



Compliance Advisory

June 2011

IRS extends deadlines in disaster relief situations

When the President of the United States declares a major disaster, the Internal Revenue Code (Code) authorizes the IRS to grant certain tax relief and postpone tax deadlines for certain [affected taxpayers](#) impacted by the disaster. A major disaster could result from a hurricane, earthquake, flood, tornado, major fire, or terrorist attack for which the President determines the need for federal assistance. The event must be clearly more than the state or local government can handle alone.

The IRS may provide relief that includes extended tax filing deadlines, extended deadlines for making contributions to an Individual Retirement Account (IRA), and extended deadlines for employers to make deductible contributions to qualified defined benefit and defined contribution plans.

Below is a summary of the relief provided to retirement plans and the requirements that individuals and employers must satisfy in order to qualify for relief.

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 provided assistance 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; or
- The spouse of an affected taxpayer; solely with regard to a joint return of the husband or spouse.

Relief provided

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

- Deadline for making deductible contributions to qualified defined benefit and defined contribution plans, 403(b) plans and contracts, and IRAs;
- Deadline for distributing IRA contributions;
- Deadline for recharacterizing Roth or traditional IRA contributions;
- Deadline for filing Form 5500;
- Plan loan repayment due dates and loan maturity dates;
- The 60-day rollover period for distributions made from IRAs, qualified plans, 403(b) plans; or governmental section 457(b) plans;
- Deadline for receiving annual payments to qualify for the exemption from the 10% federal income tax penalty for a series of substantially equal periodic payments;
- End of the 120-day period after a distribution from an IRA for a first-time home purchase to pay qualified acquisition costs or roll into an IRA;

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- Deadline for making required minimum distributions from qualified plans, ERISA 403(b) plans, IRAs and section 457(b) plans;
- Deadline for 401(k) plan excess contribution (from failed ADP tests) distributions;
- Deadline for excess aggregate contribution (from failed ACP tests) distributions;
- Deadline for distribution of excess deferrals;
- Deadline for individuals to notify a plan of excess deferral contributions;
- Deadline for ESOP diversification election period;
- Deadline for ESOP diversification distributions;
- Deadline for ESOP dividend distributions;
- Deadline for ESOP put options;
- Deadline for ESOP employer securities repurchases;
- Deadline for employers to pay for ESOP repurchases;
- Deadline for beginning ESOP distributions;
- Deadline for distributing nondeductible plan contributions to avoid a 10% excise tax;
- 2½ month deadline for distributing excess contributions and excess aggregate contributions to avoid the 10% excise tax; and
- Two-year deadline for self-correction of operational failures under the Employee Plans Compliance Resolution System (EPCRS).

IRS notification

Extensions 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 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 Advisory by Prudential Retirement

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