



Advocacy Materials and Bullet Points on One Month Filing Penalty Relief Needed for Extended 2018 State Tax Returns in Affected States

1. Background and bullet points on the issue.

This year, the [draft Department of Revenue guidance](#) suggests:

- One-month extended filing relief for ALL taxpayers (last year, it was only for corporations), and
- Estimated payment/withholding relief for individuals similar to the [federal relief](#) provided for 2018.

Bullets points on why one month filing penalty relief is needed:

- Because 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 2018 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.
- In addition for 2018 returns, individual taxpayers need state estimated payment/withholding relief similar to what the IRS provided in [Notice 2019-25](#) for having individual estimated taxes and withholding of at least 80 percent of the 2018 current year tax liability.

Bullet points on why state tax authorities (of states with an individual income tax) should provide similar relief to the IRS estimated payment and withholding relief for individuals:

- For consistency and simplicity, for 2018 returns, individual taxpayers need state estimated payment and withholding relief similar to what the IRS provided in [Notice 2019-25](#) and [IR-2019-144](#) for having individual estimated taxes and withholding of at least 80 (instead of 90) percent of the 2018 current year tax liability.
 - State tax authorities should also provide similar relief to the IRS relief that removed the requirement for individuals to make estimated tax payments in four equal installments as long as all the payments were made by January 15, 2019.
 - State tax authorities should also provide an automatic waiver similar to the IRS provided automatic waiver to any individual taxpayer who paid at least 80% of their total tax liability through federal income tax withholding or quarterly estimated tax payments but did not claim the special waiver available to them when they filed their 2018 return earlier this year.

- State tax authorities should provide relief similar to the IRS relief for individual estimated payments and withholding as this is the first year of filing under many of the complicated Tax Cuts and Jobs Act provisions with recently issued (and still needed) guidance on the implementation.
- Individuals are filing state tax returns for 2018 under newly revised new state tax withholding table calculations.
- Many taxpayers are claiming a state standard deduction for the first time instead of itemized deductions. In many states, the personal exemption is no longer available similar to the elimination of the federal personal exemption, resulting in different taxable income calculations than individuals may have expected from prior years.
- The automatic waiver is needed at the state level as well for 2018 returns because individuals may have already filed their state tax returns prior to the issuance of state guidance on it or were not aware of any changed threshold for 2018 state tax returns.

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 9/16, 9/30, 10/15 and 11/15 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, 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 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 2018 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.

Bullet points on why states should enact legislation in 2020 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 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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