

## FBAR Deadline Moves Up Three Months to April 15

On Friday, July 31, 2015, President Barack Obama signed HR 3236, the "*Surface Transportation and Veterans Health Care Choice Improvement Act of 2015*" (the "Act"). There were a number of important tax compliance issues included in the Bill. The Act modifies the extended six-year statute of limitations applicable to understatements of income, changes the due dates for certain tax returns, requires additional information to be included in mortgage information statements, and requires consistent basis reporting for estates and estate beneficiaries. These new tax return due dates apply to tax returns for tax years beginning after Dec. 31, 2015.

This article will focus on only one of the new compliance issues...the date change for filing the annual **Report of Foreign Bank and Financial Accounts**, or **Form 114**, colloquially known as the **FBAR**. Employees of churches and religious nonprofits with bank accounts in foreign countries, (and/or ministers and missionaries who may have personal bank accounts in foreign countries) should all pay particular attention to the new filing dates to avoid having to pay heavy fines for filing late.

To refresh your memory on the filing requirements, the law states that any U.S. person with a financial interest in, or signatory authority over, foreign financial accounts must file the FBAR, if at any time, the aggregate value of their relevant foreign account or accounts exceeds \$10,000. An account over which a person has signature authority but no ownership interest is included in this computation. Failure to file an FBAR may result in a civil penalty of up to \$10,000 for negligent violations, or up to the greater of \$100,000 or 50 percent of the account balance for willful violations. Failure to comply with the e-filing mandate may result in a separate \$500 penalty.

The new law did not change the requirement that the FBAR be filed electronically (as opposed to together with a tax return to a service center), nor did it eliminate the requirement to file a **Form 8938** (*Statement of Specified Foreign Financial Assets*) with a tax return reporting certain foreign holdings.

### Due Date Changed from June 30 to April 15

For filers living in the U.S., this change in the law will coordinate the timing of their FBAR submission with the timing of their personal income tax return making the FBAR due April 15, along with their Form 1040. If they apply for an extension of six months until October 15, the FBAR will also be due on October 15.

For Americans living abroad, the Act will allow for the coordination of the FBAR due date to the June 15 deadline (after automatic extension) for filing of a personal income tax return (see reference in the Act to *Treas. Reg. section 1.6081-5*).

The Act also provides specific penalty waiver authority for taxpayers that are required to file an FBAR return for the first time if they file it late by mistake. The Act states that “[f]or any taxpayer required to file such Form for the first time, any penalty for failure to timely request for, or file, an extension, may be waived by the Secretary.” This is a significant deviation and may provide some degree of comfort to those taxpayers who have just learned of filing obligations.

If you have any questions about how the new filing requirement may affect you your ministry we recommend you discuss the changes with your CPA. If you do not have CPA or are looking for someone to help you and your ministry stay compliant with the tax regulations feel free to contact us at the CMA office. We would be happy to work with you to find a local CPA.

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