



February 23, 2021

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

Mr. Mark J. Mazur
Acting Assistant Secretary for Tax Policy
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Re: Certainty and Relief Needed for the 2020 Tax Year

Dear Commissioner Rettig and Acting Assistant Secretary Mazur:

The American Institute of CPAs (AICPA) recognizes and appreciates the efforts the Department of the Treasury (“Treasury”) and the Internal Revenue Service (IRS) has made to provide various forms of relief to taxpayers affected by the Coronavirus Disease 2019 pandemic (commonly known as “Coronavirus”) during 2020 (the 2019 tax year). However, as we approach the April 15 filing and payment deadline for the 2020 tax year, many taxpayers and tax professionals continue to struggle to calculate and make tax payments and prepare and file tax returns. Certainty and further relief are needed.

Specifically, we urge Treasury and the IRS to:

- Provide certainty regarding the April 15 filing and payment deadline. If Treasury and IRS determine they cannot hold to the April 15 deadline, a decision should be announced by March 1 and the extended date should be June 15.
- Provide taxpayers with targeted relief from both the underpayment of estimated tax penalty and the late payment penalty for the 2020 tax year.
- Discontinue compliance actions until the IRS is prepared to devote the necessary resources for a proper and timely resolution of the matter. At a minimum, halt automatic collections activities of liens and levies for at least 90 days after the April 15 (or the postponed) filing deadline.
- Expand the existing temporary e-signature relief currently being provided to the millions of taxpayers affected and working through the challenges created by the Coronavirus.

BACKGROUND

Certainty

The rapid emergence of the Coronavirus pandemic generated never-before uncertainty. In light of the uncertainty and severe challenges caused by the spread of the Coronavirus, the IRS issued [Notice 2020-23](#) to help alleviate the filing and financial burdens created by taxpayer obligations.

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The Notice provided payment and filing relief, until July 15, 2020, to filings and payment obligations that were due between April 1, 2020 and July 15, 2020.

Unfortunately, the Coronavirus continues to disrupt individual and business life in unprecedented ways and there have been discussions regarding the efficacy of the April 15, 2021 tax filing deadline. Though the IRS has emphasized that taxpayers and tax professionals should assume that the deadline will remain, “the IRS will not commit to keeping an April 15 filing deadline if Congress approves a third round of stimulus payments,”¹ creating further uncertainty for taxpayers and tax professionals.

Penalties

Taxpayers are generally required to make payments of estimated federal income taxes. In order to avoid failure to pay estimated tax (“underpayment”) penalties, individuals, with limited exceptions, are required to pay at least 90% of the tax due for the current year or 100% (110% if adjusted gross income exceeds \$150,000) of the amount of tax shown on their United States (U.S.) income tax return for the prior year, whichever is smaller. Alternatively, taxpayers with a tax due of less than \$1,000 receive an exception to the underpayment penalties.²

Taxpayers are also required to pay the amount of tax shown on their U.S. income tax return by the tax deadline or the taxpayer is subject to failure to pay (“late payment”) penalties. If the taxpayer can show reasonable cause for not paying on time, the taxpayer may not have to pay the late payment penalty.³ Historically, the IRS has granted relief to taxpayers that request an extension of time to file their income tax return and pay at least 90% of the taxes owed with the request. Taxpayers must pay the remaining balance by the extended due date.⁴

Collections

If taxpayers do not timely pay their tax obligations, they generally will receive a series of escalating automated notices reminding them of the amount owed, including any penalties and interest accrued, and demanding payment. These notices precede the automated collection process, which continues until the account is satisfied, the case is transferred to a revenue officer, or until the IRS is no longer able to legally collect the tax.

If taxpayers do not contact the IRS to pay their tax obligation in full or make payment arrangements, for example through an installment agreement or offer in compromise, the IRS may file a Federal tax lien against the taxpayer, serve a notice of levy to the taxpayer, or offset some other refund to which the taxpayer is entitled, to satisfy the liability.

¹ Tax Notes, William Hoffman, “[No Promises on April 15 With Third Round of EIPs, Rettig Says](#),” January 15, 2021.

² Section 6654. All references to “section” or “§” are to the Internal Revenue Code of 1986, as amended, and all references to “Treas. Reg. §” and “regulations” are to U.S. Treasury regulations promulgated thereunder.

³ Section 6651.

⁴ IRS, IRS Tax Tip 2013-58, “[Eight Facts on Late Filing and Late Payment Penalties](#),” Tip #5, April 18, 2013.

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Last year, due to the Coronavirus pandemic, under its “[People First Initiative](#),” the IRS suspended required payments on installment agreements and halted certain collection activities, including new automatic liens, systemic liens and systemic levies through July 15, 2020.

E-signatures

On December 11, 2020 the IRS issued a memorandum (“[Temporary Deviation from Handwritten Signature Requirement for Limited List of Tax Forms](#)”) implementing a temporary deviation that allows taxpayers and tax professionals to use electronic or digital signatures when signing a limited list of tax forms.⁵ The December 11 memorandum is in place through June 30, 2021.

