

FBAR

ELECTRONIC

TEACHING

CASE FILE

INTRODUCTION-NOTES

The **FBAR Electronic Teaching Case File** is a **Teaching Tool for FBAR Cases** that was created in the South Atlantic Area **using A Custom Designed FBAR Form 4318** that is thought to be **comprehensive in detail to complete** the most **Complex FBAR Cases**; however, **Not all sections are Mandatory** for some of the **Simple FBAR Cases**

The **FBAR Form 4318** has built-in links to forms used and is **Organized into** the following **Sections**:

Form 4318 Workpaper Section	FBAR-Form 4318-Description
*100	Activity Record—Form 9984—Examining Officer’s Activity Record—RGS Lead Sheet Available
*101	FMD, Form 13536—[Requires manager’s “date closed from group”]—(Emailed or Faxed)
*102	(RSM) Related Statute Memorandums—Form 13535
*103	Counsel Approval Memorandum, Legal Opinions & Title 31 Summons
*104	Summary Memorandum & 886A-Case Summary-Explaining FBAR Violations & Penalty Computations
*105	Form 13449 (FBAR Penalty RAR Under Title 31) & Payments TP Made(Copies)-Do Not Use Form 3244
106	Form TD F 90-22.1- Secured Delinquent FBAR’s (Copies or Facsimiles of Audit Years Filed)
107	Statute Extensions [If Applicable]- Consent To Extend FBAR Statute
108	(POA) Power of Attorney—Form 2848
*109	CBRS Research (FBAR Facsimiles Filed For Years Not Under Audit)
110	Form 906 (If Applicable)
200	Read IRM 4.26.16-FBAR Law & IRM 4.26.17-FBAR Procedures for Updated FBAR Penalty Case Details
205	Fraud Development Lead Sheet (For Willful FBAR Penalty & Document FTA Approval)
*400	Penalty FBAR Lead Sheet
*401	FBAR Citizenship Lead Sheet
600	FBAR Penalty Mitigation Computations (After 10/22/2004) Spreadsheet-(If Applicable)
*601	Foreign Account Records (Copies of Relevant Foreign Bank Statements on Date of Violation)
*602	Analysis-Unreported Foreign Income & Tax Omitted (Attributable to Foreign Accounts at Issue)
*603	TAX RETURNS [Copies Original Related Forms 1040 (Pages 1 & 2, & Schedule B)] & 1040Xs
*604	RAR (Revenue Agent Report) for Related Forms 1040
*605	Correspondence (Letters 929, 937, 4265, 3709, & 3800)
610	(IDR) Information Document Requests—Form 4564—RGS Lead Sheet Available
615	Official Exchange Rates Spreadsheet (If Applicable)
650	Case Building Cover Sheet & Materials (Form 5345-D)

* = Mandatory Sections in All FBAR Cases

The **FBAR Electronic Teaching Case File** that follows **Contains a Format** that is **organized to Explain** each **pertinent FBAR Form 4318 Sections** with **teaching examples**, **Official Exchange Rate Spreadsheet** in § 615, and **FBAR Penalty Computation Spreadsheets** in § 600 **with CPE Examples built into the Spreadsheet Tabs for all Willful and Non-Willful FBAR Cases**. A **FBAR Citizenship Lead Sheet** concludes if the TP is a US Person per Title 31. The **FBAR Electronic Teaching Case File** is divided into **4 Electronic Files** with **Electronic Part 3 of 4 has FBAR CPE examples** that **must be printed in Landscape Not Portrait** for **Workpaper Sections 600-4 through 600-10**.

Intent of the Author—The **FBAR Penalty Lead Sheet** in § 400 is thought to be **Completed first** by the RA to **gather all the details** in the FBAR Case File, **then a Summary Memorandum** is Completed with **and 886A-Case Summary** being **attached** to **Condense and Summarize ONLY the Essential Facts** for **FBAR Counsel** in Workpaper § 104.

