinary Dividends

OMB No. 1545-0074

2012

Attachment Sequence No. 08

Department of the Treasury Internal Revenue Service (99)

Attach to Form 1040A or 1040.

Information about Schedule B (Form 1040A or 1040) and its instructions is at www.irs.gov/form1040.

Name(s) shown on return

Your social security number

Part I Interest

1 List name of payer. If any interest is from a seller-financed mortgage and the buyer used the property as a personal residence, see instructions on back and list this interest first. Also, show that buyer's social security number and address

(See instructions on back and the instructions for Form 1040A, or Form 1040, line 8a.)

Note. If you received a Form 1099-INT, Form 1099-OID, or substitute statement from a brokerage firm, list the firm's name as the payer and enter the total interest shown on that form.

- 2 Add the amounts on line 1
3 Excludable interest on series EE and I U.S. savings bonds issued after 1989. Attach Form 8815.
4 Subtract line 3 from line 2. Enter the result here and on Form 1040A, or Form 1040, line 8a

Note. If line 4 is over \$1,500, you must complete Part III.

Part II Ordinary Dividends

5 List name of payer

(See instructions on back and the instructions for Form 1040A, or Form 1040, line 9a.)

Note. If you received a Form 1099-DIV or substitute statement from a brokerage firm, list the firm's name as the payer and enter the ordinary dividends shown on that form.

- 6 Add the amounts on line 5. Enter the total here and on Form 1040A, or Form 1040, line 9a

Note. If line 6 is over \$1,500, you must complete Part III.

Part III Foreign Accounts and Trusts

(See instructions on back.)

You must complete this part if you (a) had over \$1,500 of taxable interest or ordinary dividends; (b) had a foreign account; or (c) received a distribution from, or were a grantor of, or a transferor to, a foreign trust.

- 7a At any time during 2012, did you have a financial interest in or signature authority over a financial account (such as a bank account, securities account, or brokerage account) located in a foreign country? See instructions
b If you are required to file Form TD F 90-22.1, enter the name of the foreign country where the financial account is located
8 During 2012, did you receive a distribution from, or were you the grantor of, or transferor to, a foreign trust? If "Yes," you may have to file Form 3520. See instructions on back

Table with Yes/No columns and rows for questions 7a, b, and 8.

Schedule B Instructions Explain FBAR Filing Requirements Under Title 31 and New Form 8938 Statement of Specified Foreign Financial Assets Filing Requirements Under Title 26.

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future Developments

For the latest information about developments related to Schedule B (Form 1040A or 1040) and its instructions, such as legislation enacted after they were published, go to www.irs.gov/form1040.

Purpose of Form

Use Schedule B if any of the following applies.

- You had over \$1,500 of taxable interest or ordinary dividends.
- You received interest from a seller-financed mortgage and the buyer used the property as a personal residence.
- You have accrued interest from a bond.
- You are reporting original issue discount (OID) in an amount less than the amount shown on Form 1099-OID.
- You are reducing your interest income on a bond by the amount of amortizable bond premium.
- You are claiming the exclusion of interest from series EE or I U.S. savings bonds issued after 1989.
- You received interest or ordinary dividends as a nominee.
- You had a financial interest in, or signature authority over, a financial account in a foreign country or you received a distribution from, or were a grantor of, or transferor to, a foreign trust. Part III of the schedule has questions about foreign accounts and trusts.

Specific Instructions

TIP You can list more than one payer on each entry space for lines 1 and 5, but be sure to clearly show the amount paid next to the payer's name. Add the separate amounts paid by the payers listed on an entry space and enter the total in the "Amount" column. If you still need more space, attach separate statements that are the same size as the printed schedule. Use the same format as lines 1 and 5, but show your totals on Schedule B. Be sure to put your name and social security number (SSN) on the statements and attach them at the end of your return.

Part I. Interest

Line 1. Report on line 1 all of your taxable interest. Taxable interest should be shown on your Forms 1099-INT, Forms 1099-OID, or substitute statements. Include interest from series EE, H, HH, and I U.S. savings bonds. List each payer's name and show the amount. Do not report on this line any tax-exempt interest from box 8 or box 9 of Form 1099-INT. Instead, report the amount from box 8 on line 8b of Form 1040A or 1040. If an amount is shown in box 9 of Form 1099-INT, you generally must report it on line 12 of Form 6251. See the Instructions for Form 6251 for more details.

Seller-financed mortgages. If you sold your home or other property and the buyer used the property as a personal residence, list first any interest the buyer paid you on a mortgage or other form of seller financing. Be sure to show the buyer's name, address, and SSN. You must also let the buyer know your SSN. If you do not show the buyer's name, address, and SSN, or let the buyer know your SSN, you may have to pay a \$50 penalty.

Nominees. If you received a Form 1099-INT that includes interest you received as a nominee (that is, in your name, but the interest actually belongs to someone else), report the total on line 1. Do this even if you later distributed some or all of this income to others. Under your last entry on line 1, put a subtotal of all interest listed on line 1. Below this subtotal, enter "Nominee Distribution" and show the total interest you received as a nominee. Subtract this amount from the subtotal and enter the result on line 2.



If you received interest as a nominee, you must give the actual owner a Form 1099-INT unless the owner is your spouse. You must also file a Form 1096 and a Form 1099-INT with the IRS. For more details, see the General Instructions for Certain Information Returns and the Instructions for Forms 1099-INT and 1099-OID.

Accrued interest. When you buy bonds between interest payment dates and pay accrued interest to the seller, this interest is taxable to the seller. If you received a Form 1099 for interest as a purchaser of a bond with accrued interest, follow the rules earlier under *Nominees* to see how to report the accrued interest. But identify the amount to be subtracted as "Accrued Interest."

Original issue discount (OID). If you are reporting OID in an amount less than the amount shown on Form 1099-OID, follow the rules earlier under *Nominees* to see how to report the OID. But identify the amount to be subtracted as "OID Adjustment."

Amortizable bond premium. If you are reducing your interest income on a bond by the amount of amortizable bond premium, follow the rules earlier under *Nominees* to see how to report the interest. But identify the amount to be subtracted as "ABP Adjustment."

Line 3. If, during 2012, you cashed series EE or I U.S. savings bonds issued after 1989 and you paid qualified higher education expenses for yourself, your spouse, or your dependents, you may be able to exclude part or all of the interest on those bonds. See Form 8815 for details.

Part II. Ordinary Dividends



You may have to file Form 5471 if, in 2012, you were an officer or director of a foreign corporation. You may also have to file Form 5471 if, in 2012, you owned 10% or more of the total (a) value of a foreign corporation's stock, or (b) combined voting power of all classes of a foreign corporation's stock with voting rights. For details, see Form 5471 and its instructions.

Line 5. Report on line 5 all of your ordinary dividends. This amount should be shown in box 1a of your Forms 1099-DIV or substitute statements. List each payer's name and show the amount.

Nominees. If you received a Form 1099-DIV that includes ordinary dividends you received as a nominee (that is, in your name, but the ordinary dividends actually belong to someone else), report the total on line 5. Do this even if you later distributed some or all of this income to others. Under your last entry on line 5, put a subtotal of all ordinary dividends listed on line 5. Below this subtotal, enter "Nominee Distribution" and show the total ordinary dividends you received as a nominee. Subtract this amount from the subtotal and enter the result on line 6.



If you received dividends as a nominee, you must give the actual owner a Form 1099-DIV unless the owner is your spouse. You must also file a Form 1096 and a Form 1099-DIV with the IRS. For more details, see the General Instructions for Certain Information Returns and the Instructions for Form 1099-DIV.

Part III. Foreign Accounts and Trusts



Regardless of whether you are required to file Form TD F 90-22.1 (FBAR), you may be required to file Form 8938, Statement of Specified Foreign Financial Assets, with your income tax return. Failure to file Form 8938 may result in penalties and extension of the statute of limitations. See www.irs.gov/form8938 for more information.

Line 7a-Question 1. Check the "Yes" box if at any time during 2012 you had a financial interest in or signature authority over a financial account located in a foreign country. See the definitions that follow. Check the "Yes" box even if you are not required to file Form TD F 90-22.1.

Financial account. A financial account includes, but is not limited to, a securities, brokerage, savings, demand, checking, deposit, time deposit, or other account maintained with a financial institution (or other person performing the services of a financial institution). A financial account also includes a commodity futures or options account, an insurance policy with a cash value (such as a whole life insurance policy), an annuity policy with a cash value, and shares in a mutual fund or similar pooled fund (that is, a fund that is available to the general public with a regular net asset value determination and regular redemptions).

Financial account located in a foreign country. A financial account is located in a foreign country if the account is physically located outside of the United States. For example, an account maintained with a branch of a United States bank that is physically located outside of the United States is a foreign financial account. An account maintained with a branch of a foreign bank that is physically located in the United States is not a foreign financial account.

Signature authority. Signature authority is the authority of an individual (alone or in conjunction with another individual) to control the disposition of assets held in a foreign financial account by direct communication (whether in writing or otherwise) to the bank or other financial institution that maintains the financial account. See the Instructions for Form TD F 90-22.1 (Report of Foreign Bank and Financial Accounts) for exceptions. Do not consider the exceptions relating to signature authority in answering Question 1 on line 7a.

Other definitions. For definitions of "financial interest," "United States," and other relevant terms, see the instructions for Form TD F 90-22.1.

Note. You can get Form TD F 90-22.1 from the IRS website at www.irs.gov/pub/irs-pdf/f90221.pdf.

Line 7a-Question 2. See Form TD F 90-22.1 and its instructions to determine whether you must file the form. Check the "Yes" box if you are required to file the form; check the "No" box if you are not required to file the form.

If you checked the "Yes" box to Question 2 on line 7a, file Form TD F 90-22.1 with the Department of Treasury at the address shown in the instructions for that form. Do not attach Form TD F 90-22.1 to your tax return. To be considered timely, Form TD F 90-22.1 must be received by June 30, 2013.



If you are required to file Form TD F 90-22.1 but do not properly do so, you may have to pay a civil penalty up to \$10,000. A person who willfully fails to report an account or provide account identifying information may be subject to a civil penalty equal to the greater of \$100,000 or 50 percent of the balance in the account at the time of the violation. Willful violations may also be subject to criminal penalties.

Line 7b. If you are required to file Form TD F 90-22.1, enter the name of the foreign country or countries in the space provided on line 7b. Attach a separate statement if you need more space.

Line 8. If you received a distribution from a foreign trust, you must provide additional information. For this purpose, a loan of cash or marketable securities generally is considered to be a distribution. See Form 3520 for details.

If you were the grantor of, or transferor to, a foreign trust that existed during 2012, you may have to file Form 3520.

Do not attach Form 3520 to Form 1040. Instead, file it at the address shown in its instructions.

If you were treated as the owner of a foreign trust under the grantor trust rules, you are also responsible for ensuring that the foreign trust files Form 3520-A. Form 3520-A is due on March 15, 2013, for a calendar year trust. See the instructions for Form 3520-A for more details.

1040X Example of Quiet Disclosure

Form 1040X

Department of the Treasury—Internal Revenue Service

Amended U.S. Individual Income Tax Return

OMB No. 1545-0074

(Rev. December 2012)

Information about Form 1040X and its separate instructions is at www.irs.gov/form1040x.

This return is for calendar year 2012 2011 2010 2009

Other year. Enter one: calendar year or fiscal year (month and year ended):

Your first name and initial Last name Your social security number

If a joint return, spouse's first name and initial Last name Spouse's social security number

Home address (number and street). If you have a P.O. box, see instructions. Apt. no. Your phone number

City, town or post office, state, and ZIP code. If you have a foreign address, also complete spaces below (see instructions).

Foreign country name Foreign province/state/county Foreign postal code

Amended return filing status. You must check one box even if you are not changing your filing status.

Caution. In general, you cannot change your filing status from joint to separate returns after the due date.

- Single Married filing jointly Married filing separately Qualifying widow(er) Head of household

Use Part III on the back to explain any changes

Table with 3 columns: Description, A. Original amount, B. Net change, C. Correct amount. Rows include Income and Deductions, Tax Liability, Payments, and Refund or Amount You Owe.

Complete and sign this form on Page 2.

1040X Example of Quiet Disclosure

Part I Exemptions

Complete this part only if you are:

- Increasing or decreasing the number of exemptions (personal and dependents) claimed on line 6d of the return you are amending, or
- Increasing or decreasing the exemption amount for housing individuals displaced by a Midwestern disaster in 2009.

See Form 1040 or Form 1040A instructions and Form 1040X instructions.

	A. Original number of exemptions or amount reported or as previously adjusted	B. Net change	C. Correct number or amount
23 Yourself and spouse. Caution. If someone can claim you as a dependent, you cannot claim an exemption for yourself	23		
24 Your dependent children who lived with you	24		
25 Your dependent children who did not live with you due to divorce or separation	25		
26 Other dependents	26		
27 Total number of exemptions. Add lines 23 through 26	27		
28 Multiply the number of exemptions claimed on line 27 by the exemption amount shown in the instructions for line 28 for the year you are amending	28		
29 If you are claiming an exemption amount for housing individuals displaced by a Midwestern disaster, enter the amount from Form 8914, line 6 for 2009	29		
30 Add lines 28 and 29. Enter the result here and on line 4 on page 1 of this form	30		
31 List ALL dependents (children and others) claimed on this amended return. If more than 4 dependents, see instructions.			

(a) First name	Last name	(b) Dependent's social security number	(c) Dependent's relationship to you	(d) Check box if qualifying child for child tax credit (see instructions)
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>

Part II Presidential Election Campaign Fund

Checking below will not increase your tax or reduce your refund.

- Check here if you did not previously want \$3 to go to the fund, but now do.
- Check here if this is a joint return and your spouse did not previously want \$3 to go to the fund, but now does.

Part III Explanation of changes. In the space provided below, tell us why you are filing Form 1040X.

▶ Attach any supporting documents and new or changed forms and schedules.

Sign Here

Remember to keep a copy of this form for your records.

Under penalties of perjury, I declare that I have filed an original return and that I have examined this amended return, including accompanying schedules and statements, and to the best of my knowledge and belief, this amended return is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information about which the preparer has any knowledge.

▶ Your signature _____ Date _____ ▶ Spouse's signature. If a joint return, both must sign. _____ Date _____

Paid Preparer Use Only

▶ Preparer's signature _____ Date _____ Firm's name (or yours if self-employed) _____

Print/type preparer's name _____ Firm's address and ZIP code _____

Check if self-employed

PTIN _____ Phone number _____ EIN _____

Form **8938**
(November 2012)
Department of the Treasury
Internal Revenue Service

Statement of Specified Foreign Financial Assets

OMB No. 1545-2195

▶ Information about Form 8938 and its separate instructions is at www.irs.gov/form8938.
▶ Attach to your tax return

Attachment
Sequence No. 175

If you have attached additional sheets, check here

Name(s) shown on return _____ Identifying number _____

Number, street, and room or suite no. (if a P.O. box, see instructions) _____

City or town, province or state, and country (including postal code) _____

For tax year beginning _____, 20____, and ending _____, 20____

Note. All information must be in English. Show all amounts in U.S. dollars. Show currency conversion rates in Part I, line 6(2), or Part II, line 6(2).
Type of filer
a Specified individual (1) Married filing a joint return (2) Married filing a separate return (3) Other individual
b Specified domestic entity (1) Partnership (2) Corporation (3) Trust

Check this box if this is an amended or supplemental Form 8938 for the tax year _____

Part I Foreign Deposit and Custodial Accounts (see instructions)

If you have more than one account to report, attach a continuation sheet with the same information for each additional account (see instructions).

