

June 2021

IRS Releases Final Regulations Explaining Mandatory 60-Day Postponement of Certain Tax-Related Deadlines for a Federally Declared Disaster

On June 11, 2021, the Internal Revenue Service (“IRS”) released final regulations relating to the new mandatory 60-day postponement of certain time-sensitive tax-related deadlines by reason of a federally declared disaster. This mandatory postponement period is predicated upon the Secretary of the Treasury (“Secretary”), who must use discretion in declaring that these mandatory extensions apply in response to the declared disaster.

Background

Section 7508A of the Internal Revenue Code (“Code”) gives the Secretary authority to postpone certain deadlines in the event of a presidentially declared disaster. The Taxpayer Certainty and Disaster Tax Relief Act of 2019, which was part of the Further Consolidated Appropriations Act of 2020, amended Code Section 7508A to add a new subsection to provide the Secretary with discretionary authority to postpone some time-sensitive tax deadlines for a mandatory 60-day period in the event of a federally declared disaster.

The mandatory postponement provision of the final regulations are *in addition to* any discretionary authority of the Secretary under Code Section 7508A(b) to postpone a permissive or required action of a pension or other employee benefit plan, plan sponsor, administrator, participant, beneficiary, or other person with respect to such plan, for a period of up to one year due to a federally declared disaster.

For these purposes, a federally declared disaster is a major disaster or an emergency declared under sections 401 or 501, respectively, of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

Treasury Authority to Declare Mandatory Deadline Extensions

Code Section 7508A(d) defines affected taxpayers as individuals whose principal residence is located in a disaster area, a taxpayer whose principal place of business is located in a disaster area, an individual who is a relief worker providing assistance in a disaster area, or any taxpayer whose tax records necessary to meet a tax deadline are located in a disaster area. In addition, if the taxpayer is filing a joint federal individual income tax return, the spouse of any individual noted above is also considered to be an affected taxpayer.

Under the final regulations, the Secretary has the authority to declare the following mandatory deadline extensions in the event of a federally declared emergency:

- The deadlines for making deductible contributions to a 401(a)/(k) plan, simplified employee pension plan, SIMPLE plan, or traditional IRA, with respect to contributions attributable to the prior tax year made by the due date of that tax year’s federal income tax return;
- The deadline for withdrawing excess IRA contributions attributable to the prior tax year and distributed by the due date of that tax year’s federal individual income tax return;

- The deadline for recharacterizing IRA contributions attributable to the prior tax year and distributed by the due date of that tax year's federal individual income tax return; and,
- The deadline for making a distribution of rollover eligible amounts from one eligible retirement plan to another eligible retirement plan.

If the Secretary authorizes relief for these transactions, the final rules will extend the deadlines for performing these time-sensitive acts for a mandatory 60-day period beginning on the earliest incident date specified in a disaster declaration for a federally declared disaster and ending on the date that is 60 days after the latest incident date specified in the relevant disaster declaration. However, this extension cannot exceed a delay of one year.

If no incident date is provided, the Secretary does not have the authority under Code Section 7508A(d) to provide relief for these transactions. Rather, the Secretary would need to have authority to provide relief under other provisions of the Code.

This mandatory extension relief runs concurrently with any other relief that the Secretary has authority to issue.

The final regulations are generally effective as of June 11, 2021, the date that these regulations were published in the *Federal Register*.

IRS Circular 230 Disclosure

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