The **Examples of FBAR CASE SUMMARY 886-A** (Both Willful and Non-Willful) are in **4 Sections** like a real Counsel Court Case:

- | | |
|----------------------------------------|--------------------------------------------|
| 1-Discussion of FBAR Violations | 3-Total Dollar Amounts of Penalties |
| 2-Number of Penalty Assessments | 4-Case Disposition |

For all FBAR Cases---Revenue Agent’s should Also Address the following 6 Items---Somewhere in the Case File:

- 1) The **Balance of the Account** in USD on the **Date of Violation (Willful Only)** or **Highest Account Balance & Date (Non-Willful)**
- 2) An **Analysis of Unreported Foreign Income** and the **Amount of Tax Omitted Attributable to Foreign Accounts at Issue**
- 3) **Reasonable Cause**,
- 4) **Examiner Discretion** for Lesser Penalties when Used,
- 5) **Why No Willful FBAR Penalties** in Non-Willful FBAR Penalty Cases, and
- 6) The **Source** of the **Foreign Currency Amounts** and **Exchange Rates Used** to Arrive at USD.

Outside Folder

FBAR PENALTY
Title 31 CASE FILE

TAXPAYER NAME
TIN XXX-XX-XXXX

YEARS-2006, 2007,
2008 and 2009

4318 TAB

FBAR Examination Workpapers – Index	Examiner	Grade	Total Time Charged to Case
Taxpayer name and address (city, state, ZIP code)	Taxpayer's TIN		Mutual Commitment Date (MCD) (mm/yyyy)
	TP Business Phone:		
	TP Cell Phone:		
	TP Fax Number:		
POA contact information (Name, street address, city, state, ZIP code)	Phone: Fax:	Tax Return Form Number	Penalty Period(s)

Reference	Description
100	Activity Record —Form 9984—Examining Officer's Activity Record— RGS Lead Sheet Available
101	FMD , Form 13536 —[Requires manager's "date closed from group"]—(Emailed or Faxed)
102	(RSM) Related Statute Memorandums — Form 13535
103	Counsel Approval Memorandum , Legal Opinions & Title 31 Summons
104	Summary Memorandum & 886A-Case Summary -Explaining FBAR Violations & Penalty Computations
105	Form 13449 (FBAR Penalty RAR Under Title 31) & Payments TP Made(Copies) - Do Not Use Form 3244
106	Form TD F 90-22.1 - Secured Delinquent FBAR's (Copies or Facsimiles of Audit Years Filed)
107	Statute Extensions [If Applicable]- Consent To Extend FBAR Statute
108	(POA) Power of Attorney — Form 2848
109	CBRS Research (FBAR Facsimiles Filed For Years Not Under Audit)
110	Form 906 (If Applicable)
111	
112	
113	
114	
115	

Evaluate	Reference	Description
	200	Read IRM 4.26.16-FBAR Law & IRM 4.26.17-FBAR Procedures for Updated FBAR Penalty Case Details.
	205	Fraud Development Lead Sheet (For Willful FBAR Penalty & Document FTA Approval)

Reference	Description	Title 31-FBAR Penalty Assessments-Form 13449					
		TY 2006	TY 2007	TY 2008	TY 2009	TY 2010	TY 2011
400	Penalty FBAR Lead Sheet						
401	FBAR Citizenship Lead Sheet						
402							
403							
404							

FBAR Tax Examination Workpapers Index - Continued

Reference	Description	Adjustments to Wages					
		TY	TY	TY	TY	TY	TY
Additional Issues	500						
	501						
	502						
	503						
	504						
	505						
	506						
	507						
	508						
	509						
	510						
	511						
	512						
	513						
514							
Miscellaneous	600	FBAR Penalty Mitigation Computations (After 10/22/2004) Spreadsheet -(If Applicable)					
	601	Foreign Account Records (Copies of <u>Relevant Foreign Bank Statements on Date of Violation</u>)					
	602	Analysis-Unreported Foreign Income & Tax Omitted (Attributable to Foreign Accounts at Issue)					
	603	TAX RETURNS [Copies <u>Original Related Forms 1040</u> (Pages 1 & 2, & Schedule B)] & 1040Xs					
	604	RAR (Revenue Agent Report) for Related Forms 1040					
	605	Correspondence (Letters 929 , 937 , 4265 , 3709 , & 3800)					
	610	(IDR) Information Document Requests —Form 4564—RGS Lead Sheet Available					
	615	Official Exchange Rates Spreadsheet (If Applicable)					
	640	.					
	645						
	650	Case Building Cover Sheet & Materials (Form 5345-D)					

Comment [TW1]: Agents Can Use Normal Examination Workpapers Index Reference TABS just flip over and hand write the TAB Numbers If Necessary like 104 on the Blank Side!

