



June 5, 2011

Selected FBAR Extensions by IRS

A few selected groups of individuals have been allowed a 12-month extension to submit their Report on Foreign Bank and Financial Accounts (FBAR) by the IRS and the Treasury Department's Financial Crimes Enforcement Network (FinCEN). A FBAR is the form a taxpayer must fill and submit to the IRS every year that declares a financial interest in or signature or other authority over, one or more financial accounts in foreign countries.

Financial accounts include bank accounts, securities, commodity futures, options accounts, insurance policies with cash values, annuities, mutual funds or other types of financial accounts in a foreign country that exceed \$10,000 in total value at any time during the calendar year.

The regulations do not say anything about the currency exchange rate for conversion purposes, hence experts take either the average rate for the year or the rate as on the date of highest balance for conversion purposes.

Financial interest means that you are the holder of legal title to the account. This will apply even if the foreign account is owned by an agent or nominee on your behalf. In case of corporate, partnerships or trusts, you must own more than 50% of voting rights, capital or beneficial interest respectively. Signature authority means you, either by yourself or jointly with others, control the disposition of assets held in the foreign accounts.

The original deadline for submission of FBARs is June 30, 2011. But with the extension, the new deadline is June 30, 2012. Here are the groups to whom the deadline is extended:

An employee or officer of an entity under § 1010.350(f)(2)(i)-(v) [SEC registrants] who has signature or other authority over and no financial interest in a foreign financial account of a controlled person of the entity.

An employee or officer of a controlled person of an entity under § 1010.350(f)(2)(i)-(v) who has signature or other authority over and no financial interest in a foreign financial account of the entity or another controlled person of the entity.

According to the IRS, the reason for the extension is to facilitate more accurate FBAR filings in light of the recent finalization of regulations.

Since 1972, the Bank Secrecy Act (BSA) has stated that the deadline for FBAR submission is June 30 every year. But on Feb. 24 of this year, FinCEN published a final rule that amended the BSA regarding FBARs.