

Part III – Administrative, Procedural, and Miscellaneous

Lookback Periods for Claims for Credit or Refund for Returns with Due Dates Postponed by Notice 2020-23 or Notice 2021-21

Notice 2023-21

SECTION 1. PURPOSE

On March 13, 2020, the President of the United States issued an emergency declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act in response to the ongoing Coronavirus Disease 2019 (COVID-19) pandemic (Emergency Declaration). The Emergency Declaration instructed the Secretary of the Treasury “to provide relief from tax deadlines to Americans who have been adversely affected by the COVID-19 emergency, as appropriate, pursuant to 26 U.S.C. 7508A(a).” Pursuant to the Emergency Declaration, this notice provides relief under § 7508A(a) of the Internal Revenue Code (Code) for the persons described in section 3.A of this notice determined to be affected by the COVID-19 emergency.¹

SECTION 2. BACKGROUND

Section 7508A of the Code provides the Secretary of the Treasury or her delegate (Secretary) with authority to postpone the time for performing certain acts under the

¹ Unless otherwise specified, all “section” or “§” references are to sections of the Code.

internal revenue laws for a taxpayer determined by the Secretary to be affected by a Federally declared disaster as defined in § 165(i)(5)(A). Pursuant to § 7508A(a), a period of up to one year may be disregarded in determining under the internal revenue laws, in respect of any tax liability of such taxpayer, whether the performance of certain acts is timely; the amount of any interest, penalty, additional amount, or addition to the tax for periods after such date; and the amount of any credit or refund. Under § 301.7508A-1(b)(4) of the Procedure and Administration Regulations (26 CFR part 301), a postponement of time under § 7508A to perform an act is not an extension of the due date for the act.

Section 6511(a) requires a taxpayer to file a claim for credit or refund within three years from the time the taxpayer's return was filed or two years from the time the tax was paid, whichever period expires later. Under § 6511(b)(2), the amount of a credit or refund is limited to the amount of tax *paid* within a specified period immediately preceding the filing of the claim for credit or refund (lookback period). When a taxpayer files a claim within three years of filing the taxpayer's return, the lookback period is equal to three years plus the period of any extension of time for filing the return. Otherwise, the lookback period is two years. For a calendar-year taxpayer, withheld and estimated income taxes are deemed paid on the due date of the tax return, generally April 15 of each year. See § 6513(b)(1) and (2).

Among other things, Notice 2020-23, 2020-18 I.R.B. 742 (April 27, 2020), which amplified Notice 2020-18 and Notice 2020-20, postponed certain Federal tax return filing and payment obligations that were due to be performed on or after April 1, 2020, and before July 15, 2020, to July 15, 2020. Similarly, Notice 2021-21, 2021-15 I.R.B.

986 (April 12, 2021), postponed the due date for both filing Federal income tax returns in the Form 1040 series with an original due date of April 15, 2021, and making Federal income tax payments in connection with one of these forms, to May 17, 2021. Under § 6511, taxpayers who timely filed their tax returns by the postponed due dates provided by Notice 2020-23 and Notice 2021-21 have three years from the date of filing their return for each year to timely file a claim for credit or refund for that year.

Although Notice 2020-23 and Notice 2021-21 *postponed* certain return filing due dates, those notices did not *extend* the time for filing the returns because a postponement is not an extension. As a result, the postponements did not lengthen the lookback periods under § 6511(b)(2)(A).

The dates on which withheld taxes are deemed paid under § 6513(b)(1) or (2) were not affected by Notice 2020-23 or Notice 2021-21. Accordingly, absent the relief granted in this notice, although some calendar-year taxpayers may have until July 15, 2023,² or May 17, 2024, to timely file a claim for credit or refund for their taxable years postponed by Notice 2020-23 and Notice 2021-21, in order for the applicable lookback period to include all available amounts, taxpayers who did not receive an extension of time for filing a return must file a claim for credit or refund within three years of the due date of the return (generally April 15, 2020 or April 15, 2021, respectively). The relief granted in section 3 of this notice permits taxpayers who had a return filing due date postponed by Notice 2020-23 or Notice 2021-21, who did not receive an extension of

