

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

OFFICE OF
CHIEF COUNSEL

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February 17, 1999

UIL No. 6041.11-00

MEMORANDUM FOR: District Counsel, Virginia-West Virginia District

FROM: Heather C. Maloy
Acting Assistant Chief Counsel (Income Tax and Accounting)

SUBJECT: Significant Service Center Advice

This responds to your request for significant advice dated December 17, 1998, in connection with a question posed by the Martinsburg Computing Center.

ISSUES

- (1) Does § 2002 of the Internal Revenue Service Restructuring and Reform Act of 1998, which enacted § 6071(b) of the Internal Revenue Code, eliminate the necessity for electronic filers of information returns to request a filing date extension from February 28 to March 31?
- (2) Will the extension apply to Form W-2 which, in a leap year, is due on February 29?
- (3) Does § 6071(b) apply to information returns (such as Forms 1042S, 5498, and 5498-MSA) that are due on dates other than February 28? If so, what is the extended due date for these returns?
- (4) If the extended due date falls on a weekend, will the due date be the next business day?

CONCLUSIONS

- (1) Section 6071(b) eliminates the necessity for electronic filers of the information returns to which this provision applies to request an extension of the filing date from February 28 to March 31, effective for returns required to be filed after December 31, 1999.

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(2) Section 6071(b) applies to applicable information returns that are required to be filed on or before the last day of February under current regulations.

(3) Section 6071(b) applies only to annual information returns that are required to be filed by §§ 6041 - 6053. Therefore, it does not apply to Forms 1042S, 5498, or 5498-MSA.

(4) If March 31 falls on a Saturday, Sunday, or holiday, the filing date under § 6071(b) is the next business day.

DISCUSSION

(1) Sections 6041 to 6053 of the Internal Revenue Code require the making of information returns that report the income or gross proceeds resulting from certain transactions. These returns are most commonly made on Forms 1099 or W-2¹ and generally are due on February 28 of the calendar year following the calendar year to which the returns relate.²

Section 2002 of the Internal Revenue Service Restructuring and Reform Act of 1998 added a new § 6071(b), which provides that returns required by chapter 61, subchapter A, part III, subparts B and C (§§ 6041 - 6053) that are filed electronically shall be filed on or before March 31 of the calendar year following the calendar year to which the returns relate. This provision is effective for returns required to be filed after December 31, 1999.

The Conference Report states that the purpose of this provision is to provide an incentive to filers of information returns to electronically file by extending the due date for electronically filing such returns from February 28 to March 31 of the calendar year following the calendar year to which the returns relate. H. Conf. Rep. 105-599, 105th Cong., 2nd Sess. at 235.

Accordingly, beginning on January 1, 2000, the information returns required by §§ 6041 - 6053 that currently must be filed by February 28 of the calendar year following the calendar year to which the returns relate may be filed as late as March 31 of that calendar year without the necessity of requesting an extension.

The information returns to which § 6071(b) applies include the following:

¹ See, e.g., § 1.6041-1(a)(2) of the Income Tax Regulations.

² E.g., § 1.6041-6.

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(a) Form 1099 (§§ 1.6041-(1)(a)(2), 1.6041-6, 1.6042-2(c), 1.6044-2(d), 1.6045-2(g), 1.6045-4(g), 1.6047-1(a), 1.6049-4(b), 1.6049-7(b)(2), 1.6050A-1(a), 1.6050B-1, 1.6050D-1(a), 1.6050E-1(d), 1.6050J-1T Q&A-25, 1.6050N-1(b), 1.6050P-1(a); see also §§ 6050F, 6050G, 6050Q, 6050R, and 6050S);

(b) Form W-2 (§§ 1.6041-1(a)(2), 1.6041-2(a));

(c) Form W-2G (§ 7.6041-1);

(d) Form 966 (§ 1.6043-2(a));

(e) Form 1098 (§ 1.6050H-2(a)); and

(f) Form 6497 (§ 1.6050D-1(a)).³

Other information returns⁴ that are required by §§ 6041 - 6053 either are not annual returns or have filing dates other than February 28. We conclude that Congress did not intend to change the due date for these returns to March 31.

(2) We also conclude that § 6071(b) does not apply to returns that are required by provisions of the Code other than §§ 6041-6053, e.g., Forms 1042/1042-S (§§ 1461, 1.1461-2(a)), 5498 (§§ 408(i), 1.408-5), and 5498-MSA (§ 220(h)).

(3) Section 6071(b) also extends the due date to March 31 for electronically filed returns required under §§ 6041 - 6053 that are due on the last day of February, rather than February 28, under current regulations. See, e.g., §§ 1.6041-2(a)(3) and 31.6071(a)-1(a)(3) (Form W-2); § 1.6050D-1(b) (Forms 1099-G or 6497).

(4) Section 7503 provides that, when the last day prescribed for performing any act under the internal revenue laws falls on Saturday, Sunday, or a legal holiday, the performance of the act will be considered timely if it is performed on the next

³ Of course, § 6071(b) also applies to transmittal forms such as Form 1096.

⁴ Forms 959, 3520, 8811, 8300, and 8282 are information returns that must be filed following a transaction rather than by a date “of the calendar year following the calendar year to which such returns relate.” See §§ 1.6046-1(a) and (j), 16.3-1(a) and (e), 1.6049-7(b), 1.6050I-1(e), and 1.6050L-1(f)(2). The filing date for Form 3520-A is the 15th day of the fourth month following the end of the calendar year. Section 404.6048-1(a). Form 8308 is a quarterly return. Section 1.6050K-1(a) and (f). Forms 8596/8596-A are required to be attached to the partnership return (Form 1065). Section 1.6050M-1(d).

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succeeding day that is not a Saturday, Sunday, or holiday. Accordingly, if March 31 falls on a Saturday, Sunday, or holiday, the filing date under § 6071(b) is the next business day.

If you have any additional questions, please contact Donna M. Crisalli at (202) 622-4920.

Copy to:

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