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§ 7508A. Authority to postpone certain deadlines by reason of Federally declared disaster, significant fire, or terroristic or military actions

(a) In general

In the case of a taxpayer determined by the Secretary to be affected by a federally declared disaster (as defined by section 165(i)(5)(A)), a significant fire, or a terroristic or military action (as defined in section 692(c)(2)), the Secretary may specify a period of up to 1 year that may be disregarded in determining, under the internal revenue laws, in respect of any tax liability of such taxpayer—

(1) whether any of the acts described in paragraph (1) of section 7508(a) were performed within the time prescribed therefor (determined without regard to extension under any other provision of this subtitle for periods after the date (determined by the Secretary) of such disaster, fire, or action),

(2) the amount of any interest, penalty, additional amount, or addition to the tax for periods after such date, and

(3) the amount of any credit or refund.

(b) Special rules regarding pensions, etc.

In the case of a pension or other employee benefit plan, or any sponsor, administrator, participant, beneficiary, or other person with respect to such plan, affected by a disaster, fire, or action described in subsection (a), the Secretary may specify a period of up to 1 year which may be disregarded in determining the date by which any action is required or permitted to be completed under this title. No plan shall be treated as failing to be operated in accordance with the terms of the plan solely as the result of disregarding any period by reason of the preceding sentence.

(c) Special rules for overpayments

The rules of section 7508(b) shall apply for purposes of this section.

(d) Mandatory 60-day extension

(1) In general

In the case of any qualified taxpayer, the period—

(A) beginning on the earliest incident date specified in the declaration to which the disaster area referred to in paragraph (2) relates, and

(B) ending on the date which is 60 days after the later of such earliest incident date described in subparagraph (A) or the date such declaration was issued,

shall be disregarded in determining, under the internal revenue laws, in respect of any tax li-

ability of such qualified taxpayer, whether any of the acts described in subparagraphs (A) through (F) of section 7508(a)(1) were performed within the time prescribed therefor (determined without regard to extension under any other provision of this subtitle for periods after the date determined under subparagraph (B)).

(2) Qualified taxpayer

For purposes of this subsection, the term “qualified taxpayer” means—

(A) any individual whose principal residence (for purposes of section 1033(h)(4)) is located in a disaster area,

(B) any taxpayer if the taxpayer’s principal place of business (other than the business of performing services as an employee) is located in a disaster area,

(C) any individual who is a relief worker affiliated with a recognized government or philanthropic organization and who is assisting in a disaster area,

(D) any taxpayer whose records necessary to meet a deadline for an act described in section 7508(a)(1) are maintained in a disaster area,

(E) any individual visiting a disaster area who was killed or injured as a result of the disaster, and

(F) solely with respect to a joint return, any spouse of an individual described in any preceding subparagraph of this paragraph.

(3) Disaster area

For purposes of this subsection, the term “disaster area” means an area in which a major disaster for which the President provides financial assistance under section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174) occurs.

(4) Application to rules regarding pensions

In the case of any person described in subsection (b), a rule similar to the rule of paragraph (1) shall apply for purposes of subsection (b) with respect to—

(A) making contributions to a qualified retirement plan (within the meaning of section 4974(c)) under section 219(f)(3), 404(a)(6), 404(h)(1)(B), or 404(m)(2),

(B) making distributions under section 408(d)(4),

(C) recharacterizing contributions under section 408A(d)(6), and

(D) making a rollover under section 402(c), 403(a)(4), 403(b)(8), or 408(d)(3).

(5) Coordination with periods specified by the Secretary

Any period described in paragraph (1) with respect to any person (including by reason of the application of paragraph (4)) shall be in addition to (or concurrent with, as the case may be) any period specified under subsection (a) or (b) with respect to such person.

(6) Multiple declarations

For purposes of paragraph (1), in the case of multiple declarations relating to a disaster area which are issued within a 60-day period, a separate period shall be determined under



such paragraph with respect to each such declaration.

