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<http://blogs.wsj.com/expat/2015/08/05/changes-coming-to-u-s-expats-fbarfincen-filing-experience/>

EXPAT | COMMENTARY

## Changes Coming to U.S. Expats' Fbar/Fincen Filing Experience

By JONATHAN LACHOWITZ

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Attention American expats and U.S. taxpayers with non-U.S. financial accounts: changes are on the horizon for your 2016 Fbar filing, including a new April 15 due date.

Also likely coming your way: an automatic June 15 extension date with a possible additional extension option until Oct. 15. More on this below.

Additionally, the IRS will have the ability to waive penalties for taxpayers who file their first required Fincen 114 form.

The changes are embedded in this piece of legislation, in section 2006.

Here's a bit of background: Americans with non-U.S. financial accounts are required to provide substantial information each year to the U.S. Department of the Treasury, including a Foreign Bank Account Report (Fbar), which is now known as the Fincen 114.

The small changes in Fincen 114 reporting became law on July 31 and still aren't widely known by those who are affected.

For tax years after Dec. 31, 2015, the Fincen 114 will now be due on April 15 and certain filers will be allowed an extension until Oct. 15. Before the new law was passed, the Fincen 114 was due on June 30, with no possibility of extending. While the new law isn't explicit, the language implies that filers would get an automatic June 15 extension.

Right now, overseas taxpayers get automatic extensions from April 15 to June 15 for filing personal tax returns and often have to file to extend to Oct. 15 or Dec. 15 because of the complexities of complying with tax requirements in their countries of residence as well as the U.S.

Therefore, with this change, the Fincen 114 takes another step closer to being treated like an ordinary tax form. Perhaps it'll eventually be combined with the Foreign Account Tax Compliance Act (Fatca) form 8938; a suggestion made by the Taxpayer Advocate and several overseas American organizations.

A number of American expats and non-Americans living in the U.S., have been critical of the Fbar/Fincen 114 form for the following reasons:

- The forms require highly detailed information about foreign financial accounts, including account numbers, bank names and addresses, as well as highest balance, which, in the wrong hands, can lead to identity theft, theft of cash or worse.
- Penalties for failure to file these forms can in theory exceed 300% of the highest account balance.
- Some U.S. expats and dual nationals who have financial accounts in the country where they live don't consider their accounts as "foreign" and would support a Same Country Exception. Here's my recent commentary (<http://blogs.wsj.com/expat/2015/07/28/fatca-relief-coming-for-u-s-expats-via-same-country-exception-opinion/>) on the topic.
- Americans with authority over an employer's bank accounts in a foreign country may have to report these accounts on their personal Fincen 114.
- Americans who have financial or other authority over a family member's financial accounts in a foreign country (e.g. an aging parent, a special needs child) also have a reporting requirement, which represents an additional burden considering they have no financial interest in the accounts.
- When the Treasury Department starting allowing and then requiring electronic filing of the Fincen 114 here (<http://bsaeiling.fincen.treas.gov/NoRegFBARFiler.html>), it directed taxpayers to the Financial Crimes Enforcement Network to make their filing, which intimidated and angered some filers.

Addressing these plus bigger structural issues affecting U.S. expats (for example, shifting to residency-based taxation from citizenship-based taxation and changing or repealing Fatca) are on my and others' wish lists. But today we can take some small comfort that members of Congress and Treasury are becoming aware of the issues and starting to make changes that could make compliance with tax laws a bit easier.



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