CERTAINTY ON FILING DEADLINE

The AICPA recommends that if the IRS decides to postpone the April 15 filing and payment deadline, the IRS should announce the postponed deadline date no later than March 1. Furthermore, if the IRS decides to postpone the filing deadline, the AICPA recommends a postponed filing and payment deadline date of June 15.

With approximately 28.1 million people infected and about 500,000 deaths due to the Coronavirus,⁶ there is an ever-growing uneasiness with the uncertainty surrounding the April 15 tax filing deadline.

There are an overwhelming number of considerations that must be taken into account to successfully comply with the filing 2021 deadline. For example:

- The IRS’s late start to the filing season has exacerbated the already-existing filing period compression issue.
- Continued stay-at-home orders make it difficult to access taxpayer data, particularly amongst certain populations such as the elderly.

⁵ The December 11 memorandum is effective for the following forms: Form 3115, *Application for Change in Accounting Method*; Form 8832, *Entity Classification Election*; Form 8802, *Application for U.S. Residency Certification*; Form 1066, *U.S. Income Tax Return for Real Estate Mortgage Investment Conduit*; Form 706, *U.S. Estate (and Generation-Skipping Transfer) Tax Return*; Form 706-NA, *U.S. Estate (and Generation-Skipping Transfer) Tax Return*; Form 709, *U.S. Gift (and Generation-Skipping Transfer) Tax Return*; Form 1120-ND, *Return for Nuclear Decommissioning Funds and Certain Related Persons*; Form 1120-RIC, *U.S. Income Tax Return for Regulated Investment Companies*; Form 1120-C, *U.S. Income Tax Return for Cooperative Associations*; Form 1120-REIT, *U.S. Income Tax Return for Real Estate Investment Trusts*; Form 1120-L, *U.S. Life Insurance Company Income Tax Return*; Form 1120-PC, *U.S. Property and Casualty Insurance Company Income Tax Return*; Form 1128, *Application to Adopt, Change or Retain a Tax Year*; Form 3520, *Annual Return to Report Transactions with Foreign Trusts and Receipt of Certain Foreign Gifts*; Form 3520-A, *Annual Information Return of Foreign Trust with a U.S. Owner*; Form 8453 series, Form 8878 series, and Form 8879 series regarding IRS e-file Signature Authorization Forms; and Form 8038 series, pertaining to tax-exempt bonds.

⁶ CNN, “[Tracking Covid-19 Cases in the US](#),” February 22, 2021.

- State conformity becomes a major factor – if a state does not conform to an IRS postponed filing deadline, the requirement to prepare the state income tax return reduces the benefit of a postponed Federal filing deadline.
- The IRS inability to seamlessly realign its systems and resources to the 2020 postponed due dates has created costly and complicated staffing issues in dealing with unnecessary IRS notices and compliance actions.
- Guidance is still needed for the paycheck protection program loans, employee retention credit and the state tax impact of remote work arrangements due to the Coronavirus when preparing 2020 tax returns.

Furthermore, if the IRS decides to postpone the filing and payment deadline due to a third economic impact payment, a June 15 deadline would allow the IRS the time necessary to process the 2019 tax returns. By June 15, there is also a greater likelihood that more people will be vaccinated which allows for more in-person tax meetings. Moreover, the June 15 deadline coincides with the second quarter Federal estimated payment, which could be made with the filing of the Federal return.

Finally, achieving the greatest level of state conformity with the Federal decision will leverage the best result from an overall tax administration perspective. Early decision making by Treasury and the IRS - by March 1 - provides the states with the best opportunity to implement a conforming change. Additionally, 46 states have a June 30 fiscal year end.⁷ Based on state revenue considerations, an extended due date before June 30 provides states with the ability to conform to a Federal deadline and maintain state revenue levels within their current fiscal years. A July 15 postponed Federal due date, for example, does not achieve the same result.

Although individuals have unique circumstances and are uniquely impacted by the Coronavirus complicating the determination of a specific postponement date, taxpayers and tax professionals need certainty by March 1 to ensure there will be decision-making time leading up to the tax filing deadline.

UNDERPAYMENT & LATE PAYMENT PENALTY RELIEF

The AICPA recommends providing taxpayers relief from underpayment and late payment penalties for the 2020 taxable year. Specifically, we recommend taxpayers receive relief from the underpayment penalty if:

- Taxpayers paid at least 70% of the tax due for the current year, or
- Taxpayers paid 70% (90% if adjusted gross income (AGI) exceeds \$150,000) of the amount of tax shown on their U.S. income tax return for the prior year.

⁷ NCSL.org, “[Quick Reference Fiscal Table](#),” November 18, 2020.

