

Part III - Administrative, Procedural, and Miscellaneous

Additional Postponement of Deadlines for Certain Taxpayers Affected By Hurricane Katrina

Notice 2006-20

PURPOSE

This notice supplements Notice 2005-73, 2005-42 I.R.B. 723 (October 17, 2005); News Release IR-2005-112 (September 28, 2005); Notice 2005-81, 2005-47 I.R.B. 977 (November 21, 2005); and Notice 2005-66, 2005-40 I.R.B. 620 (October 3, 2005) which, under the authority of section 7508A, postponed until February 28, 2006, deadlines for certain taxpayers affected by Hurricane Katrina to perform the acts described in Notice 2005-73 (e.g., filing returns and other documents, payment of taxes), and for the Internal Revenue Service (IRS) to perform the acts described in Notice 2005-81 (e.g., assessment and collection of tax). This Notice further postpones those deadlines through August 28, 2006, for the IRS and for affected taxpayers in the parishes in Louisiana and the counties in Mississippi and Alabama that the Federal Emergency Management Agency (FEMA) determined were eligible for Individual Assistance or Individual and Public Assistance.

Affected Parishes and Counties

On August 28, 2005 and August 29, 2005, the President issued four federal disaster declarations pertaining to Hurricane Katrina. The disaster declarations included the states of Louisiana, Mississippi, and Alabama. The Presidential declarations authorized FEMA, under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121-5206, to provide assistance to counties and parishes in each state. Under that authority, FEMA determined that certain counties and parishes within those states were eligible for Individual Assistance or Individual and Public Assistance.

Both FEMA and the IRS have closely monitored the effects of Hurricane Katrina in the Gulf region and, due to continued widespread devastation from the hurricane and subsequent flooding, the IRS has determined that certain parishes and counties in Louisiana and Mississippi require additional disaster relief. These counties and parishes were hit the hardest by Hurricane Katrina and its aftermath and either remain uninhabitable or have a large number of displaced individuals and/or trailers in use as temporary housing. These include Cameron, Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, and St. Tammany parishes in Louisiana, and Hancock, Harrison, and Jackson counties in Mississippi. The Service will automatically provide the additional relief described below to affected taxpayers in these parishes and counties.

In addition, the IRS has determined that some affected taxpayers in other parishes and counties in Louisiana, Mississippi, and Alabama may require additional disaster relief. The parishes and counties identified by the IRS in which some taxpayers may require additional disaster relief are as follows: Alabama (Baldwin, Choctaw,

Clarke, Greene, Hale, Marengo, Mobile, Pickens, Sumter, Tuscaloosa, and Washington); Mississippi (Adams, Amite, Attala, Claiborne, Choctaw, Clarke, Copiah, Covington, Franklin, Forrest, George, Greene, Hinds, Holmes, Humphreys, Jasper, Jefferson, Jefferson Davis, Jones, Kemper, Lamar, Lauderdale, Lawrence, Leake, Lincoln, Lowndes, Madison, Marion, Neshoba, Newton, Noxubee, Oktibbeha, Pearl River, Perry, Pike, Rankin, Scott, Simpson, Smith, Stone, Walthall, Warren, Wayne, Wilkinson, Winston, and Yazoo); Louisiana (Acadia, Ascension, Assumption, Calcasieu, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson Davis, Lafayette, Lafourche, Livingston, Pointe Coupee, St. Helena, St. James, St. John, St. Mary, St. Martin, Tangipahoa, Terrebonne, Vermilion, Washington, West Baton Rouge, and West Feliciana). In these counties and parishes, affected taxpayers can receive relief by identifying themselves to the IRS as discussed in the Identifying Affected Taxpayers section, *infra*. The counties and parishes in which taxpayers receive relief automatically or by self-identification constitute a "covered disaster area" within the meaning of section 301.7508A-1(d)(2) for purposes of the relief provided by this notice. This definition of covered disaster area differs from the covered disaster area for purposes of other relief provided by the IRS, including different counties and parishes.

Affected Taxpayers Whose Acts May be Postponed

Under the authority of section 301.7508A-1(d)(1), "affected taxpayers" eligible for the relief provided by this notice include: any individual whose principal residence, and any business entity whose principal place of business, is located (or was located on August 29, 2005) in the covered disaster area; any individual who is a relief worker

affiliated with a recognized government or philanthropic organization and who is assisting in the covered disaster area; any individual whose principal residence, and any business entity whose principal place of business, is not located in the covered disaster area, but whose records necessary to meet a filing or payment deadline are maintained (or were maintained on August 29, 2005) in the covered disaster area; any estate or trust that has (or had as of August 29, 2005) tax records necessary to meet a filing or payment deadline in the covered disaster area; and any spouse of an affected taxpayer, solely with regard to a joint return of the husband and wife.

Additionally, under section 301.7508A-1(d)(1)(vii), the IRS may determine that any other person is affected by a Presidentially-declared disaster and therefore eligible for relief. Accordingly, the IRS has determined that the following persons are also affected by Hurricane Katrina and its aftermath: (1) all workers assisting in the relief activities in the covered disaster areas, regardless of whether they are affiliated with recognized government or philanthropic organizations; (2) any individual whose principal residence, and any business entity whose principal place of business, is not located in the covered disaster area, but whose tax professional/practitioner's office is located (or was located as of August 29, 2005) in the covered disaster area; and (3) individuals, visiting the covered disaster area, who were killed or injured as a result of Hurricane Katrina and its aftermath. For purposes of (3) above, the estate of an individual visiting the covered disaster area who was killed as a result of the hurricane is also considered to be an affected taxpayer.

