

# 401 TAB

FBAR Citizenship Lead Sheet









































**Command Code DDBKD  
IRM 2.3.80**

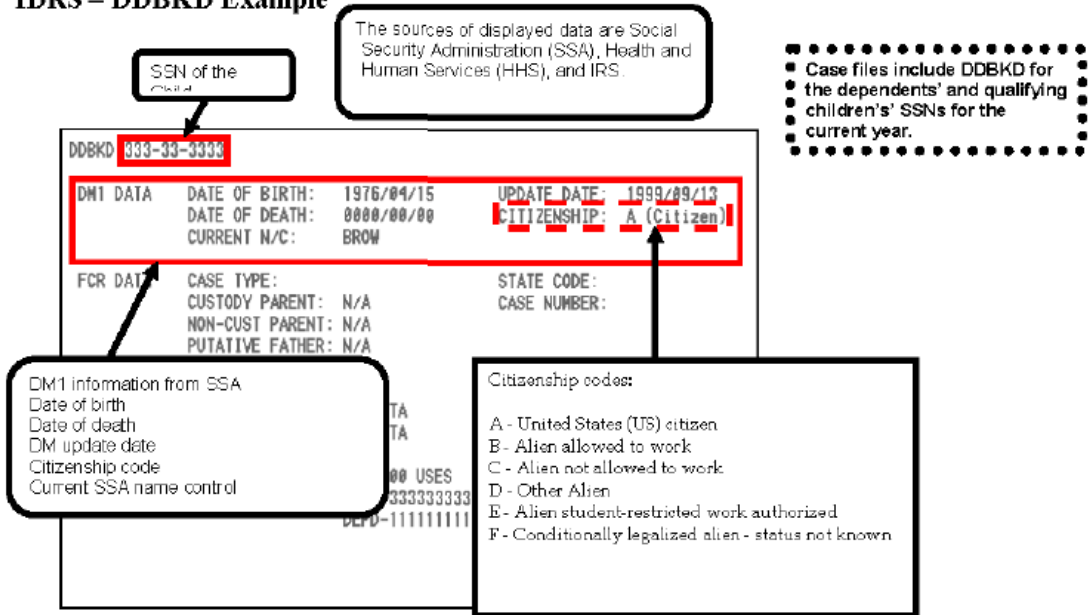
By entering a SSN, **Command Code (CC) DDBKD** allows a user to display a variety of **information** about the SSN that comes from external sources and can be used to display **Citizenship documentation only if in question.**

The sources of data displayed comes from Social Security Administration, Health & Human Services, and IRS. The primary use of this command code is to display additional information about a child for Remote Exam to audit returns under the Dependent Database program.

(1) The required input for CC DDBKD is:                   DDBKD XXX-XX-XXXX

- a. Command Code
- b. blank for definer
- c. Edited TIN (nnn-nn-nnnn)

**IDRS – DDBKD Example**



**Note!** The citizenship code is often blank on the DDBKD, but may show on a MFTRA U (NUMIDENT).

If you have a copy of the **US Passport** from Section 4 of the UBS CD, include in this section.

**Command Code DDBKD  
IRM 2.3.80**

**To search Social Security Administration records:** MFTRA U is used to request a Social Security Administration transcript called NUMIDENT on an individual.

**Format:** MFTRA

000-11-2222,U,3911211200,SMITH 5301MIL

*Note: Your IDRS number (3911211200), name (SMITH), and Stop Number (5301MIL) assist in routing the request.*

**NUMIDENT Transcript with Social Security-Administration (SSA) Data-IRM 2.3.32-17**

|    | 1-9  | 11-19 | 21-29           | 31-39 | 41-49           | 51-59 | 61-69 | 71-79 |    |
|----|--|-------|-----------------|-------|-----------------|-------|-------|-------|----|
| 1  | 1234567890123456789012345678901234567890123456789012345678901234567890 |       |                 |       |                 |       |       |       | 1  |
| 2  |  | 1     |                 |       |                 |       |       |       | 2  |
| 3  | DATE OF DEATH-   | 2     |                 |       |                 |       |       |       | 3  |
| 4  |  |       |                 |       |                 |       |       |       | 4  |
| 5  | TYOE-3   |       | DATE OF RECORD- | 4     |                 |       |       |       | 5  |
| 6  |  |       |                 |       |                 |       |       |       | 6  |
| 7  | DISABILITY STATUS-   | 5     |                 |       |                 |       |       |       | 7  |
| 8  |  |       |                 |       |                 |       |       |       | 8  |
| 9  | NAME ON CARD-  |       |                 | 6     |                 |       |       |       | 9  |
| 10 | SECOND NAME-   |       |                 | 7     |                 |       |       |       | 10 |
| 11 | THIRD NAME-  |       |                 | 8     |                 |       |       |       | 11 |
| 12 |  |       |                 |       |                 |       |       |       | 12 |
| 13 | CITIZENSHIP-9  |       |                 |       | SEX-10          |       |       |       | 13 |
| 14 |  |       |                 |       |                 |       |       |       | 14 |
| 15 | DATE OF BIRTH-   | 11    |                 |       | PLACE OF BIRTH- | 12    | 13    | 14    | 15 |
| 16 |  |       |                 |       |                 |       |       |       | 16 |
| 17 | PRIOR DATE OF BIRTH-   | 15    |                 |       |                 |       |       |       | 17 |
| 18 |  |       |                 |       |                 |       |       |       | 18 |
| 19 | MOTHER-  | 16    |                 |       |                 |       |       |       | 19 |
| 20 |  |       |                 |       |                 |       |       |       | 20 |
| 21 | FATHER-  | 17    |                 |       |                 |       |       |       | 21 |
|    | 1234567890123456789012345678901234567890123456789012345678901234567890 |       |                 |       |                 |       |       |       |    |
|    | 1-9  | 11-19 | 21-29           | 31-39 | 41-49           | 51-59 | 61-69 | 71-79 |    |

