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## **Sec. 7508A. Authority To Postpone Certain Deadlines By Reason Of Federally Declared Disaster, Significant Fire, Or Terroristic Or Military Actions**

I.R.C. § 7508A(a) In General —

In the case of a taxpayer determined by the Secretary to be affected by a federally declared disaster (as defined by section 165(i)(5)(A)), a significant fire, or a terroristic or military action (as defined in section 692(c)(2)), the Secretary may specify a period of up to 1 year that may be disregarded in determining, under the internal revenue laws, in respect of any tax liability of such taxpayer—

I.R.C. § 7508A(a)(1) —

whether any of the acts described in paragraph (1) of section 7508(a) were performed within the time prescribed therefor (determined without regard to extension under any other provision of this subtitle for periods after the date (determined by the Secretary) of such disaster, fire, or action),

I.R.C. § 7508A(a)(2) —

the amount of any interest, penalty, additional amount, or addition to the tax for periods after such date, and

I.R.C. § 7508A(a)(3) —

the amount of any credit or refund.

I.R.C. § 7508A(b) Special Rules Regarding Pensions, Etc. —

In the case of a pension or other employee benefit plan, or any sponsor, administrator, participant, beneficiary, or other person with respect to such plan, affected by a disaster, fire, or action described in subsection (a), the Secretary may specify a period of up to 1 year which may be disregarded in determining the date by which any action is required or permitted to be completed under this title. No plan shall be treated as failing to be operated in accordance with the terms of the plan solely as the result of disregarding any period by reason of the preceding sentence.

I.R.C. § 7508A(c) Special Rules For Overpayments —

The rules of section 7508(b) shall apply for purposes of this section.

I.R.C. § 7508A(d) Mandatory 60-Day Extension.—

I.R.C. § 7508A(d)(1) In General. —

In the case of any qualified taxpayer, the period—

I.R.C. § 7508A(d)(1)(A) —

beginning on the earliest incident date specified in the declaration to which the disaster area referred to in paragraph (2) relates, and

I.R.C. § 7508A(d)(1)(B) —

ending on the date which is 60 days after the later of such earliest incident date described in subparagraph (A) or the date such declaration was issued, shall be disregarded in determining, under the internal revenue laws, in respect of any tax liability of such qualified taxpayer, whether any of the acts described in subparagraphs (A) through (F) of section 7508(a)(1) were performed within the time prescribed therefor (determined without regard to extension under any other provision of this subtitle for periods after the date determined under subparagraph (B)).

I.R.C. § 7508A(d)(2) Qualified Taxpayer.— —

For purposes of this subsection, the term “qualified taxpayer” means—

I.R.C. § 7508A(d)(2)(A) —

any individual whose principal residence (for purposes of section 1033(h)(4)) is located in a disaster area,

I.R.C. § 7508A(d)(2)(B) —

any taxpayer if the taxpayer's principal place of business (other than the business of performing services as an employee) is located in a disaster area,

I.R.C. § 7508A(d)(2)(C) —

any individual who is a relief worker affiliated with a recognized government or philanthropic organization and who is assisting in a disaster area,

I.R.C. § 7508A(d)(2)(D) —

any taxpayer whose records necessary to meet a deadline for an act described in section 7508(a)(1) are maintained in a disaster area,

I.R.C. § 7508A(d)(2)(E) —

any individual visiting a disaster area who was killed or injured as a result of the disaster, and

I.R.C. § 7508A(d)(2)(F) —

solely with respect to a joint return, any spouse of an individual described in any preceding subparagraph of this paragraph.

I.R.C. § 7508A(d)(3) Disaster Area.— —

For purposes of this subsection, the term “disaster area” means an area in which a major disaster for which the President provides financial assistance under section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174) occurs.

I.R.C. § 7508A(d)(4) Application To Rules Regarding Pensions.— —

In the case of any person described in subsection (b), a rule similar to the rule of paragraph (1) shall apply for purposes of subsection (b) with respect to—

I.R.C. § 7508A(d)(4)(A) —

making contributions to a qualified retirement plan (within the meaning of section 4974(c)) under section 219(f) (3), 404(a)(6), 404(h)(1)(B), or 404(m)(2),

I.R.C. § 7508A(d)(4)(B) —

making distributions under section 408(d)(4),

I.R.C. § 7508A(d)(4)(C) —

recharacterizing contributions under section 408A(d)(6), and

I.R.C. § 7508A(d)(4)(D) —

making a rollover under section 402(c), 403(a)(4), 403(b)(8), or 408(d)(3).