100 TAB Activity Record

101 TAB
FMD



FMD Example with Closing FBAR Case Years "No Action" Due to Statute Issue When Other Years Remain Open GM Digially Signs and Approves!

FBAR Monitoring Document (FMD)

Entity Information

Casename (Filer) Entity Information

Filing for Calendar Year Project Code
Filer Name (include DBA if applicable)
Street Address and Apartment or Suite Number
City State Zip/Postal Code Country
Taxpayer Identification Number (SSN or EIN)

Owner of Account if Different from above

Name (include DBA if applicable)
Street Address and Apartment or Suite Number
City State Zip/Postal Code Country
Taxpayer Identification Number (SSN or EIN)

Power of Attorney Identity Information

Name or Organization Name
Street Address and Apartment or Suite Number
City State Zip/Postal Code

Contact

Telephone Contact Name Number

Examination Information

Division Compliance Area Territory, Group
Manager (last name, first name, middle initial)
Examiner (last name, first name, middle initial)
Examiner Email Address Examiner Fax Number
Date of Related Statute Determination (DCC completes)
Date Started
Date Closed from Group (Manager Completes)
Time on Case (Agent completes)

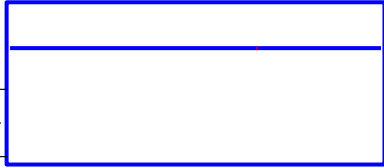
Disposition

Case Closed With No Action
Case Closed With Warning Letter
Case Closed With Penalty Agreed
Case Closed With Penalty to Appeals
Case Closed With Penalty Unagreed No Appeal Requested
Date Referred to Criminal Investigation (if applicable)
Date of CI Determination
CI Accepted Declined



FMD Example with New FBAR Statute Update
GM Digitally Signs and Approves!

FBAR Monitoring Document (FMD)
Entity Information



Casename (Filer) Entity Information

Filing for Calendar Year _____ Project Code _____
Filer Name (include DBA if applicable) _____
Street Address and Apartment or Suite Number _____
City _____ State _____ Zip/Postal Code _____ Country _____
Taxpayer Identification Number (SSN or EIN) _____

Owner of Account if Different from above

Name (include DBA if applicable) _____
Street Address and Apartment or Suite Number _____
City _____ State _____ Zip/Postal Code _____ Country _____
Taxpayer Identification Number (SSN or EIN) _____

Power of Attorney Identity Information

Name or Organization Name _____
Street Address and Apartment or Suite Number _____
City _____ State _____ Zip/Postal Code _____

Contact

Telephone Contact Name _____ Number _____

Examination Information

Division _____ Compliance Area _____ Territory _____, Group _____
Manager _____ (last name, first name, middle initial)
Examiner _____ (last name, first name, middle initial)
Examiner Email Address _____ Examiner Fax Number _____
Date of Related Statute Determination _____ (DCC completes)
Date Started _____
Date Closed from Group _____ (Manager Completes)
Time on Case _____ (Agent completes)

Disposition

Case Closed With No Action
Case Closed With Warning Letter
Case Closed With Penalty Agreed
Case Closed With Penalty to Appeals
Case Closed With Penalty Unagreed No Appeal Requested
Date Referred to Criminal Investigation (if applicable) _____
Date of CI Determination _____
CI Accepted Declined

Closing FBAR Case with “No Action” due to Statute Issue when Other Years Remain Open

When opening an FBAR case, a separate FBAR case file is set up apart from the Title 26 case file. This FBAR case file will cover all FBAR years and will include other documents such as Related Statute Memorandums (RSM), FBAR Monitoring Documents (FMD), Activity Record, correspondence, POA forms, IDRs, FBAR Lead Sheet, CBRS research, copies of relevant records from the Title 26 case, and any other relevant documents and workpapers.

