

UBA  
Compliance Advisor

## What every HR leader should know about compliance



### Internal Revenue Service Notice 2020-35

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 (Emergency Declaration). The Emergency Declaration instructed the Secretary of the Treasury “to provide relief from tax deadlines to Americans who have been adversely affected by the COVID-19 emergency, as appropriate, pursuant to 26 U.S.C. 7508A(a).”

In response, the IRS has postponed deadlines for certain time-sensitive actions due to the COVID-19 emergency. The IRS issued [Notice 2020-17](#) that postponed the due date for certain federal income tax payments from April 15, 2020, until July 15, 2020. IRS Notice 2020-17 was superseded by [Notice 2020-18](#), which provided expanded relief by postponing the due date for filing federal income tax returns and for making federal income tax payments from April 15, 2020, until July 15, 2020. The IRS issued [Notice 2020-20](#) that postponed certain federal gift (and generation-skipping transfer) tax return filings and payments from April 15, 2020, until July 15, 2020. The IRS also released [Notice 2020-23](#) for persons with certain federal tax obligations or federal tax return or other form filing obligations due to be performed on or after April 1, 2020, and before July 15, 2020. IRS Notice 2020-23 also provided relief for time-sensitive actions due to be performed on or after April 1, 2020, and before July 15, 2020. See our [Advisor](#) on the IRS extension of tax filing and payment deadlines for more information.

The IRS has issued further relief in [Notice 2020-35](#). Much of the relief does not affect employer sponsored group health plans. However, Notice 2020-35 extends the deadline for providing health savings account (HAS) contribution information to the account beneficiary and filing Form 5498-SA with the IRS to August 31, 2020, following the calendar year to which the information relates (the deadline had previously been extended to July 15, 2020). This deadline extension also applies to Archer Medical Savings Accounts (MSAs) and Medicare Advantage MSAs.

Notice 2020-35 also provides a temporary waiver of the requirement that certified professional employer organizations (CPEOs) file certain employment tax returns and their accompanying schedules on magnetic media (electronic filing).



Below is a summary of other relief provided in IRS Notice 2020-35 that applies to the following deadlines due on or after March 30, 2020, and before July 15, 2020 (a few deadlines below are subject this relief despite not being due on or after March 30, 2020, and before July 15, 2020).

- Extends the deadline for providing IRA contribution information and Coverdell educational savings account (Coverdell ESA) contribution information to the account beneficiary and filing Form 5498 and Form 5498-ESA with the IRS to August 31, 2020.
- Extends the deadline for correcting employment tax reporting errors using the interest-free adjustment process to July 15, 2020.
- Extends the deadline for filing an application for a funding waiver for a defined benefit pension plan that is not a multiemployer plan to July 15, 2020.
- Extends deadlines for certain actions applicable to multiemployer defined benefit pension plan funding to July 15, 2020.
- Extends deadlines for certain actions applicable to cooperative and small employer charity pension (CSEC) plans to July 15, 2020.
- Extends the deadline for filing Form 5330 and payment of the associated excise taxes to July 15, 2020.
- Extends initial remedial amendment period for Section 403(b) plans for actions that are required to be performed on or before March 31, 2020, with respect to form defects or plan amendments. The deadline for those actions is postponed to June 30, 2020.
- Extends the deadline for certain actions under pre-approved defined benefit plans to July 31, 2020.
- Extends the deadlines for plan sponsors to comply with corrective actions provided under the Employee Plans Compliance Resolution System through a voluntary correction plan for sponsors of retirement plans under Section 401(a), 403(a), 403(b), 408(k), or 408(p).
- Extends the deadline to request approval to use a substitute mortality table in accordance with Section 430(h)(3)(C).
- Extends the deadline for an exempt organization to file an electronic Form 990-N with the IRS.
- Extends the deadline for an organization to file for declaratory judgment with the U.S. Tax Court, the U.S. Court of Federal Claims, or the district court of the U.S. for the District of Columbia under section 7428.

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