

Retirement **Spotlight**

Illuminating current industry news and events

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IRS Finalizes Mandatory 60-Day Postponement Period for Federally Declared Disasters

The average number of natural disasters continues to rise. As a result, Congress and the IRS have tried to keep pace by providing relief for those affected by major disasters and emergencies. In December 2019, the Taxpayer Certainty and Disaster Tax Relief Act of 2019 amended Internal Revenue Code (IRC) Sec. 7508A by requiring a new mandatory 60-day postponement period for certain tax-related acts following a federally declared disaster. To help clarify the new rule, the IRS issued [final regulations](#) in June 2021. The regulations 1) explain how the new mandatory 60-day postponement period is determined, and 2) clarify how the term “federally declared disaster” is defined under IRC Sec.165.

Are there changes between the proposed and final regulations?

The final regulations are almost identical to the proposed regulations. Following the release of the proposed regulations, the IRS received several comments that suggested additional changes. In response to these requested changes, the IRS modified an example in the final regulations. The IRS made the change to clarify how the mandatory 60-day postponement period is calculated in the case of multiple disaster declarations. The other minor changes contained in the final regulations corrected typographical errors found within the proposed regulations.

The rest of this article will summarize the practical implications of the final regulations. For a more detailed analysis, please refer to the previous [Retirement Spotlight](#), which was published in February 2021 when the IRS released the proposed regulations.

What is a “federally declared disaster”?

Similar to the proposed regulations, the final regulations do not change the definition of “federally declared disaster.” Instead, the regulations clarify the definition under IRC Sec. 165 to include both a major disaster declared under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act ([Stafford Act](#)) and an emergency declared under section 501 of the Stafford Act. The IRS made this change to address the terminology differences between IRC Sec. 165 and the Stafford Act. (IRC Sec. 165 used the term “federally declared disaster”; the Stafford Act uses the terms “emergency,” “disaster,” and “major disaster.”)

Who can take advantage of the mandatory 60-day postponement period?

This relief is available to certain individuals affected by federally declared disasters that occur on or after December 21, 2019, including

- individuals who reside in the federally declared disaster area,
- individuals who are injured in the disaster area,
- individuals who are completing tax-related acts on behalf of those killed in the disaster area,
- individuals whose principal place of business is in the disaster area,
- relief workers who provide assistance to affected individuals in the disaster area, and
- individuals whose tax records are located in the disaster area.

Which tax-related acts can be postponed?

The tax-related acts covered by this guidance are generally defined in IRC Secs. 7508 and 7508A, [Revenue Procedure 2018-58](#), and in Treasury Regulations. When a disaster occurs, the IRS announces the available relief in news releases that describe the affected area and the length of the deadline postponement. Examples of tax-related acts that may be postponed include

- making IRA or employer plan contributions,
- removing excess IRA contributions,
- recharacterizing IRA contributions,
- filing Form 5500,
- making loan payments, and
- completing rollover contributions.

When does the postponement period begin and end?

The mandatory 60-day postponement period generally begins on the earliest “incident date” specified in a Federal Emergency Management Agency (FEMA) disaster declaration and ends 60 days after the latest incident date.

Example: A hurricane batters the coast of Florida for several days. FEMA announces a disaster declaration and specifies that the earliest incident date for the affected counties is August 15. The latest incident date (when the flooding ends) is August 19. The deadline postponement begins on August 15 and ends 60 days from August 19.

While the 60-day postponement period guarantees a minimum time frame to complete certain tax-related acts, the IRS already had the authority under IRC Sec. 7508A to extend any applicable tax-related deadlines for up to one year following presidentially declared disasters, terroristic actions, or military actions. Although the IRS has typically provided 120-day extensions, some have been less.

The mandatory 60-day postponement period will not apply in certain situations. For example, the final regulations state that if the IRS does not postpone a tax-related act, then the act cannot be delayed under the mandatory 60-day postponement period. In addition, the mandatory postponement period will not apply if FEMA does not state specific incident dates. Instead, the IRS may independently postpone certain tax-related acts for up to one year.

When do the final regulations become effective?

The final regulations became effective on June 11, 2021, but there are separate applicability dates for changes made to IRC Secs. 7508A and 165. The clarifications to the new 60-day postponement period under IRC Sec. 7508A apply to disasters declared on or after December 21, 2019. The changes to the federally declared disaster definition under IRC Sec. 165 became applicable on June 11, 2021.

How do the final regulations affect taxpayers?

Ultimately, the final regulations didn’t really change the type of disaster relief that will be available or how the public will learn of that relief. Although certain eligible individuals may now have a guaranteed minimum 60-day postponement period, the IRS has already been postponing deadlines for more than 60 days. Taxpayers and businesses should still refer to the IRS’s [website](#) for the latest disaster relief information. And as always, visit ascensus.com for the latest news and developments.