I.R.C. § 7508A(d)(5) Coordination With Periods Specified By The Secretary.— —

Any period described in paragraph (1) with respect to any person (including by reason of the application of paragraph (4)) shall be in addition to (or concurrent with, as the case maybe) any period specified under subsection (a) or (b) with respect to such person.

I.R.C. § 7508A(d)(6) Multiple Declarations.— —

For purposes of paragraph (1), in the case of multiple declarations relating to a disaster area which are issued within a 60-day period, a separate period shall be determined under such paragraph with respect to each such

declaration.

I.R.C. § 7508A(e) Significant Fire.— —

For purposes of this section, the term “significant fire” means any fire with respect to which assistance is provided under section 420 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

(Added and amended by Pub. L. 105-34, title IX, Sec. 911(a), 915(a), Aug. 5, 1997, 111 Stat 788; amended Pub. L. 107-16, title VIII, Sec. 802(a), June 7, 2001, 115 Stat. 38; Pub. L. 107-134, title I, Sec. 112(a), Jan. 23, 2002, 115 Stat. 2427; Pub. L. 110-343, div. C, title VII, Sec. 706(a)(2)(D)(vii), Oct. 3, 2008, 122 Stat. 3765; *Pub. L. 115-141*, Div. U, title IV, Sec. 401(b)(10)(B), Mar. 23, 2018, 132 Stat. 348; Pub. L. 116-94, Div. Q, title II, Sec. 205, Dec. 20, 2019; Pub. L. 117-58, Div. H, title V, Secs. 80501, 80504, Nov. 15, 2021, 135 Stat. 429.)

## BACKGROUND NOTES

### AMENDMENTS

2021—Sec. 7508A. Pub. L. 117-58, Sec. 80501(b)(1), amended the heading of Sec. 7508A by substituting “Federally Declared Disaster, Significant Fire,” for “Presidentially Declared Disaster”.

Subsec. (a). Pub. L. 117-58, Sec. 80504(a)(1), amended subsec. (a) by inserting “, a significant fire,” after “federally declared disaster (as defined in section 165(i)(5)(A))”.

Subsec. (a)(1). Pub. L. 117-58, Sec. 80504(a)(2), amended par. (1) by inserting “, fire,” after “disaster” each place it appears.

Subsec. (b). Pub. L. 117-58, Sec. 80504(a)(2), amended subsec. (b) by inserting “, fire,” after “disaster” each place it appears.

Subsec. (e). Pub. L. 117-58, Sec. 80504(a)(3), added subsec. (e).

Subsec. (d)(1)(B). Pub. L. 117-58, Sec. 80501(a)(1), amended subpar. (B) by substituting “the later of such earliest incident date described in subparagraph (A) or the date such declaration was issued” for “the latest incident date so specified” and by substituting “in determining, under the internal revenue laws, in respect of any tax liability of such qualified taxpayer, whether any of the acts described in subparagraphs (A) through (F) of section 7508(a)(1) were performed within the time prescribed therefor (determined without regard to extension under any other provision of this subtitle for periods after the date determined under subparagraph (B))” for “in the same manner as a period specified under subsection (a)”.

Subsec. (d)(3). Pub. L. 117-58, Sec. 80501(a)(2), amended par. (3). Prior to being amended, it read as follows: “(3) Disaster Area.— For purposes of this subsection, the term ‘disaster area’ has the meaning given such term under subparagraph (B) of section 165(i)(5) with respect to a Federally declared disaster (as defined in subparagraph (A) of such section).”

Subsec. (d)(6). Pub. L. 117-58, Sec. 80501(a)(3), amended subsec. (d) by adding par. (6).

2019 — Subsec. (d). Pub. L. 116-94, Div. Q, Sec. 205, amended by adding new subsec. (d).

2018 – Subsec. (a). *Pub. L. 115-141*, Div. U, Sec. 401(b)(10)(B), amended subsec. (a) by substituting “section 165(i)(5)(A)” for “section 165(h)(3)(C)(i)”.

2008 - Subsec. (a). Pub. L. 110-343, Div. C, Sec. 706(a)(2)(D)(vii), amended subsec. (a) by substituting “federally declared disaster (as defined by section 165(h)(3)(C)(i))” for “Presidentially declared disaster (as defined in section 1033(h)(3))”.

