

Foreign Reporting Forms

Foreign Accounts: U.S. citizens, resident aliens and certain nonresident aliens are required to report worldwide income from all sources. By law, U.S. taxpayers are not permitted to use offshore accounts, such as foreign bank and securities accounts as well as trusts, to avoid paying tax. Form 1040, Schedule B, Part III asks about the existence of foreign accounts. If applicable, information also needs to be provided on FinCEN 114 and Form 8938. Beginning in 2016, Form 8938 also applies to corporations, partnerships and trusts.

Form Number	Form Title	Description of Form / Thresholds for Filing	Due Date / How Filed / PFX worksheets	Penalties (<i>unintentional non-compliance</i>)
FinCEN 114 aka FBAR	Report of Foreign Bank and Financial Accounts <i>Not an IRS FORM</i> Financial Crimes Enforcement Network (bureau of Dept. of Treasury)	Disclosure of foreign assets by a US person holding a financial interest or signature authority; aggregate value of all foreign financial accounts exceeds \$10,000 at any time during calendar year Note that statute of limitations is 6 years, and burden of proof regarding compliance intention is on taxpayer	April 15, can be extended up to six months Must be filed electronically <i>Foreign > 114 and 8938</i>	up to \$10,000
8938	Statement of Specified Foreign Financial Assets	Filed in addition to FBAR (different agency). For taxpayers & entities living in the U.S.: Aggregate value of specified foreign financial assets > \$50,000 on last day of tax year, or \$75,000 at any time during year (doubled for MFJ) For taxpayers & entities domiciled outside the U.S.: Aggregate value of specified foreign financial assets > \$200,000 on last day of tax year, or \$300,000 at any time during year (doubled for MFJ). Does not include foreign stocks held in a US brokerage account, and some exceptions for assets disclosed on other forms	Filed with tax return <i>Foreign > 114 and 8938</i>	Up to \$10,000

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Individuals: Certain investments trigger foreign reporting requirements for individual taxpayers. The most common is Form 1116, to claim tax withheld on foreign dividend income. Increasingly, publicly traded partnership investments and hedge funds are passing through ownership in foreign entities, creating foreign reporting requirements (most commonly Form 8621).

Form Number	Form Title	Description of Form / Thresholds for Filing	Due Date / How Filed / PFX worksheets	Penalties (<i>unintentional non-compliance</i>)
1116	Foreign Tax Credit	Computation of foreign tax credits to be claimed by an individual, trust or estate. Separate form filed for each category: passive income, general income, other income. Investment income is passive, earned income is general. Form 1040 filer may elect to claim credit without form if all foreign is passive, reported on Form 1099 or K-1, and taxes paid are < \$300 (<\$600 MFJ).	Filed with tax return <i>Credits > 1116</i>	
2555	Foreign Earned Income	Used by U.S. citizens and U.S. resident aliens to claim an exclusion for income earned from a foreign source. Foreign earned income up to \$103,900 (2018 amount) and housing allowance may be excluded, if taxpayer meets the tax home test (physical residence outside of U.S.) and either the bona fide residence test or physical presence test. Eliminates double taxation, since earned income will most likely be taxed by country where earned.	Filed with tax return, 2-month extension if living outside U.S. <i>Foreign > 2555</i>	

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1040NR	U.S. Nonresident Alien Income Tax Return	<p>A resident alien meets the green card test or the substantial presence test, and files Form 1040 (except first year – see Pub. 519).</p> <p>A nonresident alien does not pass either of those tests, and must file Form 1040NR if engaged in business in the U.S. (even if no income), or received income from US sources. Exceptions: only U.S. trade or business was performance of personal services; wages < \$4,050; certain teaching/trainee under visa program. Also applies to estates/trusts.</p>	<p>Generally, 15th day of 4th month after tax year ends. If no wages, 15th day of 6th month after tax year ends.</p> <p><i>Foreign > 1040NR</i></p>	<p>5% of amount due for each month, up to 25% for late filing; .05% late payment</p>
8840	Closer Connection Exception Statement for Aliens	<p>Without Form 8840, a non-U.S. citizen may be subject to U.S. income tax on worldwide income if deemed to be a resident alien because they had a substantial presence in the U.S. Use this form to claim that the foreign resident has a closer connection to a foreign country and not a U.S. tax resident. Filed if foreign resident is physically present in the U.S. < 183 days in calendar year, but > 182 days under the §7701(b) substantial presence test” (three year formula).</p>	<p>File with Form 1040NR, or (if not filing 1040NR) separately, using same due date</p> <p><i>Foreign > 1040NR</i></p>	