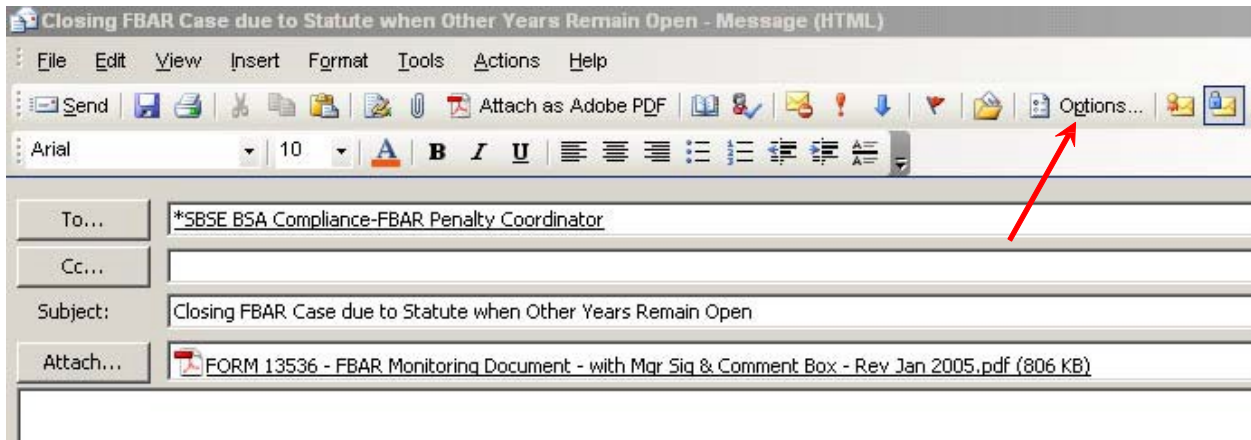
When closing an FBAR case, the entire FBAR case file is mailed with Form 3210 to DCC:
Internal Revenue Service
P.O. Box 33113
Detroit, MI 48232-0113

EXCEPTION: If multiple FBAR years are open and established on the DCC Database, and
(1) one of those years needs to be closed due to a statute issue, and
(2) other years will remain open,

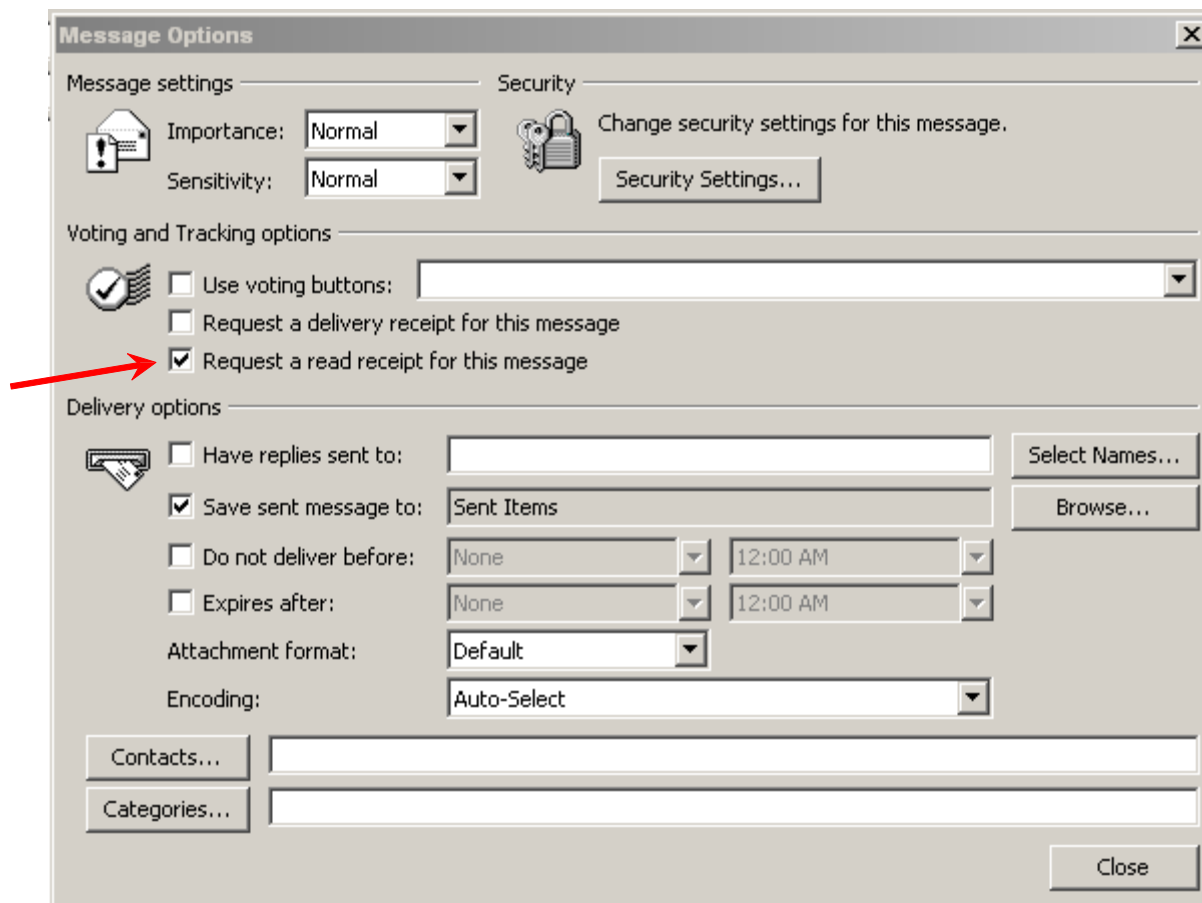
then the FBAR case file together with the remaining open years will remain with the examining agent and the year being closed due to a statute issue will be closed as follows:

