

# CONGRESS CHANGES FBAR FILING DEADLINE

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On July 31, 2015, President Obama signed into law [P.L. 114-41](#), the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015 (the Act). Despite its name, the Act included a number of tax provisions, one of which changes the deadline for filing the Report of Foreign Bank and Financial Accounts (FinCEN Form 114) (the FBAR) for 2016 and future years.

The FBAR must be filed by a U.S. person (i.e., an individual who is a U.S. citizen or resident, and a U.S. entity, including a trust or estate formed under the laws of the United States) with a financial interest in one or more non-U.S. bank and financial accounts, the highest balances of which, in the aggregate, equal or exceed \$10,000 during the year. Since it was introduced in the 1970s, the FBAR, which is filed separate and apart from all U.S. income tax returns, has been due on or before June 30 of the following year (with no extension of that deadline available), which differed from all U.S. income tax return filing deadlines. The deadline for U.S. residents to timely file a U.S. Individual Income Tax Return is April 15, and the deadline for non-U.S. residents is June 15; both deadlines can be automatically extended to October 15 by filing IRS [Form 4868](#) on or before the original deadline.

The Act directed the Treasury Department to modify the appropriate regulations to change the due date of the FBAR for U.S. residents from June 30 of the following year to April 15 and to change the due date of the FBAR for non-U.S. residents to June 15. The Act also directed the Treasury to provide for a maximum extension for filing the FBAR to October 15 for both U.S. residents and nonresidents. Presumably the IRS or the Treasury's FinCEN division will either develop a form for requesting an automatic extension of time to file the FBAR by October 15 or will modify IRS Form 4868 or IRS [Form 7004](#) to incorporate the FBAR.

The Act is effective for tax years beginning after December 31, 2015, so the new filing deadlines will not take effect until the FBAR for the 2016 year is due in 2017. As a result, the FBAR filing deadline for the 2015 year will remain June 30, 2016, with no extension available.

The Act also instructs the Treasury to waive any penalty for a first time FBAR filer's "failure to timely request for, or file, an extension" of time to file. Although that wording is less than clear, presumably a first-time filer must file the first FBAR by the would-be extended (October 15) due date to be eligible for the penalty relief.

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The change in the due date of the FBAR makes its filing deadline more logical by aligning it with the U.S. Individual Income Tax Return filing deadlines, but it also means that taxpayers and tax-return preparers have additional work to do by those tax return filing deadlines and that the FBAR deadline for U.S. residents will be accelerated by more than two months. The ability to extend the FBAR filing deadline to October 15, though, is certainly a welcome change.

