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TAX RELIEF AFTER SEPTEMBER 11TH

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In response to the terrorist attacks of September 11, the Internal Revenue Service and state and local tax authorities have granted administrative relief to affected individuals and businesses. Congress is considering legislation providing additional tax relief. The following summarizes the relief in effect as of October 8, 2001.

FEDERAL TAX RELIEF FOR ALL TAXPAYERS

Taxpayers claiming relief under any of the following provisions should write in *red ink* at the top of the return: **“September 11, 2001 – Terrorist Attack”**.

September 24, 2001 Filing and Payment Extension

The due date for all federal tax obligations falling between September 10, 2001, and September 24, 2001, was postponed until September 24, 2001. This postponement of time covers the filing of returns and claims for refund, the payment of tax (including estimated tax payments), making elections, and the filing of other federal tax documents. The postponement, however, does *not* apply to deposits of federal taxes. Although these dates have since passed, please be advised that interest and penalties for untimely paid or filed items should not accrue until September 25, 2001.

November 15, 2001 Filing and Payment Extension

Taxpayers who have difficulty meeting their federal tax obligations because of disruption in the transportation and delivery of documents by mail or private delivery services resulting from the terrorist attack, and who do not otherwise qualify for relief as affected taxpayers, will have until November 15, 2001 to file returns and make payments that otherwise are required to be made from September 11, 2001 through October 31, 2001. Although not delineated by the IRS, we assume taxpayers claiming relief under this provision may be required to explain their entitlement to relief.

“In response to the terrorist attacks of September 11, the Internal Revenue Service and local tax authorities have granted administrative tax relief to affected individuals and businesses.”

- ATLANTA
- BOCA RATON
- BOSTON
- CHICAGO
- DENVER
- FORT LAUDERDALE
- LOS ANGELES
- MIAMI
- NEW YORK
- ORLANDO
- PHILADELPHIA
- PHOENIX
- TALLAHASSEE
- TYSONS CORNER
- WASHINGTON, D.C.
- WEST PALM BEACH
- WILMINGTON

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FEDERAL TAX RELIEF FOR AFFECTED TAXPAYERS

Taxpayers claiming relief under any of the following provisions should write in *red ink* at the top of the return: **“September 11, 2001 – Terrorist Attack”**.

“Disaster Areas”

The five boroughs of New York City and Arlington County, Virginia are “disaster areas” for purposes of determining who is an affected taxpayer.

“Affected Taxpayers”

The IRS has qualified the following as “affected taxpayers”:

1. Any individual whose principal residence is located in a disaster area;
2. Any business entity whose principal place of business is located in a disaster area;
3. Any individual who is a relief worker affiliated with a recognized government or philanthropic organization and who is assisting in a disaster area;
4. Any individual whose principal residence is not located in a disaster area but whose records necessary to meet a filing or paying deadline are maintained in a disaster area;
5. Any business entity whose principal place of business is not located in a disaster area but whose records are necessary to meet a filing or paying deadline are maintained in a disaster area;
6. Any estate or trust that has tax records necessary to meet a filing or paying deadline in a disaster area;
7. Any spouse of an affected taxpayer if the spouse and the affected taxpayer file a joint return.

Affected Taxpayers Who Are Individuals

An affected taxpayer who is an individual that has extended the time for filing his or her 2000 tax return beyond September 10, 2001 (presumably to October

15, 2001) will have until February 12, 2002 to file his or her tax return. This extension applies to income tax, gift tax, generation skipping transfer tax and employment tax returns.

An affected taxpayer who is an individual that has extended the time for filing his or her 2000 tax return may *not* postpone the payment of his or her tax liability. Nevertheless, the penalty for late payment of the tax will be waived from September 11, 2001 through January 9, 2002. Thus, so long as an affected taxpayer pays his or her tax liability by January 9, 2002, the taxpayer will not be subject to payment penalties.

Affected Taxpayers Other Than Individuals

An affected taxpayer, other than an individual, whose return is or was due between September 11, 2001 and November 20, 2001 is granted a 120-day postponement and a six-month extension, which run consecutively, to file its federal tax return and to pay the tax shown or required to be shown on its return.

