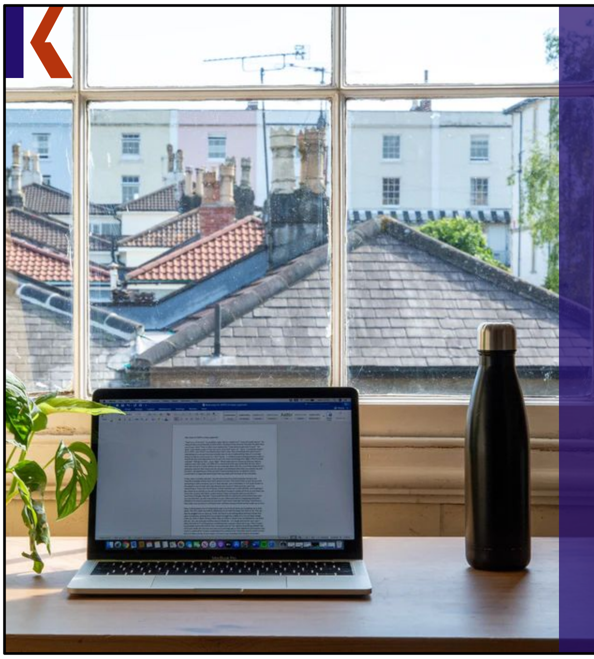


Current Federal Tax Developments

February 27, 2023

Kaplan Financial Education

Proposed regulations issued for retirement plan forfeitures

OPR completes review of crypto broker proposed regulations, expected to be issued shortly

IRS extends relief for taxpayers impacted by disasters in California, Alabama and Georgia

IRS issues final business electronic filing mandate regulations

IRS Issues Proposed Regulations for Retirement Plan Forfeitures

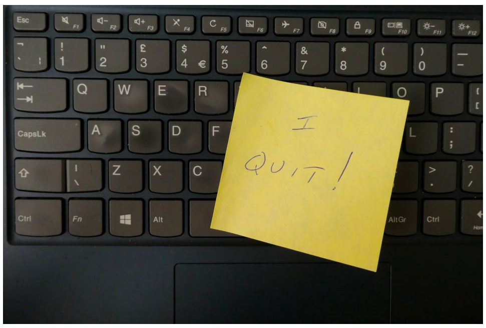


Photo by Nick Fewings on Unsplash

- REG-122286-18, 2/24/23
  - Forfeitures occur when an employee leaves before rights in plan fully vest
  - Proposed regulations affect use of forfeitures in both defined benefit and defined contribution plans
  - Adds a 1-year rule for the use of such forfeitures in a defined contribution plan

https://www.govinfo.gov/content/pkg/FR-2023-02-27/pdf/2023-03778.pdf

IRS Issues Proposed Regulations for Retirement Plan Forfeitures

- Defined benefit plan (Proposed Reg. 1.401-7(a)):
    - Plan must expressly provide that forfeitures may not be applied to increase the benefits any employee would otherwise receive under the plan at any time prior to the termination of the plan or the complete discontinuance of employer contributions thereunder.
    - The effect of forfeitures may be anticipated in determining the costs under the plan.
    - See sections 430(h)(1), 431(c)(3), and 433(c)(3), as applicable, regarding the use of reasonable actuarial assumptions in determining the amount of contributions required to be made under a plan to which one of those sections applies.

IRS Issues Proposed Regulations for Retirement Plan Forfeitures

A 2010 Newsletter of the Employee Plans office of the IRS's Tax Exempt and Government Entities Division (*Retirement News for Employers*, Vol. 7, Spring 2010) (the 2010 Newsletter) noted that some defined contribution plan administrators place forfeited amounts into a plan suspense account, allowing them to accumulate over several years, *but that the Code does not allow this practice.* It advised that a plan document should have provisions detailing how and when a plan will use or allocate plan forfeitures, and it described deadlines for the use or allocation of forfeitures.

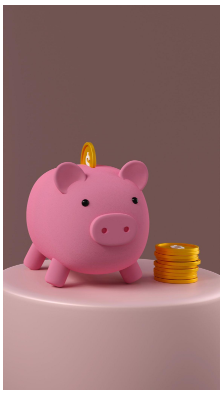
IRS Issues Proposed Regulations for Retirement Plan Forfeitures

- Defined contribution plans (Proposed Reg. 1.401-7(b))
  - Forfeitures can be used:
    - To pay plan administrative expenses;
    - To reduce employer contributions under the plan; or
    - To increase benefits in other participants' accounts in accordance with plan terms
  - Forfeitures will be used no later than 12 months following the close of the plan year in which the forfeitures were incurred under plan terms.
  - While plan doesn't have to allow all three uses, preamble warns about operational failure if can't use up all forfeitures in 12 months

IRS Issues Proposed Regulations for Retirement Plan Forfeitures

- Defined contribution plans (Proposed Reg. 1.401-7(b))
  - Proposed transition rule: forfeitures incurred during any plan year that begins before January 1, 2024, will be treated as having been incurred in the first plan year that begins on or after January 1, 2024.
- Proposed to apply for plan years beginning on or after January 1, 2024.
  - The deadline for the use of defined contribution plan forfeitures incurred in a plan year beginning during 2024 would be 12 months after the end of that plan year.
  - Taxpayers may rely on these proposed regulations for periods preceding the applicability date.

