

Penalty Relief for Delayed 2012 Forms

Notice 2013-24

This Notice provides transitional relief for additions to tax under section 6651(a)(2) of the Internal Revenue Code due to the delayed publication of some IRS forms relating to the 2012 tax year.

BACKGROUND

Generally, individuals, estates, and trusts are required to file income tax returns and pay any tax due by April 15; corporations and certain other entities must file returns and pay tax by March 15.

Section 6081 provides that the Secretary may grant a reasonable extension of time for filing any return, but, except in the case of taxpayers who are abroad, no such extension shall be for more than 6 months. To qualify for an extension, taxpayers must properly estimate their tax liability using any available information and report that tax liability on the extension application. An extension of time to file a return, however, does not extend the time to pay the tax and taxpayers generally must pay the tax by the original due date of the return.

Section 6651(a)(2) imposes an addition to tax for payments made after the due date (determined with regard to any extension of time for payment) with respect to tax shown on a return. The section 6651(a)(2) addition to tax will not be imposed if the taxpayer shows that the failure was due to reasonable cause and not willful neglect.

On January 2, 2013, Congress enacted the American Taxpayer Relief Act of 2012 (ATRA), Pub. L. No. 112-240, 126 Stat. 2313. The ATRA affected a number of tax forms. Revising those forms required extensive programming and testing of IRS systems, which delayed the IRS's ability to release, accept, and process those forms. These delays may affect the ability of some taxpayers to timely estimate and pay their 2012 tax liability when requesting an extension to file.

TRANSITIONAL RELIEF

Generally, the IRS automatically assesses the section 6651(a)(2) addition to tax against taxpayers who pay late, and then it sends notice and demand for payment of the addition to tax. For each taxpayer who requests or has requested an extension to file a 2012 income tax return that includes one of the forms listed in Exhibit 1 of this Notice, the IRS will deem the taxpayer to have demonstrated reasonable cause and lack of willful neglect, provided a good faith effort was made to properly estimate the tax liability on the extension application, the estimated amount is paid by the original due date of the return, and any tax owed on the return is fully paid no later than the extended due date of the return. The IRS will abate any section 6651(a)(2) additions to tax assessed with respect to these 2012 income tax returns. When responding to the assessment notice, a taxpayer should submit a letter describing the taxpayer's eligibility for this relief, identifying which of the form(s) listed in Exhibit 1 of this Notice was included with the taxpayer's return as filed, and referencing this Notice by number [Notice 2013-24] to the address listed in the assessment notice.

Forms, instructions, and other tax assistance are available on IRS.gov. The IRS toll-free number for general tax questions is 1-800-829-1040.

CONTACT INFORMATION

The principal author of this notice is David W. Skinner of the Office of the Associate Chief Counsel (Procedure and Administration). For further information regarding this notice, contact Mr. Skinner at 202-622-4940 (not a toll-free call).

EXHIBIT 1 – Delayed 2012 forms (available in February 2013 or the first week of March 2013)

- Form 3800, General Business Credit
- Form 4136, Credit for Federal Tax Paid on Fuels
- Form 4562, Depreciation and Amortization (Including Information on Listed Property)
- Form 5074, Allocation of Individual Income Tax to Guam or the Commonwealth of the Northern Mariana Islands
- Form 5471, Information Return of U.S. Persons With Respect to Certain Foreign Corporations
- Form 5695, Residential Energy Credits
- Form 5735, American Samoa Economic Development Credit
- Form 5884, Work Opportunity Credit
- Form 6478, Alcohol and Cellulosic Biofuels Credit
- Form 6765, Credit for Increasing Research Activities
- Form 8396, Mortgage Interest Credit
- Form 8582, Passive Activity Loss Limitations
- Form 8820, Orphan Drug Credit
- Form 8834, Qualified Plug-in Electric and Electric Vehicle Credit
- Form 8839, Qualified Adoption Expenses
- Form 8844, Empowerment Zone and Renewal Community Employment Credit
- Form 8845, Indian Employment Credit
- Form 8859, District of Columbia First-Time Homebuyer Credit
- Form 8863, Education Credits (American Opportunity and Lifetime Learning Credits)
- Form 8864, Biodiesel and Renewable Diesel Fuels Credit
- Form 8874, New Markets Credits
- Form 8900, Qualified Railroad Track Maintenance Credit
- Form 8903, Domestic Production Activities Deduction
- Form 8908, Energy Efficient Home Credit
- Form 8909, Energy Efficient Appliance Credit
- Form 8910, Alternative Motor Vehicle Credit
- Form 8911, Alternative Fuel Vehicle Refueling Property Credit
- Form 8912, Credit to Holders of Tax Credit Bonds
- Form 8923, Mine Rescue Team Training Credit
- Form 8932, Credit for Employer Differential Wage Payments
- Form 8936, Qualified Plug-in Electric Drive Motor Vehicle Credit