



# Comment Period for Automatic and Mandatory Disaster Deadline Relief Generates Debate

## ATTORNEYS

Jon Holbrook

Spencer F. Walters

## PRACTICE AREAS

Benefits & Compensation

Tax

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In January, the IRS and the Treasury Department issued proposed regulations implementing Section 7508A(d), a provision enacted shortly before the onset of the COVID-19 emergency. That provision would add a mandatory 60-day extension to due dates for certain tax-related activities for taxpayers affected by a federally declared disaster. Despite this intended mandatory relief, the proposed regulations would give the Treasury Department the sole discretion to determine whether an extension is available. Ivins attorneys Spencer Walters and Jon Holbrook submitted comments requesting automatic relief for taxpayers affected by federally declared disasters.

According to the *Tax Notes* article "Professors Differ With Others on IRS's Disaster Delay Discretion," "The comment letters from Ivins, Phillips & Barker Chtd. and the Neighborhood Legal Services of Los Angeles County emphasized section 7508A(d)'s legislative history to interpret the provision as providing a parallel and mandatory extension to any discretionary relief the IRS provides under section 7508A(a)."

The article noted concerns raised by a pair of law school professors, Bryan T. Camp of Texas Tech University and T. Keith Fogg of Harvard University, including that "reading section 7508A(d) as fully automatic results in a blunt instrument that could lead to wide-ranging and surprising results" which would "leave traps for the unwary for supposedly relieved taxpayers." *Tax Notes* highlighted Walters' and Holbrook's proposed remedy for these concerns, writing that "Ivins, Phillips & Barker asked for a clarification in the final regs that would provide that the government will take advantage of the postponement period for those government-initiated actions only if the taxpayer first acts in reliance on the automatic postponement period."