1. A valid Social Security number for the record being provided.
2. Date of Death. Month, day and full year of death separated by hyphens.
3. Entry indicated the type of SS record on file.
4. The month, day and full year the application or correction was recorded on the SSA file.
5. This field represents pre-1973 disability activity on the SSN.
6. The name on the SSN card to a used in work or business.
7. The applicant's name on most recently assigned SSN card, name at birth or other name used, prioritized in that order.
8. Same as Item 6 above.
9. This entry is one of six possibilities:
  - A= US Citizen
  - B=Legal Alien-Authorized to Work
  - C=Legal Alien-Not Authorized to Work
  - D=Other
  - E= Alien Student-Restricted Work Authorized
  - F=Conditionally Legalized Alien
10. Valid Entries are: M=Male, F=Female, U=Unknown
11. Month, day and full year of birth separated by dashes.
12. City and County (if known).
13. State of birth. Format is two alphabetic characters.
14. An "\*" in this field will indicate a Foreign POB or a blank for a Domestic POB.
15. Month, day and full year of birth previously reported to SSA.
16. Applicant's Mother's maiden name.
17. Applicant's Father's name.









## Treasury Enforcement Communications System (TECS)

### What is Treasury Enforcement Communication System (TECS)?

TECS is a database maintained by the Department of Homeland Security, and it is used extensively by the law enforcement community. It contains information about individuals and businesses suspected of, or involved in, violation of federal law. TECS can provide useful information about taxpayers so employees can attempt taxpayer contact or locate asset information.

### Communicating With Taxpayers About TECS

When talking with taxpayers that you are having placed on TECS, do not discuss TECS by name. Instead, follow the language on Letter 4106, indicating you have informed the Department of Homeland Security of the taxpayer's balance(s) due, which would at such point be on public view via a Notice of Federal Tax Lien.

### Requests To Place Balance Due Taxpayers Onto TECS

Procedures concerning placing a balance due taxpayer onto TECS is discussed in [IRM 5.1.12](#), Cases Requiring Special Handling. The update is in process and will appear in the next few months. To place a taxpayer onto TECS, Revenue Officers will prepare [Form 6668](#), (PDF 705 KB) TECS Entry Request, as an e-mail attachment as discussed in the IRM and submit it for managerial approval.

Once the TECS Coordinator receives the approved request, arrangements will be made via Criminal Investigation to place the taxpayer on the system. When it is time to remove a taxpayer from TECS, as covered in [IRM 5.1.12](#), Cases Requiring Special Handling a secured message e-mail will be sent by the Revenue Officer to the TECS Coordinator containing specific content as the IRM discusses.

Requests to place balance due taxpayers onto and to delete them from TECS should be sent via email to: "[\\*SBSE International TECS Coordinator](#)".

### TECS Coordinator

Questions on the TECS system can be directed to (b) (6) at phone (b) (6) (b) (6) or via email to: "[\\*SBSE International TECS Coordinator](#)".

### Requests for Historical Travel Information on TECS

Procedures for requesting historical travel information for a taxpayer from TECS are discussed in [IRM 5.1.18](#), Locating Taxpayers and their Assets. Revenue Officers (and Revenue Agents) can request Historical Travel Information by using the [Form 13931](#) (PDF 56KB). This form replaces the memorandum version currently mentioned in IRM 5.1.18.17.5.1. This is the "fillable form" that the IRM states is forthcoming, and the next update to IRM 5.1.18 will refer to this form instead of the obsolete and no-longer-available memorandum. Treat the form as an e-mail attachment in the same manner as the IRM currently indicates for the memorandum. Send the form as a secured message attachment in an e-mail to the "[\\*SBSE International TECS Coordinator](#)".

(b) (7)(E)





# 600 TAB

FBAR Penalty Mitigation  
Computations Spreadsheet

FBAR Penalty Mitigation Computations After 10/22/2004 Spreadsheet Instruction Notes and Cautions!

**NOTES:** See all The TABS in This Spreadsheet!

**7) Take Note and Care!!!** To use the Maximum Aggregate Balance in Determining Any Level 2 Willful and Non-Willful FBAR Penalties.

**8) To Get the Correct Per Account Levels 1, 2, 3, or 4 Penalties** on Willful and Non-Willful FBAR Penalties **It will be Necessary** to adapt (change) the spreadsheet by Inserting Additional Rows (with each Per Account Balance) and Copying the Formulas for Bank Accounts > One Account for Every Levels 1, 2, 3, and 4 Willful and Non-Willful FBAR Penalties.  
(The Only Exception to this is the Non-Willful Level 1 FBAR Penalty, which is correct based upon entering the Maximum Aggregate Balance in Column E, and # violations).

**1) The Account Balance in Column E is the Maximum Balance in the account During the Year for Non-willful violations, and Level I & II Willful violations.**

**9) Maximum Aggregate Balance = Adding Together the Maximum Balance during the Calendar Year of All Accounts. If Maximum Aggregate Balance > \$50,000, Then Any Level 2 Penalty is applicable to All Accounts.**

**2) Take Note and Care!!!** In computing the Willful violation for Level III, you must compare and insert the greater amount of 10% Maximum Balance During the Calendar Year or 50% of the Closing Balance as of June 30 in the Following Year. For the Level IV Willful violation, the Account Balance amount is the greater of \$100,000 or Closing Balance as of June 30th in the Following Year.

**Any FBAR Spreadsheet Computation Questions?**  
Then Call Your Area FBAR Coordinator Shown in the Attached Worksheet Tab.