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8621	Information Return by a Shareholder of Passive Foreign Investment company or Qualified Electing Fund	<p>Filed if a U.S. taxpayer has an ownership interest in a Passive Foreign Investment Company (PFIC). Report type of interest, FMV of interest, dividends and/or gains from sale of stock of PFIC. Also used for Qualifying Electing Fund and Mark-to-Market options.</p> <p>A foreign corporation is considered a PFIC if:</p> <ul style="list-style-type: none"> • At least 75% of gross income for taxable year is passive • At least 50% of average assets held produce passive income <p>The default tax treatment for a PFIC is the “tax and interest regime.” These PFICs are referred to as “1291 Funds”. The tax and interest regime functions as follows:</p> <ul style="list-style-type: none"> • Applies to distributions/gains in excess of 125% of average distributions for prior 3 years • Income/gain is allocated pro rata to each day taxpayer’s holding period • Tax is computed on amount in each holding period tax year at highest rate 	<p>Filed with tax return</p> <p>If no tax return required, may be filed separately</p> <p><i>Foreign > 8621</i></p>	

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		<ul style="list-style-type: none"> • Interest is calculated on prior year's "unpaid" tax • Sum of prior year tax and interest and current year income's tax on current year income is reported in the current year <p>A taxpayer may elect out of the tax and interest regime by making a QEF election; this essentially puts the PFIC income taxation similar to an investment in a mutual fund.</p> <ul style="list-style-type: none"> • Once elected, it is in effect for all future years. The election applies to shares acquired in the election year and the future. • The election is only applicable to a particular PFIC – multiple elections may be made for multiple PFICs • Generally, the QEF election may only be made in the first year of ownership • There are three additional elections available to purge a prior year PFIC for which a QEF election was not made. 		

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		<p>PFIC shareholders may also make an election each year to recognize gain or loss on the shares as if they had been sold at FMV (mark-to-market)</p> <ul style="list-style-type: none"> • Shares subject to mark-to-market are not subject to the tax and interest regime. <p>There is no de minimus threshold for filing.</p>		
8288	U.S. Withholding Tax Return for Dispositions by Foreign Persons of U.S. Real Property Interests	<p>Form 8288 reports aggregate withholding of tax under §1445 by buyers of U.S. real property interests from foreign sellers</p> <p>Form 8288-A reports taxes withheld from each foreign seller (copies provided to seller and to IRS)</p> <p>Form 8288-B filed by foreign seller requesting reduction in the amount of withholding tax</p>	20 th day after date of transfer	
926	U.S. Return by a Transferor of Property to a Foreign Corporation	Used to report transfers of property to foreign corporations. Report transfers of cash to foreign corporations if:	File with tax return for year of transfer <i>Other > 926</i>	10% of FMV @ time of transfer, limited to \$100,000, may be waived for

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		<ul style="list-style-type: none"> • Immediately after transfer, US transferor holds $\geq 10\%$ of total voting power or total value <p>or</p> <ul style="list-style-type: none"> • the amount of cash transferred in 12 month period exceeds \$100,000 <p>For partnerships, the filing requirement is at the <i>partner</i> level</p>		reasonable cause
5471	Information Return of U.S. Persons with Respect to Certain Foreign Corporations	<p>Used by U.S. persons who are officers, directors, or shareholders in certain foreign corporations. Common filing categories:</p> <ul style="list-style-type: none"> • $\geq 10\%$ of stock of foreign corporation, total value interest, or voting power • U.S. resident with controlling interest (via voting power or value) for at least 30 days during the year <p>Five categories of filers, however Category 1 was repealed. Level of disclosure depends upon category of filer. Generally, will report the balance sheet and income statement for the reporting period, as well as current earnings and profits, subpart F income, and other information.</p>	<p>Filed with tax return</p> <p><i>Foreign > 5471</i></p>	\$10,000 for certain types of information

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8858	Information Return of U.S. Persons With Respect to Foreign Disregarded Entities	Used to report direct and indirect ownership in a foreign disregarded entity (FDE). Filers include direct owners, persons who file Form 5471 for interest in a controlled foreign corporation that is a tax owner of a FDE, persons who file Form 8865 for interest in a controlled foreign partnership that is a tax owner of a FDE.	Filed with tax return <i>Other > 8858</i>	\$10,000, plus reduction of foreign taxes available for credit
8886	Reportable Transaction Disclosure Statement	<p>Not limited to foreign transactions, but used to report 5 categories of reportable transactions. Common foreign category is loss transaction. Thresholds:</p> <ul style="list-style-type: none"> • ≥ \$10 million in a single year or \$20 million in any combination of tax years for corporations or certain partnerships • ≥ \$2 million in a single year or \$4 million in any combination of tax years for other partnerships, S Corps, individuals and trusts <p>≥ \$50,000 in a single year for individuals or trusts, if loss is attributable to a foreign currency transaction.</p>	Filed with tax return <i>Other > 8886</i>	75% of the reduction in the tax that would have resulted if properly reported