1 Type of account Deposit Custodial 2 Account number or other designation _____

3 Check all that apply a Account opened during tax year b Account closed during tax year
c Account jointly owned with spouse d No tax item reported in Part III with respect to this account

4 Maximum value of account during tax year _____ \$

5 Did you use a foreign currency exchange rate to convert the value of the account into U.S. dollars? Yes No

6 If you answered "Yes" to line 5, complete all that apply.
(1) Foreign currency in which account is maintained _____ (2) Foreign currency exchange rate used to convert to U.S. dollars _____ (3) Source of exchange rate used if not from U.S. Treasury Financial Management Service _____

7 Name of financial institution in which account is maintained _____

8 Mailing address of financial institution in which account is maintained. Number, street, and room or suite no. _____

9 City or town, province or state, and country (including postal code) _____

Part II Other Foreign Assets (see instructions)

Note. If you reported specified foreign financial assets on Forms 3520, 3520-A, 5471, 8621, 8865, or 8891 you do not have to include the assets on Form 8938. You must complete Part IV. See instructions.

If you have more than one asset to report, attach a continuation sheet with the same information for each additional asset (see instructions).

1 Description of asset _____ 2 Identifying number or other designation _____

3 Complete all that apply. See instructions for reporting of multiple acquisition or disposition dates.
a Date asset acquired during tax year, if applicable _____
b Date asset disposed of during tax year, if applicable _____
c Check if asset jointly owned with spouse d Check if no tax item reported in Part III with respect to this asset

4 Maximum value of asset during tax year (check box that applies)
a \$0 - \$50,000 b \$50,001 - \$100,000 c \$100,001 - \$150,000 d \$150,001 - \$200,000
e If more than \$200,000, list value _____ \$

5 Did you use a foreign currency exchange rate to convert the value of the asset into U.S. dollars? Yes No

For Paperwork Reduction Act Notice, see the separate instructions.

Cat. No. 37753A

Form 8938 (11-2012)

Part II Other Foreign Assets (continued)

6 If you answered "Yes" to line 5, complete all that apply.

(1) Foreign currency in which asset is denominated	(2) Foreign currency exchange rate used to convert to U.S. dollars	(3) Source of exchange rate used if not from U.S. Treasury Financial Management Service
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7 If asset reported in Part II, line 1, is stock of a foreign entity or an interest in a foreign entity, report the following information.

- a** Name of foreign entity _____
- b** Type of foreign entity **(1)** Partnership **(2)** Corporation **(3)** Trust **(4)** Estate
- c** Mailing address of foreign entity. Number, street, and room or suite no. _____
- d** City or town, province or state, and country (including postal code) _____

8 If asset reported in Part II, line 1, is not stock of a foreign entity or an interest in a foreign entity, report the following information for the asset.

Note. If this asset has more than one issuer or counterparty, attach a continuation sheet with the same information for each additional issuer or counterparty (see instructions).

- a** Name of issuer or counterparty _____
Check if information is for Issuer Counterparty
- b** Type of issuer or counterparty
(1) Individual **(2)** Partnership **(3)** Corporation **(4)** Trust **(5)** Estate
- c** Check if issuer or counterparty is a U.S. person Foreign person
- d** Mailing address of issuer or counterparty. Number, street, and room or suite no. _____
- e** City or town, province or state, and country (including postal code) _____

Part III Summary of Tax Items Attributable to Specified Foreign Financial Assets (see instructions)

Asset Category	Tax item	Amount reported on form or schedule	Where reported	
			Form and line	Schedule and line
I. Foreign Deposit and Custodial Accounts	a Interest	\$		
	b Dividends	\$		
	c Royalties	\$		
	d Other income	\$		
	e Gains (losses)	\$		
	f Deductions	\$		
	g Credits	\$		
II. Other Foreign Assets	a Interest	\$		
	b Dividends	\$		
	c Royalties	\$		
	d Other income	\$		
	e Gains (losses)	\$		
	f Deductions	\$		
	g Credits	\$		

Part IV Excepted Specified Foreign Financial Assets (see instructions)

If you reported specified foreign financial assets on the following forms, check the appropriate box(es). Indicate number of forms filed. You do not need to include these assets on Form 8938 for the tax year.

- 3520 Number of forms _____
- 8621 Number of forms _____
- 3520-A Number of forms _____
- 8865 Number of forms _____
- 5471 Number of forms _____
- 8891 Number of forms _____



Instructions for Form 8938

(November 2012)

Statement of Specified Foreign Financial Assets

Section references are to the Internal Revenue Code unless otherwise noted.

General Instructions

Future developments. The IRS has created a page on IRS.gov for information about Form 8938 and its instructions, at www.irs.gov/form8938. Information about any future developments affecting Form 8938 (such as legislation enacted after we release it) will be posted on that page.

What's New

Type of filer. On page 1 of the form (above Part I), in the *Type of filer* section we added a checkbox for married individuals filing a separate return.

Checkbox for the type of Form 8938 filed. On page 1 of the form (immediately above Part I), we have modified the lead-in text for this checkbox so that filers now only have to check this box if they are filing an amended or supplemental Form 8938 for the tax year.

Part II, line 3. Other foreign assets. For lines 3a and 3b we added an instruction for assets acquired or disposed of during different dates in the year. See the instructions for Part II, line 3 for details.

Part II, line 7. Other foreign assets. We eliminated the checkbox for PFICs in Part II, line 7 because whether a reported specified foreign financial asset is a PFIC is no longer required to be indicated on Form 8938. See *Assets Not Required to be Reported and Duplicative reporting*, regarding PFICs reported on Form 8621, Information Return by a Shareholder of a Passive Foreign Investment Company or Qualified Electing Fund.

Part IV, Form 8891, U.S. Information Return for Beneficiaries of Certain Canadian Registered Retirement Plans. We added a new checkbox for Form 8891 to indicate that you are excepted from reporting a

specified foreign financial asset on Form 8938 because you reported the asset on Form 8891.

Purpose of Form

Use Form 8938 to report your specified foreign financial assets if the total value of all the specified foreign financial assets in which you have an interest is more than the appropriate reporting threshold. See *Determining the Reporting Threshold That Applies to You*, later.



Filing Form 8938 does not relieve you of the requirement to file Form TD F 90-22.1, Report of Foreign Bank and Financial Accounts (FBAR), if you are otherwise required to file the FBAR. See Form TD F 90-22.1 and its instructions for FBAR filing requirements. See Comparison of Form 8938 and FBAR Requirements, available at www.irs.gov/Businesses/Comparison-of-Form-8938-and-FBAR-Requirements, for a chart comparing Form 8938 and FBAR filing requirements.

When and How To File

Attach Form 8938 to your annual return and file by the due date (including extensions) for that return.

An annual return includes the following returns.

- Form 1040.
- Form 1120.
- Form 1065.
- Form 1041.
- Form 1120-S.
- Form 1040NR.

A reference to an "annual return" or "income tax return" in the instructions includes a reference to any return listed here, whether it is an income tax return or an information return.

Transitional rule for individuals.

Your obligation to file Form 8938 in 2011 is deferred to 2012 if you are an individual who satisfies all of the following.

- You had a tax year that began after March 18, 2010, and before January 1, 2011.
- You were required to file Form 8938.
- You filed an annual return for the year before Form 8938 was released.

See Notice 2011-55, 2011-29 I.R.B. 53, available at http://www.irs.gov/irb/2011-29_IRB/ar06.html. File Form 8938 for the prior year with your 2012 annual return. If you are required to complete a Form 8938 for your prior tax year and your 2012 tax year, attach both forms to your income tax return for 2012.

Filing Form 8938 after filing 2011 or 2012 annual returns.

If the transitional rule above does not apply to you and you did not file a required Form 8938 with your 2011 or 2012 annual return, file an amended return and attach Form 8938 to that amended return for the appropriate tax year.



Do not send a Form 8938 to the IRS unless it is attached to an annual return or an amended return.

Who Must File

Unless an exception applies, you must file Form 8938 if you are a specified individual that has an interest in specified foreign financial assets and the value of those assets is more than the applicable reporting threshold.

If you are a domestic corporation, partnership, or trust, see the caution under *Specified Domestic Entity* below.

If you are required to file Form 8938, you must report the specified foreign financial assets in which you have an interest even if none of the assets affects your tax liability for the year. See *Specified Individual and Reporting Thresholds Applying to Specified Individuals*, later.



Exception if no income tax return required.

If you do not have to file an income tax return for the tax year, you do not have to file Form 8938, even if the value of your specified foreign financial assets is more than the appropriate reporting threshold.

Specified Individual

You are a specified individual if you are one of the following.

- A U.S. citizen.
- A resident alien of the United States for any part of the tax year (but see *Reporting Period*, later).
- A nonresident alien who makes an election to be treated as a resident alien for purposes of filing a joint income tax return.
- A nonresident alien who is a bona fide resident of American Samoa or Puerto Rico. See Pub. 570, Tax Guide for Individuals With Income From U.S. Possessions, for a definition of bona fide resident.

Special rules for resident aliens.

You are a resident alien if you are treated as a resident alien for U.S. tax purposes under the green card test or the substantial presence test. For more information, see Pub. 519, U.S. Tax Guide for Aliens. If you qualify as a resident alien under either rule, you are a specified individual even if you elect to be taxed as a resident of a foreign country under the provisions of a U.S. income tax treaty. If you have to file Form 8938, attach it to your Form 1040NR.

Specified Domestic Entity



The IRS anticipates issuing regulations that will require a domestic entity to file Form 8938 if the entity is formed or availed of to hold specified foreign financial assets and the value of those assets exceeds the appropriate reporting threshold. Until the IRS issues such regulations, only individuals must file Form 8938.

Reporting Thresholds Applying to Specified Individuals

Taxpayers living in the United States. If you do not live outside the United States, you satisfy the reporting threshold discussed next that applies to you and no exception

applies, file Form 8938 with your income tax return.

Unmarried taxpayers. If you are not married, you satisfy the reporting threshold only if the total value of your specified foreign financial assets is more than \$50,000 on the last day of the tax year or more than \$75,000 at any time during the tax year.

Married taxpayers filing a joint income tax return. If you are married and you and your spouse file a joint income tax return, you satisfy the reporting threshold only if the total value of your specified foreign financial assets is more than \$100,000 on the last day of the tax year or more than \$150,000 at any time during the tax year.

Married taxpayers filing separate income tax returns. If you are married and file a separate income tax return from your spouse, you satisfy the reporting threshold only if the total value of your specified foreign financial assets is more than \$50,000 on the last day of the tax year or more than \$75,000 at any time during the tax year.

Taxpayers living outside the United States. If your tax home is in a foreign country, you meet one of the presence abroad tests described next, and no exception applies, file Form 8938 with your income tax return if you satisfy the reporting threshold discussed next that applies to you.

Unmarried taxpayers. If you are not married, you satisfy the reporting threshold only if the total value of your specified foreign financial assets is more than \$200,000 on the last day of the tax year or more than \$300,000 at any time during the tax year.

Married taxpayers filing a joint income tax return. If you are married and you and your spouse file a joint income tax return, you satisfy the reporting threshold only if the total value of your specified foreign financial assets is more than \$400,000 on the last day of the tax year or more than \$600,000 at any time during the tax year.

Married taxpayers filing separate income tax returns. If you are married and file a separate income tax return from your spouse, you satisfy the reporting threshold

only if the total value of your specified foreign financial assets is more than \$200,000 on the last day of the tax year or more than \$300,000 at any time during the tax year.

Presence abroad. You satisfy the presence abroad test if you are one of the following.

- A U.S. citizen who has been a bona fide resident of a foreign country or countries for an uninterrupted period that includes an entire tax year.
- A U.S. citizen or resident who is present in a foreign country or countries at least 330 full days during any period of 12 consecutive months that ends in the tax year being reported.

Determining the Total Value of Your Specified Foreign Financial Assets

You must figure the total value of the specified foreign financial assets in which you have an interest to determine if you satisfy the reporting threshold that applies to you. To determine if you have an interest in a specified foreign financial asset, see *Interests in Specified Foreign Financial Assets*, later.

Valuing specified foreign financial assets. The value of a specified foreign financial asset for purposes of determining the total value of specified foreign financial assets in which you have an interest during the tax year or on the last day of the tax year is the asset's fair market value. For purposes of figuring the total value of specified foreign financial assets, the value of a specified foreign financial asset denominated in a foreign currency must be first determined in the foreign currency and then converted to U.S. dollars. See *Foreign currency conversion* in *Reporting Maximum Value*, later, for rules on determining and applying the appropriate foreign currency exchange rate.

Value of an interest in a foreign trust during the tax year. If you do not know or have reason to know based on readily accessible information the fair market value of your interest in a foreign trust during the tax year, the value to be included in determining the total value of your specified foreign financial assets during the tax year is the maximum

holding or disposing of the asset are or would be required to be reported, included, or otherwise reflected on your income tax return.

You have an interest in a specified foreign financial asset even if there are no income, gains, losses, deductions, credits, gross proceeds, or distributions from holding or disposing of the asset included or reflected on your income tax return for this tax year.

Interests in assets held by disregarded entities. If you are the owner of a disregarded entity, you have an interest in any specified foreign financial assets owned by the disregarded entity.

Interests in jointly owned assets. A joint owner of an asset has an interest in the entire asset. For special rules for interests in assets jointly owned by spouses, see *Joint interests in Determining the Total Value of Your Specified Foreign Financial Assets*, earlier, and *Reporting the value of jointly owned assets*, in *Reporting Maximum Value*, later.

Interests in assets held in financial accounts. If you have an interest in a financial account that holds specified foreign financial assets, you do not have to report the assets held in the account.

Interests in assets generating certain unearned income of children. If you file Form 8814, Parents' Election To Report Child's Interest and Dividends, with your income tax return to elect to include in your gross income certain unearned income of your child (the "kiddie tax" election), you have an interest in any specified foreign financial asset held by the child.

Interests in assets held by entities that are not disregarded entities. In most cases, you do not own an interest in any specified foreign financial asset held by a partnership, corporation, trust, or estate solely as a result of your status as a partner, shareholder, or beneficiary.

Interests in assets held by grantor trust. If you are considered the owner under the grantor trust rules of any part of a trust, you have an interest in any specified foreign financial asset held by that part of the trust you are considered to own. For

exceptions from reporting for owners of certain domestic investment or bankruptcy trusts, see *Domestic investment trusts* and *Domestic bankruptcy trusts* in *Assets Not Required to be Reported*, later.

Interests in foreign estates and foreign trusts. An interest in a foreign trust or a foreign estate is not a specified foreign financial asset unless you know or have reason to know based on readily accessible information of the interest. If you receive a distribution from the foreign trust or foreign estate, you are considered to know of the interest.

Interests in foreign pension plans and foreign deferred compensation plans. Report in Part II your interest in the foreign pension plan or foreign deferred compensation plan. Do not separately report the assets held by the plan. See *Valuing interests in foreign estates, foreign pension plans, and foreign deferred compensation plans* in *Reporting Maximum Value*, later.

Reporting Period

Unless an exception applies, the reporting period for Form 8938 is your tax year.

Exception for partial tax years of specified individuals. If you are a specified individual for less than the entire tax year, the reporting period is the part of the year that you are a specified individual.

Example 1. John is a calendar year taxpayer. The Form 8938 reporting period begins on January 1 and ends on December 31.

Example 2. Agnes was a single, calendar year taxpayer who died on March 6. The Form 8938 reporting period begins on January 1 and ends on March 6.

