



## DIRECTIVE

**Subject:** Timely Mailing of Returns, Documents, or Payments  
**Tax:** All North Carolina Tax Schedules  
**Law:** N.C. Gen. Stat. § 105-263(a)  
**Issued By:** Tax Administration  
**Date:** August 24, 2018  
**Number:** TA-18-1

The purpose of this Directive is to provide guidance as to when a mailed North Carolina tax return or other document is timely filed or tax timely paid. For purposes of this Directive, a “document” includes, but is not limited to, an original return, an amended return, an informational report, a payment, a claim for refund, and a request for review.

This Directive supplements and modifies the guidance provided by the Department in [Directive TA-16-1](#), titled “*When a North Carolina Tax Return or Other Document is Considered Timely Filed or a Tax is Considered Timely Paid if the Due Date Falls on a Saturday, Sunday, or Legal Holiday*,” issued on April 12, 2016.

### **North Carolina Law**

North Carolina General Statute (“N.C. Gen. Stat.”) § 105-263(a) states that for mailed documents, “[s]ections 7502 and 7503 of the Code govern when a return, report, payment, or any other document that is mailed to the Department is timely filed.”

N.C. Gen. Stat. § 105-264(a) provides, in pertinent part, “[i]t is the duty of the Secretary to interpret all laws administered by the Secretary...”

### **Federal Law**

Section 7502 of the Internal Revenue Code (“Code”), sometimes referred to as the “mailbox rule”, is applied to any return, document, or payment that is required to be filed within a prescribed period or on or before a prescribed date, except for documents required to be filed using a method other than mailing. It provides that a return or document is considered timely filed or a tax timely paid if the return, document, or payment was timely mailed based on the postmark on the mailing. If delivered by registered or certified mail, the date of registration is deemed the postmark date.

For the statute to apply, the return, document, or payment **must have been received**. Other than direct proof of actual delivery, proof of proper use of registered or certified mail and proof of proper use of a private delivery service approved by the IRS are the exclusive means to establish prima facie evidence of delivery of a document. 26 CFR 301.7502-(e)(2). No other evidence of a postmark or of mailing will be prima facie evidence of delivery or raise a presumption that the document was delivered. *Id.*

### **Application of 7502**

When a document is delivered after its prescribed due date and received by the Department, it will be deemed to be filed or paid on the date of the postmark stamped on the envelope in which it was mailed or the date of registration if delivered by registered or certified mail.

Examples:

- A tax return is due on April 15<sup>th</sup>. The return was received by the Department on April 21<sup>st</sup>, which is after its due date. The postmark date on the envelope is April 14<sup>th</sup>. The return is deemed to be delivered on April 14<sup>th</sup> and will be considered timely filed.
- A payment is due on November 30<sup>th</sup>. The payment was sent by certified mail and was received by the Department after its due date, on December 3<sup>rd</sup>. The date of mail registration is November 30<sup>th</sup>, which is the deemed delivery date, and will be considered timely filed.
- The Department of Revenue mails a notice of proposed assessment to a taxpayer on January 5<sup>th</sup>. By statute, the taxpayer has forty-five days to request a review of the proposed assessment. The forty-fifth day is February 19<sup>th</sup> and the taxpayer has chosen to mail a request for review. It is delivered to the Department on February 21<sup>st</sup>, after the 45 days has expired, in an envelope with a postmark date of February 15<sup>th</sup>. Because the request for review was postmarked on February 15<sup>th</sup>, which is before the 45 days had expired, it is considered a timely filed request for review.

A taxpayer must be diligent to preserve evidence of mailing a document to the Department. If the Department does not have a record of timely receiving the document, a taxpayer must provide direct evidence that the document was in fact delivered to the Department or proof of proper use of registered mail, certified mail, or an IRS approved private delivery service. If a taxpayer cannot provide the preceding proof, then the document is not filed.

## **Assistance**

If you have any questions about this notice, you may call the Contact Center at 877-252-3052 (8:00 am until 5:00 pm EST, Monday through Friday), or write the Department at PO Box 1168, Raleigh, NC 27602.

*To the extent there is any change to a statute or regulation, or new case law subsequent to the date of this Directive, the provisions in this Directive may be superseded or voided. To the extent that any provisions in any other notice, directive, technical bulletin, or published guidance regarding the subject of this Directive and issued prior to this Directive conflict with this Directive, the provisions contained in this Directive supersede the previous guidance.*