

HW Hot Topics Article 2018-08 FINCEN and Other Filings for Foreign Activities

HW Hot Topics articles are brief summaries of a topic, for clients to gain a general understanding. We intend for the information to answer the “quick questions” and to advance the dialog when we provide further analysis and planning.

FINCEN

FINCEN is the acronym for Financial Crimes Enforcement Network, an agency of the U.S. Treasury. That is the agency that requires filings about foreign bank accounts, and other information. The penalties for not filing or not reporting fully and accurately are severe. The basic penalty is \$10,000 per failure. The penalty may be as much as 50% of the account balance.

For example, in the case of Mindy Norman, a teacher with a Swiss bank account at Union Bank Switzerland (UBS), the penalty was \$803,530. In the case, the finding was “reckless disregard” for the law; therefore, a willful violation and the 50% penalty. Her defense of ignorance was rejected, as a conscious effort to avoid learning. The lesson is that ignorance of the law is willful and reckless.

A FINCEN filing is required if the maximum balance in foreign accounts exceeds \$10,000 at any time during the year. The maximum balance is the sum of all accounts in which the taxpayer owns an interest or has signature authority. FINCEN is an annual filing, required for each year the threshold is met.

Other Filings

Other filings that may be required for foreign activities are as follows.

Form 8938, Statement of Specified Foreign Financial Assets – required when the total value of reportable assets exceeds the following thresholds:

	<u>End of year</u>	<u>Any time during year</u>
Unmarried taxpayer living in the US	\$ 50,000	\$ 75,000
“ “ living outside the US	200,000	300,000
Married filing jointly living in the US	100,000	150,000
“ “ “ living outside the US	400,000	600,000

Form 5471, Information Return of U.S. Persons With Respect to Certain Foreign Corporations

Form 3520, Annual Return to Report Transactions with Foreign Trusts and Receipt of Certain Foreign Gifts

Form 2555, Foreign Earned Income

Form 1116, Foreign Tax Credit

HW stands ready to help keep you in compliance. Contact your CPA if you would like further guidance.