

Urgent: State and Local Corporate Income Tax Return Filing Penalty Relief

Statement

COST urges your agency (and localities, where applicable) to provide an automatic 30-day penalty waiver for filing extended corporate tax returns that are due on October 15, 2018. This automatic penalty relief, which would apply to late filing only and not late payment, is warranted because of the change to the federal corporate tax return due date from September 15 to October 15 (which took effect in 2016) and will allow corporations a reasonable time to accurately file their state corporate income tax returns (and deal with the complexity of the 2017 federal tax reform changes).

Explanation

Beginning with the 2016 calendar tax year and for most fiscal year filers, federal corporate tax returns are due one month later than previously (*i.e.*, by April 15 for calendar year filers), and extended returns likewise are due one month later than previously (*i.e.*, by October 15 for calendar year filers). This change was intended to result in better data for completing federal returns. While we would like to legislatively fix this issue in your state in the future, currently your state's law does not allow corporate income taxpayers to file their state returns (and local returns, where applicable) at least 30-days after the due date of the federal return. This negatively impacts the ability of corporate taxpayers to accurately complete and file complex state tax returns.² COST continues to advocate for state corporate tax return due dates (and extended due dates) at least 30 days beyond the federal filing deadlines.³

The confluence of federal, state, and in some cases local tax filing dates creates ongoing compliance issues for state corporate tax filers; however, these issues are exacerbated by the struggle to comply with the myriad and complex changes enacted under federal tax reform. With these changes now hitting the 2017 returns, and with states struggling to keep up with federal guidance and provide their own guidance on state modifications, the quality of state corporate tax returns due by the same deadline as the federal returns will suffer. This will likely result in amended returns being filed to correct any errors, inefficiently requiring your agency to process multiple returns.

For corporate income tax returns due October 15, time is of the essence. Corporations right now are struggling to meet the October 15 filing deadlines in your state and many others.

¹ Fiscal year filers with a June 30 year end did not receive an extra month for the original return, but receive a sevenmenth automatic extension.

² According to the AICPA, 29 states do not currently provide that the extended due date for corporate income tax returns is November 15, 2018 (or 30 days after the federal extended due date) or later. See AICPA, "Automatic 30-day penalty relief for 2018 corporate income tax filing," available at:

https://www.aicpa.org/advocacy/state/statecontactinfo/auto-30-day-penalty-relief-for-2018-corporate-income-tax-filing.html.

³ See COST's Policy Position, "Fair, Efficient, and Customer-Focused Tax Administration," available at: https://cost.org/globalassets/cost/state-tax-resources-pdf-pages/cost-policy-positions/fairefficientandcustomerfocusedtaxadministration.pdf.



In coordination with the American Institute of Certified Public Accountants (AICPA), COST, the Tax Executives Institute (TEI), and state CPA societies are requesting the states with October 15 extended corporate income tax due dates to issue guidance providing an automatic 30-day penalty relief period for state corporate income tax return filings currently due October 15, 2018, and to provide an additional month for extended corporate income tax returns for other fiscal year corporations. We are not seeking any extension of the tax payment deadline for such returns, and therefore the proposed penalty relief would not impact state revenue. The Federation of Tax Administrators (FTA) featured this issue and our proposed solution as the "Cool Idea of the Week" in its recent TaxExPRESS member publication. COST urges your agency (and local tax administrators, as applicable) to adopt the draft policy language below (modified to reflect your agency's vernacular).

DRAFT

[Information Release/Bulletin] Automatic 30-Day Penalty Relief for 2018 Corporate Income Tax Filing Due October 15, 2018⁴

The extended filing date for [state's] corporate income tax return on October 15, 2018 is the same due date as the federal return. To allow a taxpayer more time to accurately file [state's] corporate income tax return, a corporate income taxpayer with a properly extended federal return due date to October 15, 2018, the [state revenue agency] will automatically waive the imposition of the late filing penalty if the [state's] corporate income tax return is filed by November 15, 2018 for extended calendar year corporations and filed within an additional month of the extended due date for 2017 income tax returns for fiscal year corporations.

The [state taxing authority] will consider elections as made on a timely filed income tax return if the elections are made on a 2017 corporate income tax return filed by November 15 (or within an additional month for an extended 2017 income tax return for a fiscal year corporation) under this penalty relief.

Note, this penalty relief only applies to the filing of [state's] corporate income tax return. As applicable, interest and penalties for late payment of the tax may still apply. To utilize this extension, a taxpayer should mark on its return that it is seeking an "October 15 to November 15 Penalty Relief Extension." Failure to file by the November 15, 2018 date, unless abated by the [state revenue agency], will result in the imposition of a late filing penalty based on the October 15, 2018 due date.

Please contact X at XXX-XXXX, email XXX@XX.gov, with any questions.

⁴ If applicable, a state should also waive any cancellation of a business's authority to do business in the state until after the 30-day penalty relief period.