

Part III - Administrative, Procedural, and Miscellaneous

Disaster relief for taxpayers affected by the Cerro Grande Fire.

Notice 2001-30

PURPOSE

This notice provides tax relief under sections 6081, 6161, 6404(h), 6654(e)(3), and 7508A of the Internal Revenue Code for taxpayers affected by the Cerro Grande Fire, which burned more than 40,000 acres in New Mexico in 2000. This fire started on May 4, 2000, when the National Park Service initiated a prescribed burn at Bandelier National Monument in New Mexico. The President issued a federal disaster declaration on May 13, 2000. The declaration covers 21 New Mexico counties: Los Alamos, Rio Arriba, Sandoval, Sante Fe, Bernalillo, Cibola, McKinley, Mora, San Juan, San Miguel, Taos, Chaves, DeBaca, Dona Ana, Eddy, Guadalupe, Lincoln, Otero, Sierra, Socorra, and Torrance (“affected counties”). These counties constitute a “covered disaster area” within the meaning of section 301.7508A-1(d)(2) of the Procedure and Administration Regulations.

SUMMARY 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 will

have a postponement to January 16, 2002, to file certain federal tax returns for calendar year 2000 that would otherwise be due on April 16, 2001 (April 15, 2001 is a Sunday). A postponement to January 16, 2002, is also granted to pay the amount of tax (or any installment of tax) shown or required to be shown on those returns. These returns include individual income tax returns (Forms 1040, 1040A, 1040EZ, 1040NR, or 1040NR-EZ) and gift tax returns (Forms 709 and 709-A).

(2) Interest (and penalties relating to a failure to timely file or pay) will be abated through January 16, 2002, with respect to individual income tax returns for calendar year 2000 originally due on April 16, 2001, for individuals located in the affected counties and other individuals who are “affected taxpayers” as defined by section 301.7508A-1(d)(1).

(3) Affected taxpayers as defined by section 301.7508A-1(d)(1) of the regulations other than individuals are granted both a 90 day postponement under section 7508A and a six month extension under sections 6081 and 6161 to file certain federal tax returns otherwise due on or after May 4, 2000, and on or before April 16, 2001, and to pay the tax shown or required to be shown on those returns. 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.

(4) The due date of any estimated tax payment originally due on or after May 4, 2000, and on or before April 16, 2001, for taxpayers located in the affected counties,

and other affected taxpayers, is postponed by 90 days and extended by an additional six months. This applies to estimated tax payments made by individuals, corporations, estates, and trusts. Individuals, trusts, and calendar year corporations will not be subject to penalties for failure to pay estimated tax installments for 2000 with respect to installments that were originally due on or after May 4, 2000. Individuals, estates, trusts, and calendar year corporations will not be subject to penalties with respect to the estimated tax installment due for 2001 that was originally due on or before April 16, 2001, as long as the installment is paid by January 16, 2002. Fiscal year corporations and estates will not be subject to penalties for failure to pay estimated tax installments due on or after May 4, 2000, and on or before April 16, 2001, as long as such installments are paid by the extended and postponed due date.

(5) In addition the Internal Revenue Service has granted a 90 day postponement of time to the "affected taxpayers" to perform the other acts described in section 301.7508A-1(c)(1) of the regulations, including the making of contributions to certain pension plans and individual retirement accounts.

BACKGROUND

Section 6081 of the Code 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 of the Code 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 of the Code 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 90 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 contributions to certain pension plans and individual retirement accounts; 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 90 day postponement. These taxpayers include, among others, any individual whose principal residence, and any business entity whose principal place of business, is located in the covered disaster area.

Section 6404(h) of the Code provides that if the Secretary extends for any period the time for filing income tax returns under section 6081 and the time for paying income tax with respect to such returns under section 6161 for an taxpayer located in a Presidentially declared disaster area, the Secretary shall abate for such period the assessment of any interest prescribed under section 6601 on such income tax. Section 301.7508A-1(f) provides that if there is both a postponement under section 7508A and

extensions of time to file the return and pay the tax under sections 6081 and 6161, interest will be abated under section 6404(h) for the period of time disregarded under section 7508A in addition to the period of time covered by the filing and payment extensions.

GRANT OF RELIEF

The Internal Revenue Service, by the exercise of its authority under section 7508A of the Code, has granted a 90 day postponement of time to taxpayers affected by the Cerro Grande Fire to perform the acts specified in section 301.7508A-1(c)(1) of the regulations. The postponement applies to acts required to be performed within the period beginning on the date of the fire (May 4, 2000) and ending on April 16, 2001.

In addition, the Internal Revenue Service has granted an extension of time to file returns under section 6081 of the Code and to pay tax under section 6161. In particular, individual income tax returns for calendar year 2000 originally due on April 16, 2001, are postponed and extended until January 16, 2002 (90 days plus six months from April 16, 2001). Further, the payment of tax (or any installment of tax) shown or required to be shown on those returns are correspondingly postponed and extended until January 16, 2002. Income tax returns of taxpayers other than individuals, and returns other than income tax returns, originally due on or after May 4, 2000, and on or before April 16, 2001, are also postponed and extended for a period of 90 days plus six months.

Further, pursuant to sections 6404(h) and 7508A of the Code and section 301.7508A-1(f) of the regulations, the Internal Revenue Service will abate the

assessment of any interest on income tax liabilities due under section 6601 for the period of time disregarded under section 7508A and the period of time covered by the filing and payment extensions under sections 6081 and 6161. Also, penalties relating to a failure to timely file or pay will be waived for the period of time disregarded under section 7508A and the period of time covered by the filing and payment extensions.

Taxpayers filing for relief under this notice should mark "Cerro Grande Fire" in red ink on the top of their return.

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 contact Charles Hall at (202) 622-4940 (not a toll-free call).