



May 17 due date statement and suggestions

April 8, 2021 (3:00 pm E.T.)

Executive summary

The situation regarding the May 17 bifurcated filing and payment due date with IRS keeping the 1st quarter estimated payment at April 15 is extremely fluid. There is also uncertainty regarding filing an extension for gift tax returns due April 15.

Unfortunately, there are no clear answers. Our recommendations as of the time of this statement are as follows:

- In order to ensure that the 1st quarter 2021 estimate is credited to April 15, the taxpayer will need to pay the estimate on a Form 1040-ES or make an online payment directed to 2021 on or before April 15.
- To file an extension for a gift tax return (Form 709), Form 4868 or Form 8892 should be filed on or before April 15.

Statement and suggestions

The situation regarding the May 17 bifurcated filing and payment due date with IRS keeping the 1st quarter estimated payment at April 15 is extremely fluid as AICPA releases this statement and suggestions. There are significant efforts underway on Capitol Hill where (1) a bill has been drafted in the House that would change the 2021 1st quarter estimated payment due date to May 17; (2) a companion bill is being considered in the Senate; and (3) IRS Commissioner Rettig has been called to testify at an April 13 Senate Finance Committee hearing on "The 2021 Filing Season and 21st Century IRS."

Despite our efforts, the IRS continues to maintain that the due date for taxpayers required to make a first quarter estimated tax payment will remain as April 15. We are aware that April 15 is fast approaching, and every day relief is not granted presents enormous challenges for many taxpayers and their CPAs. We remain grateful for the pending Congressional relief and hopeful that those of you continuing to struggle at this late hour will benefit.

Q1 2021 estimated tax payment

We have received thousands of questions from tax practitioners, business organizations, governmental entities and even some desperate taxpayers with nowhere else to turn, about how to handle the payment of the 1st quarter 2021 estimate, which as of the time of this statement, is due April 15. Additionally, tax practitioners have sought clarification on the treatment of applying overpayments to the 1st quarter estimate from a Form 1040 if a payment is made with the federal extension, Form 4868 that might be filed by May 17. This has long been a standard practice and is helpful when taxpayers and their CPAs do not have sufficient information or time to prepare and file a complete and accurate return and corresponding quarterly payment amount. The issue in question is whether payments made with the extension on May 17 will be counted as timely



when applied back. There is no conclusive guidance available from the IRS on how to handle this issue.

While not ideal, our recommended course of action to ensure that the 1st quarter 2021 estimate is credited to April 15, is to pay the estimate on a Form 1040-ES or make an online payment directed to 2021 on or before April 15. Given that we are not certain that a payment with a Form 4868, even if paid by April 15, will be credited by the IRS as paid by April 15, this recommendation is the most conservative approach.

Unfortunately, a clear answer does not exist, and opinions are mixed. However, we were able to gather information on best practices. While we cannot advise on an authoritative solution, we hope that our small firm members and those without a large network will have access to options, to create their own process, or receive validation that they are not alone in their chosen approach.

In some cases, CPAs have indicated to us that if the amount of the estimated tax payment is “immaterial,” they are including the payment with an extension at May 17 – not making an April 15 estimated payment - and informing their clients of the potential for additional calculated interest for one month. Others are planning to file extensions including a 1st quarter payment at April 15.

Form 709 gift tax return extensions

Tax year 2020 [Form 709](#) gift tax returns or extensions are due by April 15, 2021 (for taxpayers not in declared disaster areas). IRS has indicated [on its website](#) that “Filing Form 4868 or Form 2350 after April 15, 2021 ... will not extend the due date for filing your 2020 federal gift tax return – it only will extend the due date for filing your 2020 income tax return.”

The best option is to file the [Form 4868](#) to extend both the Form 1040 and the Form 709 with a reasonable estimate by April 15, even though the Form 4868 for extending individuals is not due until May 17 this year.

The second option is to file [Form 8892](#) by April 15 to extend gift tax returns. This option should be used when a reasonable estimate by April 15 is not possible. We note that there is a checkbox on Form 8892 that indicates “If you are applying for an automatic 6-month extension of time to file Form 709 but are not applying for an extension of time to file your individual income tax return, check here.” If the taxpayer is planning to file the Form 1040 or extend the individual return after April 15 and by May 17 (for taxpayers not in declared disaster areas), some firms are writing “See Attachment” on the line and then on the attachment, writing “Taxpayer will not file for an extension of taxpayer’s income tax return by the due date of the taxpayer’s gift tax return.”

Despite our efforts to share our concerns on these issues with the IRS, there may still be unanswered questions into next week.

