



Internal Revenue Service (IRS) provides more relief for certain plan deadlines due to COVID-19 pandemic

Overview

The following general summary is intended to educate employers and plan sponsors on the potential effects of recent government guidance on employee benefit plans. This summary is not and should not be construed as legal or tax advice. The government's guidance is complex and very fact specific. As always, we strongly encourage employers and plan sponsors to consult competent legal or benefits counsel for all guidance on how the actions apply in their circumstances.

Recently, the Internal Revenue Service (IRS) published IRS Notice 2020-35,¹ which temporarily extends a number of deadlines for certain employee benefits filings with respect to certain employee benefit plans and tax-favored arrangements, including Health Savings Accounts (HSAs).

Notice 2020-35

Background

By way of background, on March 13, 2020, President Donald Trump issued an emergency declaration² under the Robert T. Stafford Disaster Relief and Emergency Assistance Act in response to the COVID-19 outbreak. Pursuant to this emergency proclamation, the IRS issued Notice 2020-18³ postponing the April 15, 2020 due date for filing federal income tax payments to July 15, 2020.

On March 24, 2020, the IRS issued FAQ guidance⁴ regarding this relief, clarifying that this extended tax return filing gives taxpayers more time to make contributions to their Health Savings Accounts (HSAs) for 2019, noting that HSA contributions for a particular year may be made at any time during that year or by the tax return filing due date for that year. Therefore, because the 2019 federal income tax return filing deadline was extended to July 15, 2020, HSA contributions for 2019 could also be made at any time up to July 15, 2020.

On April 9, 2020, the IRS released Notice 2020-23,⁵ which expanded on the relief provisions of 2020-18, including an extension to July 15, 2020 of deadlines related to any "specified time-sensitive action" listed in Rev. Proc. 2018-58,⁶ including the 60-day timeframe for completing HSA (and Archer MSA) rollovers, and the deadline to report HSA contribution information by filing Form 5498-SA and furnishing the information to account holders.

Additional Extensions

The relief specified in Notice 2020-35 extends deadlines not otherwise included in Notice 2020-23. Also, Notice 2020-35 clarifies that – in addition to extending the referenced deadlines imposed by the Internal Revenue Code – these extensions apply for purposes of any parallel deadlines under the Employee Retirement Income Security Act (ERISA).

Among the relief provisions specified in Notice 2020-35, the deadline for filing Form 5498 and the other iterations of the form, namely Form 5498-SA, is extended to August 31, 2020. As indicated above, this form is used to report contributions to HSAs and similar accounts.

Penalties for filing these forms after the extended deadline will begin to accrue on September 1, 2020.

Notice 2020-23 had previously extended this deadline until July 15, 2020. This is an important further extension because the deadline to contribute to an HSA for 2019 has been extended to July 15, 2020.

Conclusion

The continued response to the ongoing economic and health impacts of the COVID-19 pandemic is welcome in providing additional flexibility to impacted plan participants, beneficiaries, and taxpayers. We will continue to monitor these developments and remain abreast of future relief efforts for the current year and possibly through 2021. As noted above, the government's guidance is complex and fact-specific, and we encourage employers and plan sponsors to consult their legal or benefits advisors for all guidance on how the guidance applies in their circumstances.

The information contained in this memo is not intended to be legal, accounting, or other professional advice. We assume no liability whatsoever in connection with its use, nor are these comments directed to specific situations.

1. <https://www.irs.gov/pub/irs-drop/n-20-35.pdf>
2. <https://www.whitehouse.gov/presidential-actions/proclamation-declaring-national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak/>
3. <https://www.irs.gov/pub/irs-drop/n-20-18.pdf>
4. <https://www.irs.gov/newsroom/filing-and-payment-deadlines-questions-and-answers>
5. <https://www.irs.gov/pub/irs-drop/n-20-23.pdf>
6. <https://www.irs.gov/pub/irs-drop/rp-18-58.pdf>