

# Financial Crimes Enforcement Network

Review and discussion of the  
**Report of Cash Payments Over \$10,000  
Received in a Trade or Business  
FinCEN Form 8300**

## Legal Requirement

- Section 6050I (26 United States Code (U.S.C.) 6050I) and 31 U.S.C. 5331 require that certain information be reported to the IRS and the Financial Crimes Enforcement Network (FinCEN). This information must be reported on FinCEN Form 8300. The information is filed electronically through the FinCEN BSA E-Filing System (<http://bsaefiling.fincen.treas.gov/main.html>).

## Who must file?

- Each person engaged in a trade or business who, in the course of that trade or business, receives more than \$10,000 in cash in one transaction or in two or more related transactions, must file Form 8300.
- Any transactions conducted between a payer (or its agent) and the recipient in a 24-hour period are related transactions. Transactions are considered related even if they occur over a period of more than 24 hours if the recipient knows, or has reason to know, that each transaction is one of a series of connected transactions.

## Who must file (Cont'd)

- Clerks of federal or state courts must file Form 8300 if more than \$10,000 in cash is received as bail for an individual(s) charged with certain criminal offenses.
- For these purposes, a clerk includes the clerk's office or any other office, department, division, branch, or unit of the court that is authorized to receive bail. If a person receives bail on behalf of a clerk, the clerk is treated as receiving the bail. See *Item 33* under *Part III*, later.

## Who must file (Cont'd)

- Casinos also must file Form 8300 for nongaming activities (restaurants, shops, etc.).
- Form 8300 may be filed **voluntarily** for any suspicious transaction (see *Definitions*, later) for use by FinCEN, law enforcement, and the IRS, even if the total amount does not exceed \$10,000.

## Exceptions.

**Cash is not required to be reported if it is received:**

- By a financial institution required to file FinCEN Form 112, FinCEN Currency Transaction Report or CTR;
- By a casino required to file (or exempt from filing) FinCEN Form 112, FinCEN CTR, if the cash is received as part of its gaming business;
- By an agent who receives the cash from a principal, if the agent uses all of the cash within 15 days in a second transaction that is reportable on Form 8300 or on FinCEN Form 112, and discloses all the information necessary to complete Part II of Form 8300 or FinCEN Form 112 to the recipient of the cash in the second transaction;

## Exceptions (Cont'd).

- In a transaction occurring entirely outside the United States. See IRS Publication 1544, Reporting Cash Payments of Over \$10,000 (Received in a Trade or Business), regarding transactions occurring in Puerto Rico and territories and possessions of the United States; or
- In a transaction that **is not** in the course of a person's trade or business.

## When and Where to File

- File Form 8300 by the 15th day after the date the cash was received. If that date falls on a Saturday, Sunday, or legal holiday, file the form on the next business day.
- File the form electronically with FinCEN through the BSA E-Filing System (<http://bsaefiling.fincen.treas.gov/main.html>).
- As a backup the form may be filed with the Internal Revenue Service, Detroit Computing Center, P.O. Box 32621, Detroit, MI 48232 (Not the preferred method).

## ! Statement to be provided !

- You **must** give a **written or electronic** statement to each person named on a required Form 8300 on or before January 31 of the year following the calendar year in which the cash is received.
- The statement must show the name, telephone number, and address of the information contact for the business, the aggregate amount of reportable cash received, and that the information was furnished to FinCEN and the IRS.
- Keep a copy of the statement for your records.

## Multiple payments.

- If you receive more than one cash payment for a single transaction or for related transactions, you must report the multiple payments any time you receive a total amount that exceeds \$10,000 within any 12-month period.
- Submit the report within 15 days of the date you receive the payment that causes the total amount to exceed \$10,000.
- If more than one report is required within 15 days, you may file a combined report. File the combined report no later than the date the earliest report, if filed separately, would have to be filed.

# Taxpayer identification number (TIN).

- You must furnish the **correct** TIN of the person or persons from whom you receive the cash and, if applicable, the person or persons on whose behalf the transaction is being conducted. You may be subject to penalties for an incorrect or missing TIN.
- The TIN for an individual (including a sole proprietorship) is the individual's social security number (SSN).
- For certain resident aliens who are not eligible to get an SSN and nonresident aliens who are required to file tax returns, it is an IRS Individual Taxpayer Identification Number (ITIN).
- For other persons, including corporations, partnerships, and estates, it is the employer identification number (EIN).

