



PENSION ANALYST COMPLIANCE BULLETIN



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IRS extends deadlines in disaster relief situations

When a federally declared disaster occurs, the Internal Revenue Code authorizes the IRS to grant tax relief and postpone certain tax deadlines for taxpayers impacted by the disaster. A major disaster could result from a hurricane, earthquake, flood, tornado, major fire, or terrorist attack for which a need for federal assistance is determined. The IRS may provide relief that extends certain deadlines including the timing for employers to remit contributions to qualified defined benefit and defined contribution plans and the filing of the Form 5500, Annual Return/Report of Employee Benefit Plan.

The IRS recently issued [Revenue Procedure 2018-58](#), which updates the list of time-sensitive acts that may be postponed. Below is a summary of the relief provided to retirement plans and the requirements that individuals and employers must satisfy in order to qualify.

Affected taxpayers

Disaster relief applies to an individual or entity that falls under any of the following descriptions:

- Any individual whose principal residence is located in the covered disaster area;
- Any business entity or sole proprietor whose principal place of business is in the covered disaster area;
- Relief workers affiliated with a recognized government or philanthropic organization who is assisting in the covered disaster area;
- Any individual whose principal residence, or any business entity whose principal place of business is *not* located in the covered disaster area, but whose records necessary to meet a deadline for which relief is provided are maintained in a covered disaster area;
- Any estate or trust that has tax records necessary to meet a deadline for which relief is being provided and that are maintained in the covered disaster area;
- The spouse of an affected taxpayer; solely with regard to a joint return of the husband or spouse;
- Any individual visiting the covered disaster area who was injured or killed as a result of the disaster; or
- Any other person determined by the IRS to be affected by a federally declared disaster.

Relief provided

The IRS provides relief for the following time-sensitive actions and deadlines that apply to qualified defined benefit and defined contribution plans, IRAs, and certain annuity contracts:

- Remitting deductible contributions to qualified defined benefit and defined contribution plans, 403(b) plans and contracts, and IRAs;
- Distributing IRA contributions;
- Recharacterizing Roth or traditional IRA contributions;
- Filing of Form 5500, Form 5500-EZ, and Form 8955-SSA;
- Plan loan repayment due dates and loan maturity dates;
- The rollover period for a qualified plan loan offset amount;
- The 60-day rollover period for distributions made from IRAs, qualified plans, 403(b) plans, or governmental section 457(b) plans;
- Receiving annual payments to qualify for the exemption from the 10% federal income tax penalty for a series of substantially equal periodic payments;
- The end of the 120-day period after a distribution from an IRA for a first-time home purchase to pay acquisition costs or roll into an IRA to qualify for the exception to the 10% federal income tax penalty;

- Making required minimum distributions;
- Distributing excess contributions (from failed ADP tests), excess aggregate contributions (from failed ACP tests), and excess deferrals;
- Amending a disqualifying provision;
- Deadline for individuals to notify a plan of excess deferral contributions;
- Distributing a permissible withdrawal from an eligible automatic contribution arrangement (EACA);
- The ESOP deadlines for diversification election periods, diversification distributions, dividend distributions, put options, employer securities, repurchases, employers to pay for repurchases, and beginning ESOP distributions;
- Distributing nondeductible plan contributions to avoid a 10% excise tax;
- Distributing excess IRA contributions to avoid a 6% excise tax;
- The 2½ month deadline (six months in the case of an EACA) for distributing excess contributions and excess aggregate contributions to avoid the 10% excise tax;
- The two-year deadline for self-correction of operational failures under the Employee Plans Compliance Resolution System (EPCRS); and
- For plans not required to file a Form 5500, determining net assets for Voluntary Correction Program (VCP) user fee purposes.

IRS notification

Extensions of these time sensitive acts are not automatic. In order for affected taxpayers to be entitled to a postponement of any deadline listed above, the IRS must publish a notice or issue guidance (e.g., a news release) providing relief with respect to a federally declared disaster. This notice will:

- Authorize the postponement of applicable deadlines;
- Define which taxpayers are considered to be “affected taxpayers”; and
- Describe the acts postponed, the duration of the postponement, and the location of the covered disaster area.

The guidance may provide for the postponement of only certain acts based on the time when the disaster occurred, its severity, and other factors.

Next steps

Plan sponsors should review the information in this publication and IRS Revenue Procedure 2018-58 to determine potential impacts to their plans in the event they are affected by a federally declared disaster. Specific information can be found at the IRS website that discusses tax relief for disaster situations.

Compliance Bulletin by Prudential Retirement

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