

SC and NC Department of Revenue Responses to COVID-19 - UPDATED June 2, 2020

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Since it was first reported to the World Health Organization on December 31, 2019, the novel Coronavirus has and continues to wreak havoc on a global scale unseen in our lifetime. The COVID-19 pandemic has decimated global financial markets, upended daily life, and caused mass confusion and uncertainty. In a time of uncertainty, at least one thing remains certain: taxes.

Because the government must continue to operate, it must continue collecting revenue to fund those operations. However, they realize that we are all in this together and have made accommodations to ease the stress people are undoubtedly feeling in these uncertain times. We have summarized the South Carolina and North Carolina Departments of Revenue and other tax-related responses below.

To learn about the Federal response to COVID-19 as it relates to taxation, read David M. McCallum's summary [here](#).

South Carolina Department of Revenue Response

On March 17, 2020, Governor Henry McMaster issued Executive Order No. 2020-10, which authorized SC Department of Revenue Director Hartley Powell "to waive or suspend provisions of existing regulations prescribing procedures for conduct of state business if strict compliance with the provisions thereof would in any way prevent, hinder, or delay necessary action in coping with the emergency." In accordance with Governor McMaster's Executive Order, the Department issued SC Information Letter #20-4 and SC Information Letter #20-8 setting forth tax relief provisions for businesses and individuals affected by the COVID-19 pandemic. The Information Letters provide the following relief:

Extending Time to Claim a Refund

→ A taxpayer generally must file a claim for refund within three years from the date a return is filed, or two years from the date the tax was paid, whichever is later. For taxpayers whose refund claim must be filed by a

date between April 1, 2020, and July 15, 2020, SC Information Letter #20-8 extends the deadline to file a claim for refund to July 15, 2020.

Extending Tax Filing *and* Payment Due Date

→ Income Taxes

- The filing and payment deadlines for South Carolina income tax returns and payments originally due between April 1, 2020, and July 15, 2020, are extended to July 15, 2020. This extension also applies to estimated payments due between April 1, 2020 and July 15, 2020.
- The extension applies to all taxpayers who have an income tax, franchise tax, or corporate license fee filing or payment obligation – i.e. individuals, corporations, partnerships, banks, savings and loan associations, utilities, trusts and estates, and tax-exempt organizations – regardless of whether the taxpayer has a calendar or other fiscal year end.
- A prior version of Department guidance (SC Information Letter #20-3) provided an extension until June 1, 2020. SC Information Letter #20-4 modified the income tax filing and payment deadlines to conform to the Federal guidance published in IRS Notice 2020-18.

→ Other State Taxes

- Tax filing and payment deadlines falling between April 1, 2020 and June 1, 2020 for state taxes other than income tax (See SC Information Letter #20-3) have been extended to June 1, 2020 for the following taxpayers:
 - Individuals and businesses located in South Carolina who have been impacted by Coronavirus;
 - Taxpayers who have businesses in South Carolina with offices in South Carolina;
 - Taxpayers whose tax records are located in South Carolina; and
 - Taxpayers whose returns are prepared by tax professionals impacted by Coronavirus.
- This relief applies to any taxes administered by or returns filed with the Department, including, but not limited to:
 - Income tax
 - Sales and use tax
 - Admissions tax
 - Motor fuel user fee
 - Withholding taxes
 - State accommodations taxes
 - Beer, wine, and liquor taxes
- Re: Biennial licenses for coin-operated devices or machines, and for owner/operator licenses that expire May 31, the Department has extended the date for renewal. A holder of one of the aforementioned licenses that expires May 31 will have until July 31, 2020, to pay and renew these licenses.
 - Licenses renewed during in accordance with the above guidance will be valid from June 1, 2020, through May 31, 2022.

- This relief does not apply to any municipal or county coin-operated device license renewal, or returns or payments filed with a county or municipality such as the local hospitality tax or local accommodations tax.
- To take advantage of this relief, taxpayers filing by mail must write “CORONAVIRUS” or “COVID-19” at the top of any paper return or mark the “disaster area” check box if provided on the return. Returns filed electronically by impacted taxpayers through MyDORWAY qualify automatically.
- NOTE: The effective due date for South Carolina income tax returns and payments (including estimated payments) originally due April 15, 2020 is now July 15, 2020. This also means that if taxpayers need additional time beyond July 15, 2020, they can request an additional extension of the filing due date to October 15, 2020 if they request the extension by July 15, 2020.

Waiving Penalties and Interest

- The Department will waive penalties *and* interest due on tax returns and payments related to the filing and payment extensions referenced above.

As developments continue, the Department will update its COVID-19 information page at dor.sc.gov/emergencies.

South Carolina Department of Employment and Workforce Response

Extending Payment Due Date

Employers in South Carolina are required to pay a quarterly Unemployment Insurance Tax (“UIT”) to the SC Department of Employment and Workforce (“SCDEW”) based on the amount of wages they pay their employees. The first quarter payment, covering wages paid between January and March, is generally due April 30th.

