

Due date postponed for reporting and payment of excise taxes relating to minimum required contributions delayed under § 3608(a) of the CARES Act

Announcement 2020-17

The Department of the Treasury (Treasury Department) and the Internal Revenue Service (IRS) are postponing until January 15, 2021, the due dates for reporting and paying the excise taxes under §§ 4971(a)(1) and 4971(f)(1) of the Internal Revenue Code with respect to certain delayed minimum required contributions to a single employer defined benefit plan. This postponement applies with respect to a required contribution to which the extended due date under § 3608(a) of the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136 (134 Stat. 281) (CARES Act), applies.

Section 4971(a)(1) imposes an excise tax on an employer that maintains a single employer defined benefit plan, equal to 10 percent of the aggregate unpaid minimum required contributions (as defined in § 4971(c)(4)) for all plan years remaining unpaid as of the end of any plan year ending with or within a taxable year. Section 4971(f)(1) imposes an excise tax on an employer maintaining such a plan equal to 10 percent of the amount of the liquidity shortfall as of the last day of any quarter that is not paid by the due date for the required installment for that quarter.

Section 54.6011-1(a) provides that any employer liable for tax under § 4971 must file an annual return on Form 5330 and include on it the information required by that form and those instructions. The § 4971(a)(1) excise tax is reported on line 8a and Schedule D, line 2, of Form 5330. The § 4971(f)(1) excise tax is reported on line 9a and Schedule E, line 4, of Form 5330. Form 5330 and the Form 5330 instructions provide that these taxes must be reported and paid by the last day of the 7th month after the end of the employer's tax year or 8-1/2 months after the last day of the plan year that ends with or within the filer's tax year.

Section 3608(a)(1) of the CARES Act provides that the due date for paying any minimum required contribution under § 430(j) (including quarterly installments) that would otherwise be due during calendar year 2020 is extended until January 1, 2021. Without this extension, the due date for paying the minimum required contribution for a plan year ending December 31, 2019, would be September 15, 2020, and the determination of whether a plan has an unpaid minimum required contribution for that plan year also would be made as of that date. On August 6, 2020, the Treasury Department and the IRS issued Notice 2020-61, 2020-35 IRB 468, which provides guidance regarding § 3608 of the CARES Act, including the extended due date under § 3608(a)(1) for making a minimum required contribution.

As a result of the extension of the due date for making a minimum required contribution under § 3608(a) of the CARES Act, if an employer that is a calendar year taxpayer maintains a single employer defined benefit plan that is subject to § 430 with a calendar year plan year fails to pay the minimum required contribution for the 2019 plan year by the extended due date of January 1, 2021, then there would be an unpaid minimum required contribution for the 2019 plan year and the employer would become subject to the excise tax under § 4971(a). Similarly, if the employer fails to pay a required installment under § 430(j)(3) to satisfy a liquidity shortfall by the delayed due date of January 1, 2021, the excise tax under § 4971(f) would apply. However, absent the relief provided in this announcement, the due date for the employer's reporting and payment obligations for the excise taxes with respect to these unpaid contributions would be September 15, 2020.

In order to coordinate the due date for reporting and paying the §§ 4971(a)(1) and 4971(f)(1) excise taxes with the extended due date for paying the minimum required contributions to which those excise taxes apply (January 1, 2021, pursuant to § 3608(a) of the CARES Act), the Treasury Department and the IRS are postponing the reporting and payment due date for those taxes. The new due date for reporting and paying the §§ 4971(a)(1) and 4971(f)(1) excise taxes with respect to a minimum required contribution to which § 3608(a) of the CARES Act applies is January 15, 2021.

This announcement overrides the due date provided on Form 5330 and under the Form 5330 instructions for reporting and paying the excise taxes under §§ 4971(a)(1) and 4971(f)(1) with respect to a minimum required contribution to which § 3608(a) of the CARES Act applies. This announcement does not apply to the due dates for other excise taxes required to be reported on Form 5330.

The principal author of this announcement is Diane S. Bloom of the Office of the Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes). However, other personnel from the IRS participated in the development of this guidance. For further information regarding this announcement, please contact Ms. Bloom at 202-317-6700 (not a toll-free call).