An affected calendar year taxpayer, other than an individual, that is currently on a six-month extension to file which has or will expire between September 11, 2001 and November 30, 2001 is granted an additional 120 days to file from the date the extension expires. For example, the tax year 2000 return for an affected calendar year corporation that was on extension to September 17, 2001 is now due on January 15, 2002.

These returns include partnership returns, corporate income tax returns, estate and trust income tax returns, annual returns filed by tax-exempt organizations, certain excise tax returns and employment tax returns.

An affected taxpayer, other than an individual, that is currently under a six-month extension to file may *not* postpone the payment of its tax liability. Nevertheless, the penalty for not paying the tax will be waived from September 11, 2001 through January 9, 2002. Thus, so long as the affected taxpayer pays its tax liability by January 9, 2002, the taxpayer will not be subject to late payment penalties.

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All Affected Taxpayers

1. Estimated Tax Payments

All affected taxpayers who are required to make estimated tax payments for 2001, that are or were normally due between September 11, 2001 and before January 15, 2002, are granted automatic extensions until January 15, 2002. In addition, affected taxpayers will not be subject to penalties for failure to pay estimated tax installments for tax year 2001 with respect to installments that were originally due on or after September 11, 2001 and before January 15, 2001, as long as such installments are paid by January 15, 2002.

2. Other Extensions

All affected taxpayers are granted a 120-day extension to perform the following acts that otherwise are or were required to be performed between September 11, 2001 and November 30, 2001: (i) the making of deductible contributions to certain retirement plans and individual retirement arrangements; (ii) the filing of a Tax Court petition; (iii) the filing of a claim for credit or refund of tax; and (iv) the bringing of a lawsuit upon a claim for credit or refund of tax.

Federal Tax Deposits

The time for making federal tax deposits is *not* extended. Nevertheless, taxpayers unable to make deposits, due to injuries to personnel or damage to their equipment or the equipment of their service providers, that are or were required to be made between September 11, 2001 and October 31, 2001, will not be subject to the addition to tax for the failure to make a timely deposit if the taxpayer makes the deposit on or before November 15, 2001.

FEDERAL TAX RELIEF FOR TAX-EXEMPT BOND ISSUERS

Taxpayers claiming relief under any of the following provisions should write in *red* ink at the top of the return: **“September 11, 2001 – Terrorist Attack, See Announcement 2001-101”**.

“Affected Issuers”

An “affected issuer” is a tax-exempt bond issuer who meets one or more of the following criteria: (i) the issuer is located in one of the disaster areas; (ii) the issuer is not located in one of the disaster areas, but its records are necessary to meet a filing or payment deadline for the issuer are maintained in one of the disaster areas; (iii) the facilities financed with the proceeds of the issue are located in one of the disaster areas; (iv) the conduit borrower for the issue is located in one of the disaster areas; (v) the counsel to the issuer or the conduit borrower, or bond counsel for the issue, is located in one of the disaster areas; or (vi) the professional on whom the issuer relies for compliance with the the Internal Revenue Code is located in one of the disaster areas.

Extension for Affected Issuers

Affected issuers who have or had an original filing or payment deadline between September 11, 2001 and November 30, 2001 are granted an additional six months plus 120 days from the time of the original due date to file the return and to make any payment due with the return.

FEDERAL TAX RELIEF FOR PENSION PLANS

The IRS, the Department of Labor’s Pension and Welfare Benefits Administration, and the Pension Benefit Guaranty Corporation (“PBGC”) have provided relief for certain penalties relating to Form 5500 for defined benefit and money purchase plans that are required to be filed on or before October 15, 2001. In the case of a defined benefit or money purchase pension plan with a plan year ending on or after December 27, 2000 and on or before January 8, 2001, plan administrators and plan sponsors will not be treated as failing to file a complete and accurate return/report, nor will enrolled actuaries be treated as failing to file an actuarial report, solely because contributions made before September 24, 2001 are included on line 3 of Schedule B of Form 5500 and line 6(b) of Schedule R of Form 5500.

