



Do I need to file Form 8938, Statement of Specified Foreign Financial Assets?

Certain U.S. taxpayers holding specified foreign financial assets with an aggregate value exceeding \$50,000 will report information about those assets on new Form 8938, which must be attached to the taxpayer's annual income tax return. Higher asset thresholds apply to U.S. taxpayers who file a joint tax return or who reside abroad (see below).

Form 8938 reporting applies for specified foreign financial assets in which the taxpayer has an interest in taxable years starting after March 18, 2010. For most individual taxpayers, this means they will start filing Form 8938 with their 2011 income tax return.

For tax years beginning after December 31, 2015, certain domestic corporations, partnerships, and trusts that are formed or availed of for the purpose of holding, directly or indirectly, specified foreign financial assets (specified domestic entities) must file Form 8938.

- If you do not have to file an income tax return for the tax year, you do not need to file Form 8938, even if the value of your specified foreign assets is more than the appropriate reporting threshold.
- If you are required to file Form 8938, you do not have to report financial accounts maintained by:
 - a U.S. payer (such as a U.S. domestic financial institution),
 - the foreign branch of a U.S. financial institution, or
 - the U.S. branch of a foreign financial institution.

Refer to Form 8938 instructions for more information on assets that do not have to be reported.

You must file Form 8938 if:

1. You are a specified person (either a specified individual or a specified domestic entity).

A specified individual is:

- A U.S. citizen
- A resident alien of the United States for any part of the tax year (see Publication 519 for more information)
- A nonresident alien who makes an election to be treated as resident alien for purposes of filing a joint income tax return

- A nonresident alien who is a bona fide resident of American Samoa or Puerto Rico (See Publication 570 for definition of a bona fide resident)

A specified domestic entity is:

- A domestic corporation that is closely held by a specified individual and where at least 50 percent of the corporation's gross income is passive or at least 50 percent of its assets produce or are held for the production of passive income (see Passive income and Percentage of passive assets held by a corporation or partnership, in Form 8938 instructions).
- A domestic partnership that is closely held by a specified individual and where at least 50 percent of the partnership's gross income is passive or at least 50 percent of its assets produce or are held for the production of passive income (see Passive income, and Percentage of passive assets held by a corporation or partnership, in Form 8938 instructions).
- A domestic trust described in section 7701(a)(30)(E) that has one or more specified persons (a specified individual or a specified domestic entity) as a current beneficiary.

AND

2. You have an interest in specified foreign financial assets required to be reported.

A specified foreign financial asset is:

- Any financial account maintained by a foreign financial institution, except as indicated above
- Other foreign financial assets held for investment that are not in an account maintained by a US or foreign financial institution, namely:
 - Stock or securities issued by someone other than a U.S. person
 - Any interest in a foreign entity, and
 - Any financial instrument or contract that has as an issuer or counterparty that is other than a U.S. person.

Refer to the Form 8938 instructions for more information on the definition of a specified foreign financial assets and when you have an interest in such an asset.

AND

3. The aggregate value of your specified foreign financial assets is more than the reporting thresholds that applies to you:

- **Unmarried taxpayers living in the US:** The total value of your specified foreign financial assets is more than \$50,000 on the last day of the tax year or more than \$75,000 at any time during the tax year
- **Married taxpayers filing a joint income tax return and living in the US:** The total value of your specified foreign financial assets is more than \$100,000 on the last day of the tax year or more than \$150,000 at any time during the tax year
- **Married taxpayers filing separate income tax returns and living in the US:** The total value of your specified foreign financial assets is more than \$50,000 on the last day of the tax year or more than \$75,000 at any time during the tax year.
- **Taxpayers living abroad. You are a taxpayer living abroad if:**

- You are a U.S. citizen whose tax home is in a foreign country and you are either a bona fide resident of a foreign country or countries for an uninterrupted period that includes the entire tax year, or
- You are a US citizen or resident, who during a period of 12 consecutive months ending in the tax year is physically present in a foreign country or countries at least 330 days.

If you are a taxpayer living abroad you must file if:

- You are filing a return other than a joint return and the total value of your specified foreign assets is more than \$200,000 on the last day of the tax year or more than \$300,000 at any time during the year; or
 - You are filing a joint return and the value of your specified foreign asset is more than \$400,000 on the last day of the tax year or more than \$600,000 at any time during the year.
- **Specified Domestic Entities:** The total value of your specified foreign financial assets is more than \$50,000 on the last day of the tax year or more than \$75,000 at any time during the tax year.

Refer to the Form 8938 instructions for information on how to determine the total value of your specified foreign financial assets.

Reporting specified foreign financial assets on other forms filed with the IRS.

If you are required to file a Form 8938 and you have a specified foreign financial asset reported on Form 3520, Form 3520-A, Form 5471, Form 8621, Form 8865, or Form 8891, you do not need to report the asset on Form 8938. However, you must identify on Part IV of your Form 8938 which and how many of these form(s) report the specified foreign financial assets.

Even if a specified foreign financial asset is reported on a form listed above, if you are a specified individual, you must still include the value of the asset in determining whether the aggregate value of your specified foreign financial assets is more than the reporting threshold that applies to you. If you are a specified domestic entity, exclude the value of any specified foreign financial asset reported on another form listed in Part IV, to determine if you satisfy the applicable reporting threshold.