Example 3. George, a calendar year taxpayer, is not a U.S. citizen or married. George arrived in the United States on February 1 and satisfied the substantial presence test for the tax year. The Form 8938 reporting period begins on George's U.S. residency starting date, February 1, and ends on December 31.

Reporting Maximum Value

You must report the maximum value during the tax year of each specified

foreign financial asset reported on Form 8938. In most cases, the value of a specified foreign financial asset is its fair market value. An appraisal by a third party is not necessary to estimate the maximum fair market value during the year. See *Valuing financial accounts* and *Valuing other specified foreign financial assets*, later.

Assets with no positive value. If the maximum value of a specified foreign financial asset is less than zero, use a value of zero as the maximum value of the asset.

Foreign currency conversion. If your specified foreign financial asset is denominated in a foreign currency during the tax year, the maximum value of the asset must be determined in the foreign currency and then converted to U.S. dollars.

In most cases, you must use the U.S. Treasury Department's Financial Management Service foreign currency exchange rate for purchasing U.S. dollars. You can find this rate on www.fms.treas.gov/intn.html. If no Financial Management Service exchange rate is available, you must use another publicly available foreign currency exchange rate for purchasing U.S. dollars and disclose the rate on Form 8938.

Currency determination date. Use the currency exchange rate on the last day of the tax year to figure the maximum value of a specified foreign financial asset or the value of a specified foreign financial asset for the purpose of determining the total value of your specified foreign financial assets to see whether you have met the reporting threshold. Use this rate even if you sold or otherwise disposed of the specified foreign financial asset before the last day of the tax year.

Reporting the value of jointly owned assets. If you own an asset jointly with one or more persons, you must report the asset's maximum value as follows.

Married specified individuals filing a joint income tax return. If you are married and you and your spouse file a joint income tax return, report any specified foreign financial asset that you jointly own only once and include the maximum value of the

Investment Company or Qualified Electing Fund.

- Form 8865, Return of U.S. Persons With Respect to Certain Foreign Partnerships.
- Form 8891, U.S. Information Return for Beneficiaries of Certain Canadian Registered Retirement Plans.

Instead, you must identify on Form 8938 the form(s) on which you report the specified foreign financial asset and how many of these forms you file. See *Part IV. Excepted Specified Foreign Financial Assets*, later.

Foreign grantor trusts. If you are considered the owner under the grantor trust rules of any part of a foreign trust, you do not have to report any of the specified foreign financial assets held by the part of the trust you are considered to own if you satisfy the following conditions.

- You report the trust on a Form 3520 that you timely file with the IRS for the same tax year.
- The trust timely files Form 3520-A, Annual Information Return of Foreign Trust With a U.S. Owner, with the IRS for the same tax year.

Instead, you must identify on Form 8938 how many of these forms you file. See *Part IV. Excepted Specified Foreign Financial Assets*, later.



If you are a specified individual, you must include the value of the assets reported on Forms 3520, 3520-A, 5471, 8621, 8865, and 8891 in determining whether you satisfy the reporting threshold that applies to you. See Reporting Thresholds Applying to Specified Individuals, earlier.

Domestic investment trusts. If you are considered the owner under the grantor trust rules of any part of a domestic widely-held fixed investment trust under Regulations section 1.671-5, you do not have to report any specified foreign financial asset held by the part of the trust you are considered to own.

Domestic bankruptcy trusts. If you are considered the owner under the grantor trust rules of any part of a domestic liquidating trust under Regulations section 301.7701-4(d) that is created under chapter 7 or chapter 11 of the Bankruptcy Code, you do not have to report any

specified foreign financial asset held by the part of the trust you are considered to own.

Bona fide resident of a U.S. possession. If you are a bona fide resident of a U.S. possession (American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, or the U.S. Virgin Islands) who is required to file Form 8938, you do not have to report the following specified foreign financial assets on Form 8938.

- A financial account maintained by a financial institution organized under the laws of the U.S. possession of which you are a bona fide resident.
- A financial account maintained by a branch of a financial institution not organized under the laws of the U.S. possession of which you are a bona fide resident, if the branch is subject to the same tax and information reporting requirements that apply to a financial institution organized under the laws of the U.S. possession of which you are a bona fide resident.
- Stock or securities issued by an entity organized under the laws of the U.S. possession of which you are a bona fide resident.
- An interest in an entity organized under the laws of the U.S. possession of which you are a bona fide resident.
- A financial instrument or contract held for investment, provided each issuer or counterparty that is not a U.S. person is either an entity organized under the laws of the U.S. possession of which you are a bona fide resident or a bona fide resident of the U.S. possession of which you are a bona fide resident.

Penalties

You may be subject to penalties if you fail to timely file a correct Form 8938 or if you have an understatement of tax relating to an undisclosed specified foreign financial asset.

Failure-to-File Penalty

If you are required to file Form 8938 but do not file a complete and correct Form 8938 by the due date (including extensions), you may be subject to a penalty of \$10,000.

Continuing failure to file. If you do not file a correct and complete Form 8938 within 90 days after the IRS mails you a notice of the failure to file, you may be subject to an additional penalty of \$10,000 for each 30-day

period (or part of a period) during which you continue to fail to file Form 8938 after the 90-day period has expired. The maximum additional penalty for a continuing failure to file Form 8938 is \$50,000.

Married taxpayers filing a joint income tax return. If you are married and you and your spouse file a joint income tax return, the failure to file penalties apply as if you and your spouse were a single person. You and your spouse's liability for all penalties is joint and several.

Presumption of maximum value. If the IRS determines that you have an interest in one or more specified foreign financial assets and asks you for information about the value of any asset, but you do not provide enough information for the IRS to determine the value of the asset, you are presumed to own specified foreign financial assets with a value of more than the reporting threshold that applies to you. See *Determining the Reporting Threshold That Applies to You*, earlier. In such case you are subject to the failure-to-file penalties if you do not file Form 8938.

Reasonable cause exception. No penalty will be imposed if you fail to file Form 8938 or to disclose one or more specified foreign financial assets on Form 8938 and the failure is due to reasonable cause and not to willful neglect. You must affirmatively show the facts that support a reasonable cause claim.

The determination of whether a failure to disclose a specified foreign financial asset on Form 8938 was due to reasonable cause and not due to willful neglect will be determined on a case-by-base basis, taking into account all pertinent facts and circumstances.

Effect of foreign jurisdiction laws. The fact that a foreign jurisdiction would impose a civil or criminal penalty on you if you disclose the required information is not reasonable cause.

Accuracy-Related Penalty

If you underpay your tax as a result of a transaction involving an undisclosed specified foreign financial asset, you may have to pay a penalty equal to 40 percent of that underpayment.

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U.S. Department of Justice

*United States Attorney
Southern District of Florida
99 N.E. 4 Street,
Miami, FL 33132
(305) 961-9001*

July 25, 2012

NEWS RELEASE:

**Former UBS Client Sentenced to Federal Prison
for Failing to Report \$4 Million in Swiss Bank Accounts**

Wifredo A. Ferrer, United States Attorney for the Southern District of Florida, Kathryn Keneally, Assistant Attorney General for the Justice Department's Tax Division, and José A. Gonzalez, Special Agent in Charge, Internal Revenue Service, Criminal Investigation Division (IRS-CI), announce that **Luis A. Quintero**, a resident of Miami Beach, Florida, was sentenced yesterday by U.S. District Judge Federico A. Moreno to four (4) months in federal prison for willfully failing to file a Report of Foreign Bank and Financial Accounts (FBAR), in violation of Title 31, United States Code, Sections 5314 and 5322(a). Quintero was also sentenced to three (3) years of supervised release with 250 hours of community service, and a \$20,000 criminal fine. Quintero also paid a \$2 million civil penalty for the FBAR violation.

According to court documents and statements made in court, in October 2004, Quintero caused two offshore corporations to be formed, which Quintero then used to open accounts at UBS AG, a bank in Switzerland. The companies were Murano Development Corp (Murano), incorporated in the British Virgin Islands, and Credimax Corporation, S.A. (Credimax), incorporated in the Republic of Panama. Quintero was listed as the beneficiary of the Murano and Credimax accounts. The total aggregate value in these UBS accounts as of December 31, 2006 was \$4,005,618.

According to documents filed with the court, from 2005 through 2007, Quintero used the Murano and Credimax UBS accounts to conduct financial transactions. For example, Quintero caused a business customer in the U.S. to send \$314,000 to the Credimax UBS account. Quintero also caused the transfer of approximately \$2.4 million from the UBS Swiss accounts to the accounts of U.S. corporations that Quintero controlled.

Quintero knew that he was required to file an FBAR for foreign bank accounts in which he had an interest. Among other things, Quintero had previously filed FBARs relating to bank accounts in Mexico in the name of one of Quintero's U.S. companies.

Mr. Ferrer and Assistant Attorney General Kathryn Keneally commended the investigative efforts of the IRS-CI agents involved in this case. This case is being

prosecuted by Assistant U.S. Attorney Ana Maria Martinez and Trial Attorney Todd Ellinwood of the Tax Division.

In February of 2009, UBS entered into a deferred prosecution agreement under which the bank admitted to helping U.S. taxpayers hide accounts from the IRS. As part of the agreement, UBS provided the United States with the identities of certain United States customers.

United States citizens who have a financial interest in, or signature authority over, a financial account in a foreign country with an aggregate value of more than \$10,000 are required to file with the United States Treasury a Report of Foreign Bank and Financial Accounts on Form TD F 90-22.1 ("the FBAR"). U.S. citizens are also required to disclose the existence of such accounts on their individual income tax returns.

A copy of this press release may be found on the website of the United States Attorney's Office for the Southern District of Florida at www.usdoj.gov/usao/fls. Related court documents and information may be found on the website of the District Court for the Southern District of Florida at www.flsd.uscourts.gov or on <http://pacer.flsd.uscourts.gov>.

A federal district court on November 8 held that the government could proceed in its attempt to collect a civil foreign bank account report penalty, **becoming the second district court to conclude that preponderance of the evidence is the correct burden of proof standard that the government must meet to collect the penalty.**

The government filed a civil suit to collect a civil FBAR penalty from Jon McBride, alleging that he had failed to properly report interest in several foreign accounts for the 2000 and 2001 tax years. McBride had entered into an elaborate scheme to launder his U.S. business income through foreign shell companies. He used a financial management firm to set up accounts in the name of several international business corporations (IBCs) to shelter income from U.S. taxes, from which he repatriated funds; he had not filed FBARs for the tax years during which the accounts existed.

In considering the matter, the Utah district court followed the rationale of the only other district court to consider the issue. Citing the Eastern District of Virginia's decision in Williams, the Utah court agreed that the absence of a clear standard set out in 31 U.S.C. section 5321(b)(2) meant that requiring the government to meet a higher burden of proof was necessary only when "particularly important individual interests or rights are at stake." **The court held that because the FBAR penalty is monetary only, preponderance was the correct standard, pointing to acceptance of that standard by federal appellate courts in other civil tax penalty cases.**

First, the court held that McBride had an interest in the unreported foreign accounts. Although the foreign bank and securities accounts were nominally owned by the IBCs, McBride's tacit ownership of the funds in the accounts, as well as the functional control exercised by McBride over the accounts, established an agency relationship sufficient to be construed as an interest requiring reporting under the applicable regulations, the court said.

The court noted that recklessness can be considered to be a willful act. "Willfulness may be satisfied by establishing the individual's reckless disregard of a statutory duty, as opposed to acts that are known to violate the statutory duty at issue," the court wrote, **adding that "an improper motive or bad purpose is not necessary to establish willfulness in the civil context."**

Willful blindness to the consequences of one's action also establishes a willful motive that satisfies the civil willfulness requirement, the court said. "Conscious effort to avoid learning about reporting requirements" is evidence of willful blindness that is sufficient to establish willfulness, the court wrote, citing the Fourth Circuit's review in Williams.

"Willful intent may be proved by circumstantial evidence and reasonable inferences drawn from the facts because direct proof of the taxpayer's intent is rarely available," the court further held.

The Utah district court determined that McBride had knowledge of the duty to comply with the FBAR requirements, saying, "A taxpayer's signature on a return is sufficient proof of a taxpayer's knowledge of the instructions contained in the tax return form and in other contexts."

The court was unwilling to excuse McBride's failure to read the tax return in full when signing, citing knowledge of a "plainly evident duty" to do so. McBride also had actual knowledge because the marketing materials from the financial management firm explicitly noted a duty to report interest in foreign accounts, the court said. Moreover, "the risk of failing to comply with the FBAR requirements is an obvious risk," the court concluded.

McBride's use of a tax return preparer to prepare his personal federal income tax returns did not negate his willfulness, the court said, because McBride had deliberately kept the information from the accountant, which at a minimum constitutes reckless disregard.

Speaking November 9 in New York at an international tax enforcement conference sponsored by the American Bar Association Section of Taxation, Sandra Brown, assistant U.S. attorney and tax division chief in the U.S. attorney's office for the Central District of California, said that McBride provides deep analysis on the criminal standards for willfulness.

Kevin M. Downing of Miller & Chevalier agreed. **"As long as the accountant is asking the question, once you don't give those records, you're done. It's a great case."** said Downing, a former Department of Justice trial attorney. The civil penalty, which is up to 50 percent of the account balance for every year the offense was committed, is "staggering," he said. (For related coverage, see Doc 2012-23195.)

Checking the Box

Speaking at a separate panel of the same conference, Brian C. McManus of Latham & Watkins LLP said that while courts have so far agreed that it is permissible to impute knowledge simply by checking the box "no" on Schedule B, those cases thus far have involved other significant facts apart from the Schedule B issue, such as lying to revenue agents or obvious concealment of the account. McBride involved similar bad facts.

"We'll have to wait and see whether a case comes forward where the person simply didn't know, checked the 'no' box, and there were no other significant facts to demonstrate they were willfully concealing [the account]," McManus said.

Speaking on his own behalf, John McDougal, special trial attorney and division counsel, IRS Small Business and Self-Employed Division, said, "I don't think that just checking the box 'no' on the tax return in and of itself is enough to justify a willful penalty," adding that the context in which the box was checked must be considered.

Practitioners must look at the language of the court cases in light of the facts being considered, McDougal said. "I can envision a lot of cases where the accountant was poorly advising the taxpayer and there is a reason the box is checked no," he said. However, the McBride and Williams courts articulate that in the absence of those reasons, they will infer knowledge from a signature on the return, he said.

Tax Notes Today (11/132012)

District Court Allows Second FBAR Penalty Collection to Proceed

By Jeremiah Coder

Caroline D. Ciralo of Rosenberg Martin Greenberg LLP said that anecdotally, it seems that taxpayers who have opted out of the IRS's voluntary disclosure programs have been getting favorable results "because they truly have reasonable cause arguments." The FBAR statute does not include a reasonable cause exception for failure to file (31 U.S.C. section 5321(a)(5)(B)(ii)), but the IRS has been considering the circumstances of a late-filed FBAR.

Revenue agents will normally try to interview the return preparer when an FBAR penalty might be asserted in a case, McDougal said. He dismissed the notion that return preparers have a disqualifying conflict of interest in wanting to protect themselves by telling the IRS that they advised the client to check the box "yes." Any witness has a potential conflict of interest, he said, adding that the IRS tries to corroborate testimony through the use of multiple sources when building a case.

The IRS typically doesn't need to assert penalties both for the failure to file an FBAR and for the failure to keep records, McDougal said. The FBAR failure-to-file penalty is significant enough that an additional penalty for the failure to keep records is usually unnecessary, he said, adding, "I'm not aware of any cases so far where we've asserted the failure to keep records." Still, he said the IRS "reserves the right to impose whatever penalties apply in egregious cases where the taxpayer doesn't comply."

