IRS Relief for Filing and Paying Income Taxes (Not Applicable to Gift or Estate Taxes)

By John M. Collins, Jamie L. Carter, J. Mitchell Miller | March 27, 2020

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New information is available about the extension since this alert was published. See our 3/29/2020 alert here for updated information.

The IRS issued a notice offering a special two-month deferral for federal income tax payments and federal income tax returns that are due April 15, 2020 (Notice 2020-18) (see our recent alert).

This relief applies to all taxpayers, without requiring a written form (for example, no form 4868 or 7004 is required); the relief applies to individuals, trusts, estates, partnerships, LLCs, associations, and corporations. Because the relief only applies to returns and payments that are due on April 15, 2020, it will generally only apply to a **calendar-year taxpayer**, and no relief is offered to a taxpayer whose income tax payment or return is due on a date other than April 15, 2020 (for example, a trust or estate with a fiscal year other than the calendar year).

You will likely receive numerous alerts, notices, and emails regarding this special deferral opportunity, with an explanation of the taxes to which it applies (income taxes) and those that are not covered. For more detailed information, please click on the link above to read a comprehensive explanation prepared by our Firm's tax group.

This Alert focuses on gift and estate tax returns and payments, which are not affected by Notice 2020-18; **the Notice does not offer any postponement of time for filing a gift or estate tax return (and paying any tax due) even if the return is due on April 15**.

Since gift tax returns are due on April 15, 2020 (and estate tax returns are due nine months after the date of death), you will need to take specific action to extend the due date. Generally, when a taxpayer extends the due date of his or her income tax return, that automatically extends the due date for a gift tax return, but this Notice did not include a provision offering the same automatic grace period. Thus, if you are required to file a gift tax return for gifts in 2019, and do not anticipate filing that return on or before April 15, 2020, we recommend filing either (1) Form 4868 -- Application for Automatic Extension of Time to File U.S. Individual Income Tax Return (which permits an extension of both the income tax return and the gift tax return to as late as October 15, 2020); or (2) Form 8892 -- Application for Automatic Extension of Time to File Form 709 and/or Payment of Gift/Generation-Skipping Transfer Tax (which could be used if you anticipate filing your income tax return on or before July 15, 2020 and only need to extend the gift tax return). For an estate tax return that is due this year, the taxpayer can request an extension for the time to file with Form 4768 -- Application for Extension of Time to File a Return and/or Pay U.S. Estate (and Generation-Skipping Transfer) Tax.

Additionally, **charitable organizations required to file Form 990 or 990-PF** are not granted a postponement because these forms are "informational" returns, and not covered by the Notice.

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We recommend you contact your tax advisors to determine whether you will need to take any action to obtain an extension for any upcoming returns (and taxes) that may be due.

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