



January 30, 2024

Ms. Andrea Gacki
Director
Financial Crimes Enforcement Network
2070 Chain Bridge Road
Vienna, Virginia 22182

Ms. Amalia C. Colbert
Commissioner, SB/SE Division
Internal Revenue Service
1111 Constitution Ave., NW
Washington, DC 20224

Re: Request for Automatic FBAR Filing Extensions for Taxpayers Affected by Major Disasters

Dear Ms. Gacki and Ms. Colbert:

The American Institute of CPAs (AICPA) is providing recommendations to the Financial Crimes Enforcement Network (FinCEN) on providing filing extensions for the Report of Foreign Bank and Financial Accounts (FBAR) ([FinCEN Form 114](#)) to taxpayers impacted by major disasters.

BACKGROUND

The authority for the Internal Revenue Service (IRS) to grant disaster relief is found in section¹ 7508A, which permits a postponement of the time to perform specified acts for taxpayers affected by a federally declared disaster, significant fire, or a terroristic or military action.²

While FinCEN often has provided filing relief to taxpayers affected by disasters,³ FinCEN does not automatically apply this relief in all instances where the IRS has granted filing relief.⁴ Even when FinCEN has granted disaster relief, that relief has not always been provided to the same taxpayers to whom the IRS gave relief for the same disaster.⁵ The relief concerning the terrorist attacks in Israel is one recent example of when FinCEN matched the IRS's relief, although the relief was granted several days later (on the date of the initial deadline). The IRS announced their relief for affected taxpayers on October 13, 2023.⁶ FinCEN followed shortly thereafter on October 16, 2023 (the date of the filing deadline), stating that they would match the relief announced by

¹ All references to "section" are to the Internal Revenue Code of 1986, as amended, and all references to "Treas. Reg. §" and "regulations" are to U.S. Treasury regulations promulgated thereunder.

² See, e.g., IRS News Release [IR-2023-189](#), providing tax filing and tax payment extensions to California storm victims.

³ See, e.g., FinCEN Notice [FIN-2023-NTC3](#), providing FBAR filing relief to victims of the Hawaii Wildfires and to victims of Hurricane Idalia in parts of Florida and Georgia. In this case, FinCEN gave affected taxpayers until February 15, 2024, to file their FBAR reports.

⁴ Compare [FinCEN's list of disaster-related postponements](#) to [that of the IRS's](#).

⁵ In the case of Hurricane Idalia, the IRS provided disaster relief to taxpayers in Florida (IRS News Release [IR-2023-159](#)), South Carolina (IRS News Release [IR-2023-163](#)), and Georgia (IRS News Release [IR-2023-168](#)). However, FinCEN only extended relief for victims of Hurricane Idalia in Florida and Georgia (FinCEN Notice [FIN-2023-NTC3](#)). Victims of Hurricane Idalia in South Carolina did not get this relief from FinCEN.

⁶ IRS News Release [IR-2023-188](#).

the IRS.⁷ It would be more efficient, save taxpayers, practitioners, IRS, and FinCEN time and costs, provide certainty and consistency, and promote effective tax administration for FinCEN to automatically grant the same filing relief as the IRS without taxpayers needing to wait to see whether FinCEN will provide similar relief as the IRS, or taxpayers having to contact FinCEN to request relief.

RECOMMENDATION

The AICPA recommends that FinCEN or IRS adopt a policy of automatically granting FBAR filing postponements to coincide with the IRS's extended due dates when the IRS grants postponements under section 7508A. The relief provided by FinCEN or IRS should match the relief provided by the IRS for other filings, both in terms of the extended due dates and the geographic scope.

ANALYSIS

Taxpayers who are affected by major disasters such as hurricanes, floods, wildfires, etc., often need more time to collect records and information that are needed to comply with their tax and foreign account reporting obligations. In some cases, taxpayers may be coping with the complete loss of their residence or their business. Additionally, tax professionals affected by major disasters may face difficulties in providing prompt assistance to their clients for similar reasons. It would be more efficient, save taxpayers, practitioners, IRS, and FinCEN time and costs, and promote effective tax administration to have the same postponed due date uniformly applied for tax returns and FBARs. Someone who is affected by a major disaster likely would not realize that there may be a different due date for their FBAR than for their tax return.

We note that FinCEN delegated its enforcement authority of FBAR penalties to the IRS.⁸ Therefore, IRS may also be able to exercise its authority to grant this FBAR filing disaster relief. Accordingly, it may be possible for the IRS to coordinate these efforts with FinCEN to provide similar disaster filing relief for FBAR as other IRS disaster relief.

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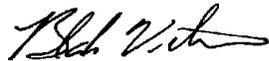
⁷ FinCEN Notice [FIN-2023-NTC4](#).

⁸ Delegation Order [25-13](#), paragraph (2).

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We welcome the opportunity to discuss these comments or to answer any questions that you may have. If you have any questions, please contact; Peter Mills, AICPA Senior Manager, Tax Policy & Advocacy at (202) 434-9272, or Peter.Mills@aicpa-cima.com; Gerald Schreiber, chair of the AICPA Disaster Tax Relief Task Force at (504) 832-1819 or ghschreiber@schreibercpa.com; or me at (830) 372-9692 or Bvickers@alamo-group.com.

Sincerely,



Blake Vickers, CPA, CGMA
Chair, AICPA Tax Executive Committee

cc: Ms. Erin Collins, National Taxpayer Advocate, Internal Revenue Service