## Exceptions:

- You are not required to provide the TIN of a person who is a nonresident alien individual or a foreign organization if that person or foreign organization:
  - Does not have income effectively connected with the conduct of a U.S. trade or business;
  - Does not have an office or place of business, or a fiscal or paying agent in the United States;
  - Does not furnish a withholding certificate described in 26 USC §1.1441-1(e)(2) or (3) or §1.1441-5(c)(2)(iv) or (3)(iii) to the extent required under §1.1441-1(e)(4)(vii); or
  - Does not have to furnish a TIN on any return, statement, or other document as required by the income tax regulations under section 897 or 1445.

## Penalties

- You may be subject to penalties if you fail to file a correct and complete Form 8300 on time and you cannot show that the failure was due to reasonable cause.
- You may also be subject to penalties if you fail to furnish timely a correct and complete statement to each person named in a required report.
- A minimum penalty of \$25,000 may be imposed if the failure is due to an intentional or willful disregard of the cash reporting requirements.

## Penalties (Cont'd)

- Penalties may also be imposed for causing, or attempting to cause, a trade or business to fail to file a required report;
- for causing, or attempting to cause, a trade or business to file a required report containing a material omission or misstatement of fact;
- or for structuring, or attempting to structure, transactions to avoid the reporting requirements.
- These violations may also be subject to criminal prosecution which, upon conviction, may result in imprisonment of up to 5 years or fines of up to \$250,000 for individuals and \$500,000 for corporations or both.

## Definitions

- **Cash.** The term “cash” means the following:
  - U.S. and foreign coin and currency received in any transaction; or
  - A cashier’s check, money order, bank draft, or traveler’s check having a face amount of \$10,000 or less that is received in a designated reporting transaction (defined below), or that is received in any transaction in which the recipient knows that the instrument is being used in an attempt to avoid the reporting of the transaction under either 26 USC § 6050I or 31 U.S.C. 5331.
- **Note.** Cash does not include a check drawn on the payer’s own account, such as a personal check, regardless of the amount.

## Definitions (Cont'd)

- **Designated reporting transaction:**
- **A retail sale** (or the receipt of funds by a broker or other intermediary in connection with a retail sale) of a consumer durable, a collectible, or a travel or entertainment activity.
- **Retail sale.** Any sale (whether or not the sale is for resale or for any other purpose) made in the course of a trade or business if that trade or business principally consists of making sales to ultimate consumers.
- **Consumer durable.** An item of tangible personal property of a type that, under ordinary usage, can reasonably be expected to remain useful for at least 1 year, and that has a sales price of more than \$10,000.
- **Collectible.** Any work of art, rug, antique, metal, gem, stamp, coin, etc.

## Definitions (Cont'd)

- **Travel or entertainment activity.** An item of travel or entertainment that pertains to a single trip or event if the combined sales price of the item and all other items relating to the same trip or event that are sold in the same transaction (or related transactions) exceeds \$10,000.
- **Exceptions.** A cashier's check, money order, bank draft, or traveler's check is not considered received in a designated reporting transaction if it constitutes the proceeds of a bank loan or if it is received as a payment on certain promissory notes, installment sales contracts, or down payment plans. See IRS Publication 1544 for more information

## Definitions (Cont'd)

- **Person**. An individual, corporation, partnership, trust, estate, association, or company.
- **Recipient**. The person receiving the cash. Each branch or other unit of a person's trade or business is considered a separate recipient unless the branch receiving the cash (or a central office linking the branches), knows or has reason to know the identity of payers making cash payments to other branches.
- **Transaction**. Includes the purchase of property or services, the payment of debt, the exchange of cash for a negotiable instrument, and the receipt of cash to be held in escrow or trust. A single transaction may not be broken into multiple transactions to avoid reporting.
- **Suspicious transaction**. A suspicious transaction is a transaction in which it appears that a person is attempting to cause Form 8300 not to be filed, or to file a false or incomplete form.

# Specific Form 8300 Instructions

- You must complete all parts. However, you may skip Part II if the individual named in Part I is conducting the transaction on his or her behalf only.
- For voluntary reporting of suspicious transactions, check box 1b. You may also telephone your local IRS Criminal Investigation Division or call the FinCEN Resource Center at 1-800-767-2825.
- Now please refer to the copy of the 8300 in your conference package. We will quickly review all four Parts of the form.

# Conclusion and Questions

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