**3) Attached in 2 Spreadsheet Tabs is IRM Exhibit 4.26.16-2, which fully explains how to compute both the Normal Willful and Non-Willful FBAR Penalties with Mitigation Guidelines for Violations After October 22, 2004.**

**4) Spreadsheets in Tabs to help determine both the Normal Willful and Non-Willful FBAR Penalties with Mitigation Guidelines for Violations After October 22, 2004 are available for 2005, 2006, 2007, 2008, 2009, 2010, 2011, and 2012.**

**5) Non-Willful Examples of FBAR Penalties for Levels 2 and 3 are included in the Attached Tabs.**

**6) Willful Examples of FBAR Penalties for Levels 1, 2, 3, and 4 are included in the Attached Tabs.**

**Exhibit 4.26.16-2 (07-01-2008)****Normal FBAR Penalty Mitigation Guidelines for Violations Occurring After October 22, 2004**

The Bank Secrecy Act (BSA) allows the Secretary of the Treasury some discretion in determining the amount of penalties for violations of the FBAR reporting and record keeping requirements. There is a penalty ceiling but no minimum amount. This discretion has been delegated to the FBAR examiner.

- The examiner may determine that the facts and circumstances of a particular case do not justify a penalty.
- If there was an FBAR violation but no penalty is appropriate, the examiner should issue the FBAR warning letter, Letter 3800.

When a penalty is appropriate, IRS has established penalty mitigation guidelines so that the penalties determined through the examiner's discretion are uniform. The examiner may determine that:

- A penalty under these guidelines is not appropriate, or
- A lesser amount than the guidelines would otherwise provide is appropriate.

The examiner must make this determination with the written approval of the examiner's manager. The examiner's workpapers must document the circumstances that make mitigation of the penalty under these guidelines appropriate. To qualify for mitigation, the person must meet four criteria:

1. The person has no history of criminal tax or BSA convictions for the preceding ten years and has no history of prior FBAR penalty assessments;
2. No money passing through any of the foreign accounts associated with the person was from an illegal source or used to further a criminal purpose;
3. The person cooperated during the examination; and,
4. IRS did not determine a fraud penalty against the person for an underpayment of income tax for the year in question due to the failure to report income related to any amount in a foreign account

**Normal FBAR Penalty Mitigation Guidelines for Violations Occurring After October 22, 2004 - Per Person Per Year**

| <b>Non-Willful (NW) Penalties</b>                        |   |
|--|---|
| To Qualify for Level I-NW - Determine Aggregate Balances | If the maximum aggregate balance for all accounts to which the violations relate did not exceed \$50,000 at any time during the year, Level I – NW applies to all violations. Determine the maximum balance at any time during the calendar year for each account. Add the individual maximum balances to find the maximum aggregate balance. |
| Level I-NW Penalty is                                    | \$500 for each violation, not to exceed an aggregate penalty of \$5,000 for all violations.   |
| To Qualify for Level II-NW - Determine Account Balance   | If Level I-NW does not apply and if the maximum balance of the account to which the violations relate at any time during the calendar year did not exceed \$250,000, Level II-NW applies to that account.   |
| Level II-NW Penalty is                                   | \$5,000 for each Level II-NW account violation, not to exceed 10% of the maximum balance in the account during the year   |
| To Qualify for Level III-NW                              | If Level I-NW does not apply and if the maximum balance of the account to which the violations relate at any time during the calendar year was more than \$250,000, Level III-NW applies to that account.   |
| Level III-NW is  | \$10,000 for each Level III-NW account violation, the statutory maximum for non-willful violations.   |



---

**Report of Foreign Bank and Financial Accounts (FBAR) 4.26.16** page 25
 

---

**Exhibit 4.26.16-2 (Cont. 1) (07-01-2008)****Normal FBAR Penalty Mitigation Guidelines for Violations Occurring After October 22, 2004**

| <b>Willfulness Penalties</b>                          |   |
|---|---|
| To Qualify for Level I - Determine Aggregate Balances | If the maximum aggregate balance for all accounts to which the violations relate did not exceed \$50,000, Level I applies to all accounts . Determine the maximum balance at any time during the calendar year for each account. Add the individual maximum balances to find the maximum aggregate balance. |
| Level I Penalty is                                    | The greater of \$1,000 per violation or 5% of the maximum balance during the year of the account to which the violations relate for each violation.   |
| To Qualify for Level II – Determine Account Balance   | If Level I does not apply and if the maximum balance of the account to which the violations relate at any time during the calendar year did not exceed \$250,000, Level II applies to that account .  |
| Level II Penalty is per account                       | The greater of \$5,000 per violation or 10% of the maximum balance during the calendar year for each Level II account .   |
| To Qualify for Level III                              | If the maximum balance of the account to which the violations relate at any time during the calendar year exceeded \$250,000 but did not exceed \$1,000,000, Level III applies to that account .  |
| Level III Penalty is per account.                     | The greater of (a) or (b):<br>(a) 10% of the maximum balance during the calendar year for each Level III account, or<br>(b) 50% of the closing balance in the account as of the last day for filing the FBAR .  |
| To Qualify for Level IV                               | If the maximum balance of the account to which the violations relate at any time during the calendar year exceeded \$1 million, Level IV, the statutory maximum, applies to that account.   |
| Level IV Penalty is per account the statutory maximum | The greater of (a) or (b):<br>(a) \$100,000, or<br>(b) 50% of the closing balance in the account as of the last day for filing the FBAR.  |

