

Part III - Administrative, Procedural, and Miscellaneous
Presidentially Declared Disasters in North Dakota and Minnesota

Notice 97-62

PURPOSE

This notice provides immediate additional federal tax relief under §§ 6081, 6161, and 7508A of the Internal Revenue Code for taxpayers located in Grand Forks County, North Dakota, and Polk County, Minnesota, which were declared major disaster areas by the President on April 7 and 8, 1997. This notice specifically provides up to a 90-day extension of the time to perform any act described in § 7508(a)(1), and generally provides an extension through January 13, 1998 for filing and paying federal income tax. In addition, the Treasury Department intends to issue regulations under § 7508A regarding the postponement of certain tax-related deadlines by reason of a Presidential declared disaster.

SUMMARY OF RELIEF

As a result of this notice:

(1) Taxpayers located in Grand Forks County, North Dakota, and Polk County, Minnesota, will have an extension to January 13, 1998 to file certain federal tax returns originally due on or after April 15, 1997, and to pay the amount (or any installments) of tax shown or required to be shown on those returns, including --

individual income tax returns (Forms 1040, 1040A, 1040EZ, 1040NR, 1040NR-EZ, or 1040PC), gift tax returns (Forms 709 and 709-A), partnership returns (Form 1065), corporate income tax returns (Forms 1120, 1120-A, 1120-H, or 1120S), estate and trust income tax returns (Form 1041), and annual returns filed by tax-exempt organizations (Forms 990, 990-EZ, or 990-T).

(2) For any quarterly estimated tax payment originally due on or after April 15, 1997 for taxpayers located in these two counties, the payment deadline is extended to January 13, 1998 and no estimated tax penalties will be assessed. This extension includes estimated tax payments made by individuals, corporations, estates, or trusts. The deadline for filing or paying employment or excise taxes cannot be extended.

(3) Interest (and penalties relating to the failure to file or pay) will be abated (and waived) through January 13, 1998 with respect to federal individual income tax returns originally due on or after April 15, 1997 for individuals (not including estates and trusts) located in these two counties.

For additional details on the relief provided in this

notice, see the portion below headed "GRANT OF RELIEF."

BACKGROUND

Section 6081 provides that the Secretary may grant a reasonable extension of time (generally not to exceed 6 months) for filing any return, declaration, statement, or other document required by the Internal Revenue Code or by regulations thereunder.

Section 6161 provides that the Secretary may grant a reasonable extension of time (generally not to exceed 6 months) for paying the amount (or any installments) of tax shown or required to be shown on any return or declaration required by the Code or by regulations thereunder.

Section 7508A, as added to the Code by section 911 of the Taxpayer Relief Act of 1997 (Act), Pub. L. No. 105-34, 111 Stat. 788 (August 5, 1997), provides the Secretary with authority to postpone the time for performing certain acts under the internal revenue laws (as provided in § 7508(a)(1)) for a taxpayer affected by a Presidentially declared disaster (as defined in § 1033(h)(3)). Pursuant to § 7508A(a), the Secretary may prescribe regulations under which a period of up to 90 days may be disregarded in determining, under the internal revenue laws and in respect of any tax liability (including any penalty, additional amount, or addition to the tax) of such taxpayer,

(1) whether any of the acts described in § 7508(a)(1) (including filing and paying federal taxes) were performed within the time prescribed therefor, and

(2) the amount of any credit or refund.

Section 7508A applies to any period for performing an act that has not expired before August 5, 1997.

Section 915(a) of the Act further provides that under certain circumstances the assessment of interest with respect to income tax must be abated for any individual located in an area designated during 1997 as a Presidentially declared disaster area. This abatement is applicable for any period the Secretary has extended the time for filing income tax returns under § 6081 and the time for paying income tax with respect to such returns under § 6161 (and has waived any penalties relating to the failure to so file or so pay). For this purpose, the term "individual" does not include any estate or trust.

Prior federal tax relief was provided to taxpayers located in North Dakota, South Dakota, and Minnesota in IRS News Release IR-97-21 dated April 8, 1997, and in a News Release dated April 29, 1997 issued by the IRS North Central District Office.

GRANT OF RELIEF

The Secretary, by the exercise of his authority under §

7508A, has granted an extension of time to perform any act described in § 7508(a)(1) to all taxpayers located in Grand Forks County, North Dakota, and Polk County, Minnesota, for which the period for performance of the act (taking extensions into account) had not expired by August 5, 1997 and had commenced no later than November 2, 1997 (affected act). For affected acts for which the period for performance commenced prior to August 5, 1997 (such as the filing of a 1996 income tax return by an individual calendar year taxpayer for which the period for performance commenced on January 1, 1997), this extension is for 90 days. For affected acts for which the period for performance commenced on or after August 5, 1997 and on or before November 2, 1997, this extension is equal to the number of days from that commencement date through November 2, 1997.

In addition, the Secretary, by exercise of his authority under §§ 6081 and 6161, further extends the time for filing and paying federal taxes through January 13, 1998 for those taxpayers located in these two counties for whom the filing and payment date was originally on or after April 15, 1997 and would be before January 13, 1998 even with the applicable § 7508A extension.

Further, pursuant to the authority provided in § 915 of the Act, the Secretary will abate the assessment of any interest prescribed under § 6601 (and waive any penalties relating to the failure to file or pay) through January 13, 1998 with respect to federal individual income tax returns originally due on or after April 15, 1997 for individuals (not including estates and trusts) located in these two counties.

DRAFTING INFORMATION

The principal author of this notice is Vincent G. Surabian of the Office of the Assistant Chief Counsel (Income Tax and Accounting). For further information regarding this notice, contact Mr. Surabian at (202) 622-4940 (not a toll-free call).