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In addition, the PBGC provides relief for any plan with a plan year ending on or after December 27, 2000 and on or before January 8, 2001. In particular, the PBGC will not assess any penalties for a failure to pay PBGC premiums in a timely manner or failure to meet a PBGC reporting or disclosure requirement, nor will it treat a certification as failing to be a valid and correct certification, solely because contributions made on or before September 24, 2001 are included in the plan's assets for purposes of the PBGC premiums or are counted for purposes of determining whether any PBGC reporting or disclosure requirement applies.

MISCELLANEOUS FEDERAL TAX PROVISIONS

Casualty Loss Deductions

All taxpayers who suffered losses from the damage or destruction of their property in the terrorist attacks are entitled to claim a casualty loss deduction on their federal income tax returns. In general, the deduction is calculated by subtracting the value of the property after the damage or destruction from the tax basis of the property before the destruction. The amount of the deduction is then reduced by insurance or similar proceeds.

An individual, estate, or trust that incurs a casualty loss with respect to non-business property must further reduce the deduction by \$100. This amount is then deductible only to the extent that it exceeds 10 percent of adjusted gross income.

A taxpayer may claim a casualty loss deduction on the 2001 tax return or may elect to claim the deduction on the 2000 return. The taxpayer should calculate which return will give a more advantageous tax result. If the taxpayer decides to claim a casualty loss deduction on his 2000 tax return, the election is made by filing a return, an amended return, or a refund claim by the later of (i) the due date (without extensions) for the 2001 return, or (ii) the due date (with extensions) for the 2000 return.

Reinvestment of Insurance Proceeds

In general, if a taxpayer receives insurance proceeds in excess of his tax basis in property, the taxpayer will recognize gain. There is an exception to this rule in the case of property that was destroyed or damaged as a result of the terrorist attacks. If the insurance proceeds are fully reinvested in similar property by the end of the second year (or the fourth year in the case of a principal residence and its contents) after receiving the insurance proceeds and the taxpayer elects to defer the gain, the taxpayer will not recognize gain. For example, if the taxpayer receives insurance proceeds in 2001, those proceeds must be reinvested in similar property by December 31, 2003 (or December 31, 2005 in the case of a principal residence).

Charitable Contribution Deductions

Charitable contributions are deductible if made to a qualified organization. Qualified organizations include charitable organizations that the IRS has determined to be exempt from federal income tax. Before making a contribution to an organization for disaster relief, a taxpayer may want to verify whether the IRS recognizes the organization as a qualified organization.

When a taxpayer makes a donation to a qualified organization, the taxpayer must substantiate the amount of the contribution by maintaining reliable written records, such as cancelled checks or receipts. There are two types of contributions that require written acknowledgements from the charitable organization: (i) a contribution of \$250 or more; and (ii) a *quid pro quo* contribution in excess of \$75. A *quid pro quo* contribution is a payment made partly as a contribution and partly as a payment for goods or services. For example, the cost of attending a charity dinner in excess of the value of the meal provided.

STATE AND LOCAL TAX RELIEF IN THE TRI-STATE AREA

State and local governments throughout the country have responded to the terrorist attacks by granting extensions to taxpayers. No uniformity exists among the relief provisions, including who qualifies for relief. The following is a brief summary of certain relief provisions in the tri-state area. Please contact your local GT office to obtain information regarding relief provided by any jurisdiction not set forth below.

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New York State

Businesses or individuals who were “afflicted by” the tragic incidences at the World Trade Center, the Pentagon, and in western Pennsylvania are granted extensions until December 10, 2001 for the following items that have or had original deadlines from September 11, 2001 through December 10, 2001: (i) filing any returns; (ii) paying any tax or installment of tax; and (iii) filing a petition for credit or refund, or for redetermination of a deficiency, or application for review of a decision. Interest at the appropriate underpayment rate must be paid on tax payments received after the extended due date of December 10, 2001.