Because FBAR penalties are assessable with no resort to deficiency proceedings in the Tax Court, taxpayers' best hope is to take their case to IRS Appeals, McManus said. A new international unit in Appeals is trying to flag all appropriate cases coming out of exam so they can be routed to specially trained Appeals officers familiar with the issue, McDougal said.

Although much recent attention has been focused on the government's favorable court rulings regarding the required records doctrine to obtain foreign bank records from taxpayers, McDougal said the IRS has been able to get around the Fifth Amendment argument for decades by claiming that under *Fisher v. United States*, 425 U.S. 391 (1976), the existence of the records is a foregone conclusion. "In most of our offshore cases, we already have evidence that the taxpayer had a foreign account and had control over that account," he said. "If we already know those facts, then the information the taxpayer is admitting in the act of production is a foregone conclusion and is not telling us anything we do not already know."

The Entire McBride case can be found at <http://docs.justia.com/cases/federal/district-courts/utah/utdce/2:2009cv00378/70303/105/0.pdf?ts=1352476813>

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JON MCBRIDE,

Defendant.

**FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND ORDER**

Case No. 2:09-cv-378 DN

District Judge David Nuffer

Plaintiff United States of America brought this case to collect a civil penalty assessed to Defendant Jon McBride for his alleged willful failure to report his interest in four foreign bank accounts during tax years 2000 and 2001 as required under 31 U.S.C. § 5314 and related regulations. The matter was tried to the bench on May 21-22, 2012, and the court took the matter under advisement. The parties have submitted competing proposals as to the facts and legal conclusions that should be reached.¹ Having carefully considered the parties' proposals, along with the record of the hearing and applicable law, the court enters the following findings of fact and conclusions of law.

FINDINGS OF FACT

A. McBride Was the Co-Owner of The Clip Company.

1. Jon McBride is a citizen of the United States, was a citizen of the United States in 2000 and 2001, and has been since at least 1999. (Tr. 310:12-15, May 22, 2012).

¹ Proposed Findings of Fact and Conclusions of Law [submitted by United States of America], docket no. 101, filed July 23, 2012; Defendant Jon McBride's Proposed Findings of Fact and Conclusions of Law, docket no. 104, filed August 22, 2012.

Congress intended to require a special, heightened standard of proof.”). With respect to 31 U.S.C. §§ 5314 and 5321, Congress did not specify any special, heightened standard of proof. As a result, there is no reason to deviate from the default burden of proof applicable in civil cases.

Therefore, the United States bears the burden of proving that McBride willfully failed to file FBARs with respect to the accounts at issue by the preponderance of the evidence.

III. THE UNITED STATES HAS PROVEN, BY A PREPONDERANCE OF THE EVIDENCE, EACH OF THE ELEMENTS OF THE ASSESSED CIVIL FBAR PENALTIES.

a. Jon McBride is a citizen of the United States.

There is no dispute that Jon McBride is a citizen of the United States. Findings of Fact, *supra*, (“FOF”), ¶ 1.

b. Jon McBride had a financial interest in the accounts at issue.

McBride had a “financial interest” in the Drehpunkt, Lombard, TD Evergreen, and Global Securities accounts. Pursuant to 31 C.F.R. § 103.24(a) (2001), individuals must disclose “a financial interest in, or signature or other authority over, a bank, securities or other financial account.” The Drehpunkt and Lombard accounts were bank accounts, and the TD Evergreen and Global Securities accounts were securities accounts. FOF, ¶¶ 51, 54, 101, 111. Unfortunately, Section 103.24(a) does not clarify what constitutes a “financial interest.”

IRS Form TD F 90-22.1 (the form used for reporting interests in foreign financial accounts) states that an individual has a reportable “financial interest” in foreign accounts for which he “is the owner of record” or for which “the owner of record or holder of legal title is: (a) a person acting as an agent, nominee, attorney, or in some other capacity on behalf of the [individual]; (b) a corporation in which the United States person owns directly or indirectly more than 50 percent of the total value of shares of stock; [. . .] or (d) a trust in which the United States

person either has a present beneficial interest in more than 50 percent of the assets or from which such person receives more than 50 percent of the current income.” *See* Form TD F 90-22.1, (Plaintiff's Ex. No. 1; Uncontroverted Fact No. 9). This language captures a broad range of relationships through which a party may maintain an interest in a foreign financial account and is consistent with more recent regulation.³

Under this definition, McBride had a financial interest in each of the four foreign accounts at issue. The accounts were treated by Merrill Scott as “McBride’s” accounts — as reflected on the documentation and communications related to those accounts and McBride’s understanding and expectation as well as the course of dealing with Merrill Scott — and McBride had the expectation of enjoying the benefit of the assets in the accounts. FOF, ¶¶ 62, 64, 65. The documentation related to the foreign accounts shows that persons or entities employed by or otherwise associated with Merrill Scott would act on behalf of McBride as nominee officers/directors of IBCs or as the nominee holders of the accounts. FOF, ¶¶ 11, 45, 46, 64, 101, 103, 104, 111.

Through this deliberately disguised ownership structure, McBride was able to direct Merrill Scott to use the overpayments and profits — that would have otherwise flowed to the Clip Company but were instead captured overseas in the Drehpunkt and Lombard accounts — in whatever way he saw fit. FOF, ¶¶ 64-75, 86-115. Given McBride's tacit ownership of the value held in these accounts, Drehpunkt and Lombard were each a “corporation in which [McBride] own[ed] directly or indirectly more than 50 percent of the total value of shares of stock.”

McBride was then able to direct Merrill Scott to repatriate the Clip Company’s overpayments by

³ 31 C.F.R. § 1010.350(e)(2)-(3) (2011) essentially adopts the definitions of “financial interest” used in Form TD F 90-22.1 and indicates that “financial interest” is intended to reach a situation where entities are used to disguise the taxpayer's interest in foreign accounts.

funneling them through Drehpunkt back to the Clip Company disguised as a “line of credit” from Legacy Capital, an entity controlled by Merrill Scott. *See* FOF, ¶¶ 76-85; (*See* Uncontroverted Fact No. 5). During 2000 and 2001, the Clip Company “borrowed” more than \$1.2 million dollars of its own money and only repaid a fraction of the principal and interest. FOF, ¶¶ 78-81. Hundreds of thousands of dollars of this “borrowed” money was then distributed directly to McBride in the form of “partner draws” which were accounted for as “royalty payments.” FOF, ¶ 84. McBride acted as though the assets contained in each of the foreign accounts, as well as the line of credit, were his and were maintained for his benefit. FOF, ¶¶ 45, 46, 62-75, 84, 86-115.

McBride was able to exercise substantial control over the Drehpunkt and Lombard accounts by communicating with Merrill Scott employees and instructing them on how to dispose of the assets, whether that disposition was to fund an investment or transfer the funds. FOF, ¶¶ 63-75, 86-115. These transfers were initiated at the request of McBride, and normally made exclusively for his own benefit without any possible business purpose for either Drehpunkt or Lombard (or Merrill Scott for that matter). FOF, ¶¶ 86-99. Not one of McBride’s requests to transfer funds was ever denied by the employees of Merrill Scott. FOF, ¶ 73. In many instances, employees of Merrill Scott requested explicit authorization and instructions from McBride in order to dispose of the funds in the foreign accounts. FOF, ¶ 74. Through Merrill Scott and its affiliate, McBride was also able to establish the TD Evergreen account and the Global Securities account (held in the name of Lombard & Associates, Ltd.) and to direct the securities purchased and held in those accounts for McBride's benefit. FOF, ¶¶ 100-115. Although the money used to fund the TD Evergreen securities account was apparently routed through POA (which held money on behalf of many other Merrill Scott clients), the securities in both the TD Evergreen

and Global Securities accounts were purchased at McBride's direction and were held on his behalf. FOR, ¶¶ 100, 105-108, 111.

The evidence thus demonstrates that there was an agency relationship between McBride and Merrill Scott through which McBride owned and controlled the Drehpunkt, Lombard, TD Evergreen, and Global Securities accounts. Accordingly, Mr. McBride's interest in the Drehpunkt, Lombard, TD Evergreen, and Global Securities accounts rises to the level of a financial interest that triggered the FBAR reporting requirements.

c. The foreign accounts were located outside of the United States.

The four foreign accounts at issue in this case were located in countries outside the United States. FOF ¶¶ 51, 54, 101, 111, Uncontroverted Fact No. 6.

d. The foreign accounts each had a balance that exceeded \$10,000 in both 2000 and 2001.

The foreign bank accounts at issue had balances of at least \$10,000 in 2000 and 2001 as demonstrated by statements issued for those accounts as well as the investigation by the IRS that traced the flow of funds from Piao Shang through the Drehpunkt account, the Lombard account, the TD Evergreen account, and the Global Securities account. FOF, ¶¶ 57-60, 109, 110, 113, 114.

e. McBride failed to disclose the foreign accounts in accordance with the FBAR requirements.

McBride filed U.S. Individual Income Tax Returns for both the tax years 2000 and 2001, which did not disclose any interest in any of the foreign accounts. FOF, ¶¶ 132, 137. McBride did not file a Form TD F 90-22.1 for either of the tax years 2000 or 2001. FOF, ¶¶ 134, 139.

f. McBride’s Failure to Report His Interest in the Foreign Accounts was Willful.

Section 5321(a)(5) does not define how to assess whether an individual acted willfully in his failure to comply with the reporting requirements imposed by § 5314. “[W]illfully’ is a ‘word of many meanings whose construction is often dependent on the context in which it appears.’” *Safeco Ins. Co. of Am. v. Burr*, 551 U.S. 47, 57 (2004) (quoting *Bryan v. United States*, 524 U.S. 184, 191 (1998)).

Because § 5321(a)(5) involves civil penalties, the applicable definition of willfulness is that which has been used in other civil contexts, including civil tax collection matters and compliance with reporting requirements. Where willfulness is a condition of civil liability, it covers “not only knowing violations of a standard, but reckless ones as well.” *Safeco Ins. Co.*, 551 U.S. at 57; *cf. United States v. Illinois Central R. Co.*, 303 U.S. 239, 242-43 (1938) (“willfully” includes “conduct marked by careless disregard whether or not one has the right to so act”) (citation omitted). Therefore, “willfulness” may be satisfied by establishing the individual’s reckless disregard of a statutory duty, as opposed to acts that are known to violate the statutory duty at issue. *See Safeco Ins. Co.*, 551 U.S. at 57. An improper motive or bad purpose is not necessary to establish willfulness in the civil context. *Am. Arms Int’l v. Herbert*, 563 F.3d 78, 83 (4th Cir. 2009); *Prino v. Simon*, 606 F.2d 449, 451 (4th Cir. 1979).

The Supreme Court recently confirmed that acting with “willful blindness” to the obvious or known consequences of one’s action also satisfies a willfulness requirement in both civil and criminal contexts. *See Global-Tech Appliances, Inc. v. SEB S.A.*, 131 S. Ct. 2060, 2068-69 (2011) (“persons who know enough to blind themselves to direct proof of critical facts in effect have actual knowledge of those facts”) (citing *United States v. Jewell*, 532 F.2d 697, 700 (9th Cir. 1976) (*en banc*)). Under the “willful blindness” standard, “a willfully blind defendant is one

who takes deliberate actions to avoid confirming a high probability of wrongdoing and who can almost be said to have actually known the critical facts.” *Id.* at 2070-71. Where a taxpayer makes a "conscious effort to avoid learning about reporting requirements," evidence of such willful blindness is a sufficient basis to establish willfulness. *United States v. Williams*, Case No. 10-2230, 2012 WL 2948569, at *4 (4th Cir. Jul. 20, 2012) (internal quotations omitted).

In civil contexts involving a requirement to report or disclose certain information to the IRS, willfulness has been defined as conduct which is voluntary, rather than accidental or unconscious. *Lefcourt v. United States*, 125 F.3d 79, 83 (2d Cir. 1997) (defining “willfulness” in the context of a civil penalty for willfully failing to disclose required information to the IRS as conduct that “requires only that a party act voluntarily in withholding requested information, rather than accidentally or unconsciously.”); accord *Denbo v. United States*, 988 F.2d 1029, 1034-35 (10th Cir. 1993) (defining “willful” conduct as a “voluntary, conscious and intentional decision”) (quoting *Burden v. United States*, 486 F.2d 302, 304 (10th Cir. 1973), *cert. denied*, 416 U.S. 904 (1974)). Conduct that evidences “reckless disregard of a known or obvious risk” or a “failure to investigate . . . after being notified [of the violation]” also satisfies the civil standard for willfulness in such contexts. *Denbo*, 988 F.2d at 1033.

Willfulness may also “be proven through inference from conduct meant to conceal or mislead sources of income or other financial information.” *United States v. Sturman*, 951 F.2d 1466, 1476-77 (6th Cir. 1991). Moreover, willful intent may be proved by circumstantial evidence and reasonable inferences drawn from the facts because direct proof of the taxpayer's intent is rarely available. *See id.* (citing *Spies v. United States*, 317 U.S. 492, 499 (1943)).

decision not to disclose was voluntary, as opposed to accidental. The government does not dispute that McBride's failure to comply with FBAR was the result of his belief that he did not have a reportable financial interest in the foreign accounts. However, because it is irrelevant that McBride "may have believed he was legally justified in withholding such information[,] [t]he only question that remains is whether the law required its disclosure." *Lefcourt*, 125 F.3d at 83. Here, the FBAR requirements did require that McBride disclose his interests in the foreign accounts during both the 2000 and the 2001 tax years. As a result, McBride's failure to do so was willful.

g. The amounts of the assessed FBAR penalties are proper.

As it existed prior to an amendment that took effect in 2004, Section 5321(a)(5)(B)(ii) authorized penalties of "(I) an amount (not to exceed \$100,000) equal to the balance in the account at the time of the violation; or (II) \$25,000." The penalties at issue were assessed against McBride in the amount of \$200,000 – \$100,000 for 2000, and \$100,000 for 2001. See FOF ¶¶ 163, 164. These penalties were justified under Section 5321(a)(5)(B)(ii)(I) because the foreign bank accounts each had balances of at least \$10,000 in 2000 and 2001 as demonstrated by statements issued for those accounts. FOF, ¶¶ 57-60, 109, 110, 113, 114. Accordingly, the amounts of the penalties were proper. In addition to the amounts assessed, the United States is entitled to interest and penalties pursuant to 31 U.S.C § 3717.

CONCLUSION AND ORDER

The United States has established, by a preponderance of the evidence, each of the requirements of 31 U.S.C. § 5321 with respect to the assessment against McBride for the tax years 2000 and 2001.