|                     |   |  |
|---------------------|---|--|
| <p>Slide<br/>75</p> | <p><b>FBAR Penalty Mitigation Criteria</b></p> <ul style="list-style-type: none"><li>• Penalty mitigation is available to persons that meet all of the following:<ol style="list-style-type: none"><li>1. No history of criminal tax or BSA convictions for the preceding 10 years, and no prior FBAR penalty assessments</li><li>2. No illegal sources of income in the foreign accounts</li><li>3. Person cooperated during the examination</li><li>4. No fraud penalty against the person for an underpayment of income tax for the year in question due to the failure to report income related to any amount in a foreign account</li></ol></li><li>• Written approval of group manager</li></ul> <p> <small>75</small> <span style="float: right;"><small>2012 SB/SE Revenue Agent CPE<br/>Foreign Bank Account Reporting</small></span></p> | <p>FBAR penalty mitigation is available to any person that meets all of the following requirements:</p> <p>There is no history of past criminal tax or BSA convictions for the preceding ten years, and no prior FBAR penalty assessments. No illegal sources of income are in, or passed through, any of the person's foreign accounts. The person cooperated during the examination. The IRS did not sustain a civil fraud penalty against the person for an underpayment of tax for the year in question due to the failure to report income related to any amount that was in the foreign account.</p> <p>The group manager must approve, in writing, all FBAR penalty assessments.</p>  |
| <p>Slide<br/>76</p> | <p><b>Level 1 Mitigation – Willful Penalties</b></p> <ul style="list-style-type: none"><li>• Maximum aggregate balance for all accounts to which the violations relate did not exceed \$50,000<ul style="list-style-type: none"><li>• Compute the maximum balance for each account during the calendar year</li><li>• Add the individual maximum balances to arrive at the aggregate balance</li></ul></li><li>• Penalty is greater of \$1,000 per violation or 5% of the maximum balance in the account</li><li>• If a person qualifies for Level 1 mitigation, apply the penalty computation to all accounts</li></ul> <p> <small>76</small> <span style="float: right;"><small>2012 SB/SE Revenue Agent CPE<br/>Foreign Bank Account Reporting</small></span></p>   | <p>Level 1 willful FBAR penalty mitigation applies to persons where the maximum aggregate balance for all accounts to which the violations relate did not exceed \$50,000. The computation of the aggregate balance is identical to the computation we previously discussed regarding how to compute the aggregate balance for FBAR reporting purposes. To refresh your memory, first compute the maximum balance for each account during the calendar year, and then add together the maximum balance of each account to arrive at the aggregate balance.</p> <p>The Level 1 willful FBAR penalty is greater of \$1,000 per violation or 5% of the maximum balance in the account.</p> <p>If a person meets the criteria for Level 1 willful FBAR penalty mitigation, the Level 1 penalty computation applies to all accounts. In a few minutes we will discuss Level 2 and greater willful FBAR penalty mitigation, where you will determine a separate penalty mitigation level for each account.</p> |

Slide  
86

## Level 2 Non-willful Mitigation Example

- Facts: for 2011 the person failed to report three accounts
- Facts: maximum balance of each account:
  - Account 1: \$55,000
  - Account 2: \$13,000
  - Account 3: \$2,000
  - Maximum aggregate balance: \$70,000
- Level 2 non-willful FBAR penalty per account:
  - Account 1: \$5,000
  - Account 2: \$1,300 (\$13,000 x 10%)
  - Account 3: \$200
  - Total FBAR penalty: \$6,500



86

2012 SB/SE Revenue Agent CPE  
Foreign Bank Account Reporting

Now let's go over an example of a Level 2 non-willful FBAR penalty mitigation. We are going to use the same facts as we used in the Level 2 willful FBAR penalty example to allow you to compare the two penalty computations.

The facts of the case are that for 2011 a person failed to report all three of his foreign accounts. The maximum balance of account number 1 was \$55,000, the maximum balance of account number 2 was \$13,000, and the maximum balance of the account number 3 was \$2,000. The maximum aggregate balance, which is determined by adding together the maximum balance of each of the three accounts, is \$70,000. Since the maximum aggregate balance for this person exceeded \$50,000 the person does not meet the criteria for Level 1 non-willful FBAR penalty mitigation. Assuming the person meets all four mitigation criteria, Level 2 non-willful FBAR penalty mitigation is appropriate for each of the three accounts because the maximum balance of each account does not exceed \$250,000.

Under the Level 2 FBAR non-willful penalty mitigation guidelines, the FBAR penalty is the lesser of \$5,000 per violation or ten percent of the maximum balance in each account. In our example, the penalty for account number 1 is \$5,000, because ten percent of the \$55,000 maximum balance in the account, which is \$5,500, exceeds \$5,000. The penalty for account number 2 is \$1,300, because ten percent of the maximum balance of the account is less than \$5,000 (ten percent of \$13,000 is \$1,300). The penalty for account number 3 is \$200, which is ten percent of the maximum balance in the account (ten percent of \$2,000 is \$200).

Therefore, in this example, the total FBAR penalties using the Level 2 non-willful mitigation guidelines is \$6,500.



Slide  
88

## Level 3 Non-willful Penalty Example 1

- Facts: for 2011 the person failed to report two accounts
- Facts: the accounts balances are as follows:
  - Account 1: \$875,000 maximum balance
  - Account 1: \$935,000 balance on June 30, 2012
  - Account 2: \$40,000 maximum balance
  - Maximum aggregate balance: \$915,000
- Level 3 non-willful FBAR penalty per account:
  - Account 1: \$10,000 (statutory maximum)
  - Account 2: \$4,000 (Level 2 mitigation applies to this account)
  - Total FBAR penalty: \$14,000



2012 SB/SE Revenue Agent CPE  
Foreign Bank Account Reporting

Now let's go over an example of a Level 3 non-willful FBAR penalty mitigation. The facts of this example are the same as the facts in the example for Level 3 willful FBAR penalty example to allow you to compare the two penalty computations.

