AICPA™

Advocacy Materials and Bullet Points on
One Month Filing Penalty Relief Needed for Extended 2019 State Tax Returns in Affected States

1. Bullet points on why one month filing relief is needed.

- Because the Coronavirus pandemic has impacted taxpayers, practitioners, the Internal Revenue Service, and state tax authorities and Coronavirus relief federal and state legislation and the Tax Cuts and Jobs Act (TCJA) implementation is still in process, the federal government and many state tax authorities have recently issued (or still need to issue) guidance for return filings.
    - This delay in guidance adds to the complexities for CPAs and clients, as the federal returns are necessary for state return calculations.
    - In addition to the policy changes and delayed guidance, the physical changes in forms (due to TCJA) are lengthening the compliance process both for the federal and state returns.
    - Without penalty and filing relief available, taxpayers may need to file 2019 state returns using estimates and then file amended state returns, creating additional compliance burdens for taxpayers and tax preparers.
    - In turn, state tax authorities would need to process multiple returns for the same taxpayer, creating additional burdens on state agencies.

2. Which states are potentially impacted and may need to request one-month extended filing relief?

To determine if your state may need to request one-month extended filing relief:

- We have identified potentially impacted states (with current extended 9/15, 9/30, 10/15 and 11/16 filing deadlines).

  States that responded last year to a similar request for corporate filing relief are *italicized* if they provided case-by-case relief and in **bold** if they provided corporate automatic one-month filing penalty relief.

  Potentially affected states include:

  Alabama, *Arizona*, Arkansas, *California* (non-corp), Colorado, **Delaware**, District of Columbia, Florida, *Georgia*, Hawaii, *Idaho*, Illinois, *Iowa*, **Kansas**, **Kentucky** (non-corp), *Maine*, Maryland (non-corp), Massachusetts, Minnesota (non-corp), Michigan (non-corp), *Mississippi*, *Missouri*, Nebraska (non-corp), **New Jersey**, New Mexico, *North Carolina*, North Dakota (non-corp), Ohio (non-corp), *Rhode Island*, *South Carolina*, *Tennessee*, Texas, *Utah*, Vermont (non-corp), Virginia (non-corp), and *West Virginia*.

- The states that are most likely affected are those states with extended due dates for:
    - Partnerships and S corporations – prior to Oct. 15
    - Estates and trusts income tax (fiduciaries) – prior to Oct. 30

- Individuals and corporations – prior to Nov. 15
- Tax-exempt entities – prior to Dec. 16.

- You can refer to a **map** or the **attached compiled multi-tab spreadsheet** or follow the **below links** for information on **all of the states' extension deadlines**.

    - States' extended deadlines

    - States' extension information for corporate businesses and individuals

    - For corporate businesses: states' extension information for corporate businesses

    - For individuals: interactive map for individuals, list of states accepting federal extension, list and link to each states' individual extension form and instructions information)

    - For estates and trusts: list of (and links with information to) states with estate taxes

3. Template for draft guidance available for your use, if your state is affected.

If your state is affected, you may want to consider working with your state tax authority to adopt the draft guidance.

- The draft guidance would provide an additional month for filing extended state tax returns for 2019 returns only.

- This guidance would not affect the tax payment deadline, and therefore, would not impact state revenue.

4. Resources on a possible legislative solution for future years for affected states.

If your state is affected, we also suggest working with your state tax authorities and state legislatures on a longer term legislative solution to provide for future years' state original filing and extended due dates one month ***after*** the federal due dates.

In addition, to ease administration, states may also want to consider providing automatic extensions with the granting of a federal extension. An automatic state extension should only require attaching a copy of the federal extension with the state return to qualify.

You may want to reach out to your state tax authority as it begins to work on its legislative proposal for the upcoming year, to suggest providing state original filing and extended due dates one month ***after*** the federal due dates and automatic extensions with the granting of federal extensions.

We suggest sharing with your state legislatures and state tax authorities the **model legislative language** for state additional month after federal filing deadline.

Bullet points on why states should enact legislation in 2020 or 2021 to have tax returns and extensions due one month after the federal due date and extension:

- In general, federal returns are filed at, or very near, the extended due dates, and because the state returns often are dependent on the federal returns, additional time is needed to submit a complete and accurate state return.

- It provides time for taxpayers and practitioners to accurately calculate state allocation and apportionment.

- Taxpayers avoid the need to file state returns using estimates and a second filing of amended state returns based on complete federal return information, reducing administrative burden on taxpayers and tax preparers.

- State tax authorities avoid the need to process multiple returns for the same taxpayer, reducing additional burdens on state agencies.

- Changing the filing deadline should not affect the tax payment deadline, and therefore, should not impact state revenue. If changing the time of filing involves payment issues, the state could make a separate fifth tax payment date for the final tax payment that is normally due at the original due date of the state tax return.

- Specific issues that involve time for taxpayers and practitioners to accurately calculate state allocation and apportionment include:

    - Although the majority of the states start their taxable income base with line 28 or line 30 of federal Form 1120, U.S. Corporation Income Tax Return, many of the items of income and deductions necessary to arrive at federal taxable income are subject to modification by state statute. Of particular significance are the alternative depreciation methods and complex transactions that occur between members of affiliated groups filing consolidated Federal income tax returns.

    - Many states subject the modified tax base for multistate taxpayers to allocation and/or apportionment under a three-factor formula of property, payroll, and gross receipts to determine the percentage of a corporation's income subject to tax in a particular state. Much of the data needed to calculate the apportionment percentages comes from company sources outside the tax preparation function and is usually reconciled to the complied federal income tax return information.

As a resource, we have provided **model legislative language** and a **chart** **of examples and links to sample states' legislative and administrative language models** of states with original and/or extended due dates one month after federal due dates for each type of taxpayer for you to refer to as possible models.

5. Other organizations to contact and collaborate on this issue.

There are several other organizations interested in this issue, and they are contacting their members and state authorities on the additional month needed for filing extended state tax returns. These organizations include:

- The Council on State Taxation (COST), and
- Tax Executives Institute (TEI).

These organizations may be interested in working with state societies on this issue.

6. AICPA team resources available.

Below are great key resources on this issue. They will be happy to answer questions or provide additional information.

- Megan Kueck (megan.kueck@aicpa-cima.com, 202-904-0083), Lead Manager on the State Regulation and Legislation Team.

- Eileen Sherr (eileen.sherr@aicpa-cima.com, 202-434-9256), Senior Manager on the Tax Policy & Advocacy Team.

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