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## 美国税务居民申报海外金融账户FBAR的注意事项

### 什么是FBAR

根据美国《银行保密法》(The Bank Secrecy Act) 的规定, 美国的纳税居民在1月1日至12月31日任一时间点拥有或支配海外金融帐户, 并且所有账户加总金额超过1万美元等值的存款额的话, 这些个人都必须向美国财政部 (Department of Treasury) 申报 FinCEN 114外国银行和财务账号申报表, 即Report of Foreign Bank and Financial Accounts (简称FBAR)。海外金融账户包括您有财务利益, 签署权, 或其他(可动用)权利的海外账户比如个人或企业的银行帐户或资产管理账户。金额的计算包括存款、衍生性金融商品、债券, 有价证券及有现金价值的保险单等金融资产。

### FBAR的申报

美国税法定义的纳税居民范围非常广, 包括美国公民、永久居民(即绿卡持有人)、还包括但不仅限于在美国或被美国法律制约的以其他任何形式创建或组织的实体比如合伙企业、公司、有限责任公司以及根据美国法律成立的遗产或信托机构。从2017年开始, FBAR的截止日期更改到每年的4月15日, 将会与美国个人所得税表的截止日期相同。申报人可以申请6个月的延期, 即延期至10月15日 (2017年之前FBAR截止日期是每年的6月30日)。纳税人需注意的是, FBAR是向美国财政部 (Department of Treasury) 提交申报的, 而不是美国国税局(Internal Revenue Services, IRS)。

114表不仅需要披露申报人的基本信息, 还且需注明金融机构名称、地址、帐户类型、账户号码以及当年年度最高余额。如果申报人与他人联合拥有金融账户时, 也需提供共同拥有人的基本信息; 如果申报人对

金融账户有签字权但无任何权益，此时需提供账户真实拥有人的姓名；如果申报人是公司，也需提供关于公司合并报表中子公司的金融账户信息；如果账户币种不是美元，申报人应使用美国财政部公布的期末汇率进行换算。若使用定期账单，应合理反映该账户年度中的最高价值。此外，从**2013年7月1日**起，财政部已经不接受纸质申报了。所以目前都是通过财政部网站的电子申报系统进行申报的。基于上述规定，纳税人最好请经验丰富的税务师来代理为您申报**FBAR**，以避免延误或提供错误信息，导致不必要的罚款。

## 未申报**FBAR**的后果

依美国法律规定，拒绝申报海外账户者要负民事或刑事责任或两种处罚同时进行。未申报海外金融账户的民事责任的追溯期为**6年**。如果是疏忽导致，最高罚款**500美元**；过失违反，每项过失违反最高处罚是**1万美元**；经常性疏忽违反，额外罚款不超过**5万美元**；明知而故意申报错误，最高可处**10万美元**的如果是故意未申报**FBAR**或者未留存账户记录，罚款为每年账户最高余额的**50%**或**10万美元**，取两者选较高者，同时刑事处罚为最高**50万美元**的罚款或者**10年**以下的刑期。

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