

# IRS's Relief to Taxpayers Affected by COVID-19 Presents Rare Opportunities for Taxpayers with Unresolved Tax Issues

## Coronavirus Legal Advisory

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On March 25, 2020, the Internal Revenue Service (the "IRS") released the People First Initiative as part of its ongoing effort to provide relief to taxpayers impacted by COVID-19. The People First Initiative grants taxpayers further relief in addition to recently issued provisions extending certain tax filing and tax payment deadlines (covered [here](#)). The unprecedented relief provisions, including a suspension of most enforced collection and other compliance activities from April 1 through July 15, 2020, present taxpayers with questionable reporting positions, unfiled tax returns, and outstanding tax debts a rare opportunity to resolve those issues voluntarily and, potentially, without the risk of civil or criminal penalties. This Alert summarizes the key provisions of the People First Initiative.

**New and Ongoing Audits:** The People First Initiative announces that the IRS will generally not start new audits during the period April 1 through July 15, 2020. However, the IRS reserves the right to start new examinations (and close existing audits, perhaps unfavorably to taxpayers) where deemed necessary to protect the government's interest. Taxpayers desiring to amend prior years' tax returns have a limited window within which to act before being subject to a risk of audit again.

**Taxpayers with Unfiled Tax Returns Who Received Income in Excess of \$100,000:** In late February, the IRS announced that it would prioritize enforcement against so-called "high-income" taxpayers who earned more than \$100,000 of income but did not file required federal tax returns. The People First Initiative reminds taxpayers who have not filed tax returns for past years to file delinquent tax returns. We understand that the partial moratorium on enforcement activities, discussed throughout this Alert, is intended to apply equally to "high income" non-filers, though the IRS has not been less clear on the issue than we would have liked. On the basis of IRS officials' recent comments, we expect that the IRS will aggressively pursue high income non-filers once the coronavirus emergency ends and IRS staffing levels return to normal. We view this temporary pause in enforcement as a rare opportunity for taxpayers with unfiled tax returns to voluntarily come back into compliance with the internal revenue laws. We suggest that taxpayers with unfiled tax returns consult with

counsel about the options available to come into compliance, potentially without the risk of civil or criminal penalties.

Relatedly, from discussions with other practitioners, we have heard that some IRS agents read the People First Initiative as supporting the position that the partial moratorium on enforcement does not apply to “high income” taxpayers. Based, in part, on feedback from attorneys at McCarter & English, we expect comments to be submitted to the IRS by the American Bar Association’s Section of Taxation asking the IRS to publicly confirm our understanding that all taxpayers, regardless of income, will receive the benefit of the partial moratorium on enforcement.

**Administrative Appeals Generally Not Suspended:** For taxpayers seeking to resolve cases before the IRS Office of Appeals (“Appeals”), at the current time, Appeals will continue to work cases but not offer in-person conferences from April 1, 2020, through at least July 15, 2020. Taxpayers are being encouraged to respond to outstanding requests for information from Appeals.

**Suspension of Automated Liens and Levies:** The IRS has automated much of its collection enforcement activity by automatically filing liens and issuing levies. As a result of the People First Initiative, the IRS will suspend new, automatic systemic liens and levies for the period April 1 through July 15, 2020.

**Field Collection Activities Significantly Curtailed:** For tax debts not handled through the automated collection process, and other tax debts, the IRS commonly assigns a taxpayer’s delinquent accounts to so-called “field revenue officers” for collection. Under the People First Initiative, the IRS has generally suspended lien filings and levies (including seizures of personal residences) for the period April 1 through July 15, 2020.

**Passport Revocations and Referrals to Private Debt Collectors Suspended:** Any taxpayer who owes to the United States more than \$53,000 of taxes, penalties, and interest at any point during the 2020 calendar year is at risk of having his or her passport revoked or having his or her application to renew a passport automatically denied. Additionally, certain taxpayers who owe tax debts to the United States of any amount are at risk of being referred to a private collection agency for enforced collection. Pursuant to the People First Initiative, the IRS has suspended all referrals of delinquent taxpayer accounts to private collection agencies or to the U.S. Department of State to revoke passports.

**Installment Agreements:** For taxpayers who have an existing installment agreement (i.e., a payment plan) with the IRS that is not a direct debit installment agreement, the People First Initiative provides that payments due between April 1 and July 15, 2020, are suspended. For taxpayers who have an existing installment agreement with the IRS that is a direct debit installment agreement, at the current time, the IRS has suggested that it will continue to make direct debits in accordance with the terms of the direct debit installment agreement. Based, in part, on feedback from attorneys at McCarter & English, we expect comments to be submitted to the IRS by the American Bar Association’s Section of Taxation asking the IRS to suspend all installment payments due between April 1 and July 15, 2020, regardless of whether those payments arise under a direct debit installment agreement or otherwise. We strongly encourage taxpayers who have been medically or financially affected by COVID-19 to consult with counsel with respect to whether a modification to an existing installment agreement is appropriate and worthwhile.

**Offers in Compromise:** Under the People First Initiative, the IRS has afforded relief to taxpayers who are required to make payments under a pending or accepted offer in compromise (i.e., an agreement with the IRS to pay less than the full amount of tax). We strongly encourage taxpayers who have been medically or financially affected by COVID-19

to consult with a tax advisor with respect to whether an offer in compromise is available to resolve outstanding tax debts for less than the full amount of the tax debt owed.

**Reduced Staffing Levels at the IRS:** The IRS has been significantly impacted by the COVID-19 emergency and, like many businesses in the private sector, has significantly reduced its staffing levels. As a result, it has been difficult to make contact with IRS employees and wait times for general assistance have been significant.

**Expect Notices from the IRS:** Although the IRS will generally not take enforced collection, such as filing a lien, issuing a levy, certifying a tax debt to a private collection agency, or seeking to have a passport revoked, at the present time the IRS is still mailing reminder notices and requesting information. The People First Initiative encourages taxpayers to respond to any IRS notice requesting additional information during this time, "if possible." Based, in part, on feedback from attorneys at McCarter & English, we expect comments to be submitted to the IRS by the American Bar Association's Section of Taxation asking the IRS to suspend future enforcement-related notices from the IRS until the IRS has returned enough employees to work to handle taxpayer responses, including the grant of appropriate extensions.

We would be happy to speak with you about the impact of the People First Initiative on your particular tax situation and the opportunities it may present for you.