

Part III - Administrative, Procedural, and Miscellaneous

Disaster relief for taxpayers affected by the September 11, 2001 Terrorist Attack.

Notice 2001-61

PURPOSE

This notice provides tax relief under sections 6081, 6161, and 7508A of the Internal Revenue Code for taxpayers affected by the September 11, 2001, Terrorist Attack, which included the destruction of the two World Trade Center towers and other buildings in the World Trade Center complex, damage to the Pentagon, and the airplane crash in Pennsylvania on Tuesday, September 11, 2001. The President issued federal disaster declarations on September 11 and 13, 2001. The September 11, 2001, declaration covers five New York counties: Bronx, Kings, New York (boroughs of Brooklyn and Manhattan), Queens, and Richmond. The September 13, 2001, declaration covers Arlington County in Virginia, where the Pentagon is located. These counties constitute a “covered disaster area” within the meaning of section 301.7508A-1(d)(2) of the Procedure and Administration Regulations. In addition, the Internal Revenue Service has determined that other taxpayers affected (as defined below) by the terrorist attack are also entitled to relief, regardless of where they reside.

Taxpayers who believe they are entitled to relief under this notice should mark

“September 11, 2001 Terrorist Attack” in red ink on the top of their return and other documents submitted to the IRS.

BACKGROUND

Section 6081 provides that the Secretary may grant a reasonable extension of time (generally not to exceed 6 months) for filing any return, declaration, statement, or other document required by the Internal Revenue Code or by regulations thereunder.

Section 6161 provides that the Secretary may grant a reasonable extension of time (generally not to exceed 6 months) for paying the amount (or any installments) of tax shown or required to be shown on any return or declaration required by the Code or by regulations thereunder.

Section 7508A provides the Secretary with authority to postpone the time for performing certain acts under the internal revenue laws for a taxpayer affected by a Presidentially declared disaster as defined in section 1033(h)(3). Pursuant to section 7508A(a) and section 301.7508A-1 of the regulations, a period of up to 120 days may be disregarded in determining whether the performance of certain acts is timely under the internal revenue laws. Section 301.7508A-1(c)(1) lists seven acts performed by taxpayers for which section 7508A relief may apply. Among these acts are the filing of certain tax returns; the payment of certain taxes; the making of deductible contributions to certain retirement plans and individual retirement arrangements; the filing of a Tax Court petition; the filing of a claim for credit or refund of tax; and the bringing of a lawsuit upon a claim for credit or refund of tax.

Section 301.7508A-1(d)(1) describes the seven types of “affected taxpayers”

eligible for the 120 day postponement. These taxpayers include any individual whose principal residence, and any business entity whose principal place of business, is located in the covered disaster area; any individual who is a relief worker affiliated with a recognized government or philanthropic organization and who is assisting in the covered disaster area; any individual whose principal residence, and any business entity whose principal place of business, is not located in the covered disaster area, but whose records necessary to meet a filing or paying deadline are maintained in the covered disaster area; any estate or trust that has tax records necessary to meet a filing or paying deadline in a covered disaster area; and any spouse of an affected taxpayer, solely with regard to a joint return of the husband and wife. Therefore, taxpayers located outside of the covered disaster area may qualify for relief if they are covered by one of the above mentioned categories.

Additionally, under section 301.7508A-1(d)(1)(vii) of the regulations, the Internal Revenue Service may determine that any other person is affected by a Presidentially declared disaster. Accordingly, the Internal Revenue Service has determined that the following persons are also affected by the disaster: (1) victims of the crash (including those on the plane and those on the ground) of the four commercial jet airplanes hijacked on September 11, 2001; (2) all workers assisting in the relief activities in the covered disaster areas and in Pennsylvania, regardless of whether they are affiliated with recognized government or philanthropic organization; and (3) taxpayers whose place of employment is located within the Presidentially declared disaster area. In addition, taxpayers who have difficulty in meeting their federal tax obligations because

of disruptions in the transportation and delivery of documents by mail or private delivery services resulting from the terrorist attack, and who do not otherwise qualify under section 7508A, are affected taxpayers only for purposes of relief as described in (5) of the Grant of Relief section below. The perpetrators of the attack, and anyone aiding the attack, will not qualify for relief under this notice.

