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Automatic Extension for FBARs

The Treasury Department's Financial Crimes Enforcement Network (FinCEN) announced an automatic six-month extension for taxpayers required to file FinCEN Form 114, Report of Foreign Bank and Financial Accounts (FBAR). Taxpayers now have until October 16 to submit their FBARs for 2016 without being subject to penalties.

FBAR Overview. Subject to certain exceptions, any United States person with an interest in, or signature or other authority over, one or more foreign financial accounts whose aggregate value exceeds $10,000 at any time during a calendar year is required to file an FBAR in the following year.

- Foreign financial accounts include bank accounts, brokerage accounts, mutual funds and other pooled investment funds at foreign financial institutions, including many types of foreign retirement plans and life insurance policies.
- For FBAR purposes, a U.S. person can be treated as the owner of a foreign financial account owned (directly or indirectly) by a corporation or a partnership if the U.S. person owns more than 50 percent of the voting stock of the corporation or more than 50 percent of the capital or profits interests in the partnership.
- The above rule also applies to a U.S. person owning (directly or indirectly) more than 50 percent of the beneficial interest in the income or assets of a trust. However, beneficiaries of a trust are not required to file FBARs with respect to accounts held by the trust if the trustee files the necessary returns. If the grantor of a trust is treated as the owner of the trust's income or assets for tax purposes under the "grantor trust" rules, the grantor is required to file FBARs for reportable accounts held by the trust.
- For FBAR purposes, U.S. persons include disregarded entities, such as single-member limited liability companies, that would not otherwise be considered "persons" for most tax purposes.

Automatic Extension of Filing Deadline to October 15. Until last year, FBARs were generally due on June 30, with no automatic extensions available. In 2015, Congress moved the deadline to April 15 beginning with FBARs for 2016 (due in 2017). Congress also provided for extensions of up to six months. To reduce the administrative burden and facilitate compliance, FinCEN is granting all filers an automatic extension to October 15 every year, without the need for specific requests, until further notice. Thus, FBARs for 2016 may be submitted as late as Monday, October 16.

Automatic Extension Only for FBARs. This automatic extension is limited to FBARs. The deadline for most IRS returns for foreign assets will *not* be extended unless the taxpayer files an extension request with respect to the underlying tax return. This includes IRS Form 8938 (Statement of Specified Foreign Financial Assets), IRS Form 5471 (Information Return of U.S. Persons With Respect to Certain Foreign Corporations), IRS Form 8865 (Return of U.S. Persons With Respect to Certain Foreign Partnerships) and IRS Form 8621 (Information Return by a Shareholder of a Passive Foreign Investment Company or Qualified Electing Fund), among others. IRS Form 3520 (Annual Return To Report Transactions With Foreign Trusts and Receipt of Certain Foreign Gifts), although filed separately from the filer's tax return, is due at the same time as the filer's tax return, including extensions.

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