



2019-2020 General Assembly

SENATE BILL 704: COVID-19 Recovery Act , Sec. 1.1: Waive Accrual of Interest on Deferred Payment of Corporate Income and Franchise Tax and Individual Income Tax and Extend Certain Tax Related Deadlines

Committee:
Introduced by:
Analysis of: Sec. 1.1 of S.L. 2020-3

Date: July 21, 2020
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OVERVIEW: *Section 1.1 of S.L. 2020-3 waives the accrual of interest on individual income tax and corporate income and franchise tax returns due on or before April 15, 2020, from April 15 until July 15. The relief applies to partnership and estate and trust tax returns, as well as estimated tax payments for 2020 due on or before April 15, 2020. It also extends certain tax-related deadlines.*

CURRENT LAW AND BACKGROUND: The Department of Revenue is statutorily required to waive the penalty for late filing and payment of taxes for any period in which the time for filing a federal return or report or for paying a federal tax is extended because of a presidentially declared disaster. The Department does not have the statutory authority to waive the accrual of interest. In the wake of past disasters, although the late filing and payment penalties have been waived, the accrual of interest has not.

On March 13, 2020, the POTUS declared a national emergency concerning the COVID-19 outbreak under the Robert T. Stafford Disaster Relief and Emergency Assistance Act. As part of that declaration, he instructed Secretary Mnuchin to provide relief from tax deadlines. On March 20, 2020, the United States Department of Treasury and the Internal Revenue Service announced that the time for filing federal income tax returns, as well as estimated tax payments for tax year 2020 that are due on April 15, 2020, was extended to July 15, 2020. The announcement stated penalties and interest will begin to accrue on any unpaid balances as of July 16, 2020.

On April 9, 2020, the IRS extended the following tax deadlines:

- The time for filing estimated tax payments due on or before June 15 to July 15.
- The time to request a refund of 2016 tax overpayments extended to July 15.
- The time to file certain petitions and requests for review due to be performed on or after April 1, 2020, and before July 15, 2020, extended to July 15.

On March 10, 2020, the Governor signed Executive Order 116 declaring a state of emergency in response to COVID-19. On March 17, the Department of Revenue announced penalty relief for taxpayers. On March 21, in response to the federal action, the Department announced it would extend the April 15 tax filing deadline to July 15 for individual income tax and corporate income and franchise taxes to mirror the announced deadline change from the IRS. The Department will not assess late action penalties if the returns are filed and payments made on or before July 15.

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On March 31, 2020, the Department expanded penalty relief for failure to obtain a license, file a return, or pay tax that is due on March 15, 2020, through July 15, 2020, if the corresponding license is obtained, return is filed, or tax is paid on or before July 15, 2020. The tax relief applies to the following tax types:

- Withholding tax
- Sales and use tax
- Scrap tire disposal tax, white goods disposal tax, solid waste disposal tax, and dry-cleaning solvent tax
- Motor vehicle lease and subscription tax
- 911 service charge for prepaid telecommunications tax
- Primary forest product tax
- Freight car line companies
- Excise tax on alcohol, tobacco products, installment paper dealers
- Privilege tax
- Excise tax on motor carrier, motor fuel, alternative fuel and inspection tax

BILL ANALYSIS: Subsection 1.1(a) waives the accrual of interest from April 15, 2020, through July 15, 2020, on an underpayment of tax imposed on a franchise, corporate income, or individual income tax return, including a partnership and estate and trust tax return, due from April 15, 2020, through July 15, 2020. The relief from accrual of interest would also include estimated tax payments due on or before April 15, 2020; that would apply to the first and second quarter estimated taxes. The act does not waive the accrual of interest on the tax payment extension of the other tax types.

Subsections 1.1(b) and 1.1(c) extend certain tax-related deadlines in the same manner as the IRS extended certain federal tax-related deadlines in its notice published on April 9th:

- Subsection 1.1(b) gives taxpayers until July 15, 2020, to request an overpayment of individual income taxes and corporate income and franchise taxes for which the statute of limitations to seek a refund expires on or after April 15, 2020, and before July 15, 2020. Under the general statute of limitations in G.S. 105-241.6, the time for requesting an overpayment of a tax due on or before April 15, 2017, would be April 15, 2020. This subsection provides an exception to the general rule by allowing a taxpayer to make the request on or before July 15, 2020.
- Section 1.1(c) gives taxpayers additional time to meet certain administrative and judicial action dates if those dates for action are due to be performed on or after April 1, 2020, and before July 15, 2020. Those actions include requests for a Departmental review of a proposed denial of a refund or a proposed assessment of tax, a petition for a contested case hearing at the Office of Administrative Hearings when a taxpayer disagrees with a notice of final determination issued by the Department, and a petition seeking judicial review of a party aggrieved by the final decision in a contested case. The actions are considered timely if filed on or before July 15, 2020.

EFFECTIVE DATE: The section became effective when the act became law, May 4, 2020.