



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

5.21.6

FEBRUARY 4, 2025

EFFECTIVE DATE

(02-04-2025)

PURPOSE

- (1) This transmits a revision of IRM 5.21.6, Foreign Financial Account Reporting.

MATERIAL CHANGES

- (1) This IRM section is being revised to add a Program Scope and Objective subsection.

EFFECT ON OTHER DOCUMENTS

IRM 5.21.6, Foreign Financial Account Reporting, dated February 18, 2016, is superseded.

AUDIENCE

The target audience is revenue officers in SB/SE Field Collection (FC).

Eric Slayback
Acting Director, Collection Policy
Small Business/Self-Employed

5.21.6

Foreign Financial Account Reporting

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5.21.6.1
(02-04-2025)
Program Scope and Objectives

- (1) **Purpose:** This IRM provides guidance to revenue officers on foreign financial reporting requirements of international taxpayers.
- (2) **Audience:** Field Collection employees, including revenue officers and revenue officer group managers, are the primary users of this IRM.
- (3) **Policy Owner:** Director, Collection Policy, SB/SE.
- (4) **Program Owner:** SB/SE, Collection Policy, Global Strategic Compliance (GSC).
- (5) **Primary Stakeholders:** SB/SE Field Collection (FC).
- (6) **Contact Information:** Email recommendations and suggested changes to this IRM to the Content Product Owner. The owner is indicated on the Product Catalog Information page which is found on the Forms/Pubs/Products IRM listing of the Media and Publications website.

5.21.6.1.1
(02-04-2025)
Background

- (1) This IRM provides guidance on sources of information that can be obtained from foreign financial account reports for taxpayers whose assets are located in foreign countries.

5.21.6.1.2
(02-04-2025)
Authority

- (1) Congress has delegated to the IRS the responsibility of administering the tax laws, known as the Internal Revenue Code, found in Title 26 of the United States Code. Congress enacts these tax laws, and the IRS enforces them.

5.21.6.1.3
(02-04-2025)
Roles and Responsibilities

- (1) The Director, Collection Policy is the executive responsible for the policy and procedures to be employed by FC personnel.
- (2) FC RO Group Managers (RO GMs) and Territory Managers(TMs)/Field Compliance Managers (FCMs) are responsible for ensuring compliance with the guidance and procedures described in this IRM.

5.21.6.1.4
(02-04-2025)
Program Management and Review

- (1) Collection Policy will conduct ad hoc International program reviews as necessary to verify compliance with IRM requirements.
- (2) FC RO GMs conduct case reviews to ensure compliance with this IRM.
- (3) The International TM/FCM and Area Director conduct operational reviews annually to evaluate program delivery and conformance to administrative and compliance requirements.

5.21.6.1.5
(02-04-2025)
Program Controls

- (1) RO GMs, as well as TMs/FCMs and Area Directors, are required to approve certain RO case actions. The IRM outlines when approval is required and the level of approval necessary.

5.21.6.1.6
(02-04-2025)
Terms and Acronyms

- (1) The table below lists commonly used acronyms and their definitions.

Acronym	Definition
BFS	Bureau of Fiscal Service
CSED	Collection Statute Expiration Date

Acronym	Definition
FATCA	Foreign Account Tax Compliance Act
FBAR	Report of Foreign Bank and Financial Accounts
FC	Field Collection
FCM	Field Compliance Manager
FCQ	FinCEN Query System
FMS	Financial Management Service
GSC	Global Strategic Compliance
IDRS	Integrated Data Retrieval System
TM	Territory Manager

5.21.6.1.7
(02-04-2025)

Related Resources

- (1) IRM resources: Additional information and guidance on international collection issues can be found in IRM 5.21.1, Overview through IRM 5.21.8, Adjustments to International Cases.
- (2) Web Resources:
 - Knowledge Management site, Collection Floor, International Tools and Actions Knowledge Base
 - Knowledge Management site, Examination Floor, International Knowledge Base.

5.21.6.2
(02-18-2016)

Introduction

- (1) Report of Foreign Bank and Financial Accounts (FBAR) is authorized by statute.
 - 31 U.S.C. §5314(a) directs the Secretary to require residents or citizens of the United States, or a person in and doing business in the United States, to keep records and/or file reports when the person makes a transaction or maintains a relationship with a foreign financial agency.
 - Section 5314(b) authorizes the Secretary of the Treasury to carry out this mandate by issuing regulations prescribing the application of the reporting requirements, including to whom the requirements apply.

