



This article presents general guidelines for Georgia nonprofit organizations as of the date written and should not be construed as legal advice. Always consult an attorney to address your particular situation.

Reporting Requirements for Nonprofits with Foreign Bank Accounts (FBAR)

U.S. nonprofits that operate internationally and open bank accounts in foreign countries need to be aware of the federal reporting requirements for foreign bank accounts.

What is the FBAR and what does it require?

The Report of Foreign Bank and Financial Accounts (FBAR) is an annual report filed with the United States Treasury Department to report the existence of foreign financial accounts held outside the United States.

An FBAR must be filed annually by **each United States person having an interest in, or a signature authority over, any financial account in a foreign country if the aggregate value of these accounts exceeds \$10,000 at any time during the calendar year.** FBAR reports are due by June 30 of the year following the year which the account holder meets the \$10,000 threshold.

Who is subject to the FBAR requirements?

The FBAR requirements apply to any "United States person" which is defined to include:

- a citizen or resident of the U.S. or
- a corporation (including a nonprofit corporation), partnership, or limited liability company, created or organized in the United States or under the laws of the United States.

What type of accounts have to be reported?

The FBAR requirements apply to financial accounts located outside of the United States. An account maintained with a branch of a United States bank that is physically located outside of the United States is a foreign financial account. An account maintained with a branch of a foreign bank that is physically located in the United States is not a foreign financial account.

A "financial account" includes a(n):

- Securities account
- Brokerage account
- Savings account

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- Demand account
- Checking account
- Deposit account
- Commodity futures or options account
- Insurance policy with a cash value (e.g. whole life insurance policy)
- Annuity policy with a cash value
- Shares in a mutual fund or similar pooled fund

What does it mean to have an interest in or signature authority over an account?

A person has a financial interest in every account for which he or she is the owner of record or has legal title, whether the account is for the owner's benefit or for the benefit of another. If a person has authority, alone or in conjunction with another, to control the disposition of money, funds, or other assets held in a financial account by direct communication (whether in writing or otherwise) to the person with whom the financial account is maintained, then that individual has "signature authority" over the financial account.

Filing the FBAR

If your organization meets the requirements above, then at least one FBAR must be filed on behalf of the organization. In addition, one FBAR must be filed for *each* person with signature authority over the organization's foreign account(s). For example, if your organization had a financial interest in a foreign financial account with an aggregate value of \$15,000 sometime during 2013, and four directors of the organization had signature authority over the account, then *five separate* FBARs must be filed by June 30, 2014: one on behalf of the organization, and four on behalf of each director who had signature authority.

The FBAR must be filed *electronically* using FinCEN Form 114 through the Bank Secrecy Act E-File System.¹ As of July 1, 2013, FBAR filers can no longer use form TD F 90-22.1 to report foreign financial accounts, meaning paper copies of the FBAR are no longer accepted. The FBAR is not filed with a federal tax or information return, and there are no filing extensions for the FBAR.

Third-Party Preparers

If a third-party preparer completes the FBAR, then either the filer or the third-party preparer must fill out another form, FinCEN Form 114a². Form 114a is not submitted

¹ Available at <http://bsaefiling.fincen.treas.gov/NoRegFBARFiler.html>.

² Available at <http://www.fincen.gov/forms/files/FBARE-FileAuth114aRecordSP.pdf>

with the FBAR filing, but rather it is kept in the account owner's and authorized filer's records and only submitted upon request.

Penalties for Failing to File the FBAR

A person who is required to file the FBAR but fails to do so completely or correctly may be subject to civil penalties.

Additional Resources

For more information regarding the FBAR, visit the IRS page at <http://www.irs.gov/Businesses/Small-Businesses-&-Self-Employed/Report-of-Foreign-Bank-and-Financial-Accounts-FBAR>.

If you are unsure whether you or your organization must file the FBAR or if you have questions regarding the FBAR filing process, consult with an attorney.

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