² Because July 15, 2023, is a Saturday, a claim for credit or refund for a return with a due date postponed by Notice 2020-23 would be considered timely if a taxpayer filed the claim on Monday, July 17, 2023. See § 7503. In that scenario, for the purposes of calculating the lookback period under § 6511(b)(2)(A), the claim for credit or refund would be treated as if it were filed on July 15, 2023 (not July 17), and the lookback period would run back to July 15, 2020, absent the relief granted in this notice. See Rev. Rul. 66-118, 1966-1 C.B. 290; Rev. Rul. 2003-41, 2003-17 I.R.B. 814 (April 28, 2003).

time for filing such return, and who file timely claims for credit or refund to be credited or refunded amounts deemed paid on April 15 of each year.

SECTION 3. GRANT OF RELIEF

A. Taxpayers Affected by COVID-19 Emergency. The Secretary has determined that any person with a Federal tax return filing or payment obligation that was postponed by Notice 2020-23 to July 15, 2020, is affected by the COVID-19 emergency for purposes of the relief described in this section 3 (Affected Taxpayer). The Secretary has also determined that any person with a filing or payment obligation with respect to a Federal income tax return in the Form 1040 series that was postponed by Notice 2021-21 to May 17, 2021, is an Affected Taxpayer.

B. Relief for Determining the Lookback Period for Claims for Credit or Refund. For an Affected Taxpayer with a due date postponed by Notice 2020-23, the period beginning on April 15, 2020, and ending on July 15, 2020, will be disregarded in determining the beginning of the lookback period for the purpose of determining the amount of a credit or refund under § 6511(b)(2)(A) relating to the tax for which the return filing or payment due date was postponed. In addition, for an Affected Taxpayer with a due date postponed by Notice 2021-21, the period beginning on April 15, 2021, and ending on May 17, 2021, will be disregarded in determining the beginning of the lookback period for the purpose of determining the amount of a credit or refund under § 6511(b)(2)(A) relating to the tax for which the return filing or payment due date was postponed.

C. Example. Taxpayer is a calendar-year filer with a 2019 Federal income tax return due date of April 15, 2020. Taxpayer's employer withheld income taxes from

Taxpayer's wages throughout 2019 and remitted the withheld income taxes to the IRS. Per § 6513(b), these withheld income taxes are deemed paid on April 15, 2020. The due date for Taxpayer's 2019 Federal income tax return was postponed by Notice 2020-23 to July 15, 2020. Pursuant to the postponed due date, Taxpayer timely filed their return on June 22, 2020. Under § 6511(a), Taxpayer may timely file a claim for credit or refund until three years from the return filing date, or June 22, 2023. But if Taxpayer files a claim for credit or refund on June 22, 2023, absent the relief granted in this notice, the amount of Taxpayer's credit or refund would be limited to tax paid during the period beginning three years before the filing of the claim, or June 22, 2020. As a result, a credit or refund of Taxpayer's withheld income taxes would be barred because they were deemed paid on April 15, 2020, outside of the lookback period in § 6511(b)(2)(A). This notice provides relief by disregarding the period beginning on April 15, 2020, and ending on July 15, 2020, in determining the beginning of the lookback period. Accordingly, under the relief provided by this notice, if Taxpayer files a claim for credit or refund on or before June 22, 2023, the lookback period extends three years back from the date of the claim, disregarding the period beginning on April 15, 2020, and ending on July 15, 2020. As a result, the limit to the amount of the credit or refund would include Taxpayer's withheld income taxes deemed paid on April 15, 2020.

The relief provided under § 7508A in this notice is automatic. Affected Taxpayers do not have to call the IRS, file any form, or send letters or other documents to receive this relief.

SECTION 4. DRAFTING INFORMATION

The principal author of this notice is Andrew C. Keaton of the Office of Associate Chief Counsel (Procedure and Administration). For further information regarding this notice, contact Mr. Keaton at (202) 317-6833 (not a toll-free number).