

Treasury Delivers Some Good News in a Time When Good News Is Rare

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On March 13, 2020, President Trump issued an emergency declaration, which in part instructed the U.S. Department of the Treasury ("Treasury") to provide taxpayers with "relief from tax deadlines" due to the impact of the Coronavirus. In response, Treasury issued [Notice 2020-17](#) (which will be published in IRB 2020-15, dated April 6, 2020).

Code Section 7508A gives Treasury authority to postpone the time to perform certain acts required under the Code for taxpayers affected by a federally declared disaster (as defined in Code Section 165(i)(5)(A)).

The Secretary of Treasury has determined that any person with a federal income tax payment due on April 15, 2020, is affected by the COVID-19 emergency. Accordingly, Treasury is postponing the due date for payment of federal income taxes due on April 15, 2020, to July 15, 2020. The relief, however, has some notable limitations, including:

Limitations of Notice 2020-17

1. C Corporations Deferral Limitation. For C corporations with a federal income tax payment due on April 15, 2020, the maximum amount of federal income tax that may be deferred is \$10 million ("C Corporation Deferral Limitation"). The C Corporation Limit applies to each consolidated group (as defined under Treasury Regulation Section 1.1502-1) as a whole. In other words, if multiple C corporations join in the filing of a consolidated return, the C Corporation Deferral Limitation for the entire group is \$10 million - it is not \$10 million multiplied by the number of corporations in the consolidated group. Also, the C Corporation Deferral Limitation applies to each C corporation separately that does not join in the filing of a consolidated return.

2. Non-C Corporation Deferral Limitation. For all other taxpayers with a federal income tax payment due on April 15, 2020, the maximum amount of federal income tax that may be deferred is \$1 million ("Non-C Corporation Deferral Limitation"), regardless of filing status. So, both a single individual taxpayer and a

married couple filing jointly get the same \$1 million deferral limitation. **Query:** Do married couples filing separately each get a \$1 million deferral limitation? Unfortunately, this question is not addressed in Notice 2020-17. Caution is advised. Assuming that the \$1 million deferral limitation applies in the aggregate to married couples filing separately is warranted.

3. Type of Taxes Subject to Deferral. The deferral is only allowed with respect to federal income tax payments due on April 15, 2020, relating to the 2019 taxable year, and federal estimated income tax payments due on April 15, 2020, with respect to the 2020 taxable year. The limits set forth in items 1 and 2 above apply in the aggregate to all of these payments. In other words, the maximum deferral for these taxes, in the aggregate, cannot exceed the \$10 million C Corporation Deferral Limitation in the case of a C corporation or consolidated group of C corporations, or the \$1 million Non-C Corporation Deferral Limitation in the case of other taxpayers, as applicable.

EXAMPLE 1: Mary and Andrew are a married couple, filing jointly. They owe \$750,000 in federal income taxes on April 15, 2020, for taxable year 2019, and owe \$350,000 in estimated income taxes on April 15, 2020, for taxable year 2020. The applicable deferral limitation will be \$1 million. To avoid penalties, Mary and Andrew will need to pay \$100,000 on or before April 15, 2020.

EXAMPLE 2: Acme Corporation, a C corporation, owes \$9.75 million in federal income taxes on April 15, 2020, for taxable year 2019, and owes \$2.25 million in estimated income taxes on April 15, 2020 for taxable year 2020. The applicable deferral limitation will be \$10 million. To avoid penalties, Acme will need to pay \$2 million on or before April 15, 2020.

4. Other Taxes. Tax payment deferral under Notice 2020-17 is limited to federal income taxes. It does not apply to federal estate taxes, gift taxes or excise taxes.

5. State and Local Taxes. Obviously, Notice 2020-17 has no impact on state or local taxes. Unless state and local tax authorities or lawmakers act, those taxes are due on or before their original due dates. The Oregon Department of Revenue indicates on [its website](#) that it will automatically extend the payment due date for Oregon income taxes in the event the federal government extends the payment due date.

[Whether the Oregon Department of Revenue can unilaterally do that without legislative action is yet to be seen.] Other state and local governments may or may not follow suit. Caution is advised.

6. Tax Filings. Notice 2020-17 has no impact on the due date for tax return filings. Unless an extension is obtained, federal tax return filing due dates remain unchanged.

7. Payment Extension Due Date. The extended payment due date for federal income tax payments under Notice 2020-17 is July 15, 2020.

8. Interest, Penalties and Additions. Interest, penalties and additions to federal income tax on payments properly deferred under Notice 2020-17 will commence accruing on July 16, 2020. Of course, interest, penalties and additions to federal income tax on payments in excess of the C Corporation Deferral

Limitation or the Non-C Corporation Deferral Limitation will accrue, without suspension or deferral after their original due date.

These days, good news is becoming rarer and rarer. I am glad to be able to share a bit of good news with you today!

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