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8865	Return of U.S. Persons With Respect to Certain Foreign Partnerships	<p>Used to report information about controlled foreign partnerships, transfers to foreign partnerships, and acquisitions, dispositions and changes in foreign partnership interests. Separate form for each partnership. Schedule K-1 provided to partners. Disclosure and schedules depend upon five Categories of filers:</p> <ul style="list-style-type: none"> • Category 1 Control through more than 50% interest in partnership • Category 2 Control through 10% or more interest when the partnership is controlled by U.S. persons each owning at least 10% interest. • Category 3 Control through contributed property resulting in at least 10% interest or value exceeding \$100,000 in 12-month period • Category 4 Reportable event: acquisition, disposition, change in proportional interest (10% thresholds) 	<p>Filed with tax return; filed separately if no tax return required</p> <p><i>Foreign > 8865</i></p>	<p>\$10,000 for Category 1, 2 and 4; 10% FMV at time of transfer for Category 3 (limited to \$100,000)</p>
8833	Treaty-Based Return Position Disclosure Under §6114 or §7701(b)	<p>Filed if nonresident alien or foreign corporation takes the position that certain items of income are not subject to U.S. tax based upon the provisions of a U.S. income tax treaty. If not timely filed, can still argue income not taxable, but subject to penalties for failure to file</p>	File with Form 1040NR	\$1,000 individual

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Form Number	Form Title	Description of Form / Thresholds for Filing	Due Date / How Filed / PFX worksheets	Penalties (<i>unintentional non-compliance</i>)
3520	Annual Return to Report Transactions With Foreign Trusts and Receipt of Certain Foreign Gifts	<p>Disclosure of foreign trust ownership and activity. Four parts:</p> <ul style="list-style-type: none"> • Part I Transfers by U.S. persons to a foreign trust • Part II U.S. owner of foreign trust assets disclosure • Part III Distributions to a U.S. person from a foreign trust • Part IV U.S. recipients of gifts / bequests from foreign persons 	<p>Filed with tax return</p> <p><i>Foreign > 3520</i></p>	<p>greater of \$10,000 or 35% of gross value of transfer or distribution, or 5% of gross value of assets owned by U.S. person</p>
3520A	Annual Information Return of Foreign Trust With a U.S. Owner	<p>Report transactions with and transfers to foreign trust by U.S. Grantors under §679. Includes annual statements to be provided to U.S. owners and U.S. beneficiaries. Five parts:</p> <ul style="list-style-type: none"> • Part I Information to be reported by U.S. owner of foreign trust • Part II Foreign Trust Income Statement • Part III Foreign Trust Balance Sheet • Foreign Grantor Trust Owner Statement • Foreign Grantor Trust Beneficiary Statement <p>Provide Statements to U.S. owners/beneficiaries</p>	<p>15th day of 3rd month after trust tax year</p> <p>Extend via Form 7004.</p> <p><i>Foreign > 3520-A</i></p>	<p>Greater of \$10,000 or 5% of gross value of assets owned by U.S. person</p>

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Withholding Status Forms

Form Number	Form Title	Description of Form / Thresholds for Filing	Due Date / How Filed / PFX input sheets	Penalties (for unintentional non-compliance)
8233	Exemption From Withholding on Compensation for Independent (and Certain Dependent) Personal Services of a Nonresident Alien Individual	Filed by a nonresident alien claiming the benefits of an income tax treaty with respect to certain independent or dependent services. Fully executed copies submitted to U.S. withholding agent to reduce or avoid 30% withholding tax.	U.S. withholding agent must file copy with IRS within 5 days of receipt of fully executed form	
W-8 BEN	Certificate of Foreign Status of Beneficial Owner for U. S. Tax Withholding and Reporting (Individuals)	W-9 equivalent for foreign individual Proof that recipient is a foreign person	Provide to withholding agent	
W-8BEN-E	Certificate of Status of Beneficial Owner for U.S. Tax Withholding and Reporting	W-9 equivalent for foreign entity 28 categories of foreign entities	Provide to withholding agent	
W-8 ECI	Certificate of Foreign Person's Claim That Income is Effectively Connected With the Conduct of a Trade or Business in the U.S.	Filed to claim exemption from withholding under §1441 or §1442.	Provide to withholding agent	
W-8 IMY	Certificate of Foreign Intermediary, Foreign Flow-Through Entity, or Certain U.S. Branches for U.S. Tax Withholding and Reporting	Filed by foreign partnerships, trusts, other flow-thru entities which are not the beneficial owner of the items of income being paid to foreign entity; need to attach Form W-8 BEN for each ultimate beneficial owner.	Provide to withholding agent	

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Businesses (some forms apply to individuals and businesses)

