

Estate and Gift Tax Return Due Dates Not Postponed

March 27, 2020

UPDATED March 27, 2020

The IRS's pronouncement delaying the due dates for certain tax returns is not broad enough to encompass gift and estate tax returns or fiscal year income tax returns; at present, these returns must be filed on time or an extension form must be filed.

Although the IRS has postponed the due date for income tax returns due on April 15, 2020 until July 15, 2020, that postponement does not apply to gift tax returns. Under normal circumstances, taxpayers who get an extension of time to file their income tax returns by filing a Form 4868 extension request automatically get the same extension of time to file their gift tax returns for the calendar year. But this special COVID-19 postponement does not extend the due date for gift tax returns, because the IRS is making a distinction between an "extension" and a "postponement." This creates a potential trap for the unwary!

If any gifts in excess of the annual exclusion amount were made in 2019, or if it is necessary to make a QTIP, gift-splitting, or other election on the gift tax return, it is important to either file the gift tax return by April 15, 2020 or apply for an extension before that date. A gift tax extension can be requested either by filing a Form 4868 requesting a 6-month extension for income tax and gift tax purposes or by filing a Form 8892 to extend only the gift tax return due date by 6 months. In either case, there is no available extension of time to pay gift tax; the tax, if any, must be paid by April 15.

If an extension is sought by both spouses in a marriage, a single Form 4868 with both names will request an extension for both spouses, whereas if a Form 8892 is used to apply for an extension, each spouse will have to file a separate extension request. If no income tax extension beyond July 15 is needed, those who need a gift tax filing extension may prefer to file the Form 8892.

The COVID-19 relief granted by the IRS so far likewise does not postpone the due date for any estate tax returns due in this period. For an extension of time to file an estate tax return, a Form 4768 must be filed with the IRS prior to the due date of the return. The same form can be used to request an extension of time to pay, but granting of that extension is not automatic.

Income tax filers who use a fiscal year (such as estates and electing revocable trusts) are not granted a postponement of the due date of their income tax returns under the COVID-19 relief. If an extension is needed, a Form 7004 should be filed.

This situation is fluid and the IRS may offer additional relief. Please contact us if you have any concerns.

Caplin & Drysdale

A T T O R N E Y S

[Beth Shapiro Kaufman](#)

202.862.5062

bkaufman@capdale.com

[Megan E. Wernke](#)

202.862.5088

mwernke@capdale.com

[Sarah J. Racicot](#)

202.862.7854

sracicot@capdale.com

[Anne J. O'Brien](#)

202.862.5033

aobrien@capdale.com



About Caplin & Drysdale

Having celebrated our 50th Anniversary in 2014, Caplin & Drysdale continues to be a leading provider of legal services to corporations, individuals, and nonprofits throughout the United States and around the world. We are also privileged to serve as legal advisors to accounting firms, financial institutions, law firms, and other professional services organizations.

The firm's reputation over the years has earned us the trust and respect of clients, industry peers, and government agencies. Moreover, clients rely on our broad knowledge of the law and our keen insights into their business concerns and personal interests. Our lawyers' strong tactical and problem-solving skills - combined with substantial experience handling a variety of complex, high stakes, matters in a boutique environment - make us one of the nation's most distinctive law firms.

With offices in New York City and Washington, D.C., Caplin & Drysdale's core practice areas include:

- [Bankruptcy](#)
- [Business, Investment & Transactional Tax](#)
- [Complex Litigation](#)
- [Corporate Law](#)
- [Employee Benefits](#)
- [Exempt Organizations](#)
- [International Tax](#)
- [Political Law](#)
- [Private Client](#)
- [Tax Controversies](#)
- [Tax Litigation](#)
- [White Collar Defense](#)

For more information, please visit us at www.caplindrysdale.com.

Washington, DC Office:

One Thomas Circle NW
Suite 1100
Washington, DC 20005
202.862.5000

New York, NY Office:

600 Lexington Avenue
21st Floor
New York, NY 10022
212.379.6000

Disclaimer

This communication neither provides legal advice, nor creates an attorney-client relationship with you or any other reader. If you require legal guidance in any specific situation, you should engage a qualified lawyer for that purpose. Prior results do not guarantee a similar outcome.

Attorney Advertising

It is possible that under the laws, rules, or regulations of certain jurisdictions, this may be construed as an advertisement or solicitation.

© 2020 Caplin & Drysdale, Chartered
All Rights Reserved.