Taxpayers directly afflicted by the events, and therefore eligible for the relief provided by the extended guidelines, include: (i) all workers assisting in the relief activities in the areas of the World Trade Center and the Pentagon, and in western Pennsylvania; (ii) any taxpayer whose records are necessary to meet tax filing, paying, or other deadlines are not available due to the attacks; (iii) taxpayers who have difficulty in meeting tax filing, payment or other deadlines because of disruptions in the transportation and delivery of documents by mail or private delivery services, or due to disruptions in communications services (e.g., telephone, facsimile, or electronic mail) resulting from the attacks; and (iv) taxpayers whose tax practitioners were, due to the attacks, unable to complete work to meet tax filing, payment and other deadlines on behalf of their clients. This list is not intended to be all-inclusive, and taxpayers experiencing circumstances not described in the list may be eligible for relief.

Taxpayers who are eligible for the extensions should mark **WTC** on the top center of the front page of any late filed return, extension, declaration of estimated tax, estimated tax voucher, or other document, and should include a **brief explanation of the circumstances that affected the taxpayer’s ability to meet tax deadlines.**

New York City

Taxpayers who are “unable to meet certain New York City filing and payment deadlines due to the disaster” are granted the following extensions: (i) General Corporation Tax, Unincorporated Business Tax, or Banking Corporation Tax returns and payments that are or were due on September 17, 2001, October 15, 2001, or November 15, 2001, are extended until December 17, 2001; (ii) Commercial Rent or Occupancy Tax returns and payments that were due on September 20, 2001 are extended until December 20, 2001; (iii) Hotel Room Occupancy Tax returns and payments that were due in September 2001 are extended until December 20, 2001; and (iv) Utility Tax returns and payments that are or were due in September, October, and November 2001 are extended until December 26, 2001.

The City did not provide specific guidance to determine which taxpayers are “unable to meet certain New York City filing and payment deadlines due to the disaster.”

Taxpayers who claim extensions should mark **“World Trade Center”** on the top center of the first page of returns, extensions, and declarations of estimated tax, and should include an **explanation of how the disaster adversely affected their ability to meet their filing and payment obligations.**

New Jersey

Businesses and individuals “directly affected by the attack” and whose returns and/or payments are or were due between September 11, 2001 and November 30, 2001 are granted extensions to file returns and pay taxes by December 15, 2001.

Taxpayers who are “directly affected by the attack” include: (i) victims whose place of employment was damaged or destroyed during these attacks; (ii) relief workers; (iii) taxpayers whose records were destroyed in the attacks; (iv) businesses destroyed or damaged; (v) businesses whose accountants or payroll services were directly affected; and (vi) victims on the airlines.

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In addition, New Jersey has granted extensions for those individuals who were indirectly affected due to being stranded away from home or unable to access their funds. The due date for filing and payment of returns due during September will be extended to 10 business days after their due date.

Taxpayers who are entitled to relief should mark **“September 11, 2001 – Terrorist Attack”** in *red* ink at the top of the return they file.

Connecticut

“Affected taxpayers” have been granted an automatic one-month extension to meet Connecticut filing and payment due dates. Accordingly, all estimated tax payments that were due on or before September 17, 2001 are extended until October 15, 2001; all tax returns that were due on or before October 1, 2001 are extended until November 1, 2001; and all tax returns that are or were due on extension on or before October 1, 2001 or October 15, 2001 are extended until November 1, 2001 or November 15, 2001, respectively.

“Affected taxpayers” are taxpayers who are unable to meet certain Connecticut filing and payment deadlines as a result of the September 11, 2001 disasters at the World Trade Center, the Pentagon, and western Pennsylvania. Affected taxpayers also include taxpayers whose family members or tax preparers were affected by the September 11, 2001 attacks. Again, clearer guidance as to who has been “affected” has not been given.

Taxpayers who claim relief should mark **“World Trade Center”** or **“Pentagon”** on the top center of the first page of returns, extensions, and estimated tax payments. Taxpayers who usually *Fast-File* their returns must use paper returns.

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