5.21.6.3
(02-18-2016)

Reporting Requirements

- (1) Each U.S. person who has a financial interest in, or signature or other authority over, one or more foreign financial accounts that has an aggregate value greater than \$10,000 at any time during a calendar year is required to confirm the existence of the foreign account on Schedule B of Form 1040, and on similar schedules of other federal tax forms, as well as report the foreign accounts on FinCEN Report 114, Report of Foreign Bank and Financial Accounts (FBAR), formerly form TD F 90-22.1. The FBAR is due on or before April 15 of the year immediately following the calendar year being reported.

- (2) Beginning with the filing season starting July 1, 2013, FinCEN requires that all FBAR reports be electronically filed through their website <https://www.fincen.gov>.
- (3) Each person who is required to report an interest in foreign financial accounts must also maintain certain records of any foreign accounts.
- (4) See 31 CFR 1010.350, Reports of foreign financial accounts, and 31 CFR 1010.420, Records, to be made and retained by persons having financial interests in foreign financial accounts, for additional information regarding records.
- (5) See IRM 5.1.18.17, Foreign Bank and Financial Account Report, for information on locating records of FBAR reports filed by the taxpayer.

5.21.6.4
(02-18-2016)
Penalties

- (1) Failure to file the required report or maintain adequate records is a violation of Title 31. For each violation a penalty may be asserted.
- (2) Violations Occurring Prior to October 23, 2004 (Willful). 31 U.S.C. §5321(a)(5) authorizes a civil monetary penalty for any person who willfully violates (or willfully causes any violation of) 31 U.S.C. §5314, not to exceed the greater of:
 - a. an amount equal to the balance in the account at the time of the violation up to \$100,000, or
 - b. \$25,000.
- (3) Violations Occurring on or after October 23, 2004 (Willful): 31 U.S.C. §5321(a)(5)(C) authorizes a civil monetary penalty for any person who willfully violates (or willfully causes any violation of) 31 U.S.C. §5314 not to exceed the greater of:
 - a. an amount equal to 50% of the balance in the account at the time of the violation, or
 - b. \$100,000.

Note: The penalty can be for each violation.
- (4) Violations Occurring on or after October 23, 2004 (Non-Willful):
 - 31 U.S.C. §§ 5321(a)(5)(A) & (B) authorize a civil monetary penalty for any person who violates (or causes any violation of) 31 U.S.C. §5314 in an amount not to exceed \$10,000.
 - The penalty should not be asserted if there was reasonable cause for the violation.

Note: The penalty can be for each violation.

5.21.6.5
(11-27-2013)
Delegated Authority

- (1) Even though the penalty imposed under 31 U.S.C. §5321(a)(5) for failing to report these foreign financial interests (commonly called the FBAR penalty) is not a tax debt, the IRS has been delegated the authority to assess and collect the penalty for the government. Delegation Order 4-35, revised on March 24, 2008, authorizes revenue officers grade 9 and above to investigate possible civil violations of the FBAR requirements. This delegation order also authorizes insolvency units to protect the government's interest in bankruptcy, state and federal receiverships, and other state and federal insolvency actions.

Note: Delegation Order 25-13 eliminates the reference to Delegation 4-35.

- (2) Collection is not delegated any enforcement authority with respect to FBAR penalties.
- (3) See IRM 5.9.4.21, Report of Foreign Bank and Financial Accounts (FBARs), for information on filing claims in a bankruptcy proceeding.

5.21.6.6
(02-18-2016)
Reporting

- (1) The filing of FinCEN Report 114 by or for the taxpayer will generate an IDRS IRPTR transcript. IRPTR will only reflect the filing of the form and does **not** provide any specific information such as name of the bank, account number, account balance, other owners etc.,.
- (2) Information reported on FBARs is entered into a database known as the FinCEN Query System (FCQ). Additional information such as the name of the bank where the account is located, the amount in the account, co-owners, and other useful information may be obtained by researching the FCQ. See IRM 5.1.18.15, Accessing Information on the FinCEN Query (FCQ) System.
- (3) For additional information on FBARs, see IRM 5.9.4.21, Report of Foreign Bank and Financial Accounts (FBARs).

