



September 21, 2021

Important Notice: Tax Relief for Victims of Tropical Storm Fred

In response to Tropical Storm Fred, President Joseph R. Biden, Jr. declared a major disaster on September 8, 2021, and ordered federal aid to supplement State, tribal, and local recovery efforts in the counties affected by Tropical Storm Fred beginning on August 16, 2021. The designated counties are: Avery, Buncombe, Haywood, Madison, Transylvania, Watauga and Yancey (collectively “Disaster Counties”).

On September 10, 2021, the Internal Revenue Service (“IRS”) announced tax relief available to individual taxpayers who reside in, or taxpayers who have a business in, the Disaster Counties. The tax relief is also available to taxpayers whose records necessary to meet a tax deadline are located in the Disaster Counties and to relief workers assisting in the Disaster Counties and who are affiliated with a recognized government or philanthropic organization. These taxpayers are collectively referred to as “Affected Taxpayers” (Treas. Reg. §301-7508A-1(d)(1)).

Federal Tax Relief

The federal tax relief gives Affected Taxpayers until December 15, 2021, to file certain individual and business tax returns and make certain tax payments that were due on or after August 16, 2021, through December 15, 2021. This includes income tax returns due (originally or under extension) on October 15, 2021, quarterly payroll or excise tax returns normally due on October 31, 2021, and quarterly estimated tax payments due on September 15, 2021. Businesses with extensions also have the additional time including, among others, calendar-year partnerships and S Corporations whose 2020 extensions run out on September 15, 2021, and calendar year corporations whose extensions run out on October 15, 2021.

In addition, the IRS will waive any late deposit penalties for federal payroll or excise tax deposits due on or after August 16, 2021, and before August 31, 2021, if the deposits are made by August 31, 2021. For detailed information about the federal tax relief, see www.irs.gov.

North Carolina Tax Law

G.S. 105-249.2(b) provides that the penalties for failure to obtain a license (G.S. 105-236(a)(2)), failure to file a return (G.S. 105-236(a)(3)), and failure to pay tax when due (G.S.

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105-236(a)(4)) (collectively “Late Action Penalties”) may not be assessed for any period in which the time for filing a federal return or report or for payment of a federal tax is extended under section 7508A of the Internal Revenue Code because of a presidentially declared disaster.

G. S. 105-237(a) authorizes the Secretary of Revenue to waive or reduce any penalties provided for in Subchapter 1 of Chapter 105. The Department of Revenue’s (“Department’s”) Penalty Policy authorizes the waiver of penalties for automatic reasons for a taxpayer that is unable to comply with the law’s requirements to timely file a tax return or timely pay tax due because of a natural disaster, such as a tornado or hurricane.

North Carolina Tax Relief

Except as noted in “Exceptions” below, the Department will waive any Late Action Penalties assessed against Affected Taxpayers from August 16, 2021, through December 15, 2021, if the license is obtained, the return is filed, or the tax is paid by December 15, 2021. The waiver will be considered a waiver for automatic reasons and will not be considered as a waiver for good compliance, which can only be granted once every three years per tax type.

Under the Department’s Penalty Policy, a taxpayer not located in a Disaster County (“Non-Affected Taxpayer”) can request a waiver of any Late Action Penalty occurring within 3 months following the date of the disaster. If a Non-Affected Taxpayer is unable to timely file a tax return or timely pay tax due because of Tropical Storm Fred, the Non-Affected Taxpayer must provide documents that support the taxpayer’s claim that Tropical Storm Fred was the cause for the Late Action Penalty.

Interest will be assessed on any tax due from the date the tax was due until the date the tax is paid. Interest cannot be waived 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 Chapter 13 of Title 11 of the United State Code.

Exceptions

1. The waiver for failure to pay tax when due does not apply to tax payments that were due to be paid prior to August 16, 2021. For instance, an Affected Taxpayer who under the disaster declaration has until December 15, 2021, to file their 2020 return will not receive a waiver for failure to pay tax when due because the tax payments related to the 2020 individual income tax return were due on May 17, 2021.
2. The waiver for Late Action Penalties applies to all Affected Taxpayers that file State withholding tax returns and pay the tax due by December 15, 2021, except those who have been notified by the Department that they are required to pay State taxes withheld by the date set by the IRS for depositing federal employment taxes on those same wages, i.e., semiweekly taxpayers. An Affected Taxpayer that is a semiweekly taxpayer will only receive a waiver of the penalty for failure to pay the tax when due on State tax withholdings due on or after August 16, 2021, and before August 31, 2021, if the tax was paid on or before August 31, 2021.

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3. The federal relief allows taxpayers to make their quarterly estimated income tax payments due on September 15, 2021, by December 15, 2021, without penalty. Under North Carolina law, the liability for failure to pay estimated income tax timely is interest. As stated above, the Secretary is not authorized to waive interest. Therefore, estimated income tax payments due between August 15, 2021, and December 15, 2021, remain due on the statutory due date.

How to Obtain a North Carolina Penalty Waiver

An Affected Taxpayer that was erroneously assessed a Late Action Penalty and a Non-Affected Taxpayer that cannot meet its filing or payment requirement as a result of Tropical Storm Fred (“Impacted Taxpayer”) should mail Form NC-5500, Request to Waive Penalties (“NC-5500”) to the Department at the address shown on the bottom of the form. Place an “X” in the block beside “natural disaster” and write “Tropical Storm Fred” on top of the form. Form NC-5500 is available on the Department’s website, www.ncdor.gov. Importantly, an Impacted Taxpayer that files a tax return with the Department by paper should also write “Tropical Storm Fred” at the top of page 1 of the tax form.

An Impacted Taxpayer that does not have access to Form NC-5500 can call the Department at 1-877-252-3052 (8:00 am until 4:30 pm EST, Monday through Friday), to request assistance.

Further Developments

If other North Carolina counties are declared Disaster Counties, the time period of relief provided by the IRS will also apply to taxpayers in those counties for State tax purposes. Check the Department’s website frequently for updates.

Assistance

If you have any questions about this notice, or if you would like to request Form NC-5500, you may call the North Carolina Department of Revenue Customer Service line at 1-877-252-3052 (8:00 am until 4:30 pm EST, Monday through Friday), or write to Customer Service, 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 notice, the provisions in this important notice 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 notice and issued prior to this notice conflict with this important notice, the provisions contained in this important notice supersede the previous guidance.