605 TAB

Correspondence

TD F 90-22.1

(Rev. January 2012)
Department of the Treasury

**REPORT OF FOREIGN BANK
AND FINANCIAL ACCOUNTS**

Do NOT file with your Federal Tax Return

OMB No. 1545-2038

1 This Report is for Calendar
Year Ended 12/31

Do not use previous editions of
this form

Amended

Part I Filer Information

2 Type of Filer

a Individual b Partnership c Corporation d Consolidated e Fiduciary or Other—Enter type _____

3 U.S. Taxpayer Identification Number

4 Foreign identification (Complete only if item 3 is not applicable.)

5 Individual's Date of Birth
MM/DD/YYYY

If filer has no U.S. Identification
Number complete Item 4.

a Type: Passport Other _____

b Number c Country of Issue

6 Last Name or Organization Name

7 First Name

8 Middle Initial

9 Address (Number, Street, and Apt. or Suite No.)

10 City

11 State

12 Zip/Postal Code

13 Country

14 Does the filer have a financial interest in 25 or more financial accounts?

Yes If "Yes" enter total number of accounts _____

(If "Yes" is checked, do not complete Part II or Part III, but retain records of this information)

No

Part II Information on Financial Account(s) Owned Separately

15 Maximum value of account during calendar year reported

16 Type of account a Bank b Securities c Other—Enter type below

17 Name of Financial Institution in which account is held

18 Account number or other designation

19 Mailing Address (Number, Street, Suite Number) of financial institution in which account is held

20 City

21 State, if known

22 Zip/Postal Code, if known

23 Country

Signature

44 Filer Signature

45 Filer Title, if not reporting a personal account

46 Date (MM/DD/YYYY)

File this form with: U.S. Department of the Treasury, P.O. Box 32621, Detroit, MI 48232-0621

This form should be used to report a financial interest in, signature authority, or other authority over one or more financial accounts in foreign countries, as required by the Department of the Treasury Regulations 31 CFR 1010.350 (formerly 31 CFR 103.24). No report is required if the aggregate value of the accounts did not exceed \$10,000. See Instructions For Definitions.

PRIVACY ACT AND PAPERWORK REDUCTION ACT NOTICE

Pursuant to the requirements of Public Law 93-579 (Privacy Act of 1974), notice is hereby given that the authority to collect information on TD F 90-22.1 in accordance with 5 USC 552a (e) is Public Law 91-508; 31 USC 5314; 5 USC 301; 31 CFR 1010.350 (formerly 31 CFR 103.24).

The principal purpose for collecting the information is to assure maintenance of reports where such reports or records have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings. The information collected may be provided to those officers and employees of any constituent unit of the Department of the Treasury who have a need for the records in the performance of their duties. The records may be referred to any other department or agency of the United States upon the request of the head of such department or agency for use in a criminal, tax, or regulatory investigation or proceeding. The information collected may also be provided to appropriate state, local, and foreign law enforcement and regulatory personnel in the performance of their official duties. Disclosure of this information is mandatory. Civil and criminal penalties, including in certain circumstances a fine of not more than \$500,000 and imprisonment of not more than five years, are provided for failure to file a report, supply information, and for filing a false or fraudulent report. Disclosure of the Social Security number is mandatory. The authority to collect is 31 CFR 1010.350 (formerly 31 CFR 103.24). The Social Security number will be used as a means to identify the individual who files the report.

The estimated average burden associated with this collection of information is 75 minutes per respondent or record keeper, depending on individual circumstances. Comments regarding the accuracy of this burden estimate, and suggestions for reducing the burden should be directed to the Internal Revenue Service, Bank Secrecy Act Policy, 5000 Ellin Road C-3-242, Lanham MD 20706.

Part II Continued—Information on Financial Account(s) Owned Separately

Form TD F 90-22.1
Page Number

Complete a Separate Block for Each Account Owned Separately

____ of ____

This side can be copied as many times as necessary in order to provide information on all accounts.

1 Filing for calendar year ____ - ____ - ____		3-4 Check appropriate Identification Number <input type="checkbox"/> Taxpayer Identification Number <input type="checkbox"/> Foreign Identification Number Enter identification number here:		6 Last Name or Organization Name	
15 Maximum value of account during calendar year reported			16 Type of account a <input type="checkbox"/> Bank b <input type="checkbox"/> Securities c <input type="checkbox"/> Other—Enter type below		
17 Name of Financial Institution in which account is held					
18 Account number or other designation		19 Mailing Address (Number, Street, Suite Number) of financial institution in which account is held			
20 City	21 State, if known	22 Zip/Postal Code, if known	23 Country		
15 Maximum value of account during calendar year reported			16 Type of account a <input type="checkbox"/> Bank b <input type="checkbox"/> Securities c <input type="checkbox"/> Other—Enter type below		
17 Name of Financial Institution in which account is held					
18 Account number or other designation		19 Mailing Address (Number, Street, Suite Number) of financial institution in which account is held			
20 City	21 State, if known	22 Zip/Postal Code, if known	23 Country		
15 Maximum value of account during calendar year reported			16 Type of account a <input type="checkbox"/> Bank b <input type="checkbox"/> Securities c <input type="checkbox"/> Other—Enter type below		
17 Name of Financial Institution in which account is held					
18 Account number or other designation		19 Mailing Address (Number, Street, Suite Number) of financial institution in which account is held			
20 City	21 State, if known	22 Zip/Postal Code, if known	23 Country		
15 Maximum value of account during calendar year reported			16 Type of account a <input type="checkbox"/> Bank b <input type="checkbox"/> Securities c <input type="checkbox"/> Other—Enter type below		
17 Name of Financial Institution in which account is held					
18 Account number or other designation		19 Mailing Address (Number, Street, Suite Number) of financial institution in which account is held			
20 City	21 State, if known	22 Zip/Postal Code, if known	23 Country		
15 Maximum value of account during calendar year reported			16 Type of account a <input type="checkbox"/> Bank b <input type="checkbox"/> Securities c <input type="checkbox"/> Other—Enter type below		
17 Name of Financial Institution in which account is held					
18 Account number or other designation		19 Mailing Address (Number, Street, Suite Number) of financial institution in which account is held			
20 City	21 State, if known	22 Zip/Postal Code, if known	23 Country		
15 Maximum value of account during calendar year reported			16 Type of account a <input type="checkbox"/> Bank b <input type="checkbox"/> Securities c <input type="checkbox"/> Other—Enter type below		
17 Name of Financial Institution in which account is held					
18 Account number or other designation		19 Mailing Address (Number, Street, Suite Number) of financial institution in which account is held			
20 City	21 State, if known	22 Zip/Postal Code, if known	23 Country		
15 Maximum value of account during calendar year reported			16 Type of account a <input type="checkbox"/> Bank b <input type="checkbox"/> Securities c <input type="checkbox"/> Other—Enter type below		
17 Name of Financial Institution in which account is held					
18 Account number or other designation		19 Mailing Address (Number, Street, Suite Number) of financial institution in which account is held			
20 City	21 State, if known	22 Zip/Postal Code, if known	23 Country		
15 Maximum value of account during calendar year reported			16 Type of account a <input type="checkbox"/> Bank b <input type="checkbox"/> Securities c <input type="checkbox"/> Other—Enter type below		
17 Name of Financial Institution in which account is held					
18 Account number or other designation		19 Mailing Address (Number, Street, Suite Number) of financial institution in which account is held			
20 City	21 State, if known	22 Zip/Postal Code, if known	23 Country		
15 Maximum value of account during calendar year reported			16 Type of account a <input type="checkbox"/> Bank b <input type="checkbox"/> Securities c <input type="checkbox"/> Other—Enter type below		
17 Name of Financial Institution in which account is held					

Part III Information on Financial Account(s) Owned Jointly

Form TD F 90-22.1

Page Number

___ of ___

Complete a Separate Block for Each Account Owned Jointly

This side can be copied as many times as necessary in order to provide information on all accounts.

1 Filing for calendar year _____		3-4 Check appropriate Identification Number <input type="checkbox"/> Taxpayer Identification Number <input type="checkbox"/> Foreign Identification Number Enter identification number here:		6 Last Name or Organization Name	
15 Maximum value of account during calendar year reported			16 Type of account a <input type="checkbox"/> Bank b <input type="checkbox"/> Securities c <input type="checkbox"/> Other—Enter type below		
17 Name of Financial Institution in which account is held					
18 Account number or other designation		19 Mailing Address (Number, Street, Suite Number) of financial institution in which account is held			
20 City	21 State, if known	22 Zip/Postal Code, if known	23 Country		
24 Number of joint owners for this account		25 Taxpayer Identification Number of principal joint owner, if known. See instructions.			
26 Last Name or Organization Name of principal joint owner		27 First Name of principal joint owner, if known		28 Middle initial, if known	
29 Address (Number, Street, Suite or Apartment) of principal joint owner, if known					
30 City, if known	31 State, if known	32 Zip/Postal Code, if known	33 Country, if known		
15 Maximum value of account during calendar year reported			16 Type of account a <input type="checkbox"/> Bank b <input type="checkbox"/> Securities c <input type="checkbox"/> Other—Enter type below		
17 Name of Financial Institution in which account is held					
18 Account number or other designation		19 Mailing Address (Number, Street, Suite Number) of financial institution in which account is held			
20 City	21 State, if known	22 Zip/Postal Code, if known	23 Country		
24 Number of joint owners for this account		25 Taxpayer Identification Number of principal joint owner, if known. See instructions.			
26 Last Name or Organization Name of principal joint owner		27 First Name of principal joint owner, if known		28 Middle initial, if known	
29 Address (Number, Street, Suite or Apartment) of principal joint owner, if known					
30 City, if known	31 State, if known	32 Zip/Postal Code, if known	33 Country, if known		
15 Maximum value of account during calendar year reported			16 Type of account a <input type="checkbox"/> Bank b <input type="checkbox"/> Securities c <input type="checkbox"/> Other—Enter type below		
17 Name of Financial Institution in which account is held					
18 Account number or other designation		19 Mailing Address (Number, Street, Suite Number) of financial institution in which account is held			
20 City	21 State, if known	22 Zip/Postal Code, if known	23 Country		
24 Number of joint owners for this account		25 Taxpayer Identification Number of principal joint owner, if known. See instructions.			
26 Last Name or Organization Name of principal joint owner		27 First Name of principal joint owner, if known		28 Middle initial, if known	
29 Address (Number, Street, Suite or Apartment) of principal joint owner, if known					
30 City, if known	31 State, if known	32 Zip/Postal Code, if known	33 Country, if known		
15 Maximum value of account during calendar year reported			16 Type of account a <input type="checkbox"/> Bank b <input type="checkbox"/> Securities c <input type="checkbox"/> Other—Enter type below		
17 Name of Financial Institution in which account is held					
18 Account number or other designation		19 Mailing Address (Number, Street, Suite Number) of financial institution in which account is held			
20 City	21 State, if known	22 Zip/Postal Code, if known	23 Country		
24 Number of joint owners for this account		25 Taxpayer Identification Number of principal joint owner, if known. See instructions.			
26 Last Name or Organization Name of principal joint owner		27 First Name of principal joint owner, if known		28 Middle initial, if known	
29 Address (Number, Street, Suite or Apartment) of principal joint owner, if known					
30 City, if known	31 State, if known	32 Zip/Postal Code, if known	33 Country, if known		

Part IV Information on Financial Account(s) Where Filer has Signature Authority but No Financial Interest in the Account(s)

Form TD F 90-22.1
Page Number

Complete a Separate Block for Each Account

This side can be copied as many times as necessary in order to provide information on all accounts.

___ of ___

1 Filing for calendar year ____ - ____ - ____		3-4 Check appropriate Identification Number <input type="checkbox"/> Taxpayer Identification Number <input type="checkbox"/> Foreign Identification Number Enter identification number here:		6 Last Name or Organization Name	
15 Maximum value of account during calendar year reported			16 Type of account a <input type="checkbox"/> Bank b <input type="checkbox"/> Securities c <input type="checkbox"/> Other—Enter type below		
17 Name of Financial Institution in which account is held					
18 Account number or other designation		19 Mailing Address (Number, Street, Suite Number) of financial institution in which account is held			
20 City		21 State, if known	22 Zip/Postal Code, if known	23 Country	
34 Last Name or Organization Name of Account Owner				35 Taxpayer Identification Number of Account Owner	
36 First Name		37 Middle initial	38 Address (Number, Street, and Apt. or Suite No.)		
39 City		40 State	41 Zip/Postal Code	42 Country	
43 Filer's Title with this Owner					
15 Maximum value of account during calendar year reported			16 Type of account a <input type="checkbox"/> Bank b <input type="checkbox"/> Securities c <input type="checkbox"/> Other—Enter type below		
17 Name of Financial Institution in which account is held					
18 Account number or other designation		19 Mailing Address (Number, Street, Suite Number) of financial institution in which account is held			
20 City		21 State, if known	22 Zip/Postal Code, if known	23 Country	
34 Last Name or Organization Name of Account Owner				35 Taxpayer Identification Number of Account Owner	
36 First Name		37 Middle initial	38 Address (Number, Street, and Apt. or Suite No.)		
39 City		40 State	41 Zip/Postal Code	42 Country	
43 Filer's Title with this Owner					
15 Maximum value of account during calendar year reported			16 Type of account a <input type="checkbox"/> Bank b <input type="checkbox"/> Securities c <input type="checkbox"/> Other—Enter type below		
17 Name of Financial Institution in which account is held					
18 Account number or other designation		19 Mailing Address (Number, Street, Suite Number) of financial institution in which account is held			
20 City		21 State, if known	22 Zip/Postal Code, if known	23 Country	
34 Last Name or Organization Name of Account Owner				35 Taxpayer Identification Number of Account Owner	
36 First Name		37 Middle initial	38 Address (Number, Street, and Apt. or Suite No.)		
39 City		40 State	41 Zip/Postal Code	42 Country	
43 Filer's Title with this Owner					
15 Maximum value of account during calendar year reported			16 Type of account a <input type="checkbox"/> Bank b <input type="checkbox"/> Securities c <input type="checkbox"/> Other—Enter type below		
17 Name of Financial Institution in which account is held					
18 Account number or other designation		19 Mailing Address (Number, Street, Suite Number) of financial institution in which account is held			
20 City		21 State, if known	22 Zip/Postal Code, if known	23 Country	
34 Last Name or Organization Name of Account Owner				35 Taxpayer Identification Number of Account Owner	
36 First Name		37 Middle initial	38 Address (Number, Street, and Apt. or Suite No.)		
39 City		40 State	41 Zip/Postal Code	42 Country	
43 Filer's Title with this Owner					

Part V Information on Financial Account(s) Where the Filer is Filing a Consolidated Report

Form TD F 90-22.1
Page Number

Complete a Separate Block for Each Account

___ of ___

This side can be copied as many times as necessary in order to provide information on all accounts.

1 Filing for calendar year _____		3-4 Check appropriate Identification Number <input type="checkbox"/> Taxpayer Identification Number <input type="checkbox"/> Foreign Identification Number Enter identification number here:		6 Last Name or Organization Name	
15 Maximum value of account during calendar year reported			16 Type of account a <input type="checkbox"/> Bank b <input type="checkbox"/> Securities c <input type="checkbox"/> Other—Enter type below		
17 Name of Financial Institution in which account is held					
18 Account number or other designation		19 Mailing Address (Number, Street, Suite Number) of financial institution in which account is held			
20 City	21 State, if known	22 Zip/Postal Code, if known	23 Country		
34 Corporate Name of Account Owner				35 Taxpayer Identification Number of Account Owner	
38 Address (Number, Street, and Apt. or Suite No.)					
39 City	40 State	41 Zip/Postal Code	42 Country		
15 Maximum value of account during calendar year reported			16 Type of account a <input type="checkbox"/> Bank b <input type="checkbox"/> Securities c <input type="checkbox"/> Other—Enter type below		
17 Name of Financial Institution in which account is held					
18 Account number or other designation		19 Mailing Address (Number, Street, Suite Number) of financial institution in which account is held			
20 City	21 State, if known	22 Zip/Postal Code, if known	23 Country		
34 Corporate Name of Account Owner				35 Taxpayer Identification Number of Account Owner	
38 Address (Number, Street, and Apt. or Suite No.)					
39 City	40 State	41 Zip/Postal Code	42 Country		
15 Maximum value of account during calendar year reported			16 Type of account a <input type="checkbox"/> Bank b <input type="checkbox"/> Securities c <input type="checkbox"/> Other—Enter type below		
17 Name of Financial Institution in which account is held					
18 Account number or other designation		19 Mailing Address (Number, Street, Suite Number) of financial institution in which account is held			
20 City	21 State, if known	22 Zip/Postal Code, if known	23 Country		
34 Corporate Name of Account Owner				35 Taxpayer Identification Number of Account Owner	
38 Address (Number, Street, and Apt. or Suite No.)					
39 City	40 State	41 Zip/Postal Code	42 Country		
15 Maximum value of account during calendar year reported			16 Type of account a <input type="checkbox"/> Bank b <input type="checkbox"/> Securities c <input type="checkbox"/> Other—Enter type below		
17 Name of Financial Institution in which account is held					
18 Account number or other designation		19 Mailing Address (Number, Street, Suite Number) of financial institution in which account is held			
20 City	21 State, if known	22 Zip/Postal Code, if known	23 Country		
34 Corporate Name of Account Owner				35 Taxpayer Identification Number of Account Owner	
38 Address (Number, Street, and Apt. or Suite No.)					
39 City	40 State	41 Zip/Postal Code	42 Country		

Form **TD F 90-22.1** (Rev. 1-2012)

General Instructions

Form TD F 90-22.1, Report of Foreign Bank and Financial Accounts (the "FBAR"), is used to report a financial interest in or signature authority over a foreign financial account. The FBAR must be received by the Department of the Treasury on or before June 30th of the year immediately following the calendar year being reported. The June 30th filing date may not be extended.

