

Abstract: In an increasingly global society, many taxpayers hold foreign accounts. This article explains the rules regarding who must file a Report of Foreign Bank and Financial Accounts (FBAR) with the government.

Have a foreign account? File an FBAR

Any U.S. person who has a financial interest in, or signature or other authority over, any foreign financial accounts must file a Report of Foreign Bank and Financial Accounts (FBAR) if the aggregate value of the foreign financial accounts exceeds \$10,000 at any time during the calendar year. Let's explore more of the pertinent details.

Persons and accounts

A "U.S. person" is generally a U.S. citizen, including a child. However, a U.S. person may be an individual who's a resident alien of the United States, District of Columbia, Native American lands (as defined in the Indian Gaming Regulatory Act), or the Territories and Insular Possessions of the United States.

Also qualifying as a U.S. person is an entity — including a corporation, partnership, trust or limited liability company — organized or formed under federal law or the law of any state, the District of Columbia, U.S. Territories and Insular Possessions, or Native American tribes.

A "foreign financial account" is a financial account located outside the United States. For FBAR purposes, the United States includes the states themselves as well as the District of Columbia, U.S. Territories and Insular Possessions, and Native American lands.

An account maintained with a branch of a U.S. bank that's physically located outside of the United States *is* a foreign financial account. An account maintained with a branch of a foreign bank that's physically located inside of the United States *isn't* a foreign financial account.

What defines interest

A U.S. person has a financial interest in a foreign financial account if the U.S. person is the owner of record or holder of legal title, regardless of whether the account is maintained for the benefit of the U.S. person or for the benefit of another person.

A financial interest may also exist if the owner of record or holder of legal title is one of several listed entities. These include entities controlled by the U.S. person or an agent, a nominee, an attorney or someone acting in another capacity on behalf of the U.S. person.

Penalty amounts

Civil penalties for nonwillful violations can exceed \$10,000 per violation, as adjusted for inflation. For willful violations, civil penalties can range up to the greater of \$100,000 as adjusted for inflation or 50% of the amount in the account at the time of the violation. Contact us for more information.