

April 5, 2021

IRS Announcement

In two March 2021 News Releases, IRS announced that many federal tax deadlines were moved from April 15, 2021 to May 17, 2021. However, this extension *does not apply* to all tax returns which maybe due on that date.

Tax Returns Extended

Under the notice, the postponement applies to any individual who files any of the following tax returns

- Form 1040
- 1040-SR
- 1040-NR
- 1040-PR
- 1040-SS, or
- 1040(SP) (the Form 1040 series) or
- Has a federal tax payment reported on one of these forms that would otherwise be due April 15, 2021.

Tax Returns Not Extended

There are still some April 15 deadlines *which are not extended*:

- Paying first quarter 2021 individual estimated tax (Code Sec. 6654(c)(2))
- Filing calendar year 2020 trust and estate income tax returns and paying any previously unpaid tax (Code Sec. 6072(a))
- Filing 2020 calendar year C corporation income tax returns (Form 1120) and paying any previously unpaid tax (Code Sec. 6072(a))
- Depositing calendar year corporation first installment of estimated income tax for 2021 (Code Sec. 6655(c)(2))
- Filing Forms 990-T (Exempt Organization Business Income Tax Return), for Code Sec 401(a) or Code Sec. 408(a) trusts, for years ending 12/31/20 (2020 Instructions for Form 990-T)
- Filing Form 1120-POL (U.S. Income Tax Return for Certain Political Organizations) for years ending 12/31/20 (Code Sec. 6072(a))
- Filing 2020 gift tax returns and paying any gift tax (Code Sec. 6075(b)(1))
- Filing certain generation-skipping transfer tax returns of calendar year taxpayers and paying any tax due (Reg § 26.2662-1(d)(1)(i))

- Depositing payroll taxes for March if the monthly deposit rule applies. (Reg § 31.6302-1(c)(1))
- Filing estate tax returns of decedents who died on July 15, 2020 and paying any estate tax that is due with the returns. (Estate tax returns must be filed within nine months after the date of the decedent's death. (Code Sec. 6075(a))

There are also Post-April 15, Pre-May 17 Deadlines.

In addition, there are actions that continue to have deadlines that are after April 15, 2020, and before May 17, 2020. For example, for decedents who died on days from July 16, 2020, through August 16, 2020, the estate return and payment will be due before May 17, 2021. And first quarter 2021 quarterly employment tax returns will be due on April 30. (Reg § 31.6071(a)-1(a)(1))

States May Have pre-May 17 Deadlines.

States may have pre-May 17 deadlines. For example, as of now, New Hampshire has an April 15 deadline for individual return filing and payment. And, Hawaii has an April 20 deadline for individual return filing and payment. States also have April 15 deadlines for actions that don't involve individual income tax returns.

How will this situation be treated by IRS?

Finally, there is some question as to whether there will be an underpayment of estimated tax penalty where: a) a taxpayer files an individual income tax return by May 17 but after April 15; b) there is an overpayment on that return that the taxpayer elects to have applied to his/her 2021 tax liability; c) he/she needs to make a first quarter 2021 estimated tax payment in order to avoid an underpayment-of-estimated tax penalty; d) his/her actual first quarter 2021 estimated tax payment made by April 15 is insufficient to avoid that penalty; and e) the amount of the 2020 overpayment, when added to the first quarter 2021 estimated payment, is sufficient to avoid that penalty.

In other words, will the overpayment be considered to be applied on the date the 2020 return is filed, which is after the April 15 due date of the first quarter 2021 estimated payment, or will it be considered to be applied on April 15? If the former, there would be liability for an underpayment of estimated tax penalty, while, if the latter, there will be no penalty.

IRS has not yet made a specific statement on this issue. And, there doesn't appear to be precedent for a Year 1 original return due date being after the Year 2 first quarter estimate due date. But, historically, IRS has provided that where a taxpayer overpays the tax due for Year 1 via withholding and/or estimated tax payments, the overpayment can be applied to the first quarter Year 2 estimate even if the Year 1 return is filed after the due date of the first quarter Year 2 estimate. For example, the House Report for the Tax Reform Act of 1984 (PL 98-369) provided:

Thus, for example, assume a taxpayer makes estimated tax payments (including withholding) of \$10,000 in 1984 and receives an extension of time to file the 1984 return until August 15, 1985. Also assume that a return is filed on August 15, 1985, showing a liability of \$8,000 for 1984. The taxpayer may elect to credit the \$2,000 overpayment to the April 15 estimated tax payment of his or her 1985 tax.