

ARE YOU SUBJECT TO FOREIGN REPORTING REQUIREMENTS?

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Fear of tax evasion has caused Congress and the IRS to impose substantial penalties, starting at \$10,000, for not filing certain reporting forms on foreign assets.

If you have a financial interest in, or mere signature authority over, a foreign financial account, including a bank account, brokerage account, mutual fund, trust or other type of foreign financial account you may be subject to filing requirements by the IRS. There are several forms that you need to be aware of:

- Form 8938 – Statement of Specified Foreign Assets,
- Form 3520 – Annual Return to Report Transactions with Foreign Trusts and Receipt of Certain Foreign Gifts
- Form 5471 – Information Return of US Persons with Respect to Certain Foreign Corporations.
- Form FinCEN 114 – Report of Foreign Bank and Financial Accounts

Form 8938 is required to be filed if you have an account with a value of \$50,000 at the end of the year or \$75,000 at any time during the year (higher threshold amounts apply to married individuals filing jointly and individuals living abroad).

Form 3520 is required to be filed if you have certain transactions with foreign trusts, ownership of foreign trusts or receive large gifts or bequests from certain foreign persons.

Form 5471 is required to be filed by certain U.S. citizens and residents who are officers, directors or shareholders in certain foreign corporations. Failure to file this form causes your entire tax return to remain open for audit indefinitely.

Form FinCEN114 is similar to form 8938. However, it is electronically filed with the financial crimes enforcement network, not with the IRS. Filing requirements for the FinCEN114 are applicable when accounts have a value of greater than \$10,000.

Due to the potential for large civil penalties, and perhaps even criminal liability, taxpayers need to be aware of what makes them subject to this reporting as well as vigilant about filing these forms promptly and accurately.