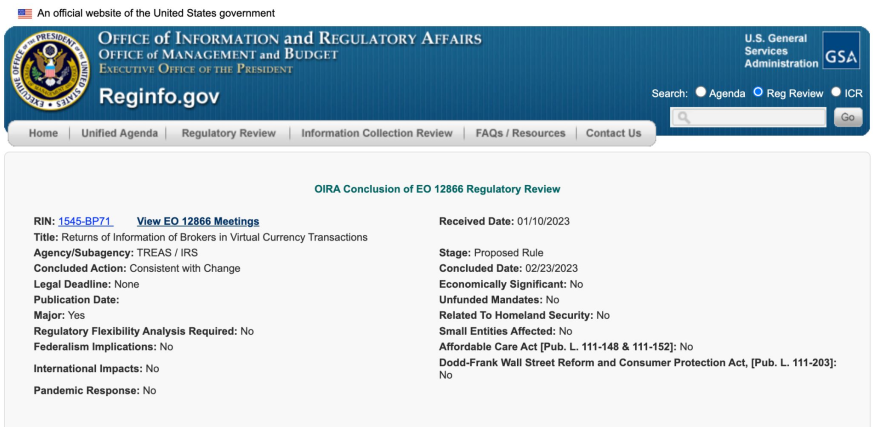
OIRA Announces Completion of Cryptocurrency Reporting Regulation Review



- OIRA Conclusion of EO 12866 Regulatory Review, RIN: 1545-BP71, 2/23/23
  - Infrastructure Investment and Jobs Act enacted in November 2021 mandates reporting by crypto-brokers
  - In December IRS announced rules would not begin on 1/1/23 as the law provided until final regulations are issued
  - OIRA has finished their review of the proposed regulations, so they should be issued shortly by the IRS

https://www.reginfo.gov/public/do/eoDetails?rrid=290861

OIRA Announces Completion of Cryptocurrency Reporting Regulation Review



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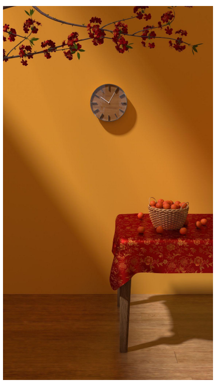
https://www.reginfo.gov/public/do/eoDetails?rrid=290861

IRS Again Extends Due Dates for Certain Returns in California, Alabama and Georgia



- "IRS: May 15 tax deadline extended to Oct. 16 for disaster area taxpayers in California, Alabama and Georgia," IR-2023-33, 2/24/23
  - Filing deadlines originally postponed until May 15 are now pushed back to October 16
  - The IRS is offering relief to any area designated by the Federal Emergency Management Agency (FEMA) in these three states.
  - There are four different eligible FEMA declarations, and the start dates and other details vary for each of these disasters.

https://www.irs.gov/newsroom/irs-may-15-tax-deadline-extended-to-oct-16-for-disaster-area-taxpayers-in-california-alabama-and-georgia

IRS Again Extends Due Dates for Certain Returns in California, Alabama and Georgia

IR-2023-33, Feb. 24, 2023

WASHINGTON — Disaster-area taxpayers in most of California and parts of Alabama and Georgia now have until Oct. 16, 2023, to file various federal individual and business tax returns and make tax payments, the Internal Revenue Service announced today. Previously, the deadline had been postponed to May 15 for these areas.

The IRS is offering relief to any area designated by the Federal Emergency Management Agency (FEMA) in these three states. There are four different eligible FEMA declarations, and the start dates and other details vary for each of these disasters. The current list of eligible localities and other details for each disaster are always available on the Tax Relief in Disaster Situations page on IRS.gov.

The additional relief postpones until Oct. 16, various tax filing and payment deadlines, including those for most calendar-year 2022 individual and business returns. This includes: Individual income tax returns, originally due on April 18; Various business returns, normally due on March 15 and April 18; and returns of tax-exempt organizations, normally due on May 15.

Among other things, this means that eligible taxpayers will also have until Oct. 16 to make 2022 contributions to their IRAs and health savings accounts.

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IRS Again Extends Due Dates for Certain Returns in California, Alabama and Georgia

In addition, farmers who choose to forgo making estimated tax payments and normally file their returns by March 1 will now have until Oct. 16, 2023, to file their 2022 return and pay any tax due.