(e) Significant fire

For purposes of this section, the term “significant fire” means any fire with respect to which assistance is provided under section 420 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

(Added Pub. L. 105-34, title IX, §911(a), Aug. 5, 1997, 111 Stat. 877; amended Pub. L. 107-16, title VIII, §802(a), June 7, 2001, 115 Stat. 149; Pub. L. 107-134, title I, §112(a), Jan. 23, 2002, 115 Stat. 2433; Pub. L. 110-343, div. C, title VII, §706(a)(2)(D)(vii), Oct. 3, 2008, 122 Stat. 3922; Pub. L. 115-141, div. U, title IV, §401(b)(10)(B), Mar. 23, 2018, 132 Stat. 1202; Pub. L. 116-94, div. Q, title II, §205(a), Dec. 20, 2019, 133 Stat. 3245; Pub. L. 117-58, div. H, title V, §§80501(a), 80504(a), (b)(1), Nov. 15, 2021, 135 Stat. 1335, 1336.)

Editorial Notes

REFERENCES IN TEXT

Section 420 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (e), is classified to section 5187 of Title 42, The Public Health and Welfare.

AMENDMENTS

2021—Pub. L. 117-58, §80504(b)(1), substituted “Federally declared disaster, significant fire,” for “Presidentially declared disaster” in section catchline.

Subsec. (a). Pub. L. 117-58, §80504(a)(1), which directed insertion of “, a significant fire,” after “federally declared disaster (as defined in section 165(i)(5)(A))”, was executed by making the insertion after “federally declared disaster (as defined by section 165(i)(5)(A))” in introductory provisions, to reflect the probable intent of Congress.

Subsec. (a)(1). Pub. L. 117-58, §80504(a)(2), inserted “, fire,” after “disaster”.

Subsec. (b). Pub. L. 117-58, §80504(a)(2), inserted “, fire,” after “disaster”.

Subsec. (d)(1). Pub. L. 117-58, §80501(a)(1)(B), in concluding provisions, substituted “in determining, under the internal revenue laws, in respect of any tax liability of such qualified taxpayer, whether any of the acts described in subparagraphs (A) through (F) of section 7508(a)(1) were performed within the time prescribed therefor (determined without regard to extension under any other provision of this subtitle for periods after the date determined under subparagraph (B))” for “in the same manner as a period specified under subsection (a)”.

Subsec. (d)(1)(B). Pub. L. 117-58, §80501(a)(1)(A), substituted “the later of such earliest incident date described in subparagraph (A) or the date such declaration was issued” for “the latest incident date so specified”.

Subsec. (d)(3). Pub. L. 117-58, §80501(a)(2), added par. (3) and struck out former par. (3) which defined the term “disaster area”.

Subsec. (d)(6). Pub. L. 117-58, §80501(a)(3), added par. (6).

Subsec. (e). Pub. L. 117-58, §80504(a)(3), added subsec. (e).

2019—Subsec. (d). Pub. L. 116-94 added subsec. (d).

2018—Subsec. (a). Pub. L. 115-141 substituted “section 165(i)(5)(A)” for “section 165(h)(3)(C)(i)” in introductory provisions.

2008—Subsec. (a). Pub. L. 110-343 substituted “federally declared disaster (as defined by section 165(h)(3)(C)(i))” for “Presidentially declared disaster (as defined in section 1033(h)(3))” in introductory provisions.

2002—Pub. L. 107-134 amended section catchline and text generally, substituting present provisions for provisions which had: in subsec. (a), authorized Secretary to postpone certain tax-related deadlines by reason of presidentially declared disaster, and in subsec. (b), provided that subsec. (a) would not apply for the purpose of determining interest on any overpayment or underpayment.

2001—Subsec. (a). Pub. L. 107-16 substituted “120 days” for “90 days” in introductory provisions.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Pub. L. 117-58, div. H, title V, §80501(b), Nov. 15, 2021, 135 Stat. 1335, provided that: “The amendment made by this section [amending this section] shall apply to federally declared disasters declared after the date of enactment of this Act [Nov. 15, 2021].”

