

IRS Extends More Pension Deadlines For COVID-19

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IRS Notice 2020-35 is a follow-on to Notice 2020-23 that provided for a wide range of pension filings and actions that were otherwise due between April 1 and July 14, 2020 that were extended until July 15, 2020. Importantly, Notice 2020-35 expands on the list of retirement plan action items that are eligible for the July 15, 2020 extended deadline (or provides a different deadline), and generally covers actions that were otherwise due on or after March 30, 2020 through July 14, 2020. The key action items that are extended are summarized below, but unfortunately, there is still no Form 5500 relief for calendar year plans.

Defined Benefit Plans

- Single Employer Plan Funding. Funding waiver applications for 2019 are due July 15, 2020.
- Multiemployer Plan Funding. For multiemployer plans, the following funding actions are delayed until July 15, 2020: certification of funded status (and related notice), adoption/notification of funding improvement plan or rehabilitation plan, and annual updates of the funding improvement plan or rehabilitation plan/schedules (and related filings with the Form 5500). (There is also similar CSEC plan relief.)
- Pre-approved defined benefit plans. The deadline to (1) adopt a pre-approved plan, (2) submit the plan for a Form 5307 determination letter, and (3) correct disqualifying provisions that would have otherwise been due on April 30, 2020 is extended until July 31, 2020.
- Substitute Mortality Table. Plan sponsors have until July 15, 2020 to request approval of a substitute mortality table for 2021.

If you have any questions, please do not hesitate to contact your regular Groom attorney or the authors listed below:

Elizabeth Thomas Dold
edold@groom.com
(202) 861-5406

David Levine
dlevine@groom.com
(202) 861-5436

Mark Lofgren
mlofgren@groom.com
(202) 861-6614

Louis Mazawey
lmazaway@groom.com
(202) 861-6608

David Powell
dpowell@groom.com
(202) 861-6600

Jeff Witt
jwitt@groom.com
(202) 861-6651

Rosie Zaklad
rzaklad@groom.com
(202) 861-6626

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Notably, this relief also extends to any parallel ERISA funding provisions.

- **Section 403(b) Remedial Amendment Period.** Regarding the remedial amendment period and plan amendment rules for 403(b) plans, actions that were otherwise due on or before March 31, 2020 for form defects or plan amendments are postponed until June 30, 2020.
- **Form 5330 Excise Taxes.** No interest or penalty for these taxes shall apply from March 30, 2020 through July 15, 2020.
- **Form 5498 Series Reporting.** The deadline for filing and furnishing Form 5498 (including 5498-ESA, 5498-SA, HSA, Archer MSA, or Medicare Advantage MSA Information) is extended to August 31, 2020. This will help facilitate capturing all 2019 IRA contributions that can be made through July 15, 2020.
- **EPCRS.** Plan sponsors have until July 15, 2020 to implement corrective actions, including adopting corrective amendments, required by a VCP compliance statement, regardless of the standard 150-day correction period.
- **Employment Taxes.** Interest-free adjustments to correct employment tax reporting errors (including pension withholding) is provided through July 15. This applies to correcting overpayments or underpayments otherwise due to be corrected between March 30, 2020 and before July 15, 2020. There is also some relief for electronic filing requirements for certified PEOs (CPEOs).

Next Steps

Before considering any corrective action for late retirement plan related actions, taxpayers and plan advisors should carefully review the updated action items and deadlines to see if additional relief has been provided, as all affected taxpayers are eligible for this relief.

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