Part III - Administrative, Procedural, and Miscellaneous

Update to Notice 2020-18, Additional Relief for Taxpayers Affected by Ongoing Coronavirus Disease 2019 Pandemic

Notice 2020-23

I. PURPOSE

On March 13, 2020, the President of the United States issued an emergency declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act in response to the ongoing Coronavirus Disease 2019 (COVID-19) pandemic (Emergency Declaration). The Emergency Declaration instructed the Secretary of the Treasury "to provide relief from tax deadlines to Americans who have been adversely affected by the COVID-19 emergency, as appropriate, pursuant to 26 U.S.C. 7508A(a)." Pursuant to the Emergency Declaration, this notice provides relief under section 7508A(a) of the Internal Revenue Code (Code) for the persons described in section III.A of this notice that the Secretary of the Treasury has determined to be affected by the COVID-19 emergency. This notice amplifies Notice 2020-18, 2020-15 IRB 590 (April 6, 2020), and Notice 2020-20, 2020-16 IRB 660 (April 13, 2020).

II. BACKGROUND

Section 7508A of the Code provides the Secretary of the Treasury or his delegate (Secretary) with authority to postpone the time for performing certain acts under the internal revenue laws for a taxpayer determined by the Secretary to be affected by a Federally declared disaster as defined in section 165(i)(5)(A). Pursuant to section 7508A(a), a period of up to one year may be disregarded in determining whether the performance of certain acts is timely under the internal revenue laws.

On March 18, 2020, the Department of the Treasury (Treasury Department) and the Internal Revenue Service (IRS) issued Notice 2020-17 providing relief under section 7508A(a), which postponed the due date for certain Federal income tax payments from April 15, 2020, until July 15, 2020. On March 20, 2020, the Treasury Department and the IRS issued Notice 2020-18, which superseded Notice 2020-17 and provided expanded relief, postponing the due date from April 15, 2020, until July 15, 2020, for filing Federal income tax returns and making Federal income tax payments due April 15, 2020. On March 27, 2020, the Treasury Department and the IRS issued Notice 2020-20, which amplified Notice 2020-18 and provided additional relief, postponing certain Federal gift (and generation-skipping transfer) tax return filings and payments.

This notice further amplifies the relief provided in Notice 2020-18 and Notice 2020-20, providing additional relief to affected taxpayers as described in section III. In addition, section III.D of this notice postpones due dates with respect to certain government acts, and section III.E of this notice postpones the application date to participate in the Annual Filing Season Program.

The relief provided under section 7508A in this notice, Notice 2020-18, and Notice 2020-20, is limited to the relief explicitly provided in these notices and does not apply with respect to any other type of Federal tax, any other type of Federal tax return, or any other time-sensitive act. For information about additional relief that may be available in connection with the COVID-19 emergency, including relief provided to employers that allows them to delay the deposit of certain employment taxes, go to *IRS.gov/Coronavirus*.

III. GRANT OF RELIEF

A. Taxpayers Affected by COVID-19 Emergency

The Secretary of the Treasury has determined that any person (as defined in section 7701(a)(1) of the Code) with a Federal tax payment obligation specified in this section III.A (Specified Payment), or a Federal tax return or other form filing obligation specified in this section III.A (Specified Form), which is due to be performed (originally or pursuant to a valid extension) on or after April 1, 2020, and before July 15, 2020, is affected by the COVID-19 emergency for purposes of the relief described in this section III (Affected Taxpayer). The payment obligations and filing obligations specified in this section III.A (Specified Filing and Payment Obligations) are as follows:

- Individual income tax payments and return filings on Form 1040, U.S. Individual Income Tax Return, 1040-SR, U.S. Tax Return for Seniors, 1040-NR, U.S. Nonresident Alien Income Tax Return, 1040-NR-EZ, U.S. Income Tax Return for Certain Nonresident Aliens With No Dependents, 1040-PR, Self-Employment Tax Return - Puerto Rico, and 1040-SS, U.S. Self-Employment Tax Return