Who Must File an FBAR. A United States person that has a financial interest in or signature authority over foreign financial accounts must file an FBAR if the aggregate value of the foreign financial accounts exceeds \$10,000 at any time during the calendar year. See General Definitions, to determine who is a United States person.

General Definitions

Financial Account. A financial account includes, but is not limited to, a securities, brokerage, savings, demand, checking, deposit, time deposit, or other account maintained with a financial institution (or other person performing the services of a financial institution). A financial account also includes a commodity futures or options account, an insurance policy with a cash value (such as a whole life insurance policy), an annuity policy with a cash value, and shares in a mutual fund or similar pooled fund (i.e., a fund that is available to the general public with a regular net asset value determination and regular redemptions).

Foreign Financial Account. A foreign financial account is a financial account located outside of the United States. For example, an account maintained with a branch of a United States bank that is physically located outside of the United States is a foreign financial account. An account maintained with a branch of a foreign bank that is physically located in the United States is not a foreign financial account.

Financial Interest. A United States person has a financial interest in a foreign financial account for which:

- (1) the United States person is the owner of record or holder of legal title, regardless of whether the account is maintained for the benefit of the United States person or for the benefit of another person; or
- (2) the owner of record or holder of legal title is one of the following:
 - (a) An agent, nominee, attorney, or a person acting in some other capacity on behalf of the United States person with respect to the account;
 - (b) A corporation in which the United States person owns directly or indirectly: (i) more than 50 percent of the total value of shares of stock or (ii) more than 50 percent of the voting power of all shares of stock;
 - (c) A partnership in which the United States person owns directly or indirectly: (i) an interest in more than 50 percent of the partnership's profits (e.g., distributive share of partnership income taking into account any special allocation agreement) or (ii) an interest in more than 50 percent of the partnership capital;
 - (d) A trust of which the United States person: (i) is the trust grantor and (ii) has an ownership interest in the trust for United States federal tax purposes. See 26 U.S.C. sections 671-679 to determine if a grantor has an ownership interest in a trust;
 - (e) A trust in which the United States person has a greater than 50 percent present beneficial interest in the assets or income of the trust for the calendar year; or
 - (f) Any other entity in which the United States person owns directly or indirectly more than 50 percent of the voting power, total value of equity interest or assets, or interest in profits.

Person. A person means an individual and legal entities including, but not limited to, a limited liability company, corporation, partnership, trust, and estate.

Signature Authority. Signature authority is the authority of an individual (alone or in conjunction with another individual) to control the disposition of assets held in a foreign financial account by direct communication (whether in writing or otherwise) to the bank or other financial institution that maintains the financial account. See Exceptions, Signature Authority.

United States. For FBAR purposes, the United States includes the States, the District of Columbia, all United States territories and possessions (e.g., American Samoa, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, Guam, and the United States Virgin Islands), and the Indian lands as defined in the Indian Gaming Regulatory Act. References to the laws of the United States include the laws of the United States federal government and the laws of all places listed in this definition.

United States Person. United States person means United States citizens; United States residents; entities, including but not limited to, corporations, partnerships, or limited liability companies created or organized in the United States or under the laws of the United States; and trusts or estates formed under the laws of the United States.

Note. The federal tax treatment of an entity does not determine whether the entity has an FBAR filing requirement. For example, an entity that is disregarded for purposes of Title 26 of the United States Code must file an FBAR, if otherwise required to do so. Similarly, a trust for which the trust income, deductions, or credits are taken into account by another person for purposes of Title 26 of the United States Code must file an FBAR, if otherwise required to do so.

United States Resident. A United States resident is an alien residing in the United States. To determine if the filer is a resident of the United States apply the residency tests in 26 U.S.C. section 7701(b). When applying the residency tests, use the definition of United States in these instructions.

Exceptions

Certain Accounts Jointly Owned by Spouses. The spouse of an individual who files an FBAR is not required to file a separate FBAR if the following conditions are met: (1) all the financial accounts that the non-filing spouse is required to report are jointly owned with the filing spouse; (2) the filing spouse reports the jointly owned accounts on a timely filed FBAR; and (3) both spouses sign the FBAR in Item 44. See Explanations for Specific Items, Part III, Items 25-33. Otherwise, both spouses are required to file separate FBARs, and each spouse must report the entire value of the jointly owned accounts.

Consolidated FBAR. If a United States person that is an entity is named in a consolidated FBAR filed by a greater than 50 percent owner, such entity is not required to file a separate FBAR. See Explanations for Specific Items, Part V.

Correspondent/Nostro Account. Correspondent or nostro accounts (which are maintained by banks and used solely for bank-to-bank settlements) are not required to be reported.

Governmental Entity. A foreign financial account of any governmental entity of the United States (as defined above) is not required to be reported by any person. For purposes of this form, governmental entity includes a college or university that is an agency of, an instrumentality of, owned by, or operated by a governmental entity. For purposes of this form, governmental entity also includes an employee retirement or welfare benefit plan of a governmental entity.

International Financial Institution. A foreign financial account of any international financial institution (if the United States government is a member) is not required to be reported by any person.

IRA Owners and Beneficiaries. An owner or beneficiary of an IRA is not required to report a foreign financial account held in the IRA.

Participants in and Beneficiaries of Tax-Qualified Retirement Plans. A participant in or beneficiary of a retirement plan described in Internal Revenue Code section 401(a), 403(a), or 403(b) is not required to report a foreign financial account held by or on behalf of the retirement plan.

Signature Authority. Individuals who have signature authority over, but no financial interest in, a foreign financial account are not required to report the account in the following situations:

(1) An officer or employee of 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 is not required to report signature authority over a foreign financial account owned or maintained by the bank.

(2) An officer or employee of a financial institution that is registered with and examined by the Securities and Exchange Commission or Commodity Futures Trading Commission is not required to report signature authority over a foreign financial account owned or maintained by the financial institution.

(3) An officer or employee of an Authorized Service Provider is not required to report signature authority over a foreign financial account that is owned or maintained by an investment company that is registered with the Securities and Exchange Commission. Authorized Service Provider means an entity that is registered with and examined by the Securities and Exchange Commission and provides services to an investment company registered under the Investment Company Act of 1940.

(4) An officer or employee of an entity that has a class of equity securities listed (or American depository receipts listed) on any United States national securities exchange is not required to report signature authority over a foreign financial account of such entity.

(5) An officer or employee of a United States subsidiary is not required to report signature authority over a foreign financial account of the subsidiary if its United States parent has a class of equity securities listed on any United States national securities exchange and the subsidiary is included in a consolidated FBAR report of the United States parent.

(6) An officer or employee of an entity that has a class of equity securities registered (or American depository receipts in respect of equity securities registered) under section 12(g) of the Securities Exchange Act is not required to report signature authority over a foreign financial account of such entity.

Trust Beneficiaries. A trust beneficiary with a financial interest described in section (2)(e) of the financial interest definition 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 United States person and (2) files an FBAR disclosing the trust's foreign financial accounts.

United States Military Banking Facility. A financial account maintained with a financial institution located on a United States military installation is not required to be reported, even if that military installation is outside of the United States.

Filing Information

When and Where to File. The FBAR is an annual report and must be received by the Department of the Treasury on or before June 30th of the year following the calendar year being reported. Do not file with federal income tax return.

File by mailing to:

Department of the Treasury
Post Office Box 32621
Detroit, MI 48232-0621

If an express delivery service is used, file by mailing to:

IRS Enterprise Computing Center
ATTN: CTR Operations Mailroom, 4th Floor
985 Michigan Avenue
Detroit, MI 48226

The FBAR may be hand delivered to any local office of the Internal Revenue Service for forwarding to the Department of the Treasury, Detroit, MI. The FBAR may also be delivered to the Internal Revenue Service's tax attaches located in United States embassies and consulates for forwarding to the Department of the Treasury, Detroit, MI. The FBAR is not considered filed until it is received by the Department of the Treasury in Detroit, MI.

No Extension of Time to File. There is no extension of time available for filing an FBAR. Extensions of time to file federal tax returns do NOT extend the time for filing an FBAR. If a delinquent FBAR is filed, attach a statement explaining the reason for the late filing.

Amending a Previously Filed FBAR. To amend a filed FBAR, check the "Amended" box in the upper right hand corner of the first page of the FBAR. Complete the form in its entirety and include the amended information. Do not attach a copy of the original FBAR. An amendment should not be made until at least 120 calendar days after the original FBAR is filed.

Record Keeping Requirements. Persons required to file an FBAR must retain records that contain the name in which each account is maintained, the number or other designation of the account, the name and address of the foreign financial institution that maintains the account, the type of account, and the maximum account value of each account during the reporting period. The records must be retained for a

period of 5 years from June 30th of the year following the calendar year reported and must be available for inspection as provided by law. Retaining a copy of the filed FBAR can help to satisfy the record keeping requirements.

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 accounts.

Questions. FBAR help is available by telephone or e-mail. Call 866-270-0733 (toll-free within the U.S.) or 313-234-6146 (from outside the U.S., not toll-free) from 8 a.m. — 4:30 p.m. Eastern time, or e-mail your inquiry to FBARquestions@irs.gov.

Explanations for Specific Items

Part I — Filer Information

Item 1. The FBAR is an annual report. Enter the calendar year being reported. If amending a previously filed FBAR, check the "Amended" box.

Item 2. Check the box that describes the filer. Check only one box. Individuals reporting only signature authority, check box "a". If filing a consolidated FBAR, check box "d". To determine if a consolidated FBAR can be filed, see Part V. If the type of filer is not listed in boxes "a" through "c", check box "e", and enter the type of filer. Persons that should check box "e" include, but are not limited to, trusts, estates, limited liability companies, and tax-exempt entities (even if the entity is organized as a corporation). A disregarded entity must check box "e", and enter the type of entity followed by "(D.E.)". For example, a limited liability company that is disregarded for United States federal tax purposes would enter "limited liability company (D.E.)".

Item 3. Provide the filer's United States taxpayer identification number. Generally, this is the filer's United States social security number (SSN), United States individual taxpayer identification number (ITIN), or employer identification number (EIN). Throughout the FBAR, numbers should be entered with no spaces, dashes, or other punctuation. If the filer does NOT have a United States taxpayer identification number, complete Item 4.

Item 4. Complete Item 4 only if the filer does NOT have a United States taxpayer identification number. Item 4 requires the filer to provide information from an official foreign government document to verify the filer's nationality or residence. Enter the document number followed by the country of issuance, check the appropriate type of document, and if "other" is checked, provide the type of document.

Item 5. If the filer is an individual, enter the filer's date of birth, using the month, day, and year convention.

Items 9, 10, 11, 12, and 13. Enter the filer's address. An individual residing in the United States must enter the street address of the individual's United States residence, not a post office box. An individual residing outside the United States must enter the individual's United States mailing address. If the individual does not have a United States mailing address, the individual must enter a foreign residence address. An entity must enter its United States mailing address. If the entity does not have a United States mailing address, the entity must enter its foreign mailing address.

Item 14. If the filer has a financial interest in 25 or more foreign financial accounts, check "Yes" and enter the number of accounts. Do not complete Part II or Part III of the FBAR. If filing a consolidated FBAR, only complete Part V, Items 34-42, for each United States entity included in the consolidated FBAR.

Note. If the filer has signature authority over 25 or more foreign financial accounts, only complete Part IV, Items 34-43, for each person for which the filer has signature authority, and check "No" in Part I, Item 14.

Filers must comply with applicable recording keeping requirements. See Record Keeping Requirements.

Part II — Information on Financial Account(s) Owned Separately

Enter information in the applicable parts of the form only. Number the pages used, and mail only those pages. If there is not enough space to provide all account information, copy and complete additional pages of the required Part as necessary. Do not use any attachments unless otherwise specified in the instructions.

Item 15. Determining Maximum Account Value.

Step 1. Determine the maximum value of each account (in the currency of that account) during the calendar year being reported. The maximum value of an account is a reasonable approximation of the greatest value of currency or nonmonetary assets in the account during the calendar year. Periodic account statements may be relied on to determine the maximum value of the account, provided that the statements fairly reflect the maximum account value during the calendar year. For Item 15, if the filer had a financial interest in more than one account, each account must be valued separately.

Step 2. In the case of non-United States currency, convert the maximum account value for each account into United States dollars. Convert foreign currency by using the Treasury's Financial Management Service rate (this rate may be found at www.fms.treas.gov) from the last day of the calendar year. If no Treasury Financial Management Service rate is available, use another verifiable exchange rate and provide the source of that rate. In valuing currency of a country that uses multiple exchange rates, use the rate that would apply if the currency in the account were converted into United States dollars on the last day of the calendar year.

If the aggregate of the maximum account values exceeds \$10,000, an FBAR must be filed. An FBAR is not required to be filed if the person did not have \$10,000 of aggregate value in foreign financial accounts at any time during the calendar year.

For United States persons with a financial interest in or signature authority over fewer than 25 accounts that are unable to determine if the aggregate maximum account values of the accounts exceeded \$10,000 at any time during the calendar year, complete Part II, III, IV, or V, as appropriate, for each of these accounts and enter "value unknown" in Item 15.

Item 16. Indicate the type of account. Check only one box. If "Other" is selected, describe the account.

Item 17. Provide the name of the financial institution with which the account is held.

Item 18. Provide the account number that the financial institution uses to designate the account.

Items 19-23. Provide the complete mailing address of the financial institution where the account is located. If the foreign address does not include a state (e.g., province) or postal code, leave the box(es) blank.

Part III – Information on Financial Account(s) Owned Jointly

Enter information in the applicable parts of the form only. Number the pages used, and mail only those pages. If there is not enough space to provide all account information, copy and complete additional pages of the required Part as necessary. Do not use any attachments unless otherwise specified in the instructions.

For Items 15-23, see Part II. Each joint owner must report the entire value of the account as determined under Item 15.

Item 24. Enter the number of joint owners for the account. If the exact number is not known, provide an estimate. Do not count the filer when determining the number of joint owners.

Items 25-33. Use the identifying information of the principal joint owner (excluding the filer) to complete Items 25-33. Leave blank items for which no information is available. If the filer's spouse has an interest in a jointly owned account, the filer's spouse is the principal joint owner. Enter "(spouse)" on line 26 after the last name of the joint spousal owner. See Exceptions, Certain Accounts Jointly Owned by Spouses, to determine if the filer's spouse is required to independently report the jointly owned accounts.