- Complete FBAR Monitoring Document (FMD) Form 13536
- Include comment for DCC stating that FBAR case for a specific year is closing due to a statute issue and other years (specifically identifying the years) will remain open.
- Manager signs FMD
- Send FMD to DCC. Two options available:

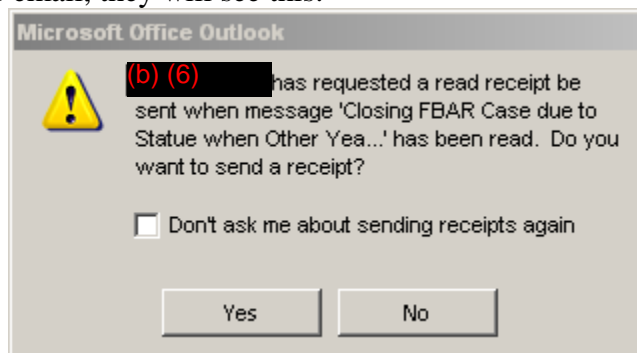
Email (preferred method)	Fax
<p>If digitally signed by manager (or signed by manager and scanned), FMD can be emailed to the following address: *SBSE BSA Compliance-FBAR Penalty Coordinator</p> <p>You should “Request a read receipt for this message” when you send the email. With the email open, select the “Options” button then check the box “Request a read receipt for this message.”</p>	<p>Fax to 313-234-2278. Please note that this is a community fax machine.</p> <p>DCC will not confirm receipt due to volume of documents received daily.</p>



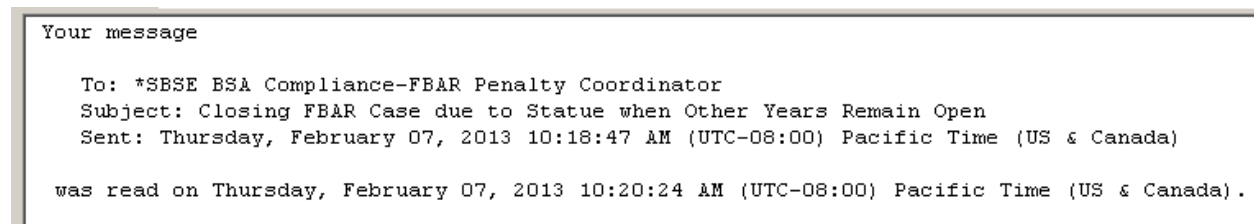
Closing FBAR Case with "No Action" due to Statute Issue when Other Years Remain Open



When DCC opens your email, they will see this:



DCC will select "Yes" and you will receive the following email response:



Print the response from DCC and include with your FBAR case file.

