

Legislative Recommendation #69**Postpone Tax Deadlines for Hostages and Individuals Wrongfully Detained Abroad****SUMMARY**

- *Problem:* U.S. taxpayers who are held hostage or wrongfully detained in foreign countries generally cannot file tax returns or make tax payments, yet under current law they may be subject to interest charges and penalties that the IRS does not have the legal authority to waive.
- *Solution:* Automatically postpone tax filing and payment deadlines for hostages and individuals who are wrongfully detained abroad and their spouses and provide for the refund or abatement of penalties, interest, and other additional amounts assessed.

PRESENT LAW

IRC § 7508A(a) gives the Secretary of the Treasury or her delegate the authority to postpone the deadline for performing certain acts under the internal revenue laws for a taxpayer determined by the Secretary or her delegate to be affected by a terroristic¹ or military action as defined in IRC § 692(c)(2).² IRC § 7508A(a) limits a deadline postponement to one year in response to each terroristic or military action.

REASONS FOR CHANGE

Individuals who are held hostage or wrongfully detained abroad must currently rely on the Secretary's discretionary authority to postpone the deadlines to submit tax filings, make tax payments, and perform other time-sensitive tax-related actions. Additionally, the Treasury Secretary's discretionary authority to postpone these deadlines is limited to up to one year. Individuals who are held hostage or wrongfully detained abroad should not have to rely on the Treasury Secretary's discretionary authority to relieve them from the consequences of their inability to meet their tax obligations. Additionally, the duration of the postponement should match the duration of the hostage's or detainee's inability to meet their tax obligations and should not be subject to a one-year limit.

RECOMMENDATION

- Establish an automatic postponement of the tax deadlines set forth in IRC § 7508(a)(1), as incorporated in IRC § 7508A(a)(1), for individuals who are held hostage or unlawfully detained abroad (and their spouses) that extends for the duration the hostage or detainee is unable to comply with their time-sensitive tax obligations due to being held hostage or unlawfully detained, plus one year.³

¹ IRC § 692(c)(2) defines a terroristic action as "any terroristic activity which a preponderance of the evidence indicates was directed against the United States or any of its allies."

² Section 4.01(1) of Revenue Procedure 2004-26, 2004-1 C.B. 890, provides that prior to publishing a determination that an event outside the United States constitutes a terroristic action within the meaning of IRC § 692(c)(2), the Secretary or her delegate will ascertain whether the Department of State and the Department of Justice believe that a preponderance of the evidence indicates the event resulted from terrorist activity directed against the United States or its allies.

³ For legislative language generally consistent with this recommendation, see Stop Tax Penalties on American Hostages Act of 2024, S. 4057, 118th Cong. § 2 (2024). If the non-detained spouse is due a refund because of overwithholding or excess estimated tax payments, the non-detained spouse should be authorized to file a current return to receive the refund and then file a superseding joint return with the detained spouse for up to one year after the detained spouse's release.