

June 9, 2015  
2015-072

## flash Alert

A Publication for Global Mobility and Tax Professionals by KPMG's Global Mobility Services Practice

### United States – FBAR Filing Reminder, Alternative e-Filing Method

by KPMG LLP's Washington  
National Tax practice,  
Washington, D.C. (KPMG LLP  
in the United States is a KPMG  
International member firm)

June 30, 2015 is the deadline for filing the *Report of Foreign Bank and Financial Accounts* (FinCEN Form 114, otherwise known as "the FBAR") for calendar year 2014. Covered individuals must e-file their FBAR forms using the BSA E-Filing System (<http://bsaefiling.fincen.treas.gov/main.html>). Paper filings of the former FBAR form (Form TD F 90-22.1) are not permitted.

There are no extensions for the June 30 deadline.

### Why This Matters

It is important that individuals who are covered by the FBAR rules and responsible for their own e-filing of the FBAR are aware of the rules and processes. Failure to comply with FBAR reporting requirements on a timely basis may result in significant penalties. However, an individual who has inadvertently failed to comply with the FBAR reporting requirements may be able to file delinquent FBAR forms on a penalty-free basis.

### Background in Brief: Who Must File?

A U.S. person must file an FBAR if he or she has a financial interest in, or signature or other authority over, any financial account(s) outside of the United States and the aggregate maximum value of the account(s) exceeds \$10,000 at any time during the calendar year. A U.S. person includes a U.S. citizen or resident of the United States.<sup>1</sup>

### Failure to File Penalties

Individuals who inadvertently fail to file will generally be subject to one penalty up to \$10,000 for each open year, regardless of the number of unreported accounts.<sup>2</sup>

Willful violations are generally subject to a total penalty of 50 percent of the highest aggregate balance of all unreported accounts during the years under examination. However, depending upon the facts and circumstances, a willful violator may be subject to a harsher penalty not to exceed 100 percent of the highest aggregate balance of all unreported accounts during the years under examination.

### Delinquent FBAR Submissions

Individuals who have properly reported all income related to their non-U.S. financial accounts and paid all required tax, have the opportunity file delinquent FBARs on a penalty-free basis if they are not under exam by the Internal Revenue Service (IRS) and have not been contacted by the IRS about missing FBARs. All delinquent FBARs must be filed electronically using the BSA E-Filing System. Paper filing delinquent FBARs is not permitted.

There is a six-year statute of limitations on an FBAR, starting on the due date of the FBAR (June 30), regardless of whether an FBAR is filed. Thus, the relevant years for delinquent FBARs are currently calendar years 2008-2013 (but 2008 will close on June 30, 2015).

Taxpayers who need to file delinquent or amended tax returns because income related to their non-U.S. financial accounts has not been properly reported, should consider the streamlined filing compliance procedures.<sup>3</sup>

### **Alternative E-Filing Method**

The BSA E-Filing System now offers individual filers an alternative method for filing the FBAR.<sup>4</sup> In addition to the traditional Adobe Reader enabled .pdf form, the BSA E-Filing System now supports a new online form that allows individuals to file the FBAR within their Internet browser. The new online form is designed for individual filers who are prepared to file in a single sitting, and does not allow an individual to save progress locally.

#### **KPMG Note**

An individual's FBAR filing obligations should not be confused with his Form 8938, *Statement of Specified Foreign Financial Assets* obligations (a part of the annual income tax return filing). While foreign financial accounts of a company over which an individual has signature authority (and that are reportable on the FBAR) are *not* required to be reported on Form 8938, the scope of foreign assets in which an individual has a reportable interest for purposes of Form 8938 is broader in comparison to the FBAR rules.

#### *Footnotes:*

1 For an in-depth article on FBAR filing, see: S. Friedman and T. McCormally, "[It's Spring and FBAR Reporting Is in the Air](#)," in KPMG LLP's *The Expatriate Administrator* (June 2015).

2 Interim Guidance for Report of Foreign Bank and Financial Accounts (FBAR) Penalties (SBSE-04-0515-0025) (May 13, 2015), available at: <http://www.irs.gov/pub/foia/ig/spder/SBSE-04-0515-0025%5B1%5D.pdf>.

3 For an in-depth article on the streamlined filing compliance procedures, see: S. Friedman, "[Have Undisclosed Foreign Assets? IRS Offers Options](#)," in KPMG LLP's *What's News in Tax* (July 28, 2014).

4 FinCEN Provides Additional E-Filing Method for FBAR Individual Filers (May 8, 2015), available at: <http://www.fincen.gov/whatsnew/pdf/20150511.pdf>.

\* \* \* \*

The following information is not intended to be "written advice concerning one or more Federal tax matters" subject to the requirements of section 10.37(a)(2) of Treasury Department Circular 230 as the content of this document is issued for general informational purposes only.

The information contained herein is of a general nature and based on authorities that are subject to change. Applicability of the information to specific situations should be determined through consultation with your tax adviser.

*Flash Alert* is a GMS publication of KPMG LLP's Washington National Tax practice. To view this publication or recent prior issues online, please click [here](#). To learn more about our GMS practice, please visit us on the Internet: click [here](#) or go to <http://www.kpmg.com>.