SCDEW issued guidance on March 19, 2020 extending the due date for first quarter UIT. According to the guidance, “[t]he deadline to pay first quarter contributions has been extended from April 30, 2020, to June 1, 2020. **Important:** Employers will still need to submit their wage reports by the April 30, 2020, deadline.”

So, while SCDEW has extended the due date for payment of the UIT to June 1, 2020, employers must continue to meet their filing requirements.

As developments continue, SCDEW will update its COVID-19 information page at dew.sc.gov/covid-hub.

North Carolina Department of Revenue Response

On March, 10, 2020, Governor Roy Cooper issued Executive Order No. 116 declaring a state of emergency in North Carolina, authorizing all state agencies to implement the provisions of the North Carolina Emergency Operations Plan. In accordance with that authorization, Secretary of Revenue Ronald G. Penny has ordered the North Carolina

Department of Revenue to provide the following relief:

Extending Tax Filing *and* Payment Due Date

- Taxpayers will not incur penalties for failing to file returns or pay taxes due with their returns on April 15, 2020, so long as they file and pay the tax by July 15, 2020. Taxpayers may continue to request an extension of the filing due date on or before April 15, 2020.
- UPDATE: In accordance with a new law (Session Law 2020-3) signed by Governor Cooper on May 4, 2020, the Department will not charge interest from April 15, 2020, through July 15, 2020 on underpayments of individual income, corporate income, and franchise tax on returns due to be filed between April 15, 2020 through July 15, 2020. The interest waiver also applies to estimated income tax payments due between the same dates.

Extending Time to Claim a Refund

- A taxpayer must generally request a refund of an overpayment of tax by filing an amended return or a claim for refund by the later of three years after the due date of the return, or two years after payment of the tax. Under Session Law 2020-3, if the statute of limitations for obtaining a refund for an Affected Tax Return expires during the COVID Period, the Statute of limitations is extended to July 15, 2020.

Extension of Certain Tax-Related Administrative and Appeals-Related Deadlines

- Taxpayers who receive a proposed assessment of tax or a proposed denial of refund from the Department have the right to challenge the Department's action. Taxpayers that disagree with the Department's action may request a Departmental review within 45 days from the date the notice was mailed to the taxpayer.
- Under Session Law 2020-3, a request for Departmental review required to be filed with the Department on or after April 1, 2020, and before July 15, 2020 (the "COVID Appeal Period") will be considered timely if the request is filed with the Department on or before July 15, 2020. The relief also applies to the following time-sensitive actions when the action is required to be completed by a Taxpayer during the COVID Appeal Period:
 - Petitions for a contested case hearing at the Office of Administrative Hearings;
 - Petitions for judicial review.
- This relief applies to all tax types subject to C. Gen. Stat. § 105-241.11, including franchise, corporate income, individual income, and sales and use tax.

Waiving Other Penalties

- Penalties incurred for failing to meet due dates between March 15, 2020 and July 15, 2020 are waived for the following:

- Failure to obtain a license (G.S. 105-236(a)(2));
 - Failure to file a return (G.S. 105-236(a)(3));
 - Failure to pay a tax when due (G.S. 105-236(a)(4)); and
 - Failure to meet other informational return requirements (G.S. 105-236(a)(10)).
- The following tax types are included in this penalty relief:
- Withholding
 - Sales and Use
 - Scrap Tire Disposal
 - White Goods Disposal
 - Motor Vehicle Lease and Subscription
 - Solid Waste Disposal
 - 911 Service Charge for Prepaid Telecommunications Service
 - Dry-Cleaning Solvent
 - Primary Forest Products
 - Freight Car Line Companies
 - Various Taxes Administered by the Excise Tax Division
- To be eligible for the waiver, a taxpayer must obtain the license, file the return or extension application, or pay the tax by July 15, 2020.
- To take advantage of this relief, Affected Taxpayers should complete Form NC-5500, Request to Waive Penalties, and write “COVID-19” at the top of the form. If a taxpayer does not have access to Form NC-5500, he or she can attach a letter requesting penalty waiver, which must include the taxpayer’s name, address, SSN or FEIN, Account ID, and the tax type and period for which they are seeking a penalty waiver.
- NOTE: This waiver does *not* apply to interest charges. State law prevents the Department from waiving any interest, including interest assessed for the underpayment of estimated tax, except in the limited case of interest on taxes imposed prior to or during a period for which a taxpayer has declared bankruptcy under Chapter 7 or 13 of Title 11 of the United States Code. The interest waiver referenced above only applies to individual income, corporate income, and franchise taxes.

As developments continue, the Department will update its COVID-19 information page at ncdor.gov/home/ncdor-actions-covid-19.

For more detailed information and guidance, please reach out to Andrew W. Saleeby and your Nexsen Pruet Tax Team.

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