2002-Section 7508A. Pub. L. 107-134, Sec. 112(a), amended Section 7508A. Prior to being amended, it read as follows:

“7508A. Authority to postpone certain tax-related deadlines by reason of presidentially declared

“(a) In General.--In the case of a taxpayer determined by the Secretary to be affected by a Presidential declared disaster (as defined by section 1033(h)(3)), the Secretary may prescribe regulations under which a period of up to 120 days may be disregarded in determining, under the internal revenue laws, 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 paragraph (1) of section 7508(a) were performed within the time prescribed therefor, and

“(2) the amount of any credit or refund.

“(b) Interest on Overpayments and Underpayments.--Subsection (a) shall not apply for the purpose of determining interest on any overpayment or underpayment.”

2001--Subsec. (a). Pub. L. 107-16, Sec. 802(a), amended subsec. (a) by substituting “120 days” for “90 days”.

### EFFECTIVE DATE OF 2021 AMENDMENTS

Amendments by Pub. L. 117-58, Sec. 80501, shall apply to federally declared disasters declared after the date of enactment of this Act [Enacted: Nov. 15, 2021].

Amendments by Pub. L. 117-58, Sec. 80504, effective for fires for which assistance is provided after the date of the enactment of this Act [Enacted: Nov. 15, 2021].

#### EFFECTIVE DATE OF 2019 AMENDMENT

Amendment by Pub. L. 116-94, Div. Q, Sec. 205, applicable to federally declared disasters declared after the date of the enactment of this Act. [Dec. 20, 2019]

#### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by *Pub. L. 115-141*, Div. U, Sec. 401(b)(10)(B), effective for March 23, 2018.

Sec. 401(e) of Pub. L. 115-141, Div. U, provided the following Savings Provision:

“(e) General Savings Provision With Respect To Deadwood Provisions.—If—

“(1) any provision amended or repealed by the amendments made by subsection (b) or (d) applied to—

“(A) any transaction occurring before the date of the enactment of this Act,

“(B) any property acquired before such date of enactment, or

“(C) any item of income, loss, deduction, or credit taken into account before such date of enactment, and

“(2) the treatment of such transaction, property, or item under such provision would (without regard to the amendments or repeals made by such subsection) affect the liability for tax for periods ending after such date of enactment,

“nothing in the amendments or repeals made by this section shall be construed to affect the treatment of such transaction, property, or item for purposes of determining liability for tax for periods ending after such date of enactment.”

#### EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Div. C, Sec. 706(a)(2) of Pub. L. 110-343 effective for disasters declared in tax years beginning after December 31, 2007.

#### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Sec. 112(a) of Pub. L. 107-134 applicable to disasters and terroristic or military actions occurring on or after September 11, 2001, with respect to any action of the Secretary of the Treasury, the Secretary of Labor, or the Pension Benefit Guaranty Corporation occurring on or after the date of the enactment of this Act [Enacted: Jan. 23, 2002].

#### EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Sec. 802(a) of Pub. L. 107-16 shall take effect on the date of the enactment of this Act [Enacted: June 7, 2001.]

Section 901 (Sunset of Provisions of Act) of Pub. L. 107-16, as amended by Pub. L. 107-358 and Pub. L. 111-312, Sec. 101(a), and struck by Pub. L. 112-240, Sec. 101(a)(1) (effective for taxable, plan, or limitation years beginning after Dec. 31, 2012, and estates of decedents dying, gifts made, or generation skipping transfers after Dec. 31, 2012), provided that:

“(a) IN GENERAL.--All provisions of, and amendments made by, this Act shall not apply--

“(1) to taxable, plan, or limitation years beginning after December 31, 2012, or

“(2) in the case of title V, to estates of decedents dying, gifts made, or generation skipping transfers, after December 31, 2012.

“(b) APPLICATION OF CERTAIN LAWS.--The Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 shall be applied and administered to years, estates, gifts, and transfers described in subsection (a) as if the provisions and amendments described in subsection (a) had never been enacted.

“(c) EXCEPTION.-Subsection (a) shall not apply to section 803 (relating to no federal income tax on restitution received by victims of the Nazi regime or their heirs or estates).”

#### EFFECTIVE DATE

Effective with respect to any period for performing an act that has not expired before the date of the enactment of this Act [Enacted: Aug. 5, 1997].

#### DEFINITIONS

Sec. 301 of Pub. L. 116-260, Div. EE, provided:

#### “SEC. 301. DEFINITIONS

“(1) QUALIFIED DISASTER AREA.—

“(A) IN GENERAL.—The term ‘qualified disaster area’ means any area with respect to which a major disaster was declared, during the period beginning on January 1, 2020, and ending on the date which is 60 days after the date of the enactment of this Act, by the President under section 401 of the Robert T. Stafford Disaster Relief

and Emergency Assistance Act if the incident period of the disaster with respect to which such declaration is made begins on or after December 28, 2019, and on or before the date of the enactment of this Act.

