

Coronavirus impact on US international tax compliance

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This article was updated on April 16, 2020 following new IRS guidance.

The tax ramifications of COVID-19 are just beginning to come into focus, as new legislation and related guidance aimed at providing relief rolls out around the globe. In the United States, the IRS has issued guidance deferring to July 15th federal income tax payments and filings otherwise due (originally or pursuant to a valid extension) on or after April 1st and prior to July 15th. Fortunately, the latest guidance provides more certainty with respect to questions left open by earlier guidance.

Relief efforts were initially announced on March 18th via Notice 2020-17. Notice 2020-17 was quickly superseded on March 20th by Notice 2020-18, which expanded the relief to filings as well as payments, and removed limits on the amount of tax payments that could be deferred. Notice 2020-18 was accompanied closely by non-binding FAQs on March 24 which provided further clarifications and indicated that the IRS was continuing to consider additional guidance on the issues addressed by the FAQs.

On April 9th, 2020, the IRS released Notice 2020-23, which amplifies Notice 2020-18, postponing until July 15, 2020 the due date for filing of an expanded list of federal tax returns and associated tax payments otherwise due on or after April 1, 2020 and before July 15, 2020. This relief clearly includes not just tax returns, but also all schedules, information returns, and other forms that are filed as attachments thereto or are required to be filed by the same due date.

This client alert addresses US international tax compliance filings in the context of this evolving guidance, since changes to filing and payment timeframes can materially impact US taxpayers with transnational assets and activities.

Scope of the Relief

Tax and information returns important in an international tax context that are addressed in IRS Notice 2020-23, and qualify for the extended filing deadline, include:

International Information Returns

- Form **3520**, Gifts or Bequests from Foreign Persons
- Form **5471**, Information returns for US Persons with Respect to Certain Foreign Corporations
- Form **5742**, Information Return of a 25% Foreign-Owned US Corporation or a Foreign Corporation Engaged in a US Trade or Business
- Form **8621**, Information Return by a Shareholder of a Passive Foreign Investment Company or Qualified Electing Fund
- Form **8858**, Information Return of US Persons With Respect to Foreign Disregarded Entities and Foreign Branches
- Form **8865**, Return of US Persons With Respect to Certain Foreign Partnerships
- Form **8938**, Statement of Specified Foreign Financial Assets
- Form **8991**, Tax on Base Erosion Payments of Taxpayers with Substantial Gross Receipts

Income Tax Returns and Schedules

- Form **990-T**, Exempt Organization Business Income Tax Return (and Proxy Tax Under Section 6033(e)), and other forms in the 990 series
- Form **1040**, US Individual Income Tax Return, Form 1040-NR, US Nonresident Alien Income Tax Return, and other forms in the 1040 series
- Form **1040-ES**, Estimated Tax for Individuals and 1040-ES (NR), US Estimated Tax for Nonresident Alien Individuals
- Form **1041**, US Income Tax Return for Estates and Trusts, and other forms in the 1041 series;
- **1041-ES**, Estimated Income Tax for Estates and Trusts
- Form **1065**, US Return of Partnership Income
- Form **1120**, US Corporation Income Tax Return, and other forms in the 1120 series
- Form **1120-W**, Estimated Tax for Corporations
- Form **8960**, Net Investment Income Tax

Estate & Gift Tax Returns and Schedules

- Form **706**, United States Estate (and Generation-Skipping Transfer) Tax Return, and other forms in the 706 series
- Form **709**, United States Gift (and Generation-Skipping Transfer) Tax Return, that are due on the date an estate is required to file Form 706 or Form 706-NA
- Estate tax payments of principal or interest due as a result of an election made under Secs. 6166, 6161, or 6163 and annual recertification requirements under Sec. 6166

Earlier guidance, reaffirmed by Notice 2020-23, confirmed that Section 965 transition tax installment payments due on or after April 1, 2020 and before July 15th 2020 are also deferred to July 15th. (Previously, there was some ambiguity about whether these payments were included in the grant of relief.)

Additionally, on March 25, the IRS announced the extension of the deadline for reporting of US account holder information by foreign financial institutions subject to US reporting requirements under FATCA. The reporting, which is made on Form 8966, is generally due on March 31st. Forms 8966 otherwise due March 31st, 2020 were extended to July 15th, 2020. No filing is required to obtain this extension.

The due date for filing of FinCEN Forms 114 (Report of Foreign Bank and Financial Accounts, or "FBARs") is unaffected by Notice 2020-23 and preceding guidance. FBARs for 2019 are generally due October 15th (without need to request an extension).

Tax Residency Matters

The COVID-19 pandemic has also created a risk that individuals who are not US citizens or residents may be treated as a US income tax residents (triggering tax filing and payment obligations) by virtue of spending too much time in the United States. For a more detailed discussion of COVID-19-related residency issues, read [Coronavirus: Risk of US tax residency for foreigners stuck in the United States](#).

New Legislation

Congress has also responded to the COVID-19 crisis, including passage of the Coronavirus Aid, Relief, and Economic Security (CARES) Act, P.L. 116-136, which was signed into law by President Trump on March 27, 2020, and includes significant tax provisions. It is the third in a series of stimulus packages, with more expected. Importantly, the version of the CARES Act passed by Congress does not contain certain international tax provisions included in earlier versions of the bill, such as the reinstatement of limits on downward ownership attribution under Section 958(b)(4) of the Code and changes to the transition tax installment rules under Section 965(h).

Guidance around US tax compliance in the wake of COVID-19 is continuing to evolve rapidly, and we advise clients to continue to monitor the situation for new developments.


[Click here](#) to read more insights on how we can weather the coronavirus outbreak with you.


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