



DAVID SCHNAID ACCOUNTANCY CORPORATION
CERTIFIED PUBLIC ACCOUNTANTS

Report of Foreign Bank and Financial Accounts, Form TD F90-22.1

The Report of Financial Bank and Financial Accounts, Form TD F 90-22.1 (FBAR) is due on or before June 30th of each year. Requests for an extension of time to file an FBAR are **not** granted. The penalty for non-compliance can be up to \$10,000 for a "non-willful violation" and up to the greater of \$100,000 or 50% of the amount in the account for "willful failure" to file.

An often asked question: What should I do if I do not have the necessary information to file the FBAR form?

According to the IRS, if you do not have all the available information to file the form by the deadline, you should file as complete a form as you can and amend it when the additional or new information becomes available.

Background:

The FBAR is required for US persons who have a "financial interest" or "signatory authority" in foreign financial accounts. The IRS has extended the filing deadline for those with only signatory authority to June 30, 2011, so the impending June 30th, deadline only concerns those with financial interests in foreign account(s).

United States persons who have a "financial interest" in an account include:

1. The owner of record even if for the benefit of others.
2. A person acting as an agent on behalf of the U.S. person;
3. A corporation in which a U.S. person owns directly or indirectly more than 50% of the total value of shares of stock or more than 50% of the voting power for all shares of stock of a corporation;
4. A partnership in which a US person owns an interest in more than 50% of the profits or more than 50% of the capital of the partnership;
5. A trust in which a US person has a present beneficial interest, either directly or indirectly, in more than 50% of the assets or from which such person receives more than 50% of the current income; or
6. A trust, or person acting on behalf of the trust, that was established by a U.S. person and for which a trust protector has been appointed.

Filing the FBAR:

It may be possible that your filing requirement is unclear or you cannot obtain the required information to complete the FBAR. For example, the FBAR requires you to provide the largest balance in the account during the year. If you own an indirect interest in the account, getting the required information may be difficult.

In a case such as this, you have three choices:

1. File the FBAR late - not recommended
2. File a blank FBAR indicating "Additional information not available" or "Information to be provided upon request" - only slightly better
3. File the FBAR with all available information and attach a statement explaining in detail why the complete information could not be obtained with wording indicating that additional information will be provided upon request - best approach

We recommend you file the FBAR by the due date. The IRS has stated that penalties will not be imposed for late filings if the IRS determines that the late filing was due to reasonable cause. If a timely filed FBAR is not accepted by the IRS because it is incomplete, the statement attached to it should help establish reasonable cause.