Part IV – Information on Financial Account(s) Where Filer has Signature Authority but No Financial Interest in the Account(s)

Enter information in the applicable parts of the form only. Number the pages used, and mail only those pages. If there is not enough space to provide all account information, copy and complete additional pages of the required Part as necessary. Do not use any attachments unless otherwise specified in the instructions.

25 or More Foreign Financial Accounts. Filers with signature authority over 25 or more foreign financial accounts must complete only Items 34-43 for each person on whose behalf the filer has signature authority.

Modified Reporting for United States Persons Residing and Employed Outside of the United States. A United States person who (1) resides outside of the United States, (2) is an officer or employee of an employer who is physically located outside of the United States, and (3) has signature authority over a foreign financial account that is owned or maintained by the individual's employer should only complete Part I and Part IV, Items 34-43 of the FBAR. Part IV, Items 34-43 should only be completed one time with information about the individual's employer.

For Items 15-23, see Part II.

Items 34-42. Provide the name, address, and identifying number of the owner of the foreign financial account for which the individual has signature authority over but no financial interest in the account. If there is more than one owner of the account for which the individual has signature authority, provide the information in Items 34-42 for the principal joint owner (excluding the filer). If account information is completed for more than one account of the same owner, identify the owner only once and write "Same Owner" in Item 34 for the succeeding accounts with the same owner.

Item 43. Enter filer's title for the position that provides signature authority (e.g., treasurer).

Part V – Information on Financial Account(s) Where Filer Is Filing a Consolidated Report

Enter information in the applicable parts of the form only. Number the pages used, and mail only those pages. If there is not enough space to provide all account information, copy and complete additional pages of the required Part as necessary. Do not use any attachments unless otherwise specified in the instructions.

Who Can File a Consolidated FBAR. An entity that is a United States person that owns directly or indirectly a greater than 50 percent interest in another entity that is required to file an FBAR is permitted to file a consolidated FBAR on behalf of itself and such other entity. Check box "d" in Part I, Item 2 and complete Part V. If filing a consolidated FBAR and reporting 25 or more foreign financial accounts, complete only Items 34-42 for each entity included in the consolidated FBAR.

For Items 15-23, see Part II.

Items 34-42. Provide the name, United States taxpayer identification number, and address of the owner of the foreign financial account as shown on the books of the financial institution. If account information is completed for more than one account of the same owner, identify the owner only once and write "Same Owner" in Item 34 for the succeeding accounts of the same owner.

Signatures

Items 44-46. The FBAR must be signed by the filer named in Part I. If the FBAR is being filed on behalf of a partnership, corporation, limited liability company, trust, estate, or other entity, it must be signed by an authorized individual. Enter the authorized individual's title in Item 45.

An individual must leave "Filer's Title" blank, unless the individual is filing an FBAR due to the individual's signature authority. If an individual is filing because the individual has signature authority over a foreign financial account, the individual should enter the title upon which his or her authority is based in Item 45.

A spouse included as a joint owner, who does not file a separate FBAR in accordance with the instructions in Part III, must also sign the FBAR (in Item 44) for the jointly owned accounts. See the instructions for Part III.

Penalties

A person who is required to file an FBAR and fails to properly file may be subject to a civil penalty not to exceed \$10,000 per violation. If there is reasonable cause for the failure and the balance in the account is properly reported, no penalty will be imposed. A person who willfully fails to report an account or account identifying information may be subject to a civil monetary penalty equal to the greater of \$100,000 or 50 percent of the balance in the account at the time of the violation. See 31 U.S.C. section 5321(a)(5). Willful violations may also be subject to criminal penalties under 31 U.S.C. section 5322(a), 31 U.S.C. section 5322(b), or 18 U.S.C. section 1001.



Do You Have a Foreign Financial Account?

You may be required to report the account to the Department of the Treasury.

The Law...

Any United States person who has a financial interest in or signature authority over any financial account(s) located outside of the United States is required to file a Form TD F 90-22.1, Report of Foreign Bank and Financial Accounts (FBAR), if the aggregate value of these accounts exceeds \$10,000 at any time during the calendar year.

How to comply with the law...

- Answer FBAR-related questions on federal tax and information returns. For example: Check the block on Form 1040 Schedule B, Part III.
- Complete Form TD F 90-22.1.
- Mail the completed form to:
U.S. Dept. of the Treasury
P.O. Box 32621
Detroit, MI 48232-0621
- The form must be received by June 30 of the year following the calendar year being reported.

For assistance...

Visit www.IRS.gov or www.fincen.gov to obtain the form and related information. The form can also be ordered by phone at 800-TAX-FORM (800-829-3676). For assistance with completing the form, call 866-270-0733 (for callers within the U.S.) or 313-234-6146 (for callers outside the U.S.)

Small Business / Self-Employed Division



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Department of the Treasury Internal Revenue Service www.irs.gov

605-10

Information on Making FBAR Penalty Payment by Check

Required Disclosure to be Provided with Invoice or Remittance Instructions Accounts Receivable Check Conversion

Authorization to convert your check: If you send us a check to make your payment, your check will be converted into an electronic fund transfer. "Electronic fund transfer" is the term used to refer to the process in which we electronically instruct your financial institution to transfer funds from your account to our account, rather than processing your check. By sending your completed, signed check to us, you authorize us to copy your check and to use the account information from your check to make an electronic fund transfer from your account for the same amount as the check. If the electronic fund transfer cannot be processed for technical reasons, you authorize us to process the copy of your check.

Insufficient funds: The electronic fund transfer from your account will usually occur within 24 hours, which is faster than a check is normally processed. Therefore, make sure there are sufficient funds available in your checking account when you send us your check. If the electronic fund transfer cannot be completed because of insufficient funds, we may try to make the transfer up to two times [and we will charge you a one-time fee of \$20.00 which we will also collect by electronic fund transfer].

Transaction information: The electronic fund transfer from your account will be on the account statement you receive from your financial institution. However, the transfer may be in a different place on your statement than the place where your checks normally appear. For example, it may appear under "other withdrawals" or "other transactions." You will not receive your original check back from your financial institution. For security reasons, we will destroy your original check, but we will keep a copy of the check for recordkeeping purposes.

Your rights: You should contact your financial institution immediately if you believe that the electronic fund transfer reported on your account statement was not properly authorized or is otherwise incorrect. Consumers have protections under a Federal law called the Electronic Fund Transfer Act for an unauthorized or incorrect electronic fund transfer.



Department of the Treasury
Internal Revenue Service

www.irs.gov

Notice 1330 (4-2004)
Catalog Number 38436W

610 TAB
IDR

615 TAB

Official Exchange
Rates Spreadsheet

Official Exchange Rates Spreadsheet---TABS

Information Regarding FBAR Penalty Foreign Conversion Spreadsheets

1) The currency conversion rates shown on the enclosed worksheet tabs are the historical exchange rates obtained from Financial Management Service (FMS) referenced in IRM 4.26.16.3.6 (See Comment for IRM Detail in Cell A1) at 12/31 of each Year.

Source at: <http://fms.treas.gov/intn.html> Financial Management Services

2) See Comments in each Spreadsheet Tab for additional Detail, by moving cursor over red part of each marked cells like Cell A1 Above. Each Spreadsheet has custom Headers and Footers when printed that add additional information when printed.

NOTE! These Spreadsheets are not protected, so please do not delete rows in the spreadsheets, which could change formulas!!!!

3) Custom Worksheets Tabs to Convert British Pounds (GBP), Swiss Francs (CHF), and EUROS into US Dollars for years 12/31/2002 thru 2012.

4) Worksheet Tabs for Various Countries to Convert Foreign Currency to US Dollars for 12/31/2003 through 12/31/2012 are included.

5) The Main Formula used is Foreign Currency/FC1/RATE or FC/Rate, since the rate is the amount equivalent to 1 United States Dollar.

6) One Great Website to Check Exchange Rates at various dates is located at <http://www.oanda.com/currency/convert/>

Oanda Currency Converter Site

NOTE! PER IRM 4.26.16.3.6 the IRS must use the Historical rates at 12/31 each year contained in these spreadsheets for FBAR Penalties from Financial Management Service (FMS) at <http://fms.treas.gov/int.html>. Financial Management Services

Official Exchange Rates Spreadsheet---TABS

**Foreign Currency Conversion Table----- British Pounds (GBP)-----Converted into
United States (US) Dollars---Multiple Years**

Years	United States Treasury Foreign Currency (FC) Exchange Rates (FC) To \$1.00	Input - British Pounds (GBP) Amount	Output - United States (US) Dollars Amount
12/31/2002	0.6210		\$0.00
12/31/2003	0.5660		\$0.00
12/31/2004	0.5240		\$0.00
12/31/2005	0.5820		\$0.00
12/31/2006	0.5120		\$0.00
12/31/2007	0.4860		\$0.00
12/31/2008	0.6570		\$0.00
12/31/2009	0.6160		\$0.00
12/31/2010	0.6400		\$0.00
12/31/2011	0.6370		\$0.00
12/31/2012	0.6180		\$0.00

Historical Exchange Rates By Finance Management Service (FMS) Per IRM 4.26.16.3.6

Official Exchange Rates Spreadsheet---TABS

Foreign Currency Conversion Table--- EUROS----- Converted into United States (US) Dollars---
Multiple Years

	United States Treasury Foreign Currency (FC) Exchange Rates	Input - EURO	Output - United States(US) Dollars
Years	(FC) To \$1.00	Amount	Amount
12/31/2002	0.9550		\$0.00
12/31/2003	0.8060		\$0.00
12/31/2004	0.7530		\$0.00
12/31/2005	0.8470		\$0.00
12/31/2006	0.7590		\$0.00
12/31/2007	0.6800		\$0.00
12/31/2008	0.7310		\$0.00
12/31/2009	0.6950		\$0.00
12/31/2010	0.7700		\$0.00
12/31/2011	0.7650		\$0.00
12/31/2012	0.7590		\$0.00

Historical Exchange Rates By Finance Management Service (FMS) Per IRM 4.26.16.3.6

Official Exchange Rates Spreadsheet---TABS

Foreign Currency Conversion Table--- Swiss Francs (CHF)--- Converted into United States (US) Dollars--- Multiple Years

	United States Treasury Foreign Currency (FC)	Input - Swiss Francs (CHF)
Years	(FC) To \$1.00	Amount
12/31/2002	1.3860	
12/31/2003	1.2760	
12/31/2004	1.1400	
12/31/2005	1.3170	
12/31/2006	1.2260	
12/31/2007	1.1280	
12/31/2008	1.0980	
12/31/2009	1.0310	
12/31/2010	1.0000	
12/31/2011	0.9350	
12/31/2012	0.9160	

**Historical Exchange Rates By Finance Management Service (FMS) Per IRM
4.26.16.3.6**

Official Exchange Rates Spreadsheet---TABS

United States Treasury---Foreign Currency Conversion Table into US Dollars---Historical Exchange Rates
Per IRM 4.26.16.3.6---12/31/2003

United States Treasury Currency Conversion Table at 12/31/2003	Foreign Currency (FC) Equivalence to One United States (US) Dollar	Input Foreign Currency (FC) Amount	Output United States (US) Dollars Amount
COUNTRY-CURRENCY	(FC) TO \$1.00		
AFGHANISTAN - AFGHANI	48.1700		\$0.00
ALBANIA - LEK	105.6000		\$0.00
ALGERIA - DINAR	70.1850		\$0.00
ANGOLA - KWANZA	77.7140		\$0.00
ANTIGUA - BARBUDA - E. CARIBBEAN DOLLAR	2.7000		\$0.00
ARGENTINA-PESO	2.9550		\$0.00
ARMENIA - DRAM	963.0000		\$0.00
AUSTRALIA - DOLLAR	1.3900		\$0.00
AUSTRALIA - SCHILLING	0.0000		\$0.00
AZERBAIJAN - MANAT	4900.0000		\$0.00
BAHAMAS - DOLLAR	1.0000		\$0.00
BAHRAIN - DINAR	0.3770		\$0.00
BANGLADESH - TAKA	98.0000		\$0.00
BARBADOS - DOLLAR	2.0000		\$0.00
BELARUS - RUBLE	2145.0000		\$0.00
BELGIUM-FRANC	0.0000		\$0.00
BELIZE - DOLLAR	2.0000		\$0.00
BENIN - CFA FRANC	528.7200		\$0.00
BERMUDA - DOLLAR	1.0000		\$0.00
BOLIVIA - BOLIVIANO	7.7960		\$0.00
BOSNIA-HERCEGOVINA MARKA	1.5720		\$0.00
BOTSWANA - PULA	4.5980		\$0.00
BRAZIL - REAL	2.9120		\$0.00
BRUNEI - DOLLAR	1.7080		\$0.00
BULGARIA - LEV	1.5770		\$0.00
BURKINA FASO - CFA FRANC	528.7200		\$0.00
BURMA - KYAT	490.0000		\$0.00
BURUNDI - FRANC	1052.3000		\$0.00
CAMBODIA (KHMER) - RIEL	3990.0000		\$0.00
CAMEROON - CFA FRANC	528.7200		\$0.00
CANADA - DOLLAR	1.3240		\$0.00
CAPE VERDE - ESCUDO	89.8270		\$0.00
CENTRAL AFRICAN REPUBLIC - CFA FRANC	528.7200		\$0.00
CHAD - CFA FRANC	528.7200		\$0.00
CHILE - PESO	596.7000		\$0.00
CHINA - RENMINBI	8.2650		\$0.00
COLOMBIA - PESO	2906.7900		\$0.00
COMOROS - FRANC	557.1520		\$0.00
CONGO - CFA FRANC	596.0000		\$0.00
COSTA RICA - COLON	417.8400		\$0.00
COTE D'IVOIRE - CFA FRANC	528.7200		\$0.00
CROATIA - KUNA	6.1900		\$0.00
CYPRUS - POUND	0.2710		\$0.00
CZECH - KORUNA	25.7110		\$0.00
DEM. REP. OF CONGO - CONGOLESE FRANC	388.9000		\$0.00
DENMARK - KRONE	6.0010		\$0.00
DJIBOUTI - FRANC	176.9900		\$0.00
DOMINICAN REPUBLIC - PESO	34.8000		\$0.00
ECUADOR-SUCRE	1.0000		\$0.00
EGYPT - POUND	6.1900		\$0.00
EL SALVADOR-DOLLARES	1.0000		\$0.00
EQUATORIAL GUINEA - CFA FRANC	528.7200		\$0.00
ERITREA - NAKFA	13.5900		\$0.00
ESTONIA - KROON	12.6120		\$0.00
ETHIOPIA - BIRR	8.6200		\$0.00
EURO ZONE - EURO	0.8060		\$0.00
FUJI - DOLLAR	1.7440		\$0.00
FINLAND-MARKKA	0.0000		\$0.00
FRANCE-FRANC	0.0000		\$0.00
GABON - CFA FRANC	528.7200		\$0.00
GAMBIA - DALASI	30.0000		\$0.00

IRM 4.26.16.3.6 (07-01-2008)
Account Valuation

(1) The **FBAR is required for each calendar year** during which the **aggregate amount(s)** in the account(s) **exceeded \$10,000 valued in U.S. dollars** at **any time during the calendar year**. 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. **For example, if the statement closing balance is \$9,000 but at any time during the year a balance of \$15,000 appears on a statement, the maximum value is \$15,000.**

(2) If periodic account statements are not issued, the maximum account asset value is the largest amount of currency and non-monetary assets in the account at any time during the year.