Form Number	Form Title	Description of Form / Thresholds for Filing	Due Date / How Filed / PFX input sheets	Penalties (for unintentional non-compliance)
1120F	U.S. Income Tax Return of a Foreign Corporation	<p>Foreign corporation</p> <ul style="list-style-type: none"> • engaged in trade or business in U.S. (even if no income, and even if under treaty) • with income , gains or losses effectively connected with the conduct of a U.S. trade or business • Not engaged in trade or business, but had income from U.S. source with tax liability not fully satisfied by withholding of tax at source under Chapter 3. (if withholding satisfied, no filing required) • Claim for refund of overpayment of tax 	<p>15th day of 4th month after tax year end, extend via Form 7004</p> <p><i>Other Returns > 1120-F</i></p>	<p>5% of unpaid tax per month, up to 25% for late filing, .5% for late pmt.</p>
1118	Foreign Tax Credit – Corporations	<p>Computation of foreign tax credits to be claimed by a corporation – similar to Form 1116</p>	<p>Filed with tax return</p> <p><i>Foreign > 1118</i></p>	

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Form Number	Form Title	Description of Form / Thresholds for Filing	Due Date / How Filed / PFX input sheets	Penalties (for unintentional non-compliance)
1042	Annual Withholding Tax Return for U.S. Source Income of Foreign Persons	<p>Issued to foreign taxpayers receiving U.S. source income that is subject to withholding, <i>even if no amount is withheld or required to be withheld from the payment</i>. Filed by withholding agent. Similar to Form 1099 and W-2 processing.</p> <p>Income to be reported is covered under Chapters 3 and 4 of Subtitle A of IRC; essentially: U.S. sourced fixed, determinable, annual or periodic (FDAP)</p>	<p>March 15 (all copies), extension through Form 7004</p> <p>1042-S to recipient, 1042-S and 1042-T to IRS</p>	<p>5% of unpaid tax per month, up to 25% for late filing, .5% for late pmt. May also be subject to \$100 per form penalty</p>
8804 8804-C 8805 8813	Annual Return for Partnership Withholding Tax (§1446)	<p>Series of forms for withholding of tax by partnership for effectively connected income of foreign partners. Form 8805 is filed separately for each foreign partner. Form 8804 is the summary schedule filed by the partnership. Form 8813 is the payment voucher.</p> <p>Form 8813 is filed quarterly, Forms 8804 and 8805 are annual statements.</p>	<p>Form 8813: 15th day of 4th, 6th, 9th and 12th months.</p> <p>Forms 8804 & 8805: 15th day of 4th month following close of tax year.</p>	<p>5% of unpaid tax per month, up to 25% for late filing</p>
8621	Information Return by a Shareholder of Passive Foreign Investment company or Qualified Electing Fund	<i>See individual forms description</i>	<p>Filed with tax return</p> <p><i>Foreign > 8621</i></p>	

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5471	Information Return of U.S. Persons with Respect to Certain Foreign Corporations	Used by U.S. citizens/residents who are officers, directors, or shareholders in certain foreign corporations. Common filing categories: <ul style="list-style-type: none"> • $\geq 10\%$ of stock of foreign corporation, total value interest, or voting power • U.S. resident with controlling interest (via voting power or value) for at least 30 days during the year (See also individual forms description)	Filed with tax return <i>Foreign > 5471</i>	\$10,000 for certain types of information
5472	Information Return of a 25% Foreign-Owned U.S. Corporation of a Foreign Corporation Engaged in U.S. Trade or Business	Filed annually by U.S. corporation with $\geq 25\%$ foreign shareholders. Report all intercompany transactions between the U.S. reporting company and all related foreign persons. File a separate form for each 25% foreign shareholder.	Filed with tax return <i>Foreign > 5472</i>	\$10,000
8833	Treaty-Based Return Position Disclosure Under §6114 or §7701(b)	Filed if nonresident alien or foreign corporation takes the position that certain items of income are not subject to U.S. tax based upon the provisions of a U.S. income tax treaty. If not timely filed, can still argue income not taxable, but subject to penalties for failure to file	File with Form 1120F <i>Foreign > 1120-F</i>	\$10,000 corporation

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Form Number	Form Title	Description of Form / Thresholds for Filing	Due Date / How Filed / PFX input sheets	Penalties (for unintentional non-compliance)
8886	Reportable Transaction Disclosure Statement	<p>Not limited to foreign transactions, but used to report 5 categories of reportable transactions. Common foreign category is loss transaction.</p> <p>Thresholds:</p> <ul style="list-style-type: none"> • ≥ \$10 million in a single year or \$20 million in any combination of tax years for corporations or certain partnerships • ≥ \$2 million in a single year or \$4 million in any combination of tax years for other partnerships, S Corps, individuals and trusts <p>≥ \$50,000 in a single year for individuals or trusts, if loss is attributable to a foreign currency transaction.</p>	<p>Filed with tax return</p> <p><i>Other > 8886</i></p>	<p>75% of the reduction in the tax that would have resulted if properly reported</p>