5.21.6.7
(02-18-2016)
CSED

- (1) The government has two years in which to file a civil action to recover an FBAR penalty beginning on the later of the date the penalty was assessed or the date any judgment becomes final in any criminal action under 31 U.S.C. §5322 in connection with the same transaction with respect to which the civil penalty was assessed. Currently, IRS has no procedures for soliciting a waiver of this two-year statute of limitations.
- (2) See IRM 5.9.4.21, Report of Foreign Bank and Financial Accounts (FBARs), for CSED considerations in bankruptcy.

5.21.6.8
(02-18-2016)
Collection of FBAR Penalties

- (1) FBAR penalties are asserted under Title 31 as a non-tax debt and do not appear on IDRS. They are tracked on a separate database at Detroit and that is where payments are posted and notices generated.

Note: FBAR penalties cannot be included on an Offer in Compromise.

- (2) The Bureau of Fiscal Service (BFS), formerly Financial Management Service (FMS), which is a bureau of the Department of the Treasury, is responsible for collecting all non-tax debts. This includes FBAR penalties.
- (3) The address below is for taxpayers to use who have questions or need to pay an FBAR penalty:

Address for taxpayers to use regarding the FBAR penalty:

Internal Revenue Service
Detroit Federal Building
P.O. Box 33115
Detroit, MI 48232

5.21.6.9

(02-18-2016)

**Foreign Account Tax
Compliance Act (FATCA)**

- (1) Foreign Account Tax Compliance Act (FATCA) is a statute written subsequent to the FBAR statute. Some taxpayers who file FBAR forms have a further requirement to file Form 8938, Statement of Specified Foreign Financial Assets, if they have specified foreign financial assets with an aggregate value exceeding \$50,000 on the last day of the tax year or \$75,000 at any time during the tax year, with higher thresholds for married individuals filing jointly and individuals living abroad.
- (2) The Form 8938 filing requirement does not replace or otherwise affect a taxpayer's obligation to file an FBAR form. Individuals must file each form for which they meet the relevant reporting threshold. See IRM Exhibit 5.21.6-1 for a comparison of these two foreign account reporting requirements.
- (3) Use IDRS command code RTVUE to view if a taxpayer filed Form 8938. The "CC CD" indicator (or Computer Condition Code) will include an "H" to indicate that Form 8938 was filed. If Form 8938 has been filed, ESTAB the return to view the return information. This may lead to the identification of a foreign asset or account.

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Exhibit 5.21.6-1 (02-18-2016)

Comparison of Form 8938 and FBAR Requirements

Comparison of requirements:	Form 8938, Statement of Specified Foreign Financial Assets	FinCEN Report 114, Report of Foreign Bank and Financial Accounts (FBAR)
Who must file?	Specified individuals, which include U.S. citizens, resident aliens, and certain non-resident aliens that have an interest in specified foreign financial assets and meet the reporting threshold. For non-residents of American Samoa and Puerto Rico, see below.	U.S. persons, which include U.S. citizens, resident aliens, trusts, estates, and domestic entities that have an interest in foreign financial accounts and meet the reporting threshold.
Does the United States include U.S. territories?	No. However, non-resident aliens that are bona fide residents of American Samoa, and Puerto Rico have a Form 8938 requirement.	Yes, resident aliens of U.S. territories and U.S. territory entities are subject to FBAR reporting.
What is the reporting threshold (total value of assets)?	\$50,000 on the last day of the tax year or \$75,000 at any time during the tax year (higher threshold amounts apply to married individuals filing jointly and individuals living abroad).	\$10,000 at any time during the calendar year.
When do you have an interest in an account or asset?	If any income, gains, losses, deductions, credits, gross proceeds, or distributions from holding or disposing of the account or asset are or would be required to be reported, included, or otherwise reflected on your income tax return.	Financial interest: you are the owner of record or holder of legal title; the owner of record or holder of legal title is your agent or representative; you have a sufficient interest in the entity that is the owner of record or holder of legal title. Signature authority: you have authority to control the disposition of the assets in the account by direct communication with the financial institution maintaining the account. See instructions for further details.
What is reported?	Maximum value of specified foreign financial assets, which include financial accounts with foreign financial institutions and certain other foreign non-account investment assets.	Maximum value of financial accounts maintained by a financial institution physically located in a foreign country.