The facts of the case are that for 2011 a person failed to report both of his foreign accounts. The maximum balance of account number 1 was \$875,000, and the balance on June 30, 2012 was \$935,000. The maximum balance of account number 2 was \$40,000. The maximum aggregate balance, which is determined by adding together the maximum balance of both accounts, is \$915,000. The maximum aggregate balance for this person exceeded \$50,000, so the person does not meet the criteria for Level 1 non-willful FBAR penalty mitigation. Assuming the person meets all four mitigation criteria, non-willful FBAR penalty mitigation is appropriate for both of the accounts.

For account number 1, Level 3 non-willful FBAR penalty mitigation applies because the maximum balance of the account is greater than \$250,000. The Level 3 non-willful penalty is the statutory maximum, which is \$10,000.

The maximum balance in account number 2 was \$40,000. Since the maximum balance of this account did not exceed \$250,000, the appropriate mitigation level is Level 2. Under the non-willful Level 2 FBAR penalty mitigation guidelines, the FBAR penalty is the lesser of \$5,000 or ten percent of the maximum balance in the account. In our example, the penalty for account number 2 is \$4,000, because ten percent of maximum balance of the account (ten percent of \$40,000 is \$4,000) is less than \$5,000.

We computed the penalty for account number 1 using the Level 3 guidelines, and we computed the penalty for account number 2 using the Level 2 guidelines. Therefore, in this example, the total non-willful FBAR penalties using the mitigation guidelines is \$14,000.

Slide  
77

## Level 1 Willful Mitigation Example

- Facts: for 2011 the person failed to report three accounts
- Facts: maximum balance of each account:
  - Account 1: \$40,000
  - Account 2: \$3,000
  - Account 3: \$950
  - Maximum aggregate balance: \$43,950
- Level 1 willful FBAR penalty per account:
  - Account 1: \$2,000 ( $\$40,000 \times 5\%$ )
  - Account 2: \$1,000
  - Account 3: \$1,000
  - Total FBAR penalty: \$4,000



2012 SB/SE Revenue Agent CPE  
Foreign Bank Account Reporting

Now let's go over an example of a Level 1 willful FBAR penalty mitigation.

The facts of the case are that for 2011 a person failed to report all three of his foreign accounts. The maximum balance of account number 1 was \$40,000, the maximum balance of account number 2 was \$3,000, and the maximum balance of the account number 3 was \$950. The maximum aggregate balance, which is determined by adding together the maximum balance of each of the three accounts, is \$43,950. Since the maximum aggregate balance for this person did not exceed \$50,000, and assuming the person meets all four mitigation criteria, Level 1 willful FBAR penalty mitigation is appropriate.

Under the Level 1 FBAR penalty mitigation guidelines, the FBAR penalty is the greater of \$1,000 per violation or five percent of the maximum balance of each account. In our example, the penalty for account number 1 is \$2,000, which is five percent of the \$40,000 maximum balance. The penalty for account number 2 is \$1,000, which is greater than five percent of maximum balance of the account (five percent of \$3,000 is \$150). The penalty for account number 3 is also \$1,000, which is greater than five percent of maximum balance of the account (five percent of \$950 is \$47.50).

Therefore, in this example, the total FBAR penalties using the Level 1 mitigation guidelines is \$4,000.

Slide  
79

## Level 2 Willful Mitigation Example

- Facts: for 2011 the person failed to report three accounts
- Facts: maximum balance of each account:
  - Account 1: \$55,000
  - Account 2: \$13,000
  - Account 3: \$2,000
  - Maximum aggregate balance: \$70,000
- Level 2 willful FBAR penalty per account:
  - Account 1: \$5,500 (\$55,000 x 10%)
  - Account 2: \$5,000
  - Account 3: \$5,000
  - Total FBAR penalty: \$15,500



79

2012 SB/SE Revenue Agent CPE  
Foreign Bank Account Reporting

Now let's go over an example of a Level 2 willful FBAR penalty mitigation.

The facts of the case are that for 2011 a person failed to report all three of his foreign accounts. The maximum balance of account number 1 was \$55,000, the maximum balance of account number 2 was \$13,000, and the maximum balance of the account number 3 was \$2,000. The maximum aggregate balance, which is determined by adding together the maximum balance of each of the three accounts, is \$70,000. Since the maximum aggregate balance for this person exceeded \$50,000 the person does not meet the criteria for Level 1 willful FBAR penalty mitigation. Assuming the person meets all four mitigation criteria, Level 2 willful FBAR penalty mitigation is appropriate for each of the three accounts because the maximum balance of each account does not exceed \$250,000.

Under the Level 2 FBAR penalty mitigation guidelines, the FBAR penalty is the greater of \$5,000 per violation or ten percent of the maximum balance of each account. In our example, the penalty for account number 1 is \$5,500, which is ten percent of the \$55,000 maximum balance. The penalty for account number 2 is \$5,000, which is greater than ten percent of the maximum balance of the account (ten percent of \$13,000 is \$1,300). The penalty for account number 3 is also \$5,000, which is greater than ten percent of the maximum balance of the account (ten percent of \$2,000 is \$200).

Therefore, in this example, the total FBAR penalties using the Level 2 mitigation guidelines is \$15,500.

Slide  
81

### Level 3 Willful Mitigation Example

- Facts: for 2011 the person failed to report two accounts
- Facts: the accounts balances are as follows:
  - Account 1: \$875,000 maximum balance
  - Account 1: \$935,000 balance on June 30, 2012
  - Account 2: \$40,000 maximum balance
  - Maximum aggregate balance: \$915,000
- Level 3 willful FBAR penalty per account:
  - Account 1: \$467,500 ( $\$935,000 \times 50\%$ )
  - Account 2: \$5,000 (Level 2 mitigation applies to this account)
  - Total FBAR penalty: \$472,500



81

2012 SB/SE Revenue Agent CPE  
Foreign Bank Account Reporting

We computed the penalty for account number 1 using the Level 3 guidelines, and we computed the penalty for account number 2 using the Level 2 guidelines. Therefore, in this example, the total willful FBAR penalties using the mitigation guidelines is \$472,500.