**Closing FBAR Case with "No Action" due to Statute Issue
when Other Years Remain Open**

Closing FBAR Record off ERCS

Submit Form 5348 AIMS Update and change the Status Code to 41 for each individual case.

Secretary Duties:

- 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.

102 TAB
RSM



MEMORANDUM



TO: Territory Manager
FROM: Examiner
RE: Related Statute Memorandum in Re:
Case (Filer) Name, SSN/EIN
Type of Person (a) Individual (b) Partnership (c) Corporation (d) Fiduciary
Street, City, State, Zip, Country
Filing for Calendar Year, Project Code
POA, Street, City, State, Zip

As a result of the performance of my official duties regarding the tax investigation of the subject taxpayer, I believe that the taxpayer has committed a violation of the reporting and or record keeping requirements of the Bank Secrecy Act. Furthermore, I believe that the violation of the reporting requirements are in furtherance of a Title 26 violation. My basis for these beliefs are as follows: (explain the relationship of the Title 31 violations to tax administration; i.e., failure to report the foreign accounts were part of a plan to conceal or underreport income). (Be as specific as possible, include bank account numbers and name and address of offshore financial institution.)

(Insert See Attachment or detail facts here)

***** It

is my good faith determination, based upon the facts and circumstances of this particular case, that the failure of the taxpayer to report or record the foreign financial account

- Was in furtherance of a Title 26 violation.
Was Not in furtherance of a Title 26 violation.

Signature Territory Manager


Date

103 TAB
Counsel Approval
Memorandum

104 TAB

**Summary Memo & 886A
Case Summary**

!CouncilFBAR CoordinatorsBy Area on 12114120121

			
FBAR Coordinators			
Current 12/14/12			
Area	Coordinator	Office	Phone
Division	Sam Berman	Division HQ	(202):
1	Jennifer McGinty	Buffalo, NY	(716) 270-2443
1	Wendy G. Irdner	Newark, NJ	(908) 241-2412
2	Rachel Paul	Washington, DC	(202) 974-197e
2	James Rich	Greensboro, NC	(336) 379-2113
2	Karen Richter	Washington, DC	(202) 974-1e1g
2	Jill Rico	Philadelphia, PA	(215) 8011-0714
3	Robert Abramitis	Miami, FL	(305) 328
3	Mark Tober	Jacksonville, FL	(904) 411-111Q
4	Becca Djuaskovlo	Chicago, IL	(312) 461-11e1a
4	Nancy Klingenshirn	Cleveland, OH	(216) 522-7337
e	Anne Duming	Phoenix, AR	(602) 461-8e11
e	Kathryn Bells	Houston, TX	(281) 721-737e
e	Shella Pstison	Austin, TX	(512) 4149
7	Rand Heath	Seattle, WA	(206):
7	Melanie Senick	Seattle, WA	(206) 222-07
a	David Warner	Laguna Niguel, CA	
8	Miles Friedr	Niguel, CA	(949) 360-2684
9	Doug Polsky	City, MO	(816) 823-091C
9	Shaina Boat	City, MO	(816) 823-090E

Kansas City, MO

IRM 4.26.16.4.7 (07-01-2008)

FBAR Penalties - Examiner Discretion

(1) The examiner may determine that the facts and circumstances of a particular case do not justify asserting a penalty. If there was an FBAR violation but the examiner determines that a penalty is not appropriate, the examiner should issue the FBAR warning letter, [Letter 3800](#).

(2) When a penalty is appropriate, IRS has established penalty mitigation guidelines to aid the examiner in applying penalties in a uniform manner. The examiner may determine that a penalty under these guidelines is not appropriate or that a lesser penalty amount than the guidelines would otherwise provide is appropriate or that the penalty should be increased (up to the statutory maximum). The examiner must make such a determination with the written approval of the examiner's manager and document the decision in the workpapers.

