

October 7, 2022

Important Notice: Tax Relief for Victims of Hurricane Ian

In response to Hurricane Ian, [President Joseph R. Biden declared a major disaster](#) on October 1, 2022, and ordered federal aid to supplement State, tribal, and local recovery efforts in the areas affected by Hurricane Ian beginning on September 28, 2022. The designated area for the disaster includes all counties in North Carolina (collectively “Disaster Counties”).

On October 5, 2022, the [Internal Revenue Service \(“IRS”\) announced tax relief](#) available to (1) individuals who live in the Disaster Counties, (2) businesses (including tax-exempt organizations) that have a business located in the Disaster Counties, (3) taxpayers not located in the Disaster Counties but whose records necessary to meet a tax deadline are located in the Disaster Counties, (4) relief workers assisting in the Disaster Counties and who are affiliated with a recognized government or philanthropic organization, and (5) any individual visiting the Disaster Counties who was killed or injured as a result of the disaster (collectively referred to as “Affected Taxpayers”).

Federal Tax Relief

The federal tax relief gives Affected Taxpayers until February 15, 2023, to file certain individual and business tax returns and make certain tax payments that were due on or after September 28, 2022, through February 15, 2023. This includes income tax returns due to be filed (originally or under extension) on October 17, 2022; quarterly payroll or excise tax returns normally due to be filed on October 31, 2022, or January 31, 2023; and quarterly estimated tax payments due to be filed on January 17, 2023. Businesses with an original or extended due date also have the additional time, including calendar-year corporations whose 2021 tax returns are due to be filed on October 17, 2022.

In addition, the IRS will remove any late deposit penalties for federal payroll or excise tax deposits due on or after September 28, 2022, and before October 13, 2022, if the deposits are made by October 13, 2022. 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.

North Carolina Department of Revenue

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 (“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”) [Penalty Waiver 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.

G.S. 105-263(c) provides that a person who is granted an automatic extension to file a federal income tax return, including a return of partnership income, is granted an automatic extension to file the corresponding State income tax return and franchise tax return. Importantly, however, this provision does not apply when a taxpayer’s federal income tax return is automatically extended because of a presidentially declared disaster.¹

North Carolina Tax Relief

Except as noted in “Exceptions” below, the Department will remove any Late Action Penalties assessed against Affected Taxpayers for licenses, returns, or payments due from September 28, 2022, through February 15, 2023, if the license is obtained, the return is filed, or the tax is paid by February 15, 2023. As noted above, the date your return is due to be filed (originally or under an extension without regard to the disaster declaration) remains the same.

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 Hurricane Ian, the Non-Affected Taxpayer must provide documents that support the taxpayer’s claim that Hurricane Ian 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 State tax relief for failure to pay tax when due does not apply to tax payments that were due to be paid prior to September 28, 2022. For instance, an Affected Taxpayer who under the disaster declaration has until February 15, 2023, to file their federal 2021 individual income tax return will not receive a waiver for failure to pay tax when due because the tax payment related to the 2021 State income tax return was due on April 15, 2022.

¹ See HB 83, s. 5.5.(b), [S.L. 2022-13](#).

North Carolina Department of Revenue

2. The State tax relief applies to all Affected Taxpayers that file State withholding tax returns and pay the tax due by February 15, 2023, 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 September 28, 2022, and before October 13, 2022, if the tax was paid on or before October 13, 2022.
3. The federal tax relief allows taxpayers to make their federal quarterly estimated income tax payments due to be filed on January 15, 2023, by February 15, 2023, 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 September 28, 2022 and February 15, 2023, 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 Hurricane Ian (collectively referred to as “Impacted Taxpayers”) 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 “Hurricane Ian” on top of the form. Form NC-5500 is available on the Department’s website, www.ncdor.gov. Importantly, Impacted Taxpayers that file a State tax return with the Department by paper should also write “Hurricane Ian” at the top of page 1 of the tax form.

Impacted Taxpayers that do not have access to Form NC-5500 can call the Department at 1-877-252-3052 (7:00 am until 4:30 pm EDT, Monday through Friday), to request assistance.

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 (7:00 am until 4:30 pm EDT, Monday through Friday), or write to Customer Service, PO Box 1168, Raleigh, NC 27602-1168.

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.