Now let's go over an example of a Level 3 willful FBAR penalty mitigation.

The facts of the case are that for 2011 a person failed to report both of his foreign accounts. The maximum balance of account number 1 was \$875,000, and the balance on June 30, 2012 was \$915,000. The maximum balance of account number 2 was \$40,000. The maximum aggregate balance, which is determined by adding together the maximum balance of both accounts, is \$975,000. The maximum aggregate balance for this person exceeded \$50,000, so the person does not meet the criteria for Level 1 willful FBAR penalty mitigation. Assuming the person meets all four mitigation criteria, willful FBAR penalty mitigation is appropriate for both of the accounts.

For account number 1, Level 3 willful FBAR mitigation applies because the maximum balance of the account is greater than \$250,000 but did not exceed \$1,000,000. Under Level 3 willful mitigation, the penalty is the greater of 10 percent of the maximum balance of the account, which in our example is \$87,500, or 50 percent of the balance on the date of violation, which in our example is \$467,500. Remember that the due date of the FBAR is June 30 of the following year. For account number 1, the Level 3 willful penalty is the greater of \$87,500 or \$467,500, so the penalty is \$467,500.

The maximum balance of account number 2 is \$40,000. Since the maximum balance of this account did not exceed \$250,000, the appropriate mitigation level for this account is Level 2. Under the willful Level 2 FBAR penalty mitigation guidelines, the FBAR penalty is the greater of \$5,000 or ten percent of the maximum balance of the account. In our example, the penalty for account number 2 is \$5,000, which is greater than ten percent of maximum balance of the account (ten percent of \$40,000 is \$4,000).

Slide  
83

## Level 4 Willful Mitigation Example

- Facts: for 2011 the person failed to report two accounts
- Facts: the accounts balances are as follows:
  - Account 1: \$1,370,000 maximum balance
  - Account 1: \$1,260,000 balance on June 30, 2012
  - Account 2: \$1,760,000 maximum balance
  - Person closed account 2 on March 16, 2012
  - Maximum aggregate balance: \$3,130,000
- Level 4 willful FBAR penalty per account:
  - Account 1: \$630,000 (\$1,260,000 x 50%)
  - Account 2: \$100,000
  - Total FBAR penalty: \$730,000



83

2012 SB/SE Revenue Agent CPE  
Foreign Bank Account Reporting

Here is an example of Level 4 willful FBAR penalty mitigation.

The facts of the case are that for 2011 a person failed to report both of his foreign accounts. The maximum balance of account number 1 was \$1,370,000, and the balance on June 30, 2012 was \$1,260,000. The maximum balance of account number 2 was \$1,760,000, and the person closed account number 2 on March 16, 2012. The maximum aggregate balance, which is determined by adding together the maximum balance of both accounts, is \$3,130,000. The maximum aggregate balance for this person exceeded \$50,000, so the person does not meet the criteria for Level 1 willful FBAR penalty mitigation. Assuming the person meets all four mitigation criteria, willful FBAR penalty mitigation is appropriate for both of the accounts.

For account number 1, Level 4 willful FBAR mitigation applies because the maximum balance of the account exceeded \$1,000,000. Under Level 4 willful mitigation, the penalty is the greater of \$100,000 or 50 percent of the balance on the date of violation. For account 1, the balance of the date of the violation, which is June 30, 2012, was \$1,260,000, so the Level 4 penalty for this account is 50 percent of \$1,260,000, which is \$630,000.

The maximum balance of account number 2 was \$1,760,000. Level 4 willful FBAR mitigation applies to account number 2 because the maximum balance of the account exceeded \$1,000,000. Since the person closed account number 2 before the due date of the 2011 FBAR, the balance of the account on June 30, 2012 is zero. As a result, the Level 4 willful FBAR penalty is \$100,000, which is the greater of \$100,000 or 50 percent of the balance in the account on June 30, 2012.

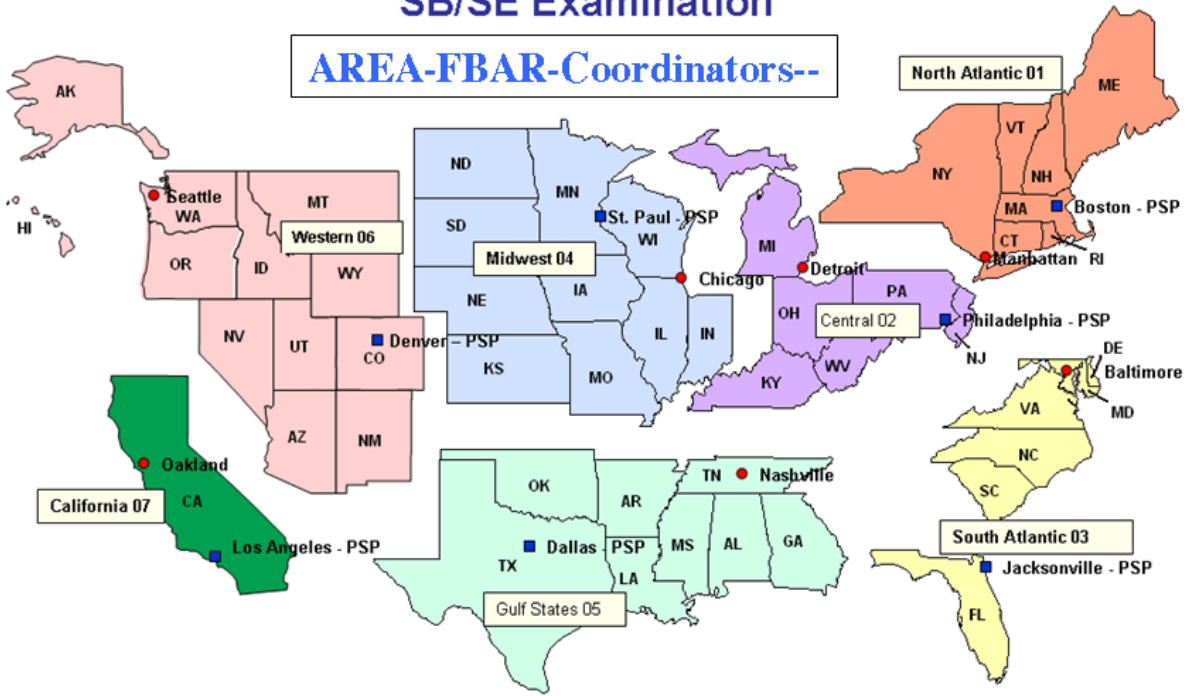
Therefore, in this example, the total willful FBAR penalties using the mitigation guidelines is \$730,000.

