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CA DISASTER DUE DATE EXTENSIONS

OCTOBER 16, 2023

BACKGROUND

On January 10 and January 24, 2023, the IRS announced tax relief ([CA-2023-01](#)) for victims of severe winter storms, flooding, landslides, and mudslides in California. Each announcement was in response to a disaster declaration made by FEMA. The relief was the extension of filing and payment due dates to May 15 and the FTB conformed. There were several updates to the IRS announcements adding CA counties that were not originally included in the relief.

Then on February 23 and 24, 2023, the IRS extended that relief to October 16, 2023; the 15th is a Sunday ([CA-2023-02](#)). They have subsequently updated [CA-2023-02](#)) five times. The FTB did not immediately respond to the IRS' revised extension, until March 2, 2023, when Governor Newsom announced that CA would also extend the relief to October 16, 2023.

So, the relief to October 16, applies to both Federal & California filings.

Then on March 17 the IRS released still another announcement ([CA-2023-03](#)) that provided relief, including to taxpayers in 4 counties that were not previously named. It is presumed CA will conform.

CA COUNTIES AFFECTED

CALIFORNIA TAX-RELATED DISASTER RELIEF			
CA County	IRS Announcement	Relief Beginning Date	Due Date
Lassen	None	No Extension	April 18
Modoc	None	No Extension	April 18
Shasta	None	No Extension	April 18
Imperial	CA-2023-03	March 9	October 16
Kern	CA-2023-03	March 9	October 16
Plumas	CA-2023-03	March 9	October 16
Sierra	CA-2023-03	March 9	October 16
All Other Counties	CA-2023-01, CA-2023-02	January 8*	October 16
* December 27 for counties listed in CA-2023-01 (dated 1/10/2023)			

EXTENSIONS

Preparers have been nervous related to the payments also being extended along with the filings. The following is an exact quote from the January 10th IRS announcement with bolding added. (The January 24th announcement has

similar language, as does the latest announcement, except substitute March 9 for January 8.)

*Victims of severe winter storms, flooding, landslides, and mudslides beginning January 8, 2023, now have until October 16, 2023, to **file various individual and business tax returns and make tax payments**, the Internal Revenue Service announced today.*

So, the extensions apply to both filings and payments. The relief is automatic – filing Form 4868 is not needed.

Exception: The extension DOES NOT apply to payroll deposits **except as noted later**

Forum Question: I am doing a 2021 and 2022 return for a client. Does the filing and payment extension apply to the 2021 return?

Answer: As noted on the prior page, relief applies to filings due on or after January 8, 2023 (or Dec. 27, 2022, in some cases), and through October 16, 2023. The 2021 filing deadline had already passed before January 8, 2023, so the relief would not apply to filing the 2021 return nor making a balance due payment for that return.

WHO QUALIFIES FOR RELIEF

Who qualifies for relief has also been a subject of concern that is in great part the fault of the IRS. They start off their announcement with “Victims of severe winter storms, flooding, landslides, and mudslides...”, which could be interpreted to mean that a client must have actually suffered some damage to qualify. That is not true! The client need only reside in one of the specified counties to qualify, as indicated in the following excerpt from the IRS announcement.

*The **IRS automatically identifies taxpayers located in the covered disaster area and applies filing and payment relief.** But affected taxpayers who reside or have a business located outside the covered disaster area should call the IRS disaster hotline at [866-562-5227](tel:866-562-5227) to request this tax relief.*

So, taxpayers need only reside in a disaster area to qualify for relief.

BOOKS & RECORDS

If an individual is not located within the disaster area, but their books and records are within the disaster area, then they also qualify for relief. Thus if one of your clients does not reside in a disaster area but your office is located in the disaster area, and if the client's books and records are at your office, then that client would qualify for relief.

Taxpayers not in the covered disaster area, but whose records necessary to meet a deadline listed in Treas. Reg. § 301.7508A-1(c) are in the covered disaster area, are also entitled to relief.

WHAT QUALIFIES FOR FEDERAL RELIEF

Under section 7508A, the IRS gives affected taxpayers until October 16, 2023, to file most tax returns that have either an original or extended due date occurring on or after December 27, 2022, or January 8, 2023, and before October 16, 2023,

- **Individual** tax returns (1040 Series),
- **Estimated Tax Payments** (1040-ES)
- **Corporate** tax returns (1120),
- **Estate** income tax return (1041),
- **Trust** income tax returns (1041),
- **Partnership** returns (1065),
- **S corporation** returns 1120-S),
- **Trust** returns (1041),
- **Estate** returns (706),
- **Gift** returns (709),
- **Generation-skipping** transfer tax returns (706),
- **Tax-exempt Organizations** annual information returns (990 Series),
- **Employee Benefit Plan** Returns (5500 series),
- **Sec 1031 Exchange** (See below),
- **IRA** Contributions
- **Health Savings Accounts** Contributions
- **Payroll** tax returns (but not the deposits)

WHAT QUALIFIES FOR CA RELIEF

Includes individual and business tax returns and making certain tax payments. These include:

- Individuals whose tax returns and payments are due on April 18, 2023.
- Quarterly estimated tax payments due January 17, 2023, April 18, 2023, June 15, 2023, and September 15, 2023.
- Business entities whose tax returns are normally due on March 15 and April 18.
- Pass-Through Elective Tax (PTET) payments due on June 15, 2023.