(3) Factors to consider when applying examiner discretion may include, but are not limited to, the following:

- a. Whether compliance objectives would be achieved by issuance of a warning letter;
- b. Whether the person who committed the violation had been previously issued a warning letter or has been assessed the FBAR penalty;
- c. The nature of the violation and the amounts involved; and,
- d. The cooperation of the taxpayer during the examination.

(4) Given the magnitude of the maximum penalties permitted for each violation, the assertion of multiple penalties and the assertion of separate penalties for multiple violations with respect to a single FBAR form, should be considered only in the most egregious cases.

Note!---If a Willful FBAR Level Level 4 Penalty is being assessed for Multiple Years, then the RA may want to consider assessing the Willful Penalty in ONLY ONE YEAR instead of Multiple Years and USE the DISCRETION in IRM 4.26.16.4.7 as justification and assess the Willful Maximum Multiple Year FBAR Penalties ONLY in the MOST EGREGIOUS CASES!

105 TAB

Form 13449

Foreign Account Penalty Information		Name of Account Holder	Account Holder ID (EIN or SSN)
1 Calendar year _____	Foreign Bank, Institution, or Agent(s)		Proposed penalty per "Definition of Penalty Statutes" (Check applicable box(es).) <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5
Maximum value of account \$ _____	Foreign Account number(s)		Amount of penalty \$ _____
2 Calendar year _____	Foreign Bank, Institution, or Agent(s)		Proposed penalty per "Definition of Penalty Statutes" (Check applicable box(es).) <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5
Maximum value of account \$ _____	Foreign Account number(s)		Amount of penalty \$ _____
3 Calendar year _____	Foreign Bank, Institution, or Agent(s)		Proposed penalty per "Definition of Penalty Statutes" (Check applicable box(es).) <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5
Maximum value of account \$ _____	Foreign Account number(s)		Amount of penalty \$ _____
4 Calendar year _____	Foreign Bank, Institution, or Agent(s)		Proposed penalty per "Definition of Penalty Statutes" (Check applicable box(es).) <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5
Maximum value of account \$ _____	Foreign Account number(s)		Amount of penalty \$ _____
5 Calendar year _____	Foreign Bank, Institution, or Agent(s)		Proposed penalty per "Definition of Penalty Statutes" (Check applicable box(es).) <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5
Maximum value of account \$ _____	Foreign Account number(s)		Amount of penalty \$ _____
6 Calendar year _____	Foreign Bank, Institution, or Agent(s)		Proposed penalty per "Definition of Penalty Statutes" (Check applicable box(es).) <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5
Maximum value of account \$ _____	Foreign Account number(s)		Amount of penalty \$ _____

TOTAL proposed penalty (Enter here and on Page 1 of 2.) ▶ \$ _____

**Report of Foreign Bank and Financial Accounts
(FBAR) Procedures 4.26.17.4.5
(01-01-2007)
Closing the FBAR Case.-Payment**

(1) (1) If there is any payment, the examiner will:

- a. Photocopy the check or money order.
- b. Copy Form 13449, front and back and paper clip the check or money order to the copy.
- c. Complete Form 3210 describing all documents.
- d. Forward by certified mail the payment, copy of Form 13449, and Form 3210 to the FBAR Payment post office box used exclusively for FBAR payments: Internal Revenue Service, P.O. Box 33115, Detroit, MI 48232-0115. This is not the same post office box used for forwarding the file.
- e. If any payment is made, the examiner will not execute a Payment Posting Voucher, Form 3244 for any payments received. If Form 3244 is inadvertently executed, the examiner will be responsible for tracing the payment to ensure that it is refunded from the tax module. The examiner will then need to obtain another payment which will be sent to DCC for posting to the FBAR database as above.

(2) Detroit Computing Center (DCC) will record and process the payment utilizing as appropriate:

- a. Form 13448, Penalty Assessments Certification Summary (Title 31 FBAR)(internal document)
- b. Letter 3708, Notice and Demand for Payment of FBAR Penalty (copy)
- c. Notice 1330, Information on Making FBAR Penalty Payment by Check