(Years) TAB--FBAR Penalty Mitigation Computations-Spreadsheet

| A  | B   | C   | D  | E                                    | F                      | G                      | H  |  |
|----|---|---|--|--------------------------------------|------------------------|------------------------|--|--|
| 1  |   |   |  |                                      |                        |                        |  |  |
| 2  | FBAR  |   |  |                                      |                        |                        |  |  |
| 3  |   |   |  |                                      |                        |                        |  |  |
| 4  |   |   |  |                                      |                        |                        |  |  |
| 5  | FBAR Mitigation Guidelines After October 22, 2004   |   |  |                                      |                        |                        |  |  |
| 6  |   |   |  |                                      |                        |                        |  |  |
| 7  | <b>FBAR</b>   | <b>Non-Willful Penalties</b>  | <b>Account Balance</b>   | <b>Per Account Penalty Structure</b> | <b>Account Balance</b> | <b># of Violations</b> | <b>Computed Penalty Amount</b>   |  |
| 8  | Note! A)  | Level I - Balance <\$50,000   | \$500 for each violation, not to exceed an aggregate penalty of \$5,000  |                                      |                        | \$                     | Level I Non-Willful Penalty is Computed Correctly on Multiple Violations by inputting Maximum Aggregate Balance in Column E. |  |
| 9  | Note! A)  | Level II - Balance <\$250,000   | \$5,000 for each violation, not to exceed 10% of the maximum balance in the account during the year  |                                      |                        | \$                     | See Level II-Note! Below   |  |
| 10 | Note! A)  | Level III - Balance >\$250,000  | \$10,000 for each violation  |                                      |                        | \$                     |  |  |
| 11 |   |   |  |                                      |                        |                        |  |  |
| 12 | <b>FBAR</b>   | <b>Willful Penalties</b>  | <b>Account Balance</b>   | <b>Per Account Penalty Structure</b> | <b>Account Balance</b> | <b># of Violations</b> | <b>Computed Penalty Amount</b>   |  |
| 13 | Note! A)  | Level I - Balance <\$50,000   | The greater of \$1,000 for each violation or 5% of the maximum balance in the account during the year  |                                      |                        | \$                     |  |  |
| 14 | Note! A)  | Level II - Balance <\$250,000   | The greater of \$5,000 for each violation or 10% of the maximum balance in the account during the year   |                                      |                        | \$                     | See Level II-Note! Below   |  |
| 15 | Note! A)  | Level III - Balance >\$250,000 but <\$1,000,000   | The Per Account Penalty is the greater of 10% of the maximum balance during the year or 50% of the account balance in the account as of the last day for filing the FBAR |                                      |                        | \$                     | See Level III-Note! Below  |  |
| 16 | Note! A)  | Level IV - Balance >\$1,000,000   | The greater of \$100,000 or 50% of the closing balance in the account as of the last day for filing the FBAR   |                                      |                        | \$                     | See Level IV-Note! Below   |  |
| 17 |   |   |  |                                      |                        |                        |  |  |
| 18 |   |   |  |                                      |                        | FBAR Penalty           | \$   |  |
| 19 |   |   |  |                                      |                        |                        |  |  |
| 20 | Level II-Note! Once the Maximum Aggregate Balance > \$50,000, Then Any Level II Penalty is applicable to each, or every, and All Accounts.                            |   |  |                                      |                        |                        |  |  |
| 21 | Maximum Aggregate Balance = Sum of all the Maximum Balances during the Calendar Year for All Accounts.  |   |  |                                      |                        |                        |  |  |
| 22 |   |   |  |                                      |                        |                        |  |  |
| 23 | Level III-Note! The Per Account Penalty is the > of 10% Maximum Balance During the Calendar Year or 50% of the Closing Balance as of June 30th in the Following Year. |   |  |                                      |                        |                        |  |  |
| 24 |   |   |  |                                      |                        |                        |  |  |
| 25 |   |   |  |                                      |                        |                        |  |  |
| 26 | Level IV-Note! For Level IV Willful FBAR Penalty Only Use the > \$100,000 or 50% of the Closing Balance as of June 30th in the Following Year.                        |   |  |                                      |                        |                        |  |  |
| 27 |   |   |  |                                      |                        |                        |  |  |
| 28 |   |   |  |                                      |                        |                        |  |  |
| 29 |   |   |  |                                      |                        |                        |  |  |
| 30 |   |   |  |                                      |                        |                        |  |  |
| 31 |   |   |  |                                      |                        |                        |  |  |
| 32 |   |   |  |                                      |                        |                        |  |  |
| 33 |   |   |  |                                      |                        |                        |  |  |
| 34 | Note!   | For Every Levels 1, 2, 3, and 4 Penalty > One Account it will be Necessary to Insert Additional Rows (with each Per Account Balance) and Copy the Row Formulas to Get the Correct FBAR Per Account Both Non-Willful and Willful Penalty Answer. |  |                                      |                        |                        |  |  |
| 35 | A)  | (The Only Exception to this is the Non-Willful Level 1 FBAR Penalty, which is correct based upon entering the Maximum Aggregate Balance in Column E and # violations).  |  |                                      |                        |                        |  |  |
| 36 |   | Thus, This Spreadsheet will have to be Adapted and Changed to get the Correct Answer. (See the Examples of Levels 2, 3, and 4 FBAR Penalties in the attached TABS for further detail).  |  |                                      |                        |                        |  |  |
| 37 |   |   |  |                                      |                        |                        |  |  |
| 38 |   |   |  |                                      |                        |                        |  |  |
| 39 |   |   |  |                                      |                        |                        |  |  |
| 40 |   |   |  |                                      |                        |                        |  |  |
| 41 |   |   |  |                                      |                        |                        |  |  |

