



March 17, 2023

The Honorable Daniel I. Werfel
Commissioner
Internal Revenue Service
1111 Constitution Ave, NW
Washington, DC 20224

The Honorable Lily Batchelder
Assistant Secretary for Tax Policy
Department of Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

RE: Automatic Postponement Date Lookback Period for Allowing Tax Credits or Refunds for All Disasters

Dear Commissioner Werfel and Assistant Secretary Batchelder:

The AICPA greatly appreciates the administrative relief the Internal Revenue Service (IRS) recently provided in Notice 2023-21¹ regarding the lookback period for allowing tax credits or refunds. We request that you broaden the relief provided administratively under section² 7508A(a), as was done in the Notice, and automatically provide such postponed date lookback period as part of its administrative relief for **all** disasters going forward.

The National Taxpayer Advocate has identified this issue as part of the Annual Report to Congress (the “Purple Book”) and highlighted it as the first of ten legislative recommendations needing particular attention (Amend the Lookback Period for Allowing Tax Credits or Refunds to Include the Period of Any Postponement or Additional or Disregarded Time for Timely Filing a Tax Return³). The Purple Book contains a more extensive Summary, articulation of the Present Law, Reasons for Change, and Recommendation. The AICPA appreciates the National Taxpayer Advocate’s identification of this issue and highlighting the particular attention needed to resolve problems encountered by taxpayers. The AICPA also supports the Purple Book’s solution to the issue:

We recommend Congress amend the lookback period so that when the IRS postpones a filing deadline due to a disaster declaration, taxpayers can recover amounts paid within three years *plus the period of the postponement, similar to the law for extensions to file.*

The AICPA commends the IRS for the Notice 2023-21 administrative relief it provided, which lengthened the lookback period for refund claims for 2019 and 2020 returns with due dates that were postponed due to Covid.⁴ Using the Secretary’s disaster relief authority under section 7508A(a), the IRS disregarded the periods from April 15, 2020 to July 15, 2020, and from April 15, 2021 to May 17, 2021, in determining the beginning of the lookback period to align the lookback periods with the postponed return filing due dates.

¹ [Notice 2023-21](#), 2023-11 IRB 1, Feb. 27, 2023

² Unless otherwise indicated, references to a “section” are to a section of the Internal Revenue Code of 1986, as amended (IRC or the “Code”), and references to a “Treas. Reg. §” are to the Treasury regulations promulgated under the Code.

³ See [National Taxpayer Advocate 2023 Purple Book: Compilation of Legislative Recommendations To Strengthen Taxpayer Rights and Improve Tax Administration](#), Dec. 31, 2022, page 132.

⁴ [Notice 2020-23](#), 2020-18 IRB 742, Apr. 9, 2020; and [Notice 2021-21](#), 2021-15 IRB 986, Apr. 5, 2021.

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This is welcome relief and solves an immediate problem for taxpayers who took advantage of the Covid-related postponements. However, we urge the IRS to make this relief broader, and automatic, for all Federally declared disasters going forward. Taxpayers who were affected by other disasters such as hurricanes, tornadoes, floods, wildfires, etc., should have the same relief that the IRS provided with respect to Covid.

For example, the IRS recently extended tax deadlines to October 16 for disaster area taxpayers in California, Alabama, and Georgia.⁵ Taxpayers impacted by disasters in these states (and in other disasters) should also have the benefit of the lookback period being aligned with the postponed return filing due date. This relief should also be automatically included as part of the relief the IRS provides for all Federally declared disasters. While the Purple Book recommends action by Congress to amend the lookback period, the IRS can provide this relief administratively under section 7508A(a) as was done in Notice 2023-21 and should automatically provide such postponed date lookback period as part of its administrative relief for all disasters.⁶

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We appreciate your consideration of our recommendations and welcome the opportunity to further discuss our comments. If you have any questions, please contact Rochelle Hodes, Chair, AICPA IRS Advocacy and Relations Committee, at (202) 552-8033, or Rochelle.Hodes@crowe.com; Peter Mills, Senior Manager — AICPA Tax Policy & Advocacy, at (202) 434-9272, or Peter.Mills@aicpa-cima.com; or me at (601) 326-7119 or JanLewis@HaddoxReid.com.

Sincerely,



Jan F. Lewis, CPA
Chair, AICPA Tax Executive Committee

cc: Mr. William M. Paul, Principal Deputy Chief Counsel, Internal Revenue Service
Ms. Erin Collins, National Taxpayer Advocate
Mr. Thomas Barthold, Chief of Staff, Joint Committee on Taxation

⁵ [IR-2023-33](#), Feb. 24, 2023.

⁶ Permanent relief can be provided administratively by updating the section 7508A regulations. Understanding that publication of a regulation can be a long process, options to provide broad relief for all disasters more quickly include modifying [Rev. Proc. 2018-58](#), 2018-50 IRB 990 (Nov. 20, 2018), or including language similar to the language in [Notice 2023-21](#) in the template for news releases that announce disaster relief.