

FBAR Update: Good News for Treasurers But More Questions Too

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The Foreign Bank Account Reports (FBAR) regulation is one of the most onerous new rules for treasury and finance professionals in quite some time.

Now, there is good news about FBAR... sort of.

Buried in HR 3236, the legislation to pay for the federal Highway Trust Fund, signed into law by President Obama on July 31, is a provision that changes filing dates for FBAR.

The date to file FBAR moves from June 30 to April 15.

A "first-time abate" is authorized.

A six-month filing extension is created -- October 15.

"This reconciles the due date for the FBAR with the individual tax return filing date," said Dennis Brager, a former IRS senior trial attorney who has written about FBAR for AFP.

Regarding the first-time abate, Brager said the provision "appears to provide authority to abate an FBAR penalty if the FBAR is filed after April 15, but before October 15, if this is the first time the FBAR was due. The language doesn't really add anything to the law since the IRS already has wide latitude to waive FBAR filing penalties."

So, do companies and employees have a respite from FBAR until April 15, 2016? And will they have a six-month extension until October 15, 2016?

Brager isn't so sure.

"It is correct that the new filing date is April 15, and an extension to October 15 will be available for both individuals and entities. What is not clear is when the law is effective," he said. "The statute states it is effective for 'tax years' beginning after Dec. 31, 2015. However, FBARS are not filed for tax years. They are required for calendar years. Therefore, at this point I do not know for certain whether the 2015 FBAR will be due on June 30, 2016 with no extension, OR on April 15 2016 with an October 15 extension.

"We will probably have to wait for some clarification from the IRS and FinCEN. For 2016 returns due in 2017 there is no doubt that the extension will be available."

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