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THE TAX LAWYER

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### IRS: Tax Day Delay

When I recently [wrote](#) about the IRS [announcement](#) that people in some categories were being asked to hold off filing their 2010 federal income tax returns, I did not realize the magnitude of the issue. I knew it was important, affecting those who itemize deductions. But since an automatic extension makes the return filing (but not the payment) deadline October 15 rather than April 15, it hadn't dawned on me just how enormous this issue truly is.

Some estimate that the number affected could be [50 million filers](#), but that seems very high, particularly since a huge number of itemizers wait until February when they have Forms W-2 and 1099 (a good practice in any event). Of course, many wait much longer.

It is one thing if you plan to pay taxes that might be due by April 15, but you'll get the now ubiquitous automatic extension to file your return and won't actually file it until October 15. In that case, you're not harmed by the IRS notice and the late legislation that prompted it. It is quite **another** to be **told** by the IRS that you can't file because the right forms aren't yet ready and the IRS cannot **process** your return.

The culprit, of course, is the Johnny-come-lately enactment of the [2010 Tax Relief Act](#) which wasn't passed until [mid-December](#). IRS Commissioner Doug Shulman had already put Congressional leaders on notice that the IRS would have a heck of a time gearing up for tax return

filing season given the last minute Congressional action. See [IRS Commissioner Gives Congress Ultimatum](#).

If you want to file in January—say you are getting a big refund and need it fast—is it fair to make you wait? For more about refund techniques, see [Getting A Tax Refund? Ten Things To Know](#). Some have suggested that Congress or the IRS should delay the normal April 15 filing deadline, making it [May 31](#) this year instead.

Perhaps this suggestion is made tongue-in-cheek. In any event, there's little suggestion that Congress (or the IRS for that matter) would think this is a good idea. Still, if tax forms are delayed six weeks and you can't file, there would be some parity in delaying the filing deadline by six weeks or so.

Having less time to prepare and file returns is a small burden, but the bulk of this burden seems likely to fall on paid preparers. In fact, I would argue that the people most significantly and adversely impacted are those who want to file their 2010 returns right away because they are due a large refund. See [How Much Is The Government Making Off You?](#)

Unless they go for what's generally referred to as a "[refund anticipation loan](#)" from a third party, there's no way for them to get their money. Refund anticipation loans probably aren't on the best financial terms, and may be tied to having returns prepared by the firm making or arranging the loan. For the government to put someone in the position not to be able to file in this kind of environment somehow doesn't seem fair.

However, there should be some solace in knowing that if Congress had failed to pass the 2010 Tax Relief Act, millions more taxpayers—something on the order of 25 million—would be paying AMT. See [AMT Patch Nicely Embroidered](#). In that sense, getting your refund later because you had to file later is considerably better than the alternative.

There's some other good news too. Since Emancipation Day in the District of Columbia falls on Friday April 15 this year, the IRS has extended the tax day [deadline](#)—for all of us not just those in DC—until [Monday April 18, 2011](#).

For more, see:

[Getting A Tax Refund? Ten Things To Know](#)

[How Much Is The Government Making Off You?](#)

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