GRANT OF RELIEF

(1) Individuals located in the affected counties and other individuals who are “affected taxpayers” as defined by section 301.7508A-1(d)(1) of the regulations and by this notice that have extended the time for filing their tax year 2000 federal individual income tax return beyond September 10, 2001, will have a postponement to February 12, 2002, to file their returns. A similar postponement to pay the amount of tax (or any installment of tax) shown or required to be shown on those returns is generally not permitted. This is because the tax was originally due on the due date of the 2000 return, April 16, 2001, and, generally an extension of time to pay is not granted; however, a period of 120 days from September 11, 2001, until January 9, 2002, will be disregarded in the calculation of any failure to pay penalty. Thus, the penalty for failure to pay the tax due would start accruing once again if the tax is not paid by January 9, 2002. These returns include individual income tax returns (Forms 1040, 1040A, 1040EZ, 1040NR, or 1040NR-EZ) and gift tax returns (Forms 709 and 709-A). See section 301.7508A-1(c)(1) for a list of affected returns.

(2) Affected taxpayers as defined by section 301.7508A-1(d)(1) of the regulations other than individuals are granted both a 120 day postponement under

section 7508A and a six month extension under sections 6081 and 6161 to file certain federal tax returns otherwise originally due on or after September 11, 2001, and on or before November 30, 2001, and to pay the tax shown or required to be shown on those returns. The 120 day postponement and the six month extension run consecutively. In addition, affected calendar year corporations and other entities that are currently on a six-month extension of time to file their federal tax return that expires between September 11, 2001, and November 30, 2001, will have an additional 120 days to file their returns under section 7508A. Thus, the tax year 2000 return for an affected calendar year corporation that has been extended to September 17, 2001 (September 15, 2001, is a Saturday), will now be due by January 15, 2002. A similar postponement to pay the amount of tax (or any installment of tax) shown or required to be shown on those returns is generally not permitted. This is because the tax was originally due on the due date of the 2000 return, March 15, 2001, for a calendar year corporation and generally, an extension of time to pay is not granted. A period of 120 days from September 11, 2001, until January 9, 2002, will be disregarded in the calculation of any failure to pay penalty. Thus, the penalty for failure to pay the tax due would start accruing once again if the tax was not paid by January 9, 2002. These returns include partnership returns, corporate income tax returns, estate and trust income tax returns, estate tax returns, annual returns filed by tax-exempt organizations, certain excise tax returns and employment tax returns. See section 301.7508A-1(c)(1) for a list of affected returns.

(3) The due date of any estimated tax payment for tax year 2001 originally due

on or after September 11, 2001, and before January 15, 2002, for taxpayers located in the affected counties, and other affected taxpayers, is postponed under section 7508A until January 15, 2002. This applies to estimated tax payments made by individuals, corporations, estates, and trusts. Thus, for individuals, the third estimated tax payment for tax year 2001, due on September 17, 2001, is postponed until January 15, 2002. For a calendar year corporation, the third estimated tax payment for tax year 2001, due on October 1, 2001, is postponed until January 15, 2002. Affected taxpayers will not be subject to penalties for failure to pay estimated tax installments for tax year 2001 with respect to installments that were originally due on or after September 11, 2001, and before January 15, 2002, as long as such installments are paid by January 15, 2002.

(4) In addition the Internal Revenue Service has granted a 120 day postponement of time to the affected taxpayers to perform the other acts described in section 301.7508A-1(c)(1) of the regulations. The postponement applies to acts required to be performed within the period beginning on September 11, 2001, and ending on November 30, 2001.

(5) Taxpayers who have difficulty in meeting their federal tax obligations because of disruption in the transportation and delivery of documents by mail or private delivery services resulting from the terrorist attack, and who do not otherwise qualify for relief as described above, will have until November 15, 2001, to file returns and make payments required to be made from September 11, 2001, through October 31, 2001.

(6) As a result of the terrorist attack, taxpayers may have difficulty in making timely federal tax deposits in accordance with section 6302 and the regulations

thereunder. The time for making federal tax deposits, however, cannot be extended under section 6081 or postponed under section 7508A. For deposits required to be made from September 11, 2001, through October 31, 2001, however, the Internal Revenue Service will waive the addition to tax under section 6656 for the failure to timely make any deposit of tax if the deposit is made on or before November 15, 2001, because reasonable cause for the failure exists during this period. The relief from the failure to timely deposit addition to tax under this paragraph is only applicable to taxpayers who are unable to meet their deposit obligations because their (or their service provider's) records, computers, or other essential supporting services were damaged, or essential personnel were injured, by the attack.

DRAFTING INFORMATION

The principal author of this notice is Charles Hall of the Office of Associate Chief Counsel, Procedure and Administration (Administrative Provisions and Judicial Practice Division). For further information regarding this notice you may call (202) 622-4940 (not a toll-free call).