Pub. L. 117-58, div. H, title V, §80504(c), Nov. 15, 2021, 135 Stat. 1337, provided that: “The amendments made by this section [amending this section] shall apply to fires for which assistance is provided after the date of the enactment of this Act [Nov. 15, 2021].”

EFFECTIVE DATE OF 2019 AMENDMENT

Pub. L. 116-94, div. Q, title II, §205(b), Dec. 20, 2019, 133 Stat. 3246, provided that: “The amendment made by this section [amending this section] shall apply to federally declared disasters declared after the date of the enactment of this Act [Dec. 20, 2019].”

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-343 applicable to disasters declared in taxable years beginning after Dec. 31, 2007, see section 706(d)(1) of Pub. L. 110-343, set out as a note under section 56 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-134 applicable to disasters and terroristic or military actions occurring on or after Sept. 11, 2001, with respect to any action of the Secretary of the Treasury, the Secretary of Labor, or the Pension Benefit Guaranty Corporation occurring on or after Jan. 23, 2002, see section 112(f) of Pub. L. 107-134, set out as a note under section 6081 of this title.

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107-16, title VIII, §802(b), June 7, 2001, 115 Stat. 149, provided that: “The amendment made by this section [amending this section] shall take effect on the date of enactment of this Act [June 7, 2001].”

EFFECTIVE DATE

Pub. L. 105-34, title IX, §911(c), Aug. 5, 1997, 111 Stat. 878, provided that: “The amendments made by this section [enacting this section] shall apply with respect to any period for performing an act that has not expired before the date of the enactment of this Act [Aug. 5, 1997].”

SAVINGS PROVISION

For provisions that nothing in amendment by Pub. L. 115-141 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Mar. 23, 2018, for purposes of determining liability for tax for periods ending after Mar. 23, 2018, see section 401(e) of Pub. L. 115-141, set out as a note under section 23 of this title.

EXTENSION OF CERTAIN DEFERRED PAYROLL TAXES BY REASON OF CORONAVIRUS PANDEMIC

Pub. L. 116-260, div. N, title II, §274, Dec. 27, 2020, 134 Stat. 1978, provided that: “The Secretary of the Treasury (or the Secretary’s delegate) shall ensure that Internal Revenue Service Notice 2020-65 (entitled ‘Relief with Respect to Employment Tax Deadlines Applicable

to Employers Affected by the Ongoing Coronavirus (COVID-19) Disease 2019 Pandemic’) and any successor or related regulation, notice, or guidance is applied—

“(1) by substituting ‘December 31, 2021’ for ‘April 30, 2021’ each place it appears therein, and

“(2) by substituting ‘January 1, 2022’ for ‘May 1, 2021’ each place it appears therein.”

AUTHORITY TO POSTPONE CERTAIN TAX-RELATED DEADLINES BY REASON OF Y2K FAILURES

Pub. L. 106-170, title V, §522, Dec. 17, 1999, 113 Stat. 1927, provided that:

“(a) IN GENERAL.—In the case of a taxpayer determined by the Secretary of the Treasury (or the Secretary’s delegate) to be affected by a Y2K failure, the Secretary may disregard a period of up to 90 days in determining, under the internal revenue laws, in respect of any tax liability (including any interest, penalty, additional amount, or addition to the tax) of such taxpayer—

“(1) whether any of the acts described in paragraph (1) of section 7508(a) of the Internal Revenue Code of 1986 (without regard to the exceptions in parentheses in subparagraphs (A) and (B)) were performed within the time prescribed therefor; and

“(2) the amount of any credit or refund.

“(b) APPLICABILITY OF CERTAIN RULES.—For purposes of this section, rules similar to the rules of subsections (b) and (e) of section 7508 of the Internal Revenue Code of 1986 shall apply.”