(Including the Additional Child Tax Credit for Bona Fide Residents of Puerto Rico);

- Calendar year or fiscal year corporate income tax payments and return filings on Form 1120, U.S. Corporation Income Tax Return, 1120-C, U.S. Income Tax Return for Cooperative Associations, 1120-F, U.S. Income Tax Return of a Foreign Corporation, 1120-FSC, U.S. Income Tax Return of a Foreign Sales Corporation, 1120-H, U.S. Income Tax Return for Homeowners Associations, 1120-L, U.S. Life Insurance Company Income Tax Return, 1120-ND, Return for Nuclear Decommissioning Funds and Certain Related Persons, 1120-PC, U.S. Property and Casualty Insurance Company Income Tax Return, 1120-POL, U.S. Income Tax Return for Certain Political Organizations, 1120-REIT, U.S. Income Tax Return for Real Estate Investment Trusts, 1120-RIC, U.S. Income Tax Return for Regulated Investment Companies, 1120-S, U.S. Income Tax Return for an S Corporation, and 1120-SF, U.S. Income Tax Return for Settlement Funds (Under Section 468B);
- Calendar year or fiscal year partnership return filings on Form 1065, U.S. Return of Partnership Income, and Form 1066, U.S. Real Estate Mortgage Investment Conduit (REMIC) Income Tax Return;
- Estate and trust income tax payments and return filings on Form 1041, U.S. Income Tax Return for Estates and Trusts, 1041-N, U.S. Income Tax Return for Electing Alaska Native Settlement Trusts, and 1041-QFT, U.S. Income Tax Return for Qualified Funeral Trusts;

- Estate and generation-skipping transfer tax payments and return filings on Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return, 706-NA, United States Estate (and Generation-Skipping Transfer) Tax Return, 706-A, United States Additional Estate Tax Return, 706-QDT, U.S. Estate Tax Return for Qualified Domestic Trusts, 706-GS(T), Generation-Skipping Transfer Tax Return for Terminations, 706-GS(D), Generation-Skipping Transfer Tax Return for Distributions, and 706-GS(D-1), Notification of Distribution from a Generation-Skipping Trust (including the due date for providing such form to a beneficiary);
- Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return, filed pursuant to Revenue Procedure 2017-34;
- Form 8971, Information Regarding Beneficiaries Acquiring Property from a Decedent and any supplemental Form 8971, including all requirements contained in section 6035(a) of the Code;
- Gift and generation-skipping transfer tax payments and return filings on Form 709, United States Gift (and Generation-Skipping Transfer) Tax Return that are due on the date an estate is required to file Form 706 or Form 706-NA;
- Estate tax payments of principal or interest due as a result of an election made under sections 6166, 6161, or 6163 and annual recertification requirements under section 6166 of the Code;
- Exempt organization business income tax and other payments and return filings on Form 990-T, Exempt Organization Business Income Tax Return (and proxy tax under section 6033(e) of the Code);

- Excise tax payments on investment income and return filings on Form 990-PF, Return of Private Foundation or Section 4947(a)(1) Trust Treated as Private Foundation, and excise tax payments and return filings on Form 4720, Return of Certain Excise Taxes under Chapters 41 and 42 of the Internal Revenue Code; and
- Quarterly estimated income tax payments calculated on or submitted with Form 990-W, Estimated Tax on Unrelated Business Taxable Income for Tax-Exempt Organizations, 1040-ES, Estimated Tax for Individuals, 1040-ES (NR), U.S. Estimated Tax for Nonresident Alien Individuals, 1040-ES (PR), Estimated Federal Tax on Self Employment Income and on Household Employees (Residents of Puerto Rico), 1041-ES, Estimated Income Tax for Estates and Trusts, and 1120-W, Estimated Tax for Corporations.

The Secretary of the Treasury has also determined that 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. For purposes of this notice, the term Specified Time-Sensitive Action also includes an investment at the election of a taxpayer due to be made during the 180-day period described in section 1400Z-2(a)(1)(A) of the Code.

