

IRS and DOL Extend Filing Deadlines Due to COVID-19

IRS Notice 2020-23 Gives Limited Relief for Certain Plan Filings

The Internal Revenue Service (IRS) issued [IRS Notice 2020-23](#) (the “Notice”) on April 6, 2020, which automatically delays the filing date for tax returns and payments that were due on or after April 1, 2020 through July 14, 2020 (the “Automatic Relief Window”) until **July 15, 2020**.¹

Hiding in Plain Sight

Most of the items covered by the Notice are beyond the scope of this Alert. The Notice does not directly mention anything related to health and welfare benefits, but it incorporates [Revenue Procedure 2018-58](#)² by reference which includes Forms 5500 and 990.³

Form 5500

[Form 5500](#) is the annual information return for ERISA plans, and the filing date is generally the last day of the 7th month following the end of the plan year. The Form 5500 filing date is July 31st for calendar year plans, which means calendar year plans fall outside of the Automatic Relief Window. However, the limited extension will apply to the Form 5500 filing date for a number of non-calendar year plans and plans with short plan years required to file during this time.

Example: The Form 5500 filing date for an October 1, 2018 – September 30, 2019 plan year is April 30, 2020. This is within the Automatic Relief Window, which automatically extends the filing date to July 15, 2020.

Plan administrators may file earlier than the extension date.

Form 990

[Form 990](#) is the annual information return for tax-exempt organizations, including a Voluntary Employees' Beneficiary Association (VEBA), normally due on the 15th day of the 5th month following the end of the organization's tax year. The 2019 Form 990 filing date for a calendar year VEBA is May 31, 2020. This is within the Automatic Relief Window, automatically extending the filing date to July 15, 2020. Tax-exempt organizations may file earlier than the extension date.

¹ This is not much of an extension for a filing due in early July.

² Revenue Procedure 2018-58 is a list of 44 tax-related items with due dates that may be extended during a declared federal disaster. By referencing this Revenue Procedure, the IRS does not have to write the list out again.

³ The Notice does not extend any filing dates for Forms 1094 and 1095.

What About Extensions?

If the filing date for a Form 5500 or 990 falls within the Automatic Relief Window because of an existing extension, the Notice's automatic extension still applies and the filing date is extended further to July 15, 2020. A traditional extension can still be filed for Forms 5500 and 990, but the extension applies to the original filing date and is not measured from July 15, 2020.

Example: If the regular Form 5500 filing date is May 31, 2020, the traditional Form 5558 extension only moves the filing date to August 17, 2020⁴ (2 ½ months from May 31, 2020) and not to September 30, 2020 (2 ½ months from July 15th).

DOL Follows IRS' Lead in Providing Limited Filing Relief

The U.S. Department of Labor (DOL) released [EBSA Disaster Relief Notice 2020-01](#) (the "EBSA Notice") on April 28, 2020. It incorporates the Form 5500 filing relief from IRS Notice 2020-23 and extends the same relief to Form M-1 filings.⁵ Form M-1 is required for multiple employer welfare arrangements (known as "MEWAs") and certain entities claiming exception. Form M-1 filings due on or after April 1, 2020 through July 14, 2020 are also now due July 15, 2020. The rest of the EBSA Notice is beyond the scope of this Alert. Most of it addresses retirement plan issues, but it also includes relief for certain plan administration activities, notices and disclosures (e.g. COBRA, special enrollment, and claims and appeals), and electronic delivery. Please see our May 9 EBSA [alert](#) for more information about the EBSA Notice.

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⁴ The actual date is August 15, 2020, but this is a Saturday, so the filing date is the next business day.

⁵ The IRS and DOL have joint authority for Form 5500 filings. The DOL did not choose to extend the Form 5500 filing relief any further.