

Federal Tax Return Filing and Payment Update IRS Notice 2020-23

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The Internal Revenue Service (IRS) has issued a series of Notices over the last few weeks regarding tax return filing and payment deferrals and we have summarized the key aspects of the Notices in prior alerts. The IRS has supplemented these prior Notices with Notice 2020-23 which provides additional filing and payment relief in addition to addressing time-sensitive actions and audit issues. The new guidance is summarized below.

TAX RETURN FILING AND PAYMENT DEFERRAL

Notice 2020-18 confirmed that any person with an income tax return or income tax payment due on April 15, 2020 has an automatic filing and payment extension until July 15, 2020. Notice 2020-23 expands on this relief by stating that any person (which includes an individual, trust, estate, partnership, a limited liability company taxed as a partnership, or corporation) that has “Specified Filing and Specified Payment Obligations” has an automatic filing and payment extension until July 15, 2020 if the return is due (originally or pursuant to a valid extension) on or after April 1, 2020 and before July 15, 2020. Notice 2020-23 is expanding the scope of filing and payment deferrals to a broader range of returns, not just returns that were due on April 15, 2020.

Specified Filing and Payment Obligations relate to the following returns and associated tax payments:

- Form 1040 (U.S. Individual Income Tax Return) and its variations, such as Form 1040-SR (U.S. Tax Return for Seniors), Form 1040-NR and Form 1040 NR-EZ (U.S. Tax Return for Nonresident Aliens); Form 1040-PR (Self-Employment Tax Return-Puerto Rico) and Form 1040-SS (U.S. Self-Employment Tax Return).
- Calendar year or fiscal year corporate tax returns filed on Form 1120 (U.S. Corporation Income Tax Return) and its variations, such as Form 1120-C (Cooperative Associations), Form 1120-F (Foreign Corporations), Form 1120-FSC (Foreign Sales Corporations), Form 1120-H (Homeowner Associations), Form 1120-L (Life Insurance Companies), Form 1120-ND (Nuclear Decommissioning Funds), Form 1120-PC (Property and Casualty Insurance Companies), Form 1120-POL (Political Organizations), Form 1120-REIT (Real Estate Investment Trusts), Form 1120-RIC (Regulated Investment Companies), Form 1120-S (S corporation) and Form 1120-SF (Settlement Funds).
- Calendar year or fiscal year partnership returns (including limited liability companies taxed as a partnership) filed on Form 1065 and Form 1066 (Real Estate Mortgage Investment Conduit (REMIC)).
- Estate and trust returns filed on Form 1041 (U.S. Income Tax Return for Estates and Trusts), Form 1041-N (Electing Alaska Native Settlement Trusts) and Form 1041-QFT (Qualified Funeral Trusts).
- Estate and generation-skipping transfer tax returns filed on Form 706, U.S. Estate (and Generation-Skipping Transfer) Tax Return, including Form 706 filed pursuant to Revenue Procedure 2017-34, and its variations, such as Form 706-NA (Nonresidents not a U.S. Citizen), Form 706-A (Additional Estate Tax Return), Form 706-QDT (Qualified Domestic

Trusts), Form 706-GS(T) (Generation-Skipping Transfer Tax Return for Terminations), Form 706-GS(D) (Generation-Skipping Transfer Tax Return for Distributions) and Form 706-GS(D-1) (Generation-Skipping Transfer Tax Return for Notice of Distributions).

- Form 8971 (Information Regarding Beneficiaries Acquiring Property from a Decedent).
- Gift and generation-skipping transfer tax returns on Form 709, U.S. 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 of the Internal Revenue Code of 1986, as amended (Code), and annual recertification requirements under Code Section 6166.
- Exempt organization business income tax returns on Form 990-T (Exempt Organization Business Income Tax Return).
- Excise tax payments on investment income on Form 990-PF (Return of Private Foundation) and Form 4720 (Return of Certain Excise Taxes).
- Quarterly estimated income taxes on Form 990-W (Estimated Tax on Unrelated Business Taxable Income for Tax-Exempt Organizations), Form 1040-ES (Estimated Tax for Individuals), Form 1040-ES (NR)(Estimated Tax for Nonresident Alien Individuals), Form 1040-ES (PR)(Estimated Tax (Residents of Puerto Rico)), Form 1041-ES (Estimated Income Tax for Estates and Trusts) and Form 1120-W (Estimated Tax for Corporations).

The additional clarification is very helpful, particularly since it confirms that the second quarter 2020 estimated tax payments for individuals, which are normally due on June 15, 2020, are now due on July 15, 2020. This means that both the first and second quarter 2020 estimated tax payments for individuals are due on July 15, 2020 instead of on April 15, 2020 and June 15, 2020.

Notice 2020-23 also confirms that filing and payment deferrals are automatic. A further three-month extension to file an individual return after July 15, 2020 can be made to extend the due date to October 15, 2020, although this extension does not extend the time to pay federal income tax beyond July 15, 2020. The filing deferral also applies to all schedules, returns and forms that would otherwise be attached to an applicable tax return and the payment deferral also applies to installment payments of the transition tax under Code Section 965(h) that are due on or after April 1, 2020 and before July 15, 2020.

TIME SENSITIVE ACTIONS

Prior IRS Notices had focused on filing and payment issues and Notice 2020-23 introduces relief for “specified time-sensitive actions” that are due to be performed on or after April 1, 2020 and before July 15, 2020. These actions are extended to July 15, 2020 and include the time for filing a petition with the U.S. Tax Court, filing a claim for credit or refund of any tax, and bringing a suit upon a claim for credit or refund of any tax. This extension does not apply if the time for filing a U.S. Tax Court petition or a refund suit expired before April 1, 2020

GOVERNMENT ACTS

Finally, Notice 2020-23 provides additional time to perform certain acts where the last day to perform the act is on or after April 6, 2020 and before July 15, 2020. There is a 30-day postponement of the time to perform an act for persons who are currently under examination, who have cases with the Appeals Office, or who have filed amended returns or

made payments with respect to a tax for which the time for assessment would otherwise have expired. The 30-day postponement also applies with respect to the 180-day investment period for opportunity zones.

Notice 2020-23 is a welcome expansion of the filing and payment deferral rules as well as providing guidance on IRS procedural issues.

If you have questions or would like additional information, please contact John Eagan (eaganj@whiteandwilliams.com; 212.868.4835), Stephen Bowers (bowerss@whiteandwilliams.com; 215.864.6247), Warren Kauffman (kauffmanw@whiteandwilliams.com; 215.864.7092) or Bridget La Rosa (larosab@whiteandwilliams.com; 212.714.3067).

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