PENALTIES OR INTEREST

Since the payment deadlines have been extended, no interest or penalties will accrue if payments are made by October 16, 2023.

SPECIAL RULES FOR SECTION 1031 LIKE-KIND EXCHANGE TRANSACTIONS

The last day of a 45-day identification period or the last day of a 180-day exchange period that falls on or after the date of a federally declared disaster, are postponed by 120 days or to the last day of the general disaster extension period authorized by an IRS News Release, whichever is later. However, in no event may a postponement period extend beyond: (a) the due date (including extensions) of the taxpayer's tax return for the year of the transfer or (b) one year. However the Secretary must

specifically specify the one-year period which didn't happen. ([Rev Proc 2018-58, Sec 17, last page](#)).

Thus, if either the 45-day or 180-day period end falls on or after December 27, 2022, or January 8, 2023, through October 16, 2023, the testing period(s) are also extended to October 16, 2023.

PAYROLL DEPOSITS

Payroll Deposits Are NOT extended except as noted here:

- The Oct. 16 deadline also applies to the quarterly payroll and excise tax returns normally due on Jan. 31, 2023. In addition, penalties on payroll and excise tax deposits due on or after Jan. 8, 2023, and before Jan. 23, 2023, will be abated if the tax deposits were made by Jan. 23, 2023. (CA-2023-01)
- The Oct. 16, 2023, deadline also applies to the quarterly payroll and excise tax returns normally due on Jan. 31, 2023, and April 30, 2023. In addition, penalties on payroll and excise tax deposits due on or after December 27, 2022, and before January 11, 2023, will be abated as long as the tax deposits were made by January 11, 2023. (CA-2023-02)
- In addition, penalties on payroll and excise tax deposits due on or after March 9, 2023, and before March 24, 2023, will be abated if the tax deposits were made by March 24, 2023. (CA-2023-03)

OTHER STATE TAX RETURNS

Forum Question - I have a CA resident client who resides in the disaster area. He has a rental in AZ. Does his AZ return qualify for the October 16 relief?

Answer: The disaster relief related to the CA storms applies to Federal and CA not to AZ, or any other state for that matter. Thus, AZ is not going to recognize a CA disaster declaration. So, you will need to file the AZ return on time or file an extension for the AZ return.

OTHER RELIEF

The IRS will waive the usual fees and requests for copies of previously filed tax returns for affected taxpayers. Taxpayers should put the assigned Disaster Designation, and "California severe winter storms, flooding, landslides, and mudslides" in bold letters at the top of [Form 4506, Request for Copy of Tax Return](#), or [Form 4506-T, Request for Transcript of Tax Return, as appropriate](#) and submit it to the IRS. The disaster designations as stated in the IRS announcements are:

Disaster Designation Number	IRS Announcement
FEMA-3591-EM	CA-2023-01
FEMA-4688-DR	CA-2023-02
FEMA-3592-EM	CA-2023-03

Affected taxpayers who are contacted by the IRS on a collection or examination matter should explain how the disaster impacts them so that the IRS can provide appropriate consideration to their case.

DIRECT PAY CANCELLATIONS

If a taxpayer eligible for the Oct. 16 extension won't be filing by April 18 and has already scheduled a direct pay for the April 18 or the May 15 due dates and wishes to cancel that payment, the taxpayer can call IRS e-file Payment Services 24/7 at 888-353-4537 to inquire about or cancel the payment.

If the return has already been filed, the IRS requests that individuals wait 7 to 10 days after the return was accepted before calling. Cancellation requests must be received no later than 11:59 p.m. ET two business days prior to the scheduled payment date. Visit [IRS Direct Pay](#) to reschedule a payment.

OTHER ISSUES:

Late Filing Notices - 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 that falls within the postponement period, the taxpayer should call the telephone number on the notice to have the IRS abate the penalty.

Information Returns - Generally, the postponement of time to file and pay does not apply to information returns in the W-2, 1094, 1095, 1097, 1098 or 1099 series; to Forms 1042-S, 3921, 3922 or 8027; or to employment and excise tax deposits other than as noted above.