



IRS Provides Additional Relief for Taxpayers Affected by COVID-19

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04.14.2020

On April 9, 2020, the Department of the Treasury (Treasury Department) and the Internal Revenue Services (IRS) issued Notice 2020-23, announcing that certain additional tax return filing and payment deadlines have been pushed back to July 15, expanding upon relief granted by previous notices issued earlier this year.

Previously, in Notice 2020-18 (March 20, 2020), the Treasury Department and the IRS postponed the due date for filing federal income tax returns and making related payments from April 15, 2020 until July 15, 2020. In Notice 2020-20 (March 27, 2020), the Treasury Department and the IRS postponed certain federal gift (and generation-skipping transfer) tax return filings and payments.

Notice 2020-23 amplifies the relief provided in Notices 2020-18 and 2020-20. In addition to extending the filing and payment deadlines for additional returns, Notice 2020-23 postpones due dates with respect to government acts, including the statute of limitations for the IRS to assess taxes and the deadline for taxpayers to file petitions in the United States Tax Court.

Parties seeking the full list of filing and payment obligations that may be deferred can find them in **Section III.A.**

Postponement of Due Dues for Filing Returns and Making Payments

Notice 2020-23 automatically postpones the due date for specified filing (Specified Forms and Specified Filing) and payment obligations (Specified Payment) to July 15, 2020. The Notice applies to any person with a payment or filing obligation due on or after April 1, 2020 and before July 15, 2020 (Affected Taxpayer). Taxpayers do not need to call the IRS, file extension forms or send any other letters or documents to obtain the relief. However, Affected Taxpayers who need additional time to file may choose to file the appropriate extension form by July 15, 2020, to obtain an extension to file their return, but the extension date may not go beyond the original statutory or regulatory extension date. For example, a Form 4868, *Application for Automatic Extension of Time to File U.S. Individual Income Tax Return*, may be filed by July 15, 2020 to extend the time to file an individual income tax return, but that

extension will only be to October 15, 2020. **The extension does not extend the time to pay Federal income tax beyond July 15, 2020.**

As a result of the postponement of filing and payment dates, the period beginning on April 1, 2020 and ending on July 15, 2020 will be disregarded in the calculation of interest, penalty or addition to tax for failure to file the Specified Forms or pay a Specified Payment. Interest, penalties and additions to tax with respect to such postponed Specified Filing and Payment Obligations will begin to accrue on July 16, 2020. The relief also applies to all elections, schedules, returns and other forms that are filed as attachments to Specified Forms or are required to be filed by the due date of Specified Forms. For example, Forms 3520, 5471, 8621, 8858, 8865 and 8938.

The relief also includes any installment payments under Section 965(h) due on or after April 1, 2020 and before July 15, 2020.

Relief with Respect to Specified Time-Sensitive Actions

Any person performing a time-sensitive action listed in either §301.7508A-1(c)(1)(iv) (vi) of the Procedure and Administration Regulations or Revenue Procedure 2018-58, 2018-50 IRB 990 (December 10, 2018), which is due to be performed on or after April 1, 2020, and before July 15, 2020 (Specified Time-Sensitive Action), is an Affected Taxpayer. The actions include, but are not limited to, contributing to qualified retirement plans, filing petitions with the Tax Court and filing claims for refunds. Affected Taxpayers have until July 15, 2020 to perform all Specified Time-Sensitive Actions, that are due to be performed on or after April 1, 2020, and before July 15, 2020.

Additional Relief for Time Sensitive Actions Within the Tax Court

The relief includes the time for filing all petitions with the Tax Court, or for review of a decision rendered by the Tax Court, filing a claim for credit or refund of any tax and bringing suit upon a claim for credit or refund of any tax. The Notice does not provide relief for the time period for filing a petition with the Tax Court or for filing a claim or bringing a suit for credit or refund if that period expired before April 1, 2020.

Extension of 1031 Exchange Deadlines

The relief also includes the 45-Day Identification and 180-Day Exchange Period deadlines in both deferred and safe-harbor reverse 1031 exchanges as such time-sensitive actions are covered by Revenue Procedure 2018-58. Therefore, if the end of a taxpayer's 45-day Identification Period or 180-day Exchange Period in a deferred exchange or the parallel periods in reverse exchanges under Revenue Procedure 2000-37 falls between April 1 and July 15, the applicable period is automatically extended to July 15, 2020. Despite the extension of time under Notice 2020-23, it is still unclear whether the deadlines are extended to July 15 or for an extra 120 days. Notice 2020-23 extends the like-kind exchange deadline until July 15, since it qualifies as a Specified Time-Sensitive action. However, Revenue Procedure 2018-58 specifically extends both the 45-day and the 180-day like-kind exchange deadlines by a minimum of 120 days, which could extend the deadline beyond the July 15 deadline.

Postponement of Due Dates with Respect to Government Acts

Notice 2020-23 grants additional time to the IRS to perform time sensitive duties described in Section 301.7508A-1(c)(2) (Time-Sensitive IRS Actions). These duties include:

- i. assessing tax;
- ii. giving or making any notice or demand for the payment of any tax, or with respect to any liability to the United States in respect of any tax;
- iii. collecting by the Secretary, by levy or otherwise, of the amount of any liability in respect of any tax;
- iv. bringing suit by the United States, or any officer on its behalf, in respect of any liability in respect of any tax;
- v. allowing a credit or refund of any tax; and
- vi. any other act specified in a revenue ruling, revenue procedure, notice, or other guidance published in the Internal Revenue Bulletin.

For the limited purpose of the postponement of due dates with respect to Government acts, Affected Taxpayers include: i) persons currently under examination, ii) persons whose cases are with the Independent Office of Appeals and iii) persons who, during the period beginning on or after April 6, 2020 and ending before July 15, 2020, file written documents described in Section 6501(c)(7) of the Code (amended returns) or submit payments with respect to a tax for which the time for assessment would otherwise expire during this period.

With respect to those Affected Taxpayers, a 30-day postponement is granted for Time-Sensitive IRS Actions if the last date for performance of the action is on or after April 6, 2020, and before July 15, 2020. As a result of the postponement of the time to perform Time-Sensitive IRS Actions, the 30-day period following the last date for the performance of Time-Sensitive IRS Actions will be disregarded in determining whether the performance of those actions is timely. It should also be noted that these provisions are subject to further review and postponement.

Please note: This alert contains general, condensed summaries of actual legal matters, statutes and opinions for information purposes. It is not meant to be and should not be construed as legal advice. Readers with particular needs on specific issues should retain the services of competent counsel.

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