

FBAR comment

FinCEN
PO Box 39
Vienna, VA 22183

April 19, 2010

Comments on RIN 1506-AB08

Please accept the following comments on RIN 1506-AB08:

1. The Foreign Bank Account Reporting (FBAR) rule should increase the \$10,000 dollar filing threshold set in 1986 to a much larger amount such as \$100,000 or \$500,000. The value of \$10,000 in 1986 is nearly \$20,000 in 2010 based on the CPI changes alone. Using a larger amount for the threshold required for filing the FBAR would reduce the reporting burden on individuals with small foreign accounts while still requiring reports on larger accounts.
2. The FBAR rules should permit electronic filing, such as allowing the FBAR to be submitted in an electronic filing with a taxpayer's IRS tax return.
3. The rules should treat the FBAR form as filed when mailed instead of when received. The filer has no control over how long it takes the US postal system to deliver the FBAR form and should not be penalized for postal delays.
4. The proposed regulations do not state whether they would be effective prospectively or retroactively, thus leaving unclear whether they could or would be required to be relied upon in preparing FBARs for 2009 or prior years.
5. The regulation's definition of financial account is unclear whether it would apply to a safe deposit box held at a foreign bank. If such storage is intended to be covered by the regulations, then the method to determine the value of physical items contained in the safe deposit box (e.g. artwork, collectibles, gold, coins) must be prescribed. The regulation should clarify that an FBAR is not required for owners of such safe deposit boxes, regardless of the contents held within the box.
6. The regulation's definition of financial account is unclear whether gold ETFs (e.g. GLD, UGX, SGOL, IAU) are intended to be covered where the gold is held with foreign banks. The regulation should clarify that an FBAR is not required for owners of such ETF shares.
7. The regulation's definition of financial account is unclear whether it applies to physical gold held by a bank in a safekeeping account at a foreign bank. The regulation should clarify that an FBAR is not required for owners of such gold safekeeping accounts. If such storage is intended to be covered by the regulations, then the method to determine the value of the gold must be prescribed.
8. The regulation and instructions should clearly explain how to determine the value of foreign currency held in a foreign bank account. Is the exchange rate at the end of the calendar year applied or the rate on the date when the account's value was the highest?
9. The regulation should allow the deadline for filing the FBAR to be extended if the deadline for the taxpayer's IRS tax return is extended.