

MP&S TAX ALERT: TAX FILING EXTENSIONS FOR TAXPAYERS AFFECTED BY HURRICANE SANDY

As a result of the tremendous impact of Hurricane Sandy, the Internal Revenue Service (IRS) has announced that it is postponing various tax filing and payment deadlines for affected taxpayers. Those taxpayers in parts of New York, New Jersey and Connecticut that have been declared a disaster area by the Federal Emergency Management Agency (FEMA) will have until February 1, 2013 to file returns and pay taxes due. The postponed deadlines include:

- Fourth-quarter individual estimated tax payments, which are normally due on January 15, 2013;
- Deadlines for payroll and excise tax returns and accompanying payments for the third and fourth quarters of 2012, which are normally due on October 31, 2012 and January 31, 2013, respectively and
- Tax-exempt organizations required to file Form 990 series returns with an original or extended deadline falling during this period.

The IRS will also abate any interest, late-payment or late-filing penalties that would otherwise apply and, in addition, will waive failure-to-deposit penalties for federal payroll and excise tax deposits normally due on or after the disaster area start date and before November 26, if the deposits are made by November 26, 2012.

Taxpayers do not need to contact the IRS to get the relief, as it applies automatically to any taxpayer located in the disaster area.

Connecticut, New Jersey and both New York State and New York City have also issued certain tax filing extensions for those taxpayers directly affected by the storm. (See below.)

If you or your business is located in another state and has been impacted by Hurricane Sandy, please contact an MP&S tax advisor so they can address the extension relief granted in such other states.

Please note: Filing and payment extensions may change as time passes. Marks Paneth & Shron LLP (MP&S) will monitor the situation and issue further guidance as required.

Connecticut

The Connecticut Department of Revenue Services (DRS) has extended the deadline for state tax filings and payments due this week to the end of business on November 7, 2012. The tax deadlines extended from October 31, 2012 include:

- Monthly and quarterly sales/use tax returns;
- Income tax withholding;
- Alcoholic beverage tax;

- Admissions and dues tax;
- Electric generators tax and
- Various gross earnings taxes.

DRS has also announced that IRS extensions to February 1, 2013 will not be adopted in Connecticut. Instead, DRS has created a form to apply for a "hardship waiver" beyond the November 7, 2012 extended deadline, which will be reviewed on a case-by-case basis.

New Jersey

Certain New Jersey (NJ) tax filing and payment deadlines for businesses whose operations were disrupted by Hurricane Sandy have been extended until November 7, 2012 that would have been due October 30 and 31, 2012. Taxpayers who qualify include businesses located in NJ, out-of-state businesses with operations in NJ and those whose tax records are located in-state.

Filings and payments covered by the NJ extension also include Employer's Quarterly Report (Form NJ-927), Domestic Security Fee Quarterly Return (Form DSF-100) and Transporter of Motor Fuels Report (Form TMF-10).

If the taxpayer affected has been extended to file and pay the tax under this notice, any interest and penalties will be waived.

New York State

New York State (NYS) Notice N-12-11 was recently issued postponing the filing and payment deadlines for taxpayers directly affected by Hurricane Sandy. This is State-wide relief and such Notice lists those taxpayers who qualify for the extension. Deadlines have been postponed for the period beginning on October 26, 2012 and ending before November 14, 2012 and such filings will be due without interest if filed and paid by November 14, 2012. The following are the more noteworthy filings that are included:

- Personal income, corporate income and sales/use taxes;
- Extensions and additional extensions of time to file returns;
- Filing for protective refund claims for the MCTMT (i.e., for employers, the claims were originally due November 2, 2012);
- Making of tax elections;
- Filing for a credit or a refund;
- Filing for a redetermination of a deficiency, and
- Assessing a tax.

Taxpayers directly affected by the hurricane and are thus eligible for this relief are:

- Victims of the storm who reside in or have a principal place of business in NYS;
- All workers assisting in the relief activities in designated counties;
- Any taxpayer whose records are necessary to meet the tax filing or payment deadline are not available due to the storm;
- Taxpayers who have difficulty in meeting tax filing and payment deadlines because of disruptions in the transportation and delivery of documents by mail or private carriers or due to disruptions in communication services resulting from the storm, and
- Taxpayers whose tax practitioners were unable to complete work to meet tax filing and payment deadlines on their behalf due to the storm.

NYS Notice N-12-10 was also recently issued which relieves motor carriers from the highway use tax and fuel use tax credentials (i.e., certificate of registration, decals, or licenses) when traveling on the public highways of NYS for the purpose of aiding in disaster relief efforts. The period covered for this relief is from October 26, 2012 through January 24, 2013. Special rules apply to the remittance of the highway use tax and fuel use tax otherwise due during this period; details are addressed in NYS Notice N-12-13. NYS Notice N-12-14 has been issued and allows for the use of dyed diesel motor fuel in motor vehicles, for the period October 30, 2012 through November 20, 2012.

Most recently, NYS Notice N-12-12 was issued announcing relief for employers affected by Hurricane Sandy. Under this Notice, deadlines for the period beginning October 26, 2012 and ending before November 14, 2012 have been postponed to November 14, 2012 for the following:

- Remittances of income tax withheld by employers required to be made using form NYS-1, Return of Tax Withheld and
- Remittances of withholding tax or metropolitan commuter transportation mobility tax (MCTMT) required to be made by employers through the PromptTax system.

Note: This Notice N-12-12, supersedes the advice contained in Notice N-12-11 as it pertains to these remittances addressed above and provides similar extensions provided for all other tax filings and payments listed in Notice N-12-11.

New York City

New York City (NYC) Finance Memorandum 12-2, issued on November 1, 2012, has extended the time to file and pay all NYC taxes due on or after October 26, 2012 and before November 14, 2012 until November 14, 2012.

If the returns are filed and payments of taxes are made by November 14, 2012, any late filing, late payment or under-payment penalties will be waived. Interest, however, will be imposed on any tax payments made from the original due date to the date of payment.

Qualified taxpayers are those similarly defined above under the NYS Notices.

New York City also announced that there will be a temporary New York State and New York City sales tax deferral on materials needed for rebuilding larger businesses that were damaged by Hurricane Sandy.

As the announced filing and payment extensions by these four jurisdictions may change as time passes, MP&S will monitor any such updates and issue further guidance. In addition, if you or your business is located in a state other than the three addressed above and has been impacted by Hurricane Sandy, please contact an MP&S tax advisor so he or she can address the extension relief granted in such other states.

FOR MORE INFORMATION

If you have any questions or if we can help you navigate these or any other tax and financial issues that you might be dealing with as a result of the storm, please contact Steven Eliach, JD, LLM, the Principal-in-Charge of the MP&S Tax Practice, by phone at 212.503.6388 or by email at seliach@markspaneth.com or Steven P. Bryde, JD, State and Local Tax Principal, by phone at 212.503.8806 or by email at sbryde@markspaneth.com or any of our MP&S tax advisors.

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