



March 26, 2020

The Honorable David J. Kautter
Assistant Secretary for Tax Policy
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

The Honorable Charles P. Rettig
Commissioner
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224

Re: Relief for Taxpayers Affected by Ongoing Coronavirus Disease 2019 Pandemic

Dear Messrs. Kautter and Rettig:

The American Institute of CPAs (AICPA) appreciates the efforts by the Department of the Treasury (“Treasury”) and the Internal Revenue Service (IRS) to provide filing and payment relief to taxpayers affected by the Coronavirus Disease 2019 pandemic (commonly known as “Coronavirus” or “COVID-19”) through Notice 2020-18 (or “Notice”) and the accompanying frequently asked questions (FAQs). In light of the uncertainty and severe challenges caused by the spread of the Coronavirus pandemic, it is not possible for many taxpayers and tax preparers to calculate all payments and prepare and file various returns.

We urge Treasury and the IRS act immediately to provide broader tax filing and payment relief for taxpayers affected by the ongoing pandemic. **Specifically, we request that all Federal income tax, information returns, and payments (e.g., installments and estimated payments) originally due between March 3, 2020 and July 15, 2020 are granted additional time to file and pay until July 15, 2020.** We also request further guidance and clarification regarding Notice 2020-18.

Notice 2020-18 allows taxpayers to delay tax filing and payments for 90 days and provides interest and penalty relief to Federal income tax returns and payments due April 15, 2020. Unfortunately, the important relief provided by this notice does not apply to all filings and payments affected by COVID-19. In contrast, when the President invokes the Robert T. Stafford Disaster Relief and Emergency Assistance Act (“Stafford Act”), taxpayers are typically granted broad payment and filing relief under section 7508A¹ of the Internal Revenue Code. The most recent example of this broad relief was provided by the IRS to the victims of the Tennessee tornadoes, which recognized the victims’ inability to comply with their various tax obligations.²

¹ Unless otherwise indicated, references to a “section” are to a section of the Internal Revenue Code of 1986, as amended (the “Code”), and references to a “Treas. Reg. §” are to the Treasury regulations promulgated under the Code.

² [IR-2020-51](#), March 6, 2020.

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The President has declared the entire United States an emergency zone under the Stafford Act and the nation has experienced unprecedented disruption. However, relief comparable to that provided to individuals and businesses in Tennessee has not been allowed for taxpayers and tax advisers who are actively working to comply with the Centers for Disease Control and Prevention's and World Health Organization's safety measures to prevent the spread of the Coronavirus disease. At a minimum, Treasury and the IRS should offer generous and immediate reasonable cause relief for the filing of any tax returns, information returns, elections, correspondence, or payments not covered under the Notice but affected by COVID-19.

We appreciate the IRS's efforts to provide quick answers and clarify aspects of Notice 2020-18 through online FAQs. As mentioned above, we request that **all Federal income tax, information returns, and payments originally due between March 3, 2020 and July 15, 2020 are granted additional time to file and pay until July 15, 2020.** However, many additional questions remain. The following are **some** priority questions and recommendations for consideration as Treasury and the IRS continue to provide guidance to taxpayers:

Filing Issues

- 1) U.S. citizens living abroad and non-resident alien filers are potentially affected by the April 15 due date and payment requirement. Assure these taxpayers are eligible for relief to file by July 15.
- 2) Provide relief from manual signature requirements. For electronic transactions, IRS guidance requires a manual signature on Form 8868, *IRS e-file Signature Authorization for Form 4868 or Form 2350*, Form 8878-A, *IRS e-file Electronic Funds Withdrawal Authorization for Form 7004*, and Form 8879, *IRS e-file Signature Authorization*.
- 3) Clarify whether Form 990, *Return of Organization Exempt From Income Tax*, and Form 990-PF, *Return of Private Foundation*, with April 15 due dates are extended under Notice 2020-18. Forms 990 and 990-PF are referred to as "information returns" by the IRS and the tax due with Form 990-PF on net investment income is defined as an "excise tax." If these returns are not included under Notice 2020-18, please provide filing and payment relief.
- 4) Provide filing relief to gift and estate tax returns that normally require paper submission and manual signatures. If an individual return is automatically delayed to July 15, the related gift tax return should similarly receive an automatic extension without having to file a Form 8892, *Application for Automatic Extension of Time To File Form 709 and/or Payment of Gift/Generation-Skipping Transfer Tax*.
- 5) Provide relief from the normal statute of limitations during the pandemic and the 90-day period for a Notice of Deficiency if a locality has a shelter-in-place order.