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Taxpayers should also receive relief from late payment penalties if they timely request an extension of time to file their income tax return and pay at least 70% of the taxes owed with the request.⁸

The rapid emergence of the Coronavirus pandemic generated the largest level of unemployment seen in the United States since the Great Depression⁹ forcing approximately 20.6 million Americans to collect unemployment.¹⁰ As a result, taxpayers may not have the wherewithal to withhold from their unemployment earnings to meet their tax obligations. Indeed, some taxpayers may have forgone withholding to ensure food was on their table.

Additionally, some taxpayers, such as elderly people or those with pre-existing health conditions, may still be hesitant to meet with their tax advisors to provide all their tax data. Also, social distancing requirements could create difficulties in providing all tax data to preparers to accurately calculate necessary payments required for extensions.

Furthermore, by extending underpayment and late payment penalty relief retroactively for the 2020 tax year, there is little room for abuse since the last estimated payments were due on January 15, 2021.

Given the hardship and challenges taxpayers and tax preparers continue to face during the 2021 tax filing season, it is both necessary and appropriate to provide penalty relief.

DELAY IRS COLLECTIONS

The AICPA recommends that the IRS discontinue compliance actions until it is prepared to devote the necessary resources for a proper and timely resolution of the matter. At a minimum, the IRS should halt its automatic collections activities of liens and levies for at least 90 days after the April 15 (or the postponed) filing deadline. At that time, the IRS should reassess further extending the halt of the automatic collection activities based on its capacity and capability.

After July 15, 2020, once the People First Initiative expired, taxpayers started to receive numerous automatic collection notices for amounts owed, new automatic liens, systemic liens and systemic levies. The IRS's compliance cycle was not realigned to the postponed due date, mail and processing backlogs, and resources limitations which resulted in millions of incorrect notices and actions. Over 7 months later, taxpayers are still inappropriately receiving collection notices or threatening liens or levies, often with severe penalties.

Furthermore, many taxpayers must respond to notices through paper correspondence and must wait months for a resolution. Even though the IRS, in some instances, has indicated that taxpayers need not respond to these erroneous notices as IRS will systemically abate them, taxpayers are

⁸ AICPA letter, "[Underpayment and Late Payment Penalty Relief for 2020 Tax Year](#)," February 16, 2021.

⁹ Rkesh Kochhar, Pew Research Center, "[Unemployment rose higher in three months of COVID-19 than it did in two years of the Great Recession](#)," June 11, 2020. In April of 2020 unemployment rates reached 14.4%.

¹⁰ U.S Department of Labor, News Release, "[Unemployment Insurance Weekly Claims](#)", December 17, 2020.

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understandably concerned about the escalation of inappropriate IRS compliance activities before the penalty abatement.

The IRS must provide taxpayers relief from the endless cycle of unnecessary and inappropriate notice and collection activities.

EXPAND TEMPORARY E-SINGATURE RELIEF

The IRS should extend the expiration date of the December 11, 2020 memorandum ([*“Temporary Deviation from Handwritten Signature Requirement for Limited List of Tax Forms”*](#)) through October 15, 2021.

Additionally, if possible, the IRS should expand the scope of the memorandum to include non-income tax returns and paper-filed returns.¹¹

When the IRS provided for the temporary deviation from handwritten signature requirements for the 2019 tax year, many taxpayers and tax professionals felt a sense of relief for the ability to e-sign tax documents without needing to run the risk of exposing themselves to COVID-19.

With the continued prevalence of COVID-19 cases as we enter 2021 and many taxpayers still under stay-at-home orders or trying to social distance, and many businesses closed, manual signatures are burdensome and, in some cases, impossible to obtain.

It is important to further extend the expiration date of the December 11 memorandum to remove unnecessary burdens on taxpayers, tax professionals, and the IRS, and encourage compliance with public health directives.

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The AICPA is the world’s largest member association representing the CPA profession, with more than 431,000 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.

¹¹ For example, but not limited to, the dual consolidated losses form attached to a Form 1120-PC; Form 990-T, *Exempt Organization Business Income Tax Return (and proxy tax under section 6033(e))*; Form 5227, *Split-Interest Trust Information Return*; and expats that need to paper file Form 1040, *U.S. Individual Income Tax Return*.

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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 Melanie Lauridsen, Senior Manager – AICPA Tax Policy & Advocacy, at (202) 434-9235 or Melanie.Lauridsen@aicpa-cima.com; or me at (612) 397-3071 or Chris.Hesse@CLAconnect.com.

Sincerely,

A handwritten signature in blue ink that reads "Christopher W. Hesse". The signature is fluid and cursive, with a long horizontal stroke at the end.

Christopher W. Hesse, CPA
Chair, AICPA Tax Executive Committee

cc: The Honorable Ron Wyden, Chairman, U.S. Senate Committee on Finance
The Honorable Richard Neal, Chairman, U.S. House Committee on Ways and Means
The Honorable Mike Crapo, Ranking Member, U.S. Senate Committee on Finance
The Honorable Kevin Brady, Ranking Member, U.S. House Committee on Ways and Means