“(B) COVID–19 EXCEPTION.—Such term shall not include any area with respect to which such a major disaster has been so declared only by reason of COVID–19.

“(2) QUALIFIED DISASTER ZONE.—The term ‘qualified disaster zone’ means that portion of any qualified disaster area which was determined by the President, during the period beginning on January 1, 2020, and ending on the date which is 60 days after the date of the enactment of this Act, to warrant individual or individual and public assistance from the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of the qualified disaster with respect to such disaster area.

“(3) QUALIFIED DISASTER.—The term ‘qualified disaster’ means, with respect to any qualified disaster area, the disaster by reason of which a major disaster was declared with respect to such area.

“(4) INCIDENT PERIOD.—The term ‘incident period’ means, with respect to any qualified disaster, the period specified by the Federal Emergency Management Agency as the period during which such disaster occurred (except that for purposes of this title such period shall not be treated as ending after the date which is 30 days after the date of the enactment of this Act).”

#### DEFINITIONS

Sec. 201 of Pub. L. 116-94, Div. Q, provided:

“Sec. 201. Definitions

“For purposes of this title—

“(1) Qualified Disaster Area.—

“(A) In General.—The term “qualified disaster area” means any area with respect to which a major disaster was declared, during the period beginning on January 1, 2018, and ending on the date which is 60 days after the date of the enactment of this Act, by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act if the incident period of the disaster with respect to which such declaration is made begins on or before the date of the enactment of this Act.

“(B) Denial Of Double Benefit.—Such term shall not include the California wildfire disaster area (as defined in section 20101 of subdivision 2 of division B of the Bipartisan Budget Act of 2018).

“(2) Qualified Disaster Zone.—The term “qualified disaster zone” means that portion of any qualified disaster area which was determined by the President, during the period beginning on January 1, 2018, and ending on the date which is 60 days after the date of the enactment of this Act, to warrant individual or individual and public assistance from the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of the qualified disaster with respect to such disaster area.

“(3) Qualified Disaster.—The term “qualified disaster” means, with respect to any qualified disaster area, the disaster by reason of which a major disaster was declared with respect to such area.

“(4) Incident Period.—The term “incident period” means, with respect to any qualified disaster, the period specified by the Federal Emergency Management Agency as the period during which such disaster occurred (except that for purposes of this title such period shall not be treated as beginning before January 1, 2018, or ending after the date which is 30 days after the date of the enactment of this Act).”

#### APPLICATION WITH RESPECT TO HURRICANE KATRINA

Section 403(b) of Pub. L. 109-73, before repeal by Pub. L. 109-135, Sec. 201(b)(4) (effective Dec. 21, 2005), provided that:

“In the case of any taxpayer determined by the Secretary of the Treasury to be affected by the Presidentially declared disaster relating to Hurricane Katrina, any relief provided by the Secretary of the Treasury under section 7508A of the Internal Revenue Code of 1986 shall be for a period ending not earlier than February 28, 2006, and shall be treated as applying to the filing of returns relating to, and the payment of, employment and excise taxes.”

#### ABATEMENT OF INTEREST ON UNDERPAYMENTS BY TAXPAYERS IN PRESIDENTIALLY DECLARED DISASTER AREAS

Sec. 915 of Pub. L. 105-34, as amended by Pub. L. 105-277, Sec. 4003(e)(1), provided that:

“(a) In General.—If the Secretary of the Treasury extends for any period the time for filing income tax returns under section 6081 of the Internal Revenue Code of 1986 and the time for paying income tax with respect to such returns under section 6161 of such Code (and waives any penalties relating to the failure to so file or so pay) for any individual located in a Presidentially declared disaster area, the Secretary shall, notwithstanding

section 7508A(b) of such Code, abate for such period the assessment of any interest prescribed under section 6601 of such Code on such income tax.

“(b) **Presidentially Declared Disaster Area.**--For purposes of subsection (a), the term “Presidentially declared disaster area” means, with respect to any individual, any area which the President has determined during 1997 or 1998 warrants assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

“(c) **Individual.**--For purposes of this section, the term “individual” shall not include any estate or trust.

“(d) **Effective Date.**--This section shall apply to disasters declared after December 31, 1996.”

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