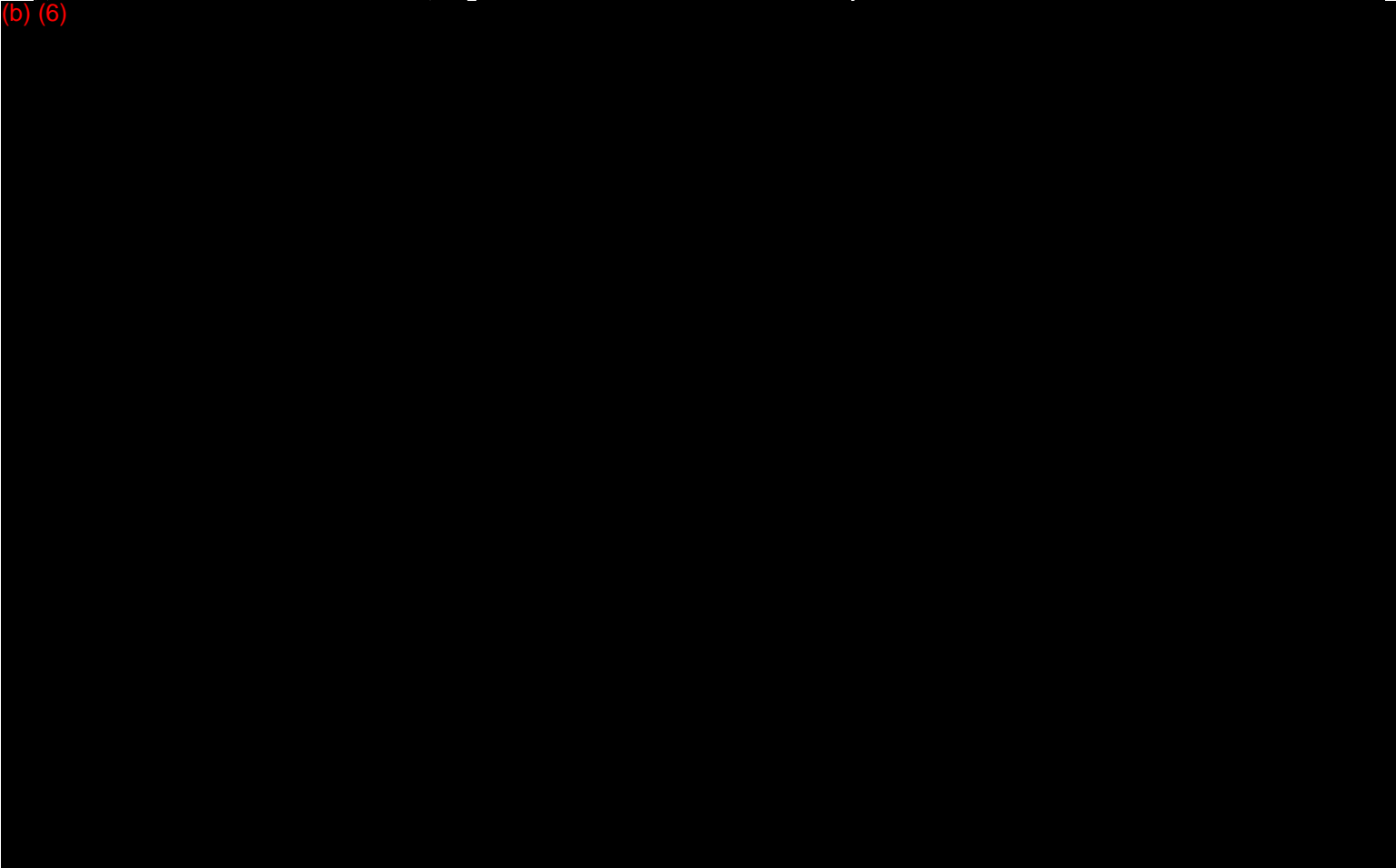
# SB/SE Examination

## AREA-FBAR-Coordinators--



| Area # | States/ Covered | Regions | FBAR Coordinator | Telephone # | Address |
|--------|-----------------|---------|------------------|-------------|---------|
|--------|-----------------|---------|------------------|-------------|---------|

(b) (6)



# 601 TAB

Foreign Account Records



# 602 TAB

Analysis of Unreported  
Foreign Income &  
Tax Omitted



