

# U.S. TAX ALERT

December 2015

## New FBAR deadline for the 2016 tax year

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Since the Bank Secrecy Act of 1970 first gave the U.S. Department of Treasury the authority to collect information on foreign bank accounts held by U.S. persons, the form and method used to report and transmit this information has gone through many changes. Currently, the information is transmitted electronically to the Department of Treasury using the Financial Crimes Enforcement Network (FinCEN) Form 114, Report of Foreign Bank and Financial Accounts (FBAR).

In a new development, the FBAR filing deadline has been amended as part of the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015 (the Act) passed by the Obama administration this past summer. The changes contemplated in the Act impact FBARs for 2016 and later years. The changes do not impact the filing deadline for the 2015 FBAR, which remains due on June 30, 2016, with the ability to extend the filing deadline.

Traditionally, the FBAR has had a hard deadline of June 30 of the year following the calendar year in question. However, effective for the 2016 taxation year, the FBAR deadline will be moved forward to April 15 (i.e. the 2016 FBAR form will be due April 15, 2017). Though the date has been brought forward, there is actually relief in the fact that an extension of time to file the form is also available now. According to the Act, the new FBAR deadline is to follow the extension rules similar to those already in place for U.S. personal income tax filings (usually Form 1040). The table below summarizes the revised deadlines (effective for 2016 and later years) for individuals who are required to file an FBAR.

Individual	1040 Filing Deadline*	Automatic Extension of time to file**	Extended Deadline if Form 4868 is filed
U.S. citizen residing in the U.S.	April 15	N/A	October 15
U.S. citizen residing abroad	April 15	June 15	October 15

\* As of the 2016 taxation year, this will also become the new FBAR filing deadline for individuals.

\*\*Available to U.S. citizens residing outside of the U.S. only.

Individuals with signature authority over corporate accounts – that are perhaps managed by others – should be aware that the deadline has been brought forward. If taxpayers wish to file their tax returns and FBARs in time for the April 15 deadline, this information must now be obtained earlier than usual. Those responsible for managing these accounts should be aware that they may be required to furnish bank account information earlier than in prior years.

Those who remain unsure whether they are subject to the FBAR reporting requirement can consider two questions:

1. Are you a United States person who has a financial interest in, or signature authority over, at least one financial account located outside the U.S.?
2. Did the aggregate value of the account(s) exceed \$10,000 at any point in the year?

If the answer to both of these questions is “yes,” the FBAR filing obligation applies.

To clarify further, the IRS provides the following definitions:

- United States Person: This is a citizen or resident of the United States or an entity created or organized in the United States or under the laws of the United States. It may also be a trust or an estate formed under the laws of the United States.

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- Financial interest: You are the owner of record or holder of legal title, regardless of whether the account is maintained for your benefit.
- Signature Authority: You have the authorization to control the flow of assets held in the foreign account.

In the context of U.S. citizens residing in Canada, financial accounts would include (but are not limited to) bank accounts, securities accounts (including mutual funds), insurance policies with cash surrender value, Registered Retirement Savings Plans (RRSPs), Registered Education Savings Plans (RESPs) and Tax-Free Savings Accounts (TFSA).

Penalties for failure to file the FBAR are severe, with civil penalty fines up to \$10,000 (or more if the failure to file is determined to be willful), so it is important to ensure the new filing deadline – including the filing of any required extensions – is met.

Contact your Collins Barrow advisor for more information on your FBAR and other U.S. tax filing obligations.

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