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DEPARTMENT OF TAXATION ANNOUNCEMENT NO. 2007-18

Re: Extensions of Time for Filing Income Tax Returns

The Department will be proposing amended administrative rules regarding the extension of time for filing returns for public comment in the near future. These amendments are primarily intended to conform to the federal practice of granting a single automatic extension of six months. However, these rules will not be applicable for extensions becoming due on July 20th or August 20th of 2007.

The following details the current rules for extensions of income tax returns that will apply for extensions becoming due on July 20th or August 20th, 2007:

REQUIREMENTS FOR INDIVIDUAL TAXPAYERS

Individuals are automatically granted an initial 4-month extension without the need to file anything with the Department. As long as the following conditions are met, an individual taxpayer is deemed to have made an application for an initial four-month extension to file income tax returns on the prescribed due date:

1. The tax return is filed on or before the expiration of the initial 4-month extension period;
2. The tax return is accompanied by full payment of any tax not already paid; and
3. The taxpayer is not bound by a court order to file a tax return on or before the prescribed due date.

If, during the initial 4-month extension period, an individual still needs more time, the Department may grant an additional 2-month extension. The grant of an additional 2-month extension is subject to the following conditions:

1. The individual must apply for the additional 2 months prior to the expiration of the initial 4-month period by filing a Form N-101B;
2. The application (Form N-101B) must be accompanied by at least 90% of the tax owed, to the extent not already paid;
3. The application (Form N-101B) must explain a reasonable cause for needing an additional 2-months to file an income tax return;

4. The tax return must be filed on or before the expiration of the additional 2-month extension period;
5. The tax return must be accompanied by full payment of any tax not already paid; and
6. The individual must not be bound by a court order to file a tax return on or before the original due date.

REMINDER: Failure to pay 90 percent of the tax on or before August 20, 2007 or failure to meet any other condition will result in the extension being deemed invalid and penalties and interest shall be assessed on the amount of tax owed as if no extension had been granted. In that case, penalties and interest will be imposed from April 20, 2007 or the original due date for a fiscal year filer.

REQUIREMENTS FOR PARTNERSHIPS, ESTATES, TRUSTS, OR REMICs

Partnerships, estates, trusts, or real mortgage investment conduits are granted an initial 3-month extension if the following conditions are met:

1. File an application for automatic extension on or before the due date prescribed by statute (Form N-100), showing the full amount of properly estimated tax liability;
2. The tax return is filed on or before the expiration of the initial 3-month extension period;
3. The tax return is accompanied by full payment of any tax not already paid; and
4. The taxpayer is not bound by a court order to file a tax return on or before the prescribed due date.

If, during the initial 3-month extension period, a partnership, estate, trust or real estate mortgage investment conduit still needs more time, the Department may grant an additional 3-month extension. The grant of an additional 3-month extension is subject to the following conditions:

1. The entity must apply for the additional 3 months prior to the expiration of the initial 3-month period by filing a Form N-100A;
2. The application (Form N-100A) must be accompanied by at least 90% of the tax owed, to the extent not already paid;
3. The application (Form N-100A) must explain a reasonable cause for needing an additional 3-months to file an income tax return;
4. The tax return must be filed on or before the expiration of the additional 3-month extension period;
5. The tax return must be accompanied by full payment of any tax not already paid; and
6. The entity must not be bound by a court order to file a tax return on or before the original due date.

REMINDER: An automatic extension of time for filing a partnership, estate, trust, or real estate mortgage investment conduit return does <u>not</u> extend the time for filing an income tax return for any partner, or member of an entity classified as a partnership, any beneficiary of the estate or trust, or a residual or regular interest holder of a real estate mortgage investment conduit.

REMINDER: Failure to pay 90 percent of the tax on or before the third month following the date prescribed by statute for filing a return or failure to meet any other condition will result in the extension being deemed invalid and penalties and interest shall be assessed on the amount of tax owed as if no extension had been granted. In that case, penalties and interest will be imposed from April 20, 2007 or the original due date for a fiscal year filer.

REQUIREMENTS FOR CORPORATIONS

Corporations should continue to follow the requirements/conditions of subsection (e) of §18-235-98, HAR, in order to receive a single six-month extension.

For more information, please contact the Rules Office at 808-587-1577.



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