

UBA  
Compliance Advisor

## What every HR leader should know about compliance



### IRS Extension of Tax Filing and Payment Deadlines

On March 13, 2020, the President of the United States issued an emergency declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act in response to the ongoing coronavirus disease 2019 (COVID-19) pandemic. Section 7508A of the Internal Revenue Code of 1986 (Code), as amended, provides the Secretary of the Treasury with the authority to postpone taxpayer filing and payment deadlines in connection with a federally-declared disaster. The Code allows a period of up to one year to be disregarded in determining whether the performance of certain acts is timely under the Code. The Internal Revenue Service (IRS) issued [Notice 2020-18](#), which delayed the April 15, 2020, federal income tax filing and payment deadline for calendar year 2019 until July 15, 2020. The IRS recently issued IRS [Notice 2020-23](#), which amplifies the individual taxpayer relief previously issued in IRS Notice 2020-18.

#### Employee Benefit Plans

Section 104 of the Employee Retirement Income Security Act of 1974 (ERISA), as amended, requires that Form 5500, Annual Return/Report of Employee Benefit Plan, be filed with the Department of Labor (DOL) and the IRS no later than the last day of the seventh month after the plan year ends (July 31 for a calendar year plan). Notice 2020-23 has extended the Form 5500 filing deadline until July 15, 2020, for filings otherwise required to be made between April 1, 2020, and July 14, 2020, including those filings with deadlines falling within those dates due to a plan administrator's request for a filing extension on IRS Form 5558, Application of Extension of Time to File Certain Employee Plan Returns.

Form 5558 allows plan sponsors to request a one-time extension to delay the filing of Form 5500, which is automatically granted if filed before the due date of Form 5500 and provides a two-and-one-half month period in which to file the return. The immediate relief provided by Notice 2020-23 does not extend to calendar year 2019 Form 5500 filings originally due July 31, 2020.

Under Notice 2020-23, Section 125 cafeteria plan initial and open enrollment periods that end on or after April 1, 2020, and before July 15, 2020, must be extended to July 15, 2020, even if the plan year begins before July 15, 2020. Also, health flexible spending account (FSA) amounts must not be subject to forfeiture on or after April 1, 2020, and before July 15, 2020. If a cafeteria plan



allows the purchase of additional vacation days, any unused elective vacation days must be cashed out by the end of the year. However, under Notice 2020-23, a plan must allow cash out of the unused days by July 15, 2020, for plan years ending on or after April 1, 2020 and before July 15, 2020.

Rollover contributions distributed from a health savings account (HAS) (or Archer Medical Savings Account) to an HSA account holder must be deposited into an HSA for the benefit of that individual within 60 days after the distribution is received. Under Notice 2020-23, if the 60-day period ends on April 1, 2020, and before July 15, 2020, the period is extended to July 15, 2020. This extension also applies for rollover contributions to an Archer MSA. Under Notice 2020-23, the deadline for providing HSA contribution information to the account beneficiary and filing Form 5498-SA with the IRS, was extended to July 15, 2020, following the calendar year to which the information relates. This deadline extension also applies to Archer MSAs and Medicare+Choice MSAs. However, under the subsequently issued [IRS Notice 2020-35](#), the contribution information and Form 5498-SA deadline was extended to August 31, 2020 following the calendar year to which the information relates. See our UBA [Advisor](#) on IRS Notice 2020-35 for more information.

Notice 2020-23 has also extended the deadline for filing Forms 990, Return of Exempt Organization from Income Tax, which applies to voluntary employees' beneficiary associations (VEBAs) in addition to other arrangements. Forms 990 that were required to be filed after April 1, 2020, and before July 15, 2020, are now required to be filed by the new July 15, 2020, deadline.

### **Individual and Business Filing Extensions**

IRS Notice 2020-23 extends the 2019 federal income tax filing and payment deadline for filings required on or after April 1, 2020, until July 15, 2020. Individuals, trusts, estates, corporations and other non-corporate tax filers qualify for the extra time for filing and payment. The Notice also extends relief to individuals required to make estimated tax payments due beginning April 15, 2020, until June 15, 2020. Accordingly, any individual or corporation that has a quarterly estimated tax payment due on or after April 1, 2020, and before July 15, 2020, may make the estimated payment by July 15, 2020 without penalty. Notice 2020-23 also extends the filing and payment obligations for the following tax returns required to be filed by businesses:

- Calendar year or fiscal year corporate income tax payments and return filings on Forms 1120, 1120-C, 1120-F, 1120-FSC, 1120-H, 1120-L, 1120-ND, 1120-PC, 1120-POL, 1120-REIT, 1120-RIC, 1120-S, and 1120-SF
- U.S. Income Tax Return for an S Corporation, and 1120-SF, U.S. Income Tax Return for Settlement Funds (under Section 468B)
- Calendar year or fiscal year partnership return filings on Form 1065, U.S. Return of Partnership Income, and Form 1066, U.S. Real Estate Mortgage Investment Conduit (REMIC) Income Tax Return
- Exempt organization business income tax and other payments and return filings on Form 990-T, Exempt Organization Business Income Tax Return (and proxy tax under section 6033(e) of the Code)



- 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, and excise tax payments and return filings on Form 4720, Return of Certain Excise Taxes under Chapters 41 and 42 of the Internal Revenue Code
- Quarterly estimated income tax payments calculated on or submitted with Form 990-W, Estimated Tax on Unrelated Business Taxable Income for Tax-Exempt Organizations; 1040-ES, Estimated Tax for Individuals; 1040-ES (NR), U.S. Estimated Tax for Nonresident Alien Individuals; 1040-ES (PR), Estimated Federal Tax on Self Employment Income and on Household Employees (Residents of Puerto Rico); 1041-ES, Estimated Income Tax for Estates and Trusts; and 1120-W, Estimated Tax for Corporations

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