

IRS Extends More Tax Deadlines in Notice 2020-23

Coronavirus Legal Advisory

04.15.2020

On April 9, 2020, the Internal Revenue Service (“IRS”) released Notice 2020-23, amplifying the coronavirus-related tax relief recently provided in Notices 2020-18 and 2020-20.

Notice 2020-23 automatically postpones (without the need to file for any extension) each of the following deadlines until July 15, 2020, provided that the deadline otherwise would have occurred on or after April 1, 2020, and before July 15, 2020:

- (i) The due date for an expansive list of tax returns, tax payments, forms, elections and schedules (as further described in the chart below);
- (ii) The performance or filing of the following specified time-sensitive actions: (a) filing petitions with the United States Tax Court (“Tax Court”); (b) filing for a review of decision rendered by the Tax Court; (c) filing a claim for credit or refund of any tax; and (d) bringing a suit upon a claim for credit or refund of any tax;
- (iii) The making of an investment in a qualified opportunity fund due to be made during the 180-day “rollover” period described in Section 1400Z-2(a)(1)(A) of the Internal Revenue Code of 1986, as amended (the “Code”); and
- (iv) The performance of over 250 time-sensitive actions listed in Revenue Procedure 2018-58, including, by way of just a few examples: (a) numerous elections relating to the adoption and change of accounting methods; (b) compliance with certain timing requirements of Code Section 1031 like-kind exchanges; (c) a lessee’s expenditure of funds on “qualified long-term real property” for purposes of the safe harbor exclusion for lessee construction allowances under Code Section 110; (d) certain elections regarding the nonrecognition of gain upon the involuntary conversion of property under Code Section 1033; (e) an election to “roll over” gain from the sale of qualified small business stock under Code Section 1045; (f) elections under Code Section 338(h)(10); (g) numerous provisions affecting employee benefit plans, exempt organizations and tax-exempt bonds; and (h) various elections involving trusts and estates.

In recognition of the fact that the IRS may have difficulty accessing documents, systems or other resources necessary to perform its administrative responsibilities under the Code, the Notice also grants the IRS a 30-day extension to perform the following time-sensitive actions with regard to “Affected Taxpayers” (as defined below): (i) assessing any tax; (ii) giving or making any notice or demand for the payment of any tax, or with respect to any liability

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to the United States in respect of any tax; (iii) collecting 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 this purpose, "Affected Taxpayers" include the following persons: (a) those currently under examination; (b) those whose cases are with the Independent Office of Appeals; and (c) those who, during the period beginning April 6, 2020, and ending before July 15, 2020, file amended returns or submit payments with respect to a tax for which the time for assessment would otherwise expire during this period.

The tax payment and tax return filing obligations postponed until July 15, 2020 (some of which had already been announced in Notices 2020-18 and 2020-20) are set forth below:

Specified Taxes and Tax Returns	Forms
Individual income tax payments and tax returns	Forms 1040, 1040-SR, 1040-NR, 1040-NR-EZ, 1040-PR and 1040-SS
Corporate income tax payments and tax returns (calendar year or fiscal year)	Forms 1120, 1120-C, 1120-F, 1120-FSC, 1120-H, 1120-L, 1120-ND, 1120-PC, 1120-POL, 1120-REIT, 1120-RIC, 1120-S and 1120-SF
Partnership tax returns (calendar year or fiscal year)	Forms 1065 and 1066 (REMIC)
Estate and trust income tax payments and tax returns	Forms 1041, 1041-N and 1041-QFT
Estate and generation-skipping transfer tax payments and tax returns	Forms 706, 706-NA, 706-A, 706-QDT, 706-GS(T), 706GS(D) and 706-GS(D-1)
Estate and generation-skipping transfer tax returns filed pursuant to Rev. Proc. 2017-34	Form 706
Information return regarding beneficiaries acquiring property from a decedent	Form 8971
Gift and generation-skipping transfer tax payments and tax returns	Form 709
Estate tax payments of principal or interest due as a result of an election under Sections 6166, 6161 or 6163 of the Code and annual recertification requirements under Section 6166 of the Code.	N/A
Exempt organization business income tax and other payments and return filings	Form 990-T
Excise tax payments on investment income and related tax returns	Forms 990-PF and 4720
Quarterly estimated income tax payments and related tax returns	Forms 990-W, 1040-ES, 1040-ES(NR), 1040-ES(PR), 1041-ES and 1120-W

The postponement of filing deadlines to July 15, 2020, also applies to: (A) all schedules, returns and forms that are filed as attachments to any of the foregoing specified tax returns, including Schedule H and SE, as well as Forms 3520, 5471, 5472, 8621, 8858, 8865 and 8938, (B) any elections that are made or required to be made on such specified tax returns (or attachments thereto), and (C) any installment payment due under Section 965(h) on or after April 1, 2020, but before July 15, 2020. Although Notice 2020-23 does not extend the due date for filing FinCEN Form 114, Report of Foreign Bank Account Reports ("FBAR"), previously issued guidance provides taxpayers with an automatic extension of time to file the FBAR until October 15.