

IRS Confirms More Time for Extended Corporate Returns

In Form 7004, IRS has provided an automatic six-month extension for calendar year C corporation returns rather than the five-month period specified in the 2015 Transportation Act. For sponsors of plans required to file Form 5500 and 8955-SSA that have plan years coinciding with the sponsor's tax year, this additional time may skirt the need to file Form 5558.

Background

The IRS tax return filing deadlines for employers vary for different types of businesses (partnerships, subchapter C corporations, subchapter S corporations and tax-exempt organizations). Certain qualified retirement plans' deadlines are related to their plan sponsors' tax return filing deadlines.

The [Surface Transportation and Veterans Health Care Choice Improvement Act of 2015](#) changed the tax return filing deadlines for corporations, partnerships and tax-exempt entities. For example, for taxable years that begin in 2016 and later, the initial filing deadline for the Form 1120 (U.S. Corporation Income Tax Return) filed by C corporations is the 15th day of the fourth month after the end of the corporation's tax year. Previously the initial deadline was the 15th day of the third month after the end of the corporation's tax year. For example, a C corporation that is a calendar year taxpayer has an initial filing deadline of April 15 rather than March 15. For partnerships, the initial filing deadline for the Form 1065 (U.S. Return of Partnership Income) is the 15th day of the third month after the end of the partnership's taxable year. Previously, it was the 15th day of the fourth month after the end of the taxable year. (For example, for a partnership that is a calendar year taxpayer, the initial tax filing deadline is March 15 instead of April 15.)

Extensions

The Transportation Act generally provided for a six-month applicable automatic extension periods for the various types of entities. However, through the end of the 2025 tax year, the automatic extension period for *calendar year* C corporations that properly pay estimated taxes was shortened from six to five months. This means that for calendar year taxpayers, the extended filing deadline under the Transportation Act is September 15, until the deadline for the 2026 tax year, when it shifts to October 15.



C corporations with a taxable year ending on June 30 are also subject to special rules. Refer to our [August 20, 2015 For Your Information](#) for details on the June 30 exception and filing extensions for other types of entities. An extension of the time to file the tax return is not an extension of the due date for the tax.

6 Months for C Corporations – Including Calendar Year Fiscals – Really!

IRS asks filers to use Form 7004 to secure their automatic extension. The form was revised for 2016 fiscals to reflect many of the Transportation Act changes. However, the form and its instructions specified that calendar year C corporations would generally get a full six months instead of the five-month extension specified in the Transportation Act. IRS [posted a confirmation](#) that the change was indeed intended and that the Form 7004 instruction was no mistake.

Implications for Employer Plans

As indicated in our [August 20, 2015 For Your Information](#), the extended tax return date ties in with a number of benefit plan deadlines such as certain plan amendment deadlines, the date for making deductible contributions, and, sometimes, the filing deadline for Form 5500. (Note that the 5500 deadline change we originally reported in the August 20, 2015 FYI was later repealed, as reported in our [December 8, 2015 FYI Alert](#).)

Comment. The employer's extended due date will not change the deadline for making minimum funding required contributions.

Address foreign asset reporting obligations.

In an effort to address tax evasion, money laundering and terrorist financing concerns, compliance requirements mandate reporting of assets held by foreign financial institutions (including retirement plans) and benefit distributions to certain individuals. Plan fiduciaries will want to assess compliance with these requirements, particularly the Foreign Account Tax Compliance Act (FATCA), the Report of Foreign Bank and Financial Accounts (FBAR), and regulations issued by Treasury's Office of Foreign Assets Control (OFAC). Our [June 12, 2014 FYI](#) outlines these requirements. There have been [changes in the compliance dates for the FBAR filing](#). The deadline for FINCEN 114 (aka FBAR) was moved up to April 15, with an automatic six-month extension to October 15. Previously the FINCEN 114 (FBAR) was due June 30 and no extension was available.

Form 5500 and Form 8955-SSA Extensions

Employee benefit plans are required to file annual reports (Form 5500) and retirement plans are required to file Form 8955-SSA (Annual Registration Statement Identifying Separated Participants with Deferred Vested Benefits) by the end of the seventh month following the end of the plan year, with a 2½ month extension available. For calendar year plans, the initial due date is July 31, and the extended due date is October 15 for those filing Form 5558 prior to the initial due date, July 31. A special rule applies when the plan year and employer's fiscal year coincide. In that case, the Form 5500 and 8955-SSA filing date is automatically moved to the extended due date of the employer's tax return. Before and after the Transportation Act, that was September 15 for a calendar year plan and C corporation employer fiscal combination. Under the six-month extension, the deadline is now October 15 – the same as the deadline obtained by filing Form 5558. Corresponding deadlines apply for other periods for C corporations as long as the plan and corporate fiscal years match.

Comment. The full month difference between the Form 5558 and employer filing date will remain for S corporations and partnerships because the 6-month extension is added to their new normal filing date of 2½ months after the end of the taxable year – September 15 for a calendar year employer.

Some Cautions

The [Form 7004 instructions](#) note that IRS can terminate the automatic extension period for a corporate return at any time with 10 days' written notice. Although the circumstances under which IRS would decide to terminate an automatic extension (which would presumably terminate the form 5500 and 8955-SSA extension as well) are not defined, we expect this would be a rare occurrence. The IRS does not provide this warning in the instructions for an extension granted via Form 5558, but it is included in their supporting regulation.

Comment. Either way, scrutinize any confirmation documents to assure the correct filing year and deadline is shown and retain with other filing support materials.

Since IRS made the extended due date for corporate tax returns later than they were statutorily required to, and could easily change it, sponsors should consider filing Form 5558 to ensure the maximum extension period (or 9½ months) is available to be on the safe side – at least until subsequent guidance is released confirming the change.

The instructions for the Form 7004 provide exceptions to the initial filing deadline that may apply to certain businesses such as foreign corporations or partnerships, domestic corporations that transact business and keep books and records outside the U.S. and Puerto Rico, and domestic corporations whose principal income is from sources within the possessions of the United States. If a C corporation is affected by these special rules, the employer must file the corporate tax extension by the deadline applicable to them so that the plans they sponsor (that have the same plan year) can have their 5500 and 8955-SSA filings receive the maximum extended filing due date without the need for filing Form 5558.

In Closing

Plan sponsors should be aware of the extra time for filing business tax returns and the potential extra time it provides for their Form 5500 and 8955-SSA filings. Form 5558 is nonetheless available where there is any uncertainty and for all situations where the plan year and the corporate tax year are not the same.

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