ABATEMENT OF INTEREST ON UNDERPAYMENTS BY TAXPAYERS IN PRESIDENTIALLY DECLARED DISASTER AREAS

Pub. L. 105-34, title IX, §915, Aug. 5, 1997, 111 Stat. 879, as amended by Pub. L. 105-277, div. J, title IV, §4003(e)(1), Oct. 21, 1998, 112 Stat. 2681-909, provided that:

“(a) IN GENERAL.—If the Secretary of the Treasury extends for any period the time for filing income tax returns under section 6081 of the Internal Revenue Code of 1986 and the time for paying income tax with respect to such returns under section 6161 of such Code (and waives any penalties relating to the failure to so file or so pay) for any individual located in a Presidentially declared disaster area, the Secretary shall, notwithstanding section 7508A(b) of such Code, abate for such period the assessment of any interest prescribed under section 6601 of such Code on such income tax.

“(b) PRESIDENTIALLY DECLARED DISASTER AREA.—For purposes of subsection (a), the term ‘Presidentially declared disaster area’ means, with respect to any individual, any area which the President has determined during 1997 or 1998 warrants assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act [42 U.S.C. 5121 et seq.].

“(c) INDIVIDUAL.—For purposes of this section, the term ‘individual’ shall not include any estate or trust.

“(d) EFFECTIVE DATE.—This section shall apply to disasters declared after December 31, 1996.”

Executive Documents

DEFERRING PAYROLL TAX OBLIGATIONS IN LIGHT OF THE ONGOING COVID-19 DISASTER

Memorandum of President of the United States, Aug. 8, 2020, 85 F.R. 49587, provided:

Memorandum for the Secretary of the Treasury

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. *Policy.* The 2019 novel coronavirus (COVID-19) that originated in the People’s Republic of China has caused significant, sudden, and unexpected disruptions to the American economy. On March 13, 2020, I determined that the COVID-19 pandemic is of sufficient severity and magnitude to warrant an emergency declaration under section 501(b) [42 U.S.C.

5191(b)] of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207, and that is still the case today. American workers have been particularly hard hit by this ongoing disaster. While the Department of the Treasury has already undertaken historic efforts to alleviate the hardships of our citizens, it is clear that further temporary relief is necessary to support working Americans during these challenging times. To that end, today I am directing the Secretary of the Treasury to use his authority to defer certain payroll tax obligations with respect to the American workers most in need. This modest, targeted action will put money directly in the pockets of American workers and generate additional incentives for work and employment, right when the money is needed most.

SEC. 2. *Deferring Certain Payroll Tax Obligations.* The Secretary of the Treasury is hereby directed to use his authority pursuant to 26 U.S.C. 7508A to defer the withholding, deposit, and payment of the tax imposed by 26 U.S.C. 3101(a), and so much of the tax imposed by 26 U.S.C. 3201 as is attributable to the rate in effect under 26 U.S.C. 3101(a), on wages or compensation, as applicable, paid during the period of September 1, 2020, through December 31, 2020, subject to the following conditions:

(a) The deferral shall be made available with respect to any employee the amount of whose wages or compensation, as applicable, payable during any bi-weekly pay period generally is less than \$4,000, calculated on a pre-tax basis, or the equivalent amount with respect to other pay periods.

(b) Amounts deferred pursuant to the implementation of this memorandum shall be deferred without any penalties, interest, additional amount, or addition to the tax.

SEC. 3. *Authorizing Guidance.* The Secretary of the Treasury shall issue guidance to implement this memorandum.

SEC. 4. *Tax Forgiveness.* The Secretary of the Treasury shall explore avenues, including legislation, to eliminate the obligation to pay the taxes deferred pursuant to the implementation of this memorandum.

SEC. 5. *General Provisions.* (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) You are authorized and directed to publish this memorandum in the Federal Register.

DONALD J. TRUMP.

§7509. Expenditures incurred by the United States Postal Service

The Postmaster General or his delegate shall at least once a month transfer to the Treasury of the United States a statement of the additional expenditures in the District of Columbia and elsewhere incurred by the United States Postal Service in performing the duties, if any, imposed upon such Service with respect to chapter 21, relating to the tax under the Federal Insurance Contributions Act, and the Secretary shall be authorized and directed to advance from time to time to the credit of the United States