



# GMS Flash Alert

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## United States – Treasury Extends Hurricane Disaster Relief; New Tax Relief Bill

The U.S. Internal Revenue Service (IRS) and the Financial Crimes Enforcement Network (FinCEN), have recently announced the expansion of relief granted to victims of Hurricane Irma and Hurricane Maria.

On October 4, 2017, the IRS announced relief for individuals who may otherwise lose their status as a “bona fide resident” of Puerto Rico or the U.S. Virgin Islands because of the unexpected and prolonged dislocation caused by the two catastrophic storms.<sup>1</sup>

FinCEN updated an earlier notice,<sup>2</sup> which extended the filing deadline for the Report of Foreign Bank and Financial Accounts (FBAR) for calendar year 2016 for certain victims of Hurricane Irma to January 31, 2018. The FBAR filing extension now includes victims of Hurricane Maria as well as additional victims of Hurricane Irma in areas recently designated by the Federal Emergency Management Agency (FEMA) as qualifying for individual assistance or public assistance.<sup>3</sup>

Additionally, President Trump recently signed into law<sup>4</sup> temporary tax relief for victims of Hurricanes Harvey, Irma, and Maria.

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### WHY THIS MATTERS

For individuals resident in Puerto Rico or the U.S. Virgin Islands, the expanded absence period discussed below may allow those who were evacuated or who left these U.S. territories to retain certain tax benefits for the 2017 tax year related to their status as “bona fide residents” of those U.S. territories.

Individuals required to file the FBAR have until October 16, 2017, to file their report. The most recent FBAR filing extension provides welcome relief to victims of Hurricanes Irma and Maria as affected individuals begin recovering from the devastation brought by the severe storm.

Finally, the recently enacted legislation provides temporary tax relief to individuals affected by Hurricanes Harvey, Irma, and Maria by expanding upon current casualty loss relief.

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## Notice 2017-56

### Background

An individual residing in a U.S. territory, such as Puerto Rico or the U.S. Virgin Islands, may enjoy certain tax benefits if the individual qualifies as a “bona fide resident” of that U.S. territory. An individual’s status as a bona fide resident of a U.S. territory depends in part on the number of days the individual is physically present in that U.S. territory. Although a 14-day period of absence from that U.S. territory due to a natural disaster is allowed under this physical presence test, the catastrophic nature of Hurricane Irma and Hurricane Maria and the devastation to Puerto Rico and the U.S. Virgin Islands forced a number of individuals to unexpectedly relocate off the islands for a period of time likely to exceed this relatively short period of time.

### Extends Absence Period

IRS Notice 2017-56 extends the 14-day absence period to 117 days. Without this extension, individuals affected by the hurricanes might not be able to satisfy the physical presence test with respect to residency in Puerto Rico or the U.S. Virgin Islands, and might otherwise lose their status as a bona fide resident of a U.S. territory.

The extension of the 14-day absence period to 117 days begins September 6, 2017, and ends December 31, 2017. An individual who is absent from either Puerto Rico or the U.S. Virgin Islands on any day during this 117-day period will be treated as leaving or being unable to return to the relevant U.S. territory as a result of Hurricane Irma and Hurricane Maria on such day.

## FBAR

The due date for all 2016 FBARs was automatically extended until October 16, 2017.<sup>5</sup>

On September 12, 2017, FinCEN announced that Hurricane Irma victims in parts of Florida, Puerto Rico, and the U.S. Virgin Islands have until January 31, 2018, to file their FBAR for the 2016 calendar year. This announcement was re-issued on October 3, 2017, and expanded to include victims of Hurricane Maria, as well as victims of Hurricane Irma in FEMA designated areas. The January 31, 2018 extended deadline to report the FBAR for the 2016 calendar year now applies to victims of Hurricane Irma and Hurricane Maria in affected areas of the U.S. Virgin Islands, Puerto Rico, Florida, and Georgia.

## Disaster Tax Relief and Airport and Airway Extension Act of 2017

On September 29, 2017, President Trump signed the Disaster Tax Relief and Airport and Airway Extension Act of 2017 (The Act), which provides temporary tax relief and incentives to individuals affected by Hurricanes Harvey, Irma, and Maria. In part, the recently enacted legislation:

- provides an exception to the 10-percent early retirement plan withdrawal penalty for qualified hurricane relief distributions;<sup>6</sup>
- provides for the re-contribution of retirement plan withdrawals for home purchases cancelled due to eligible disasters;

- provides flexibility for loans from retirement plans for qualified hurricane relief;
- increases the casualty loss deductible from \$100 to \$500;
- eliminates the requirement that uncompensated personal casualty losses exceed 10 percent of adjusted gross income to qualify for deduction; and
- eliminates the requirement that affected taxpayers must itemize deductions in order to deduct their casualty loss related to the disasters.

## FOOTNOTES:

1 IRS [Notice 2017-56](#) and [IR-2017-168](#).

2 See [FinCEN Notice](#) dated September 12, 2017.

3 See [FinCEN Notice](#) dated October 3, 2017.

4 Disaster Tax Relief and Airport Extension Act of 2017, [H.R. 3823](#), 115th Congress, (Sept. 29, 2017).

5 For prior coverage of the FBAR due dates, see the following issues of *GMS Flash Alert*: [2017-136](#) (September 15, 2017) and [2016-150](#) (December 21, 2016).

6 As discussed in *GMS Flash Alert*: [2017-139](#) (September 22, 2017).

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