

IRS POSTPONES DUE DATE FOR FORM 990 SERIES RETURNS

Hodgson Russ Tax-Exempt Organizations Alert
April 16, 2020

Original posting April 16, 2020; updated May 28, 2020

The Internal Revenue Service (the “IRS”) recently issued Notice 2020-23 and related guidance which postpones the due date for a wide variety of federal tax returns, forms, schedules and tax payments. This alert will discuss the significance of Notice 2020-23 for tax-exempt organizations. You can find additional information on Coronavirus-related relief at our Coronavirus Resource Center [here](#).

Extension of Form 990 Series Returns

Notice 2020-23 (the “Notice”) postpones certain due dates for “Affected Taxpayers.” In order to qualify for relief, a taxpayer must fall into the definition of Affected Taxpayer given by the Notice. Under the Notice, the term Affected Taxpayer includes “any person performing a time sensitive action listed in . . . Revenue Procedure 2018-58 . . . which is due to be performed on or after April 1, 2020, and before July 15, 2020.” Revenue Procedure 2018-58 includes tax-exempt organizations filing annual returns (including Form 990 series returns). Tax-exempt organizations with a Form 990 series return filing obligation are Affected Taxpayers eligible for automatic relief under the Notice. As such, if a tax-exempt organization has a Form 990 series return filing obligation due to be performed on or after April 1, 2020, and before July 15, 2020, that due date is automatically postponed to July 15, 2020 under the Notice.

On April 14, 2020, the IRS issued additional guidance through their “Exempt Organization Update” service which confirmed the due date extension for Form 990 series returns. Specifically, that guidance noted that the Notice extension to July 15, 2020 applies to Forms 990, 990-EZ, 990-PF, 990-BL and 990-N when such Forms have a filing or payment deadline falling on or after April 1, 2020 and before July 15, 2020. The extension also applies to schedules and other forms that are filed as attachments to Form 990 series returns.

Similarly, the Notice provides that the due date for exempt organization business income tax and other payments and return filings on Form 990-T, Exempt Organization Business Income Tax Return, are automatically extended in the same manner as the Form 990 series returns noted above.

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The relief provided by the Notice is automatic, meaning that tax-exempt organizations to which it applies need not take any action to have their filing deadlines extended to July 15, 2020. If additional time is required beyond the July 15, 2020 extension provided by the Notice, the taxpayer may choose to file the appropriate extension form by July 15, 2020 to obtain an extension to file their return, but the extension date may not go beyond the original statutory or regulatory extension date (i.e., generally six months from the original due date). For organizations on a calendar year, upon filing of the Form 8868 by July 15th, the extended due date would be November 15th (6 months from the original due date of May 15th).

Additional Extensions

The Notice also extends additional deadlines. Normally, an organization seeking to be recognized as tax-exempt under Internal Revenue Code (“Code”) section 501(c)(3) from its date of organization must file a Form 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code (or a Form 1023-EZ, in some cases), within 27 months from the end of the month in which the organization was organized. The Notice (again through reference to Revenue Procedure 2018-58) extends this deadline for any organization that has a 27 month Form 1023 application deadline occurring between April 1, 2020 and July 15, 2020. Such organizations may achieve tax-exempt status as of their organization date, as long as the Form 1023 is filed before July 15, 2020.

Similarly, excise tax payments and return filings on Form 4720, Return of Certain Excise Taxes under Chapters 41 and 42 of the Code, and excise tax payments on investment income and return filings on Form 990-PF, Return of Private Foundation or Section 4947(a)(1) Trust Treated as Private Foundation, are automatically extended to July 15, 2020 when previously due on or after April 1, 2020 and before July 15, 2020.

DISCLAIMER: Please note that the situation surrounding COVID-19 is evolving and that the subject matter discussed in these publications may change on a daily basis.

The professionals at Hodgson Russ LLP will continue to monitor this relief and publish updates as information becomes available. Please contact Marla Waiss (Buffalo: 716.848.1203) or Patricia Sandison (Albany: 518.433.2427) for any questions you may have regarding how this relief may impact your organization.

Please check our Coronavirus Resource Center and our CARES Act page to access information related to both of these rapidly evolving topics.

If you received this alert from a third party or from visiting our website, and would like to be added to our Tax-Exempt Organizations alert mailing list or any other mailing list, please visit us at: <https://forms.hodgsonruss.net/sign-up-for-email-and-other-communications.html>