



CRYPTOCURRENCY: FBAR Reporting



Presented by



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Agenda

- What is cryptocurrency?
- IRS Treatment
- FBAR Filing Requirement
- Questions




Cryptocurrency: What is it?

- It is an algorithm and distributed data structure for managing electronic cash and contracts in a decentralized fashion.
- It is a public system protected by secured keys.
- All transactions are verified by computers with complex math problem solving capabilities which confirm and verify its accuracy and privacy.



Mainstream Cryptocurrency: Bitcoin, Blockchain, etc.

- The debits and credits activity is represented in blocks, and the chains are the beginning and ending balances.
- Each block specifies encrypted transactions, while computers work as a community to safeguard the data to avoid tampering.
- Once the computers form a decision, the block becomes “chained” and the next block begins.



Tax Rules for Cryptocurrency

Tax Rules

- Mining virtual currencies qualifies as a taxable event.
 - It is treated as property under the federal tax guidelines.
- Reporting:
 - Payments using virtual currency made to independent contractors and other service providers are taxable, and self-employment tax rules generally apply. Normally, payers must issue Form 1099-MISC.



Tax Rules

- Wages paid to employees using virtual currency are taxable to the employee, must be reported by an employer on a Form W-2.
- Certain third parties who settle payments made in virtual currency on behalf of merchants that accept virtual currency from their customers are required to report payments to those merchants on Form 1099-K, Payment Card and Third Party Network Transactions.
- The character of gain or loss from the sale or exchange of virtual currency depends on whether the virtual currency is a capital asset in the hands of the taxpayer.






Report of Foreign Bank and Financial Accounts (FBAR)

FBAR



- Who Must File the FBAR?
 - A United States person that has a financial interest in or signature authority over foreign financial accounts must file an FBAR if the **aggregate value** of the foreign financial accounts exceeds \$10,000 **at any time** during the calendar year.
- The maximum value of the accounts maintained must all be reported.
 - Example: If the balance in Account A is \$4,500 and Account B is \$5,500, the aggregate of \$10,000 must be reported at *fair market value*.

Form 114a Department of the Treasury Financial Crimes Enforcement Network (FinCEN) October 2013	Record of Authorization to Electronically File FBARs (See instructions below for completion) <u>Do not send to FinCEN. Retain this form for your records.</u>	
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Part I Persons who have an obligation to file a Report of Foreign Bank and Financial Account(s)

1. Owner last name or entity's legal name	2. Owner first name	3. Owner M. I.
4. Spouse last name (If jointly filing FBAR - see instructions below)	5. Spouse first name	6. Spouse M. I.

I/we declare that I/we have provided information concerning _____ (enter number of accounts) foreign bank and financial account(s) for the filing year ending December 31, _____ to the preparer listed in Part II; that this information is to the best of my/our knowledge true, correct, and complete; that I/we authorize the preparer listed in Part II to complete and submit to the Financial Crimes Enforcement Network (FinCEN) a Report of Foreign Bank and Financial Accounts (FBAR) based on the information that I/we have provided; and that I/we authorize the preparer listed in Part II to receive information from FinCEN, answer inquiries and resolve issues relating to this submission. I/we acknowledge that, notwithstanding this declaration, it is my/our legal responsibility, not that of the preparer listed in Part II, to timely file an FBAR if required by law to do so.

7. Owner signature (Authorized representative if entity)	8. Date MM / DD / YYYY	9. Owner or entity TIN	10. TIN type a <input type="checkbox"/> EIN b <input type="checkbox"/> SSN/TIN c <input type="checkbox"/> Foreign
11. Spouse signature	12. Date MM / DD / YYYY	13. Spouse TIN	14. TIN type a <input type="checkbox"/> EIN b <input type="checkbox"/> SSN/TIN c <input type="checkbox"/> Foreign

Part II Individual or Entity Authorized to File FBAR on behalf of Persons who have an obligation to file.

15. Preparer last name	16. Preparer first name	17. Preparer M.I.	18. Preparer PTIN
19. Address	20. City	21. State	22. ZIP/postal code
23. Country code	24. Preparer's (item 15) employer's (Entity) name	25. Employer EIN	26. Preparer's signature

Instructions for completing the FBAR Signature Authorization Record
 This is a fill and print form using Adobe Reader

This record may be completed by the individual or entity granting such authorization (Part I) OR the individual/entity authorized to perform such services. The completed record must be signed by the individual(s)/entity granting the authorization (Part I) and the individual/entity that will file the FBAR. The Preparer/filing entity must be registered with FinCEN BSA E-File system. (See <http://bsaeifiling.fincen.treas.gov/main.html> for registration).

Read and complete the account owner statement in Part I.

To authorize a third party to file the Foreign Bank and Financial Accounts Report (FBAR), the account owner should complete Part I, items 1 through 3 (as required), sign and date the document in Part I, Items 7/8 and complete items 9 and 10.

Accounts Jointly Owned by Spouses (see exceptions in the FBAR instructions)
 If the account owner is filing an FBAR jointly with his/her spouse, the spouse must also complete Part I, items 4 through 6. The spouse must also

FBAR

- Reporting and Filing:
 - The information is required to be disclosed by e-filing the FBAR, FinCEN Form 114.
 - As of 2018 the FBAR is due October 15th.

Overseas Cryptocurrency and the FBAR

Overseas Cryptocurrency

- As of today, the Financial Crimes Enforcement Network (FinCEN) has not issued guidance on whether cryptocurrencies are considered a reportable financial account.
- Filing an FBAR is an individual decision and based on the filer's risk tolerance.
- There is no tax burden for filing and FinCEN reserves the right in the future to penalize



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Overseas Cryptocurrency

- Does the cryptocurrency outside of the U.S. have an account number, provide periodic balances, and allow you access to the funds?
 - If yes, this is similar to a bank and/or investment account which is reportable for FBAR purposes.
- Computer storage = Personal Wallet:
 - Not reportable since it is not held with a financial institution.
- Form 8938 Reporting:
 - Similar to the FBAR
 - The IRS has not issued guidance on whether it is reportable on Form 8938.

Let's Connect



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