

# Filing Deadlines Extended for Nonprofit Organizations

04.24.20 | Linda J. Rosenthal, JD



By the third week of March 2020, governments at all levels had begun to respond to the many questions and issues raised by the COVID-19 emergency, including – most notably – the curtailment or suspension of operations and activities by individuals and entities on account of new stay-at-home orders and recommendations.

The necessary federal emergency declaration under the Robert T. Stafford Disaster Relief and Emergency Act was made in mid-March. The Internal Revenue Service then acted further by explicitly extending “Tax Day” from April 15, 2020 to July 15, 2020. But this rule was drafted in a way that did not apply to tax-exempt organizations, meaning that “without another fix,’ nonprofits were left out.”

In addition to that semantic confusion, the tax deadlines for exempt organizations are different than for businesses and individuals. The key annual information returns – the Form 990 series – are generally due on the fifteenth day of the fifth month after the close of the fiscal year. For instance, for the many groups with calendar-year-based fiscal periods, that due date is May 15th. For those with January 31 year ending dates, the due date is June 15th.

Clarification – At Last!

Over the next few weeks, there were a series of attempted fixes: official Notices including 2020-17, 2020-18, 2020-20, and then 2020-23 on April 9th with an accompanying press release that same day that appeared to do some necessary “gymnastics” to connect it all back to a two-year-old document, Notice 2018-58.

But even Notice 2020-23 was ambiguous and incomplete, so the IRS issued a further clarification on April 14th: IRS extends more tax deadlines, including Form 990-series returns and notices. Incredibly, this April 14th document required a bit more (informal) clarification the next morning between a

leading tax expert and the IRS.

Now, the dust has apparently settled. The deadline imposed on tax exempt organizations for filing the Form 990-series annual information returns (Forms 990, 990-EZ, 990-PF, 990-BL, 990-T, and 990-N e-postcard) that are due between April 1 and July 15 has been extended to July 15.

This relief also applies to other filings including:

- Form 4720: private foundation excise taxes
- Form 8976: notice of intent to operate under 501(c)(4)
- Form 5227: split-interest trusts
- Forms 8871, 8872, and 1120-POL: related to Section 527 political organizations

#### No Extension Application Required

These new rules include an automatic extension of time to file the documents. There is no need to take any action to request more time unless an organization wants more time beyond July 15, 2020. In that case, a group should submit a Form 8868, Extension of Time to File an Exempt Organization Return, on or before July 15th. The extension date may not extend beyond the original statutory or regulatory extension date; that is, generally six months from the original due date.

#### Conclusion

This additional filing time is welcome news for the nation's exempt organizations, many of which are operating remotely (if, indeed, they have not had to severely curtail or stop operations altogether), and need extra time to gather information and confer with professional advisors to prepare and file forms.