Exhibit 5.21.6-1 (Cont. 1) (02-18-2016)**Comparison of Form 8938 and FBAR Requirements**

Comparison of requirements:	Form 8938, Statement of Specified Foreign Financial Assets	FinCEN Report 114, Report of Foreign Bank and Financial Accounts (FBAR)
How are maximum account or asset values determined and reported?	Fair market value in U.S. dollars in accord with the Form 8938 instructions for each account and asset reported. Convert to U.S. dollars using the end of the taxable year exchange rate and report in U.S. dollars.	Use periodic account statements to determine the maximum value in the currency of the account. Convert to U.S. dollars using the end of the calendar year exchange rate and report in U.S. dollars.
When due?	By due date, including extension, if any, for income tax return.	Received by June 30 (no extensions of time granted).
Where to file?	File with income tax return pursuant to instructions for filing the return.	Beginning with the filing season starting July 1, 2013, FBAR reports must be electronically filed with FinCEN. See IRM 5.21.6.2(1) above.
Are there penalties?	Up to \$10,000 for failure to disclose and an additional \$10,000 for each 30 days of non-filing after IRS notice of a failure to disclose, for a potential maximum penalty of \$60,000; criminal penalties may also apply.	If non-willful, up to \$10,000; if willful, up to the greater of \$100,000 or 50 percent of account balances; criminal penalties may also apply.

The table below compares types of foreign assets and whether they are reportable:

Types of foreign assets and whether they are reportable:	Form 8938, Statement of Specified Foreign Financial Assets	FinCEN Report 114, Report of Foreign Bank and Financial Accounts (FBAR)
Financial (deposit and custodial) accounts held at foreign financial institutions	Yes	Yes
Financial account held at a foreign branch of a U.S. financial institution	No	Yes
Financial account held at a U.S. branch of a foreign financial institution	No	No
Foreign financial account for which you have signature authority	No, unless you otherwise have an interest in the account as described above.	Yes, subject to exceptions.

Exhibit 5.21.6-1 (Cont. 2) (02-18-2016)

Comparison of Form 8938 and FBAR Requirements

Types of foreign assets and whether they are reportable:	Form 8938, Statement of Specified Foreign Financial Assets	FinCEN Report 114, Report of Foreign Bank and Financial Accounts (FBAR)
Foreign stock or securities held in a financial account at a foreign financial institution	The account itself is subject to reporting, but the contents of the account do not have to be separately reported.	The account itself is subject to reporting, but the contents of the account do not have to be separately reported.
Foreign stock or securities not held in a financial account	Yes	No
Foreign partnership interests	Yes	No
Indirect interests in foreign financial assets through an entity	No	Yes, as to foreign accounts if sufficient ownership or beneficial interest (i.e., a greater than 50 percent interest) in the entity. See instructions for further detail.
Foreign mutual funds	Yes	Yes
Domestic mutual fund investing in foreign stocks and securities	No	No
Foreign accounts and foreign non-account investment assets held by foreign or domestic grantor trust for which you are the grantor	Yes, as to both foreign accounts and foreign non-account investment assets.	Yes, as to foreign accounts.
Foreign-issued life insurance or annuity contract with a cash-value	Yes	Yes
Foreign hedge funds and foreign private equity funds	Yes	No
Foreign real estate held directly	No	No
Foreign real estate held through a foreign entity	No, but the foreign entity itself is a specified foreign financial asset and its maximum value includes the value of the real estate.	No
Foreign currency held directly	No	No
Precious metals held directly	No	No
Personal property, held directly, such as art, antiques, jewelry, cars and other collectibles	No	No

Exhibit 5.21.6-1 (Cont. 3) (02-18-2016)**Comparison of Form 8938 and FBAR Requirements**

Types of foreign assets and whether they are reportable:	Form 8938, Statement of Specified Foreign Financial Assets	FinCEN Report 114, Report of Foreign Bank and Financial Accounts (FBAR)
'Social Security'- type program benefits provided by a foreign government	No	No