



# UPDATE 3 | COVID-19 Federal and California Tax Extensions

04.13.2020 | By [Douglas W. Schwartz](#)

## IRS NOTICE 2020-23 GRANTS BROAD RELIEF AFFECTING EXEMPT ORGANIZATIONS, 1031 EXCHANGES, QUALIFIED OPPORTUNITY FUNDS, AND MORE.

Our March 30, 2020 and April 6, 2020 eAlerts provided updates on COVID-19-related extensions for filing and paying federal and California taxes. Our eAlerts noted that relief was expanding almost hourly, and the IRS last Thursday issued Notice 2020-23, which provides taxpayers with further tax relief measures. Basically, Notice 2020-23 delays to July 15, 2020 the filing date for any return reporting a tax, and the payment of tax shown on such a return, if the due date (original, or with extensions) would have otherwise fallen on or after April 1, 2020 and before July 15, 2020 (the “**4/1-7/14 Period**”). Notice 2020-23 also cross-references to IRS Revenue Procedure 2018-58 and thereby applies the July 15 extended deadline to other tax filings and actions where a deadline is imposed by federal tax laws, provided that the due date for performing such filing or action (original, or with extensions) would have otherwise fallen in the 4/1-7/14 Period.

Specifically, Notice 2020-23 does the following:

- It expands the types of returns reporting a tax, and the payment of tax shown on such a return, from those described in our March 30, 2020, and April 6, 2020 It delays the due date to July 15, 2020 if the filing or payment deadline (original, or with extension) would have otherwise fallen in the 4/1-7/14 Period (not just on April 15, 2020 per our prior eAlerts). It also specifies that any schedule required to be filed or election that must be made with such a return can be similarly delayed. You can view the entire list of returns and schedules – there are many – in Part III-A (pages 3-6) of Notice 2020-23. For example, the new IRS guidance applies to Form 706 estate tax returns and taxes, as well as installments of estimated tax (including an individual’s first installment due April 15 and second installment otherwise due June 15, 2020). Those items were not covered by the IRS’ initial guidance per our March 30, 2020 eAlert.

- It cross-references to Treasury Regulation section 7508A-1(c)(1)(iv)-(vi) and thereby extends the deadline to July 15, 2020 for a refund claim, Tax Court petition, or suit for refund if the deadline would have otherwise fallen in the 4/1-7/14 Period.
- By cross-referencing to IRS Revenue Procedure 2018-58, the most recent IRS guidance also provides that certain tax returns and reports not reporting a tax payment can be delayed to July 15, 2020, so long as the deadline (original, or with extension) would have otherwise fallen in the 4/1-7/14 Period. These returns would include, for example, returns by exempt organizations on the Form 990 series and retirement plan reports on the Form 5500 series. (You can view IRS Revenue Procedure 2018-58 for a list of the specific returns covered.)
- It provides that the IRS will disregard the period beginning April 1 and ending July 15, 2020 in calculating penalties, interest, or additions to tax on account of failure to file the specified forms or make the specified payments by the due dates that otherwise would have applied. Penalties, interest, and additions to tax will start accruing on July 16, 2020.
- It provides for extensions for taxpayers under audit or before IRS Appeals. See Part III-D (pages 8-9) of Notice 2020-23 for details.
- By cross-referencing to IRS Revenue Procedure 2018-58, the most recent IRS guidance also extends to July 15, 2020 certain actions for which a deadline is imposed by the federal tax laws if the deadline would have otherwise fallen in the 4/1-7/14 Period. Two familiar deadlines would be the 45-day deadline for identifying replacement property and the 180-day deadline for closing on that property under Internal Revenue Code section 1031 and accompanying Treasury Regulations. Again, you can view IRS Revenue Procedure 2018-58 for a list of the specific actions covered.
- Notice 2020-23 also extends to July 15, 2020 the deadline for rolling over gain into a qualified opportunity fund under the Internal Revenue Code section 1400Z-2 qualified opportunity zone provisions (normally that deadline is 180 days after realizing gain from another investment) if the deadline would have otherwise fallen in the 4/1-7/14 Period.

For more information, you can visit the IRS website, “Filing and Payment Deadlines Questions and Answers.”

Notice 2020-23 delays to July 15, 2020 most filings, payments, and the performance of certain actions with a deadline falling in the 4/1-7/14 Period but does not suspend the period for performing those acts. This distinction is significant. For example:

- If a taxpayer intending to do a 1031 exchange closed on a real estate sale with a qualified intermediary in place on Monday, March 2, 2020, then the 45-day deadline for identifying replacement property normally would be Wednesday, April 15, 2020 and the 180-day deadline for closing on replacement property would be Friday, August 28, 2020. Notice 2020-23 delays the first identification deadline to July 15, 2020 because that deadline falls in the 4/1-7/14 Period; however, the August 28, 2020 deadline for closing stays in place regardless of what hurdles the taxpayer might have faced in the meantime because of the COVID-19 pandemic. Additional IRS guidance would be necessary to extend the second deadline.
- If an individual wants an automatic six-month extension to file his/her Form 1040, then Notice 2020-23 gives him/her until July 15, 2020 to file Form 4868 (Application for Automatic Extension of Time To File U.S. Individual Income Tax Return). However, the taxpayer must still pay the tax due for 2019 by July 15, and the extension is only until October 15, 2020 (i.e., the extended due date if the taxpayer had filed Form 4868 by the original April 15, 2020 deadline) unless the IRS grants further relief.

Stay tuned for updates on these issues. Legal, taxpayer, and business groups continue to urge federal, state, and local agencies to grant broader tax relief as the COVID-19 pandemic and related economic dislocation drags on. Nossaman attorneys can assist you with regard to these developments, including as they affect 1031 exchanges that are planned or