B. Postponement of Due Dates with Respect to Certain Federal Tax Returns and Federal Tax Payments

For an Affected Taxpayer with respect to Specified Filing and Payment Obligations, the due date for filing Specified Forms and making Specified Payments is automatically postponed to July 15, 2020.

This relief is automatic; Affected Taxpayers do not have to call the IRS or file any extension forms, or send letters or other documents to receive this 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. That extension will not extend the time to pay federal income tax beyond July 15, 2020.

This relief includes not just the filing of Specified Forms, but also all 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, including, for example, Schedule H and Schedule SE, as well as Forms 3520, 5471, 5472, 8621, 8858, 8865, and 8938. This relief also includes any installment payments under section 965(h) due on or after April 1, 2020, and before July 15, 2020. Finally, elections that are made or required to be made on a timely filed Specified Form (or attachment to a Specified Form) shall be timely made if filed on such Specified Form or attachment, as appropriate, on or before July 15, 2020.

As a result of the postponement of the due date for filing Specified Forms and making Specified Payments, the period beginning on April 1, 2020, and ending on July 15, 2020, will be disregarded in the calculation of any interest, penalty, or addition to tax for failure to file the Specified Forms or to pay the Specified Payments postponed by this notice. Interest, penalties, and additions to tax with respect to such postponed Specified Filing and Payment Obligations will begin to accrue on July 16, 2020.

C. Relief With Respect to Specified Time-Sensitive Actions

Affected Taxpayers also 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. This 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. This 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.

D. Postponement of Due Dates with Respect to Certain Government Acts

This notice also provides the IRS with additional time to perform the time-sensitive actions described in § 301.7508A-1(c)(2) as provided in this section III.D (Time-Sensitive IRS Action). Due to the COVID-19 emergency, IRS employees, taxpayers, and other persons may be unable to access documents, systems, or other resources necessary to perform certain time-sensitive actions due to office closures or state and local government executive orders restricting activities. The lack of access to those documents, systems, or resources will materially interfere with the IRS's ability to

timely administer the Code. As a result, IRS employees will require additional time to perform time-sensitive actions.

Accordingly, the following persons (as defined in section 7701(a)(1) of the Code) are "Affected Taxpayers" for the limited purpose of this section III.D:

- persons who are currently under examination (including an investigation to determine liability for an assessable penalty under subchapter B of Chapter 68);
- persons whose cases are with the Independent Office of Appeals; and
- 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.

This section III.D is subject to review and further postponement, as appropriate.

E. Extension of Time to Participate in the Annual Filing Season Program

Revenue Procedure 2014-42, 2014-29 IRB 192, created a voluntary Annual Filing Season Program to encourage tax return preparers who do not have credentials

as practitioners under Treasury Department Circular No. 230 (*Regulations Governing Practice before the Internal Revenue Service*) to complete continuing education courses for the purpose of increasing their knowledge of the law relevant to federal tax returns. Tax return preparers who complete the requirements in Rev. Proc. 2014-42 receive an annual Record of Completion. Under Rev. Proc. 2014-42, applications to participate in the Annual Filing Season Program for the 2020 calendar year must be received by April 15, 2020. The 2020 calendar year application deadline is postponed to July 15, 2020.

IV. EFFECT ON OTHER DOCUMENTS

Notice 2020-18 and Notice 2020-20 are amplified. Rev. Proc. 2014-42 is modified, applicable for calendar year 2020.

V. DRAFTING INFORMATION

The principal author of this notice is Jennifer Auchterlonie of the Office of Associate Chief Counsel, Procedure and Administration. For further information regarding this notice, you may call the COVID-19 Disaster Relief Hotline at (202) 317-5436 (not a toll-free call). For further information regarding estate, gift, trust, and generation-skipping transfer tax issues related to this notice, please contact Daniel Gespass, of CC:PSI: Br. 4 at (202) 317-6859 (not a toll-free call).