(3) **Convert foreign currency by using the official exchange rate in effect at the end of the year in question for converting the foreign currency into U. S. dollars.** In valuing currency of a country that uses multiple exchange rates, use the rate that would apply if the currency in the account were converted into U. S. dollars at the close of the calendar year. The official Treasury Reporting Rates of Exchange for the previous quarter year can be obtained at <http://fms.treas.gov/intn.html#rates> or by calling the **Department of the Treasury, Financial Management Service International Funds** Team at (202) 874-7994. As these rates are published quarterly, the rates should be accessed during the first quarter of the following year **to obtain the previous December 31 valuation.** The rates posted on the FMS website are the current exchange rates. **Historical exchange rates will be needed to determine the value in a foreign account in prior years.** For historical exchange rates, call FMS at (202) 874-8001 or (202) 874-8004. These phone numbers may be subject to change. Check the FMS website (<http://www.fms.treas.gov>) for the most current information.

(4) The value of stock, other securities, or other non-monetary assets in an account reported on the FBAR is the fair market value at the end of the calendar year, or if withdrawn from the account earlier in the year, at the time of the withdrawal.

(5) If the filer had a financial interest in more than one account, each account is valued separately in accordance with the previous paragraphs.

(6) **If a person had a financial interest in one or more but fewer than 25 accounts** and is unable to determine whether the maximum value of these accounts exceeded \$10,000 at any time during the year, the FBAR instructions state that the person is to complete Part II of the FBAR and if needed, the continuation page(s) for each of these accounts. If the maximum aggregate value of the accounts was not in excess of \$10,000, then there would be no FBAR violation if the person did not file the FBAR, whether or not the person knew the value of the accounts at the time the FBAR was due. This is because section 103.27(c) of the Title 31 regulations only requires FBARs to be filed when the value of the accounts exceeds \$10,000 during a calendar year. For rules regarding a person with a financial interest in 25 or more accounts, see [IRM 4.26.16.3.9](#).

650 TAB

Case Building Materials
5345-D &
ERCS Guide

FBAR-ERCS Guide

Background:

In the past, FBAR files typically were not established on ERCS. Time spent working the FBAR issues were charged to activity code 545. This activity code is a miscellaneous direct exam time (DET). The problem with this is that the time would not be applied to a specific taxpayer or year, and more importantly would mean that statute expiration dates could not be properly tracked. With increased focus on offshore compliance issues, FBAR case files are becoming more common, and therefore agents and managers need a better way to track these cases. Establishing the FBAR examinations on ERCS will not have an affect on AIMS. This guide was designed to assist the examiner and secretary with establishing and closing these exams on ERCS.

Agent Duties:

Before commencing an FBAR examination, the examiner is required to get the Territory Manager's approval via a Related Statute Memorandum (RSM). Without this approval, the agent is to not question the taxpayer regarding issues related to FBARs. Upon receiving approval, the examiner should prepare a Form 5345-D to establish the case on ERCS for proper case tracking. Input time to the established modules on your 4502 as opposed to AC 545. Keep in mind, you may have to seek a separate RSM for a spouse as well as establish a separate ERCS record.

Enter the following information on the Form 5345-D (the pro-forma version attached on page 2 already contains some of this information):

1. Fill-in the taxpayer's name and address. (Only TPH or TPW)
2. Check the "Control Non-AIMS DET Item" box
3. Enter the PBC, SBC, EGC, and ERCS examiner information
4. Enter the taxpayer's TIN (TPH or TPW's as appropriate)
5. The MFT is C6
6. For the type of form, enter "FBAR"
7. In the middle section of the form, enter all of the FBAR years being established for the listed taxpayer as follows in this table:

Tax Period	200412	200512	200612	200712	200812
Activity Code	545	545	545	545	545
Source Code	99	99	99	99	99
Status Code	10	10	10	10	10
Statute Date*	06-30-2011*	06-30-2012*	06-30-2013	06-30-2014	06-30-2015
Tracking Code	Same as Key	Same as Key	Same as Key	Same as Key	Same as Key
Project Code	Same as Key	Same as Key	Same as Key	Same as Key	Same as Key
Related Return	Y	Y	Y	Y	Y

*If FBAR statute extensions were received ensure that you input the extended ASED in place of the default.

FBAR-ERCS Guide

Agent Duties:

8. On the lower left side of the form, place an N in the TEFRA, Original return, Labels, Joint Committee, Foreign Control, and LMSB/CIC boxes. Leave the "Control PBC" box blank.
9. In the related return area, enter the key case information.
10. In the Reason for Request area, enter: "TO CONTROL AN FBAR INVESTIGATION RELATED TO A TREATY [or OVDI OPT-OUT/REMOVAL] CASE"
11. Sign and date the form, and submit it to your group manager following local procedures.

A pro-forma F5345-D is attached here:



F5345D - FBAR

The following is an example of a completed F5345-D:

Examination Request-ERCS (Examination Returns Control System) Users (IRM References: 4.4.23, 4.10.5.4)													
Transcripts Reviewed (Initial box): <input type="checkbox"/> AMDISA <input type="checkbox"/> IMFOLT/R/BMFOLT <input type="checkbox"/> INOLE(S/T)				Use an AIMS label if available									
Check One Box Only <input type="checkbox"/> Request AIMS Control Masterfile <input type="checkbox"/> Control Penalty Investigation <input type="checkbox"/> Request AIMS Control Non-Master File				<input checked="" type="checkbox"/> Control Non-AIMS DET Item				<input type="checkbox"/> Control Collateral Examination				Taxpayer Name/Name Control: <u>Taxpayer, Joe</u> <small>(Last name, first name, M.I., if MF only)</small>	
				Street: <u>123 Main St</u> <small>(address is only required for MMF controls)</small>				City: <u>Center</u> State: <u>FL</u> ZIP Code: <u>33605</u>					
PBC: <u>XXX</u>		SBC: <u>XXXXX</u>		EGC: <u>XXXX</u>		Examiner's ERCS Emp.ID: <u>*****</u>		Examiner's ERCS Emp. Name: <u>Agent, Revenue</u>					
TIN: <u>123-45-6789</u>		MFT: <u>C6</u>		Form Type: <u>FBAR</u>		<small>(A separate F-6346D is required for each TIN and MFT)</small>							
Tax Period (YYYYMM)	Activity Code	Source Code	Status Code	Statute Date	Tracking Code (if applicable)	Project Code (if applicable)	Tech Svcs Code	Claim Amount (Required if Source Code is 33)	Special Message/ Push Code (Required if Source Code is 12, 24, 46)	POD	Related Return Indicator (if key case (if related year))	Aging Reason Code (if applicable)	Input on ERCS (Initial and Date)
1	200412	545	99	10	06-30-2011*	1234	5678				Y		
2	200512	545	99	10	06-30-2012*	1234	5678				Y		
3	200612	545	99	10	06-30-2013	1234	5678				Y		
4	200712	545	99	10	06-30-2014	1234	5678				Y		
5	200812	545	99	10	06-30-2015	1234	5678				Y		
<input type="checkbox"/> TEFRA Indicator: (MFTs 06 and 36 only) (Y=Yes, N=No, S=Survey) <input type="checkbox"/> Do you want the original return? (Y / N) (Y= Original return, N= Do not want original return) <input type="checkbox"/> Do you want labels? (Y / N) (Y= will receive 5546 and labels; N= will not receive 5546 and labels) <input type="checkbox"/> Joint Committee? (Y / N) <input type="checkbox"/> Foreign Control? (Y / N) <input type="checkbox"/> Is case LMSB/CIC? (N / P / S) (N = Not applicable; P = Primary/Secondary; S = Support) <input type="checkbox"/> Control PBC (Used for Collateral Exams Only)							RELATED RETURN INFORMATION (Enter information for Primary/Key Case)						
Printed Name							Taxpayer Name: <u>Taxpayer, Joe and Jane</u>						
Examiner's Signature							TIN: <u>123-45-6789</u> MFT: <u>30</u> Tax Period: <u>200812</u> Source Code: <u>XXX</u>						
Date							Tracking code: <u>1234</u> Project Code: <u>5678</u> Aging Reason Code: <u>XXX</u>						
							Reason for Request: <u>TO CONTROL AN FBAR INVESTIGATION RELATED TO A TREATY [or OVDI OPT-OUT/REMOVAL] CASE</u>						
							Follow-Up Actions: _____						

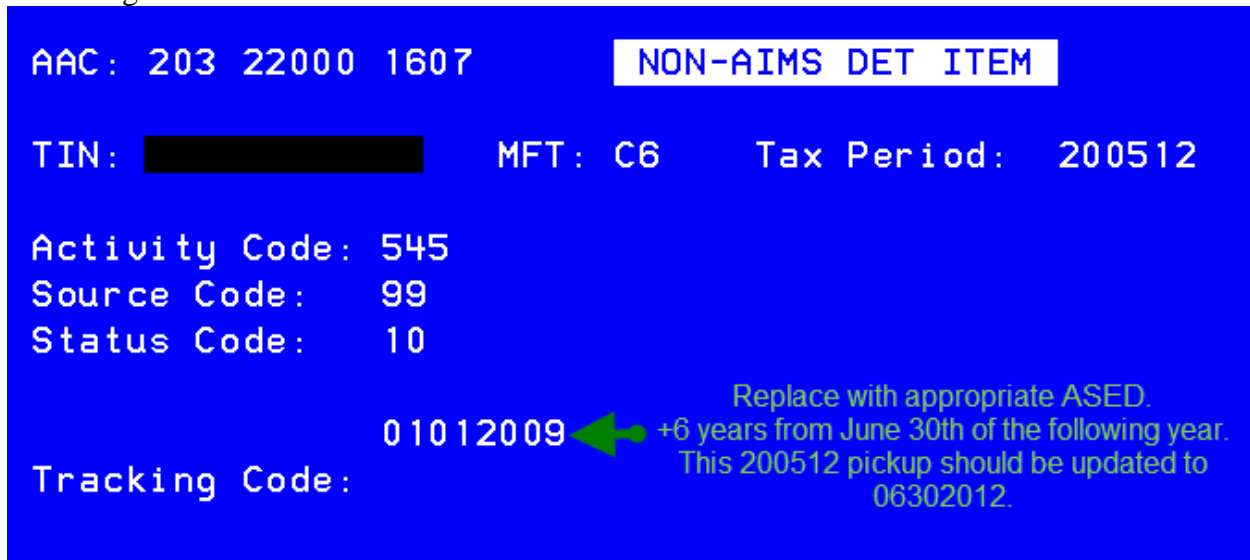
FBAR-ERCS Guide

Secretary Duties

The following is guidance for creating and closing the FBAR modules on ERCS. Managerial approval will not be necessary within ERCS when both creating and closing FBAR ERCS records.

Creating Record

1. From the ERCS main menu, select 1 – Request Tax Return.
2. Select 3 – Control Non-AIMS DET
3. Enter appropriate PBC/SBC/EGC and employee ID before continuing.
4. Enter Taxpayer TIN, then first tax year being picked up.
5. Enter Activity Code 545. Once this is entered, the MFT will update to C6 and the source code will update to 99.
6. Enter status code 10, hit enter and then a date will appear below the status code without a label. This date is the statute date which defaults to 3 years from the day after the end of the entered tax period. **This date is incorrect.**
7. Input the appropriate statute date per the F5345-D. An FBAR statute typically will be six years from June 30th of the year following the pickup year, i.e. for 200512, enter 06302012. If the FBAR statute was extended, input this statute date in its place. See figure 1 below:



```
AAC: 203 22000 1607      NON-AIMS DET ITEM
TIN: ██████████      MFT: C6      Tax Period: 200512
Activity Code: 545
Source Code: 99
Status Code: 10
Tracking Code: 01012009 ← Replace with appropriate ASED.
                               +6 years from June 30th of the following year.
                               This 200512 pickup should be updated to
                               06302012.
```

Figure 1: ASED

8. After correcting the ASED and hitting enter, enter the tracking code, hit enter, then hit Y to accept the information. It will not ask for a project code at this time.
9. ERCS will now give you the option to enter additional years. **Note:** When entering additional years, ensure you are correcting the ASED for each pickup.
10. Once done entering additional years, it will ask for information on the related case. Enter key case TIN, MFT and TY.

FBAR-ERCS Guide

Secretary Duties

11. Once key case info is entered, enter the name and address for the taxpayer being established. See figure 2 on the next page.

	Tax Period	Activity	Source	Status		Tracking
02.	200612	545	99	10	06302013	7417
03.	200712	545	99	10	06302014	7417
04.	200812	545	99	10	06302015	7417

AAC: 203 22000 1607 **NON-AIMS DET ITEM** Employee ID: [REDACTED]

TIN: [REDACTED] MFT: Tax Period: N

Activity Code:
Source Code:
Status Code:

Tracking Code: Key TIN: [REDACTED]
 Key MFT: 30
 Key TP: 200812

Name: [REDACTED] Related Case (Y/N)? Y
Street: [REDACTED] Control PBC: 000
City: [REDACTED]
State: [REDACTED]

Do you wish to review all returns? (Y/N)

Figure 2: All years input for control

12. Once all inputs are complete, you will need to input the project code from the correct multiple tax returns screen as follows:
- From the ERCS main menu, select 2 – Correct or Display Records, then select 2 – Correct multiple tax returns.
 - Select 13 then input the project code followed by enter.
 - Update the project code for each year established.
 - Once all years are updated, input 99 to save the updates.
13. Establishing the records are now complete as managerial approval is not required in ERCS. From now on the agent will track FBAR case time to the appropriate taxpayers and years.

Closing Record

- From the ERCS main menu, select 6 – Transfer, Close, Establish Control.
- Select 1 – Transfer/Close
- Enter the TIN.
- Select the appropriate modules to be closed.
- Update the status to 41 and hit enter. It will automatically update the status to 90 – In Transit to PSP.
- You will not be able to update the disposal code, it shall remain 00.
- Once you select yes, the record is closed. Managerial approval is not required in ERCS.

FBAR QUICK REFERENCE GUIDE

Detroit Computing Center (DCC) Contact Information

Item	Where to Send
Related Statute Memorandum (RSM) FBAR Monitoring Document (FMD) Consent to Extend FBAR Statute	Email: *SBSE BSA Compliance-FBAR Penalty Coordinator Fax: 313-234-2278 NOTE: Email is preferred/most reliable, so use RSMs and FMDs with electronic signatures. For handwritten signatures, consider scanning the document or E-Faxing it to yourself. Then forward the pdf file via email.
Delinquent/Amended FBARs	Internal Revenue Service - CTR Operations Edit and Error Resolution Mailroom P.O. Box 32621 Detroit, MI 48232-0621
Checks to pay for FBAR Penalties	If sent by USPS Internal Revenue Service Attention: FBAR Coordinator Roylyn Lapko/Nancy Beasley P.O. Box 33115 Detroit, MI 48232-0115 If sent by UPS [Overnight for priority items] Internal Revenue Service Attention: FBAR Coordinator Roylyn Lapko/Nancy Beasley 985 Michigan Ave, 4th floor Detroit, MI 48226
Closed Case Files	If file weighs 13 oz. or less [use USPS] Internal Revenue Service Attention: FBAR Coordinator Roylyn Lapko/Nancy Beasley P.O. Box 33113 Detroit, MI 48232-0113 If file weighs more than 13 oz. [use UPS] Internal Revenue Service Attention: FBAR Coordinator Roylyn Lapko/Nancy Beasley 985 Michigan Ave, 4th floor Detroit, MI 48226

Note: Send unagreed, appealed cases to Appeals through Tech Services