Extension of the Postponement Period

Section 7508A authorizes a postponement of deadlines for up to one year for taxpayers affected by a Presidentially-declared disaster. The IRS has determined that affected taxpayers as described in this notice in the parishes and counties identified by the IRS as eligible for additional relief shall receive a further postponement through August 28, 2006, of deadlines for the acts specified in Notice 2005-73 (including the acts listed in section 301.7508A-1(c)(1) and Rev. Proc. 2005-27, 2005-20 I.R.B. 1050). Thus, if the last day to perform one of the specified acts falls on or after August 29, 2005 and before August 28, 2006, then the last day for an affected taxpayer to timely perform the act is August 28, 2006. Furthermore, the IRS has concluded that some affected taxpayers as described in this notice may still have difficulty in making timely federal tax deposits in accordance with section 6302. Accordingly, for deposits required to be made by affected taxpayers on or after August 29, 2005, and before August 28, 2006, the IRS will waive the addition to tax under section 6656 for the failure to timely make any deposit of tax if the deposit is made on or before August 28, 2006. The relief from the failure to timely deposit addition to tax is intended for taxpayers who are unable to meet their deposit obligations because their (or their service provider's) records, computers, or other essential supporting services were damaged, or essential personnel were injured, by the hurricane or any subsequent flooding. Thus, although the waiver applies to all affected taxpayers, taxpayers that are reasonably able to make their deposits are encouraged to do so.

Likewise, the IRS is granted a further postponement through August 28, 2006, to perform the acts specified in Notice 2005-66 (including the acts listed in section

301.7508A-1(c)(2)), with respect to affected taxpayers as described in this notice in the parishes and counties identified by the IRS as eligible for additional relief. Thus, if the last day for the IRS to perform one of the specified acts falls on or after September 6, 2005, and before August 28, 2006, then the last day for the IRS to timely perform the act is August 28, 2006. The act of issuing a notice of final partnership administrative adjustment (FPAA) to the Tax Matters Partner under section 6223 with respect to the tax attributable to the partnership items of partners of any partnership that is an affected taxpayer was added to the list of items postponed for the IRS by Notice 2005-81. If the last date for issuance of the FPAA is on or after November 7, 2005, and before August 28, 2006, then there is a postponement through August 28, 2006.

Requests for Further Relief

Affected taxpayers described in this Notice who receive relief under section 7508A until August 28, 2006, may request, if applicable, additional time to file and/or pay after August 28, 2006, under other provisions of the Internal Revenue Code and regulations thereunder.

Section 6081 provides that the Secretary may grant a reasonable extension of time (generally not to exceed six months) for filing any return, declaration, statement, or other document required by the Code or by regulations thereunder. Section 6161 provides that the Secretary may grant a reasonable extension of time (generally not to exceed six 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. To the extent that a taxpayer has not previously received a full six-month

extension of time under section 6081, then the taxpayer will be entitled to request an extension of time to file under section 6081. For example, an affected individual income taxpayer's 2005 Federal income tax return (including any payment) is due on April 17, 2006. Under the relief provided by this notice, the taxpayer would be required to file the return (and pay) on or before August 28, 2006. As the postponement from April 17, 2006, through August 28, 2006, was under the authority of section 7508A, the taxpayer would be eligible to request a further extension of time, up through February 28, 2007, to file (and pay) under section 6081 and section 6161. The granting of the extension of time to file (and pay) would be based on the standards applicable to all taxpayers, not just affected taxpayers.

Except in the case of taxpayers who are abroad, a taxpayer who has previously received a full six-month extension of time under section 6081 will not be entitled to request an extension of time to file under section 6081. Although the taxpayer could not receive an extension beyond August 28, 2006, if the taxpayer is unable to file by that date, the taxpayer can request that the IRS grant relief from any penalty if the failure to file is due to reasonable cause and not due to willful neglect. The waiver of the penalty would be based on the standards applicable to all taxpayers, not just affected taxpayers.

Identifying Affected Taxpayers

In order to assist the IRS in identifying affected taxpayers as described in this notice, to ensure that they receive the relief to which they are entitled, affected taxpayers should mark "Hurricane Katrina" in red ink on the top of their returns and

other documents for which the IRS has postponed the due dates. In addition, affected taxpayers may identify themselves as eligible for relief by calling the IRS Disaster Hotline at (866) 562-5227. In the three Mississippi counties and seven Louisiana parishes where relief is being granted automatically, affected taxpayers are nonetheless strongly encouraged to mark their returns and other documents or otherwise alert the IRS to the need for relief. In the other counties and parishes identified in this notice, and for other affected taxpayers (e.g., relief workers), taxpayers must notify the Service in order to ensure that they receive the relief. Accordingly, these taxpayers need to mark their returns and documents, or otherwise alert the IRS to the need for relief. Affected taxpayers should also identify themselves as such if the IRS sends them a notice or makes any other direct contact, *e.g.*, telephone calls.

Taxpayers Not Receiving an Extension of the Postponement Period

The grant of relief provided by this notice applies only to affected taxpayers with respect to the counties and parishes listed in this notice. If an affected taxpayer described in Notice 2005-73 is not described as an affected taxpayer under this notice, and that taxpayer determines that additional time is needed, that taxpayer may request an extension under sections 6081 and 6161 (so long as the taxpayer has not previously received a full six-month extension of time to file or pay under those provisions for the specified act) and/or relief under any other provision providing for a waiver of a penalty for reasonable cause, such as sections 6651 and 6656.

DRAFTING INFORMATION

The principal author of this notice is Dillon Taylor of the Office of Associate Chief

Counsel, Procedure and Administration (Administrative Provisions and Judicial Practice Division). For further information regarding this notice, you may call (202) 622-4940 (not a toll-free call).