- 6) Confirm that returns that are normally extended and filed with Form 1040, *U.S. Individual Income Tax Return*, Form 1120, *U.S. Corporation Income Tax Return*, and Form 1041, *U.S. Income Tax Return for Estates and Trusts*, are also automatically extended to July 15. (For example, these forms include Form 3520, *Annual Return to Report Transactions with Foreign Trusts and Receipt of Certain Foreign Gifts* (paper filed separately); Form 5471, *Information Return of U.S. Persons With Respect To Certain Foreign Corporations*; Form 5472, *Information Return of a 25% Foreign-Owned U.S. Corporation or a Foreign Corporation Engaged in a U.S. Trade or Business*, Form 8621, *Information Return by a Shareholder of a Passive Foreign Investment Company or Qualified Electing Fund*, Form 8858, *Information Return of U.S. Persons With Respect to Foreign Disregarded Entities (FDEs) and Foreign Branches (FBs)*; Form 8865, *Return of U.S. Persons With Respect to Certain Foreign Partnerships*; and Form 8938, *Statement of Specified Foreign Financial Assets*.)
- 7) Provide guidance and filing relief for non-resident alien taxpayers who cannot leave the U.S. and will trigger the substantial presence test due to the impacts of COVID-19.

Tax Payments

- 8) Confirm that an extension overpayment made on July 15 counts as if were made for Q1 (*i.e.*, April 15). Please confirm that this payment counts towards any required Q2 estimated tax payments.
- 9) Provide relief for S corporations that must make estimated payments on April 15 (*e.g.*, the section 1374 tax imposed on certain built-in gains).

Employee Benefits

- 10) Provide payment relief to employers currently assessed penalties under the Affordable Care Act as part of the Employer Mandate under sections 4980H(a) and 4980H(b), including failure to file Form 1094-C, *Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns*, and Form 1095-C, *Employer-Provided Health Insurance Offer and Coverage*, timely with the IRS and provide statements to participants under sections 6721 and 6722.

The rapid emergence of the Coronavirus pandemic has generated never-before uncertainty and difficulties. Notice 2020-18 and the accompanying FAQs were both helpful and appreciated. However, additional relief and clarification are necessary to provide fairness and clarity to taxpayers and tax preparers while offering economic relief to small businesses and their employees. We plan to continue our dialogue in the upcoming weeks.

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The AICPA is the world's largest member association representing the CPA profession, with more than 429,000 members in the United States and worldwide, and a history of serving the public interest since 1887. Our members advise clients on federal, state and international tax matters and prepare income and other tax returns for millions of Americans. Our members provide services to individuals, not-for-profit organizations, small and medium-sized businesses, as well as America's largest businesses.

We appreciate your consideration of these comments and welcome the opportunity to discuss these issues further. If you have any questions, please feel free to contact Melissa Labant, Director – AICPA Tax Policy & Advocacy, at (202) 434-9234 or Melissa.Labant@aicpa-cima.com; or me at (612) 397-3071 or Chris.Hesse@CLAconnect.com.

Sincerely,

A handwritten signature in blue ink that reads "Christopher Hesse". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Chair, AICPA Tax Executive Committee

cc: Jennifer Auchterlonie, Office of the Associate Chief Counsel, Procedure and Administration, Internal Revenue Service