



## Important Tax Provisions Contained in Acts Extending Highway Trust Fund and Trade Preferences

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On July 31, 2015, President Obama signed P.L. 114-41, the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015 (?Highway Act?), into law. Although the Highway Act is primarily for the purpose of extending programs funded by the Highway Trust Fund and to provide additional resources to the Department of Veteran Affairs, the bill contains many significant tax provisions, including changes to partnership and corporate return filing deadlines.

In addition, on June 29, 2015 President Obama signed P.L. 114-27, the Trade Preferences Extension Act of 2015 (?Trade Preferences Act?), into law. Even though the primary purpose of the Trade Preferences Act is the extension of the African Growth and Opportunity Act and the preferential duty treatment program for Haiti, the Trade Preferences Act also includes several noteworthy tax provisions.

This alert provides an overview of several important tax provisions contained in the Highway Act and the Trade Preferences Act that will affect taxpayers.

Portions of the tax provisions of the Highway Act are summarized as follows:

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- **Change in return filing deadlines.** The filing deadline for calendar year partnership returns has been moved up such that both partnership and S corporation returns will be due March 15<sup>th</sup> (or two and a half months after the close of the fiscal year) while the filing deadline for calendar year C corporation returns has been delayed to April 15<sup>th</sup> (or three and a half months after the close of the fiscal year).

Corresponding extended filing periods under statute and regulations have been changed or directed to be changed. The automatic statutory extension for corporations has been modified to either five, six or seven months depending on the type of corporation and its year-end. Specifically, the statute now provides for an automatic six-month extension for corporations (it previously provided a three-month extension while regulations provided the six-month extension). However, for a C corporation whose tax year ends on December 31 and begins before January 1, 2026, the automatic extension will be 5 months. For a C corporation whose tax year ends on June 30 and begins before January 1, 2026, the automatic extension will be 7 months.

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The Highway Act directs the IRS to modify the regulations to provide that the extension period for a partnership return with a calendar year end will be six-months ending on September 15. It also modifies the extended due dates for other returns including those filed by trusts, employee benefit plans, and tax exempt organizations.

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The regular and extended deadline changes will generally apply to returns for taxable years beginning after December 31, 2015. However, for C corporations with a June 30 tax year end, the filing deadline changes will apply to returns for tax years beginning after December 31, 2025.

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**Change in FBAR filing deadlines.** For tax years beginning after December 31, 2015, the due date of FinCen Form 114, Report of Foreign Bank and Financial Accounts (?FBAR?), will be accelerated from June 30<sup>th</sup> to April 15<sup>th</sup> with a maximum 6 month extension to October 15<sup>th</sup>.

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**Overstatement of basis may be substantial omission.** An overstatement of basis leading to an understatement of gross income will be considered a substantial omission triggering the extended 6-year statute of limitations. This will be true regardless of whether the amount of the basis is disclosed on the return. The new rule applies for returns filed after July 31, 2015, as well as returns filed before July 31, 2015 if the assessment period for the return has not expired as of July 31, 2015.

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**Changes to Form 1098 Mortgage Interest Statement.** Form 1098 reporting mortgage loan information will now include the following additional information: (1) the outstanding principal at the beginning of the calendar year; (2) the origination date of the mortgage loan; and (3) the address or other description of property encumbered by the mortgage. This rule applies to Forms 1098 made or furnished

after December 31, 2016.

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**New requirement for consistent basis and reporting for inherited property.**

The code now explicitly provides that the fair market value used for the basis of inherited property cannot exceed that property's fair market value used for calculating the estate tax. Accuracy-related penalties will be assessed for any inconsistent estate basis. New reporting requirements have been enacted to help make sure that the new code section is followed. For example, the executor of an estate required to report (an estate worth more than \$5.43 million in 2015) must notify beneficiaries of the fair market value of the assets they receive within 30 days of the earlier of filing or the due date of the return. The new rules apply immediately for any estate return filed after July 31, 2015.

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**Reduction in excise taxes.** Excise Taxes on liquefied natural gas, liquefied petroleum gas, and compressed natural gas will be reduced for the sale and use of fuel after December 31, 2015.

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**Extension for certain transfers of excess pension assets.** The ability to make qualified transfers of excess pension assets to retiree health accounts has been extended for an additional 4 years. The provision's expiration date has been changed from December 31, 2021 to December 31, 2025.

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**Exclusion of certain veterans from ACA determination.** Veterans are not taken into account for purposes of determining if an employer is subject to the Affordable Care Act employer mandate if they are covered under TRICARE or the Veterans Administration.

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**Impact of care received for service-related disability on eligibility for HSA**

Beginning in 2016, the receipt of health care under any law administered by the Veterans Administration for a service-connected disability will not cause an individual to fail to be eligible to contribute to a health savings account.

Portions of the Trade Preferences Act are summarized as follows:

- **Penalty increases for failure to file information returns and payee statements.** Substantial increases to penalties assessed under IRC 6721 and IRC 6722 for failing to file correct informational returns and to provide payee statements. For example, the penalty for each failure has increased from \$100 to \$250, and the cap has increased from \$1,500,000 to \$3,000,000. The new rules will be in effect for returns and statements that are required to be filed after December 31, 2015.

- **8% increase to estimated tax payments in 2020.** Corporations with \$1 billion or more in assets will be required to pay an additional 8% in estimated tax payments due in July, August or September of 2020. However, amounts due in the next quarter will be reduced by the same amount.
- **Denial of refundable credit to taxpayers excluding foreign earned income.** Taxpayers electing to exclude foreign earned income from gross income are no longer eligible for the refundable portion of the child tax credit. This provision is applicable to tax years beginning after December 31, 2014.
- **Health Coverage Tax Credit modifications.** Various modifications to the Health Coverage Tax Credit in addition to an extension from its current sunset date of January 1, 2014 to January 1, 2020.
- **Requirement for documentation to claim education credits.** Taxpayers claiming the American Opportunity Credit, HOPE Scholarship Credit, Lifetime Learning Credit or tuition deduction will be required to have a payee statement provided by the applicable educational institution detailing qualified educational expenses in order to be entitled to any of the aforementioned education tax benefits. This rule is applicable to tax years beginning after June 29, 2015.

*Because of the generality of this update, the information provided herein may not be applicable in all situations and should not be acted upon without specific legal advice based on particular situations. Prior results do not guarantee a similar outcome. You should consult your own tax advisor regarding the United States federal, state, local, non-U.S. and other tax consequences of the provisions of the legislation mentioned herein.*

#### **Citations for the two Acts**

114 P.L. 41, 129 Stat. 443, 2015 Enacted H.R. 3236, 114 Enacted H.R. 3236  
 114 P.L. 27, 129 Stat. 362, 2015 Enacted H.R. 1295, 114 Enacted H.R. 1295

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