The Oct. 16 deadline also applies to the estimated tax payment for the fourth quarter of 2022, originally due on Jan. 17, 2023. This means that taxpayers can skip making this payment and instead include it with the 2022 return they file, on or before Oct. 16.

The Oct. 16 deadline also applies to 2023 estimated tax payments, normally due on April 18, June 15 and Sept. 15. It also applies to the quarterly payroll and excise tax returns normally due on Jan. 31, April 30 and July 31.

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IRS Again Extends Due Dates for Certain Returns in California, Alabama and Georgia

The Disaster Assistance and Emergency Relief for Individuals and Businesses page has details on other returns, payments and tax-related actions qualifying for the additional time. Taxpayers in the affected areas do not need to file any extension paperwork, and they do not need to call the IRS to qualify for the extended time.

The IRS automatically provides filing and penalty relief to any taxpayer with an IRS address of record located in the disaster area. Therefore, taxpayers do not need to contact the agency to get this relief. However, if an affected taxpayer receives a late filing or late payment penalty notice from the IRS that has an original or extended filing, payment or deposit due date falling within the postponement period, the taxpayer should call the number on the notice to have the penalty abated.

In addition, the IRS will work with any taxpayer who lives outside the disaster area but whose records necessary to meet a deadline occurring during the postponement period are located in the affected area. Taxpayers qualifying for relief who live outside the disaster area need to contact the IRS at 866-562-5227. This also includes workers assisting the relief activities who are affiliated with a recognized government or philanthropic organization.

IRS Again Extends Due Dates for Certain Returns in California, Alabama and Georgia

Individuals and businesses in a federally declared disaster area who suffered uninsured or unreimbursed disaster-related losses can choose to claim them on either the return for the year the loss occurred or the return for the prior year. See Publication 547, Casualties, Disasters, and Thefts for details.

The tax relief is part of a coordinated federal response to the damage caused by these storms and is based on local damage assessments by FEMA. For information on disaster recovery, visit DisasterAssistance.gov.

IRS Issues Final Electronic Filing Returns, Expands Required Electronic Filing

- TD 9972, 2/21/23, "IRS and Treasury issue final regulations on e-file for businesses," IR-2023-31, 2/21/23
  - Final regulations will generally apply to returns required to be filed in 2024
  - Will greatly reduce the levels at which business and information returns must be electronically filed

https://www.irs.gov/newsroom/irs-and-treasury-issue-final-regulations-on-e-file-for-businesses

https://www.govinfo.gov/content/pkg/FR-2023-02-23/pdf/2023-03710.pdf

IRS Issues Final Electronic Filing Returns, Expands Required Electronic Filing

T.D. 9972 affects filers of partnership returns, corporate income tax returns, unrelated business income tax returns, withholding tax returns, certain information returns, registration statements, disclosure statements, notifications, actuarial reports and certain excise tax returns. The final regulations reflect changes made by the Taxpayer First Act (TFA) to increase e-filing without undue hardship on taxpayers.

Specifically, the final regulations:

- reduce the 250-return threshold enacted in prior regulations to generally require electronic filing by filers of 10 or more returns in a calendar year. The final regulations also create several new regulations to require e-filing of certain returns and other documents not previously required to be e-filed;
- require filers to aggregate almost all information return types covered by the regulation to determine whether a filer meets the 10-return threshold and is required to e-file their information returns. Earlier regulations applied the 250-return threshold separately to each type of information return covered by the regulations;
- eliminate the e-filing exception for income tax returns of corporations that report total assets under $10 million at the end of their taxable year, and
- require partnerships with more than 100 partners to e-file information returns, and they require partnerships required to file at least 10 returns of any type during the calendar year to e-file their partnership return.

IRS Issues Final Electronic Filing Returns, Expands Required Electronic Filing

To help with this process, the IRS created a new, free online portal last month to help businesses file Form 1099 series information returns electronically. Known as the Information Returns Intake System (IRIS), this free electronic filing service is secure, accurate and requires no special software. Though available to any business of any size, IRIS may be especially helpful to any small business that currently sends their 1099 forms on paper to the IRS.

In recent years there has been tremendous growth in the availability of e-file services and the use of e-file across the tax filing spectrum. In 2021, about 82% of all corporate income tax returns were e-filed, and almost 90% of partnership tax returns were e-filed. Further reducing the volume of paper returns filed frees up staff and resources to further enhance services for taxpayers and improves overall efficiencies while reducing postage, printing, shipping and storage and their associated costs and burdens.

The IRS receives nearly 4 billion information returns per year and expects to receive nearly 5 billion by 2028. In 2019, the IRS still received nearly 40 million paper information returns, even though approximately 99% of all information returns for that year were e-filed.

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IRS Issues Final Electronic Filing Returns, Expands Required Electronic Filing

The final regulations generally provide hardship waivers for filers that would experience hardship in complying with the e-filing requirements and administrative exemptions from the e-filing requirements to promote effective and efficient tax administration.

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