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## Mandatory State Extension

### Revenue Laws Study Committee

April 11, 2018



### Session Law 2017-204

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**S.L. 2017-2014** required the Department to provide a report to the Revenue Laws Study Committee on:

- Feasibility of allowing a federal extension in lieu of the mandatory State extension
- Legislative recommendations regarding options to eliminate the mandatory State extension



## Current Extension Process

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- Taxpayers are required to file a State extension form to receive an extension of time to file returns.
- **The Department does not accept a federal extension form in lieu of a State extension form.**
- When a State extension form is timely filed, the due date of the tax return is extended for six months.



## Current Extension Process

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- Taxpayers may submit payment of tax with extension form **but is not required**.
- An extension of time to file the return does not extend the time to pay the amount of tax due.
- If the State's extension form is received after the original due date of the return, the extension request is denied. A return received after the ordinal due date is delinquent and subject to interest and applicable penalties.



## Statutory Authority for Current Extension Process

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- **G.S. 105-129**

A taxpayer may ask the Secretary for an extension of time to file a **franchise tax return** under G.S. 105-263.

- **G.S. 105-130.17**

A taxpayer may ask the Secretary for an extension of time to file a **corporate income tax return** under G.S. 105-263.

- **G.S. 105-155**

A taxpayer may ask the Secretary for an extension of time to file an **individual income tax** return under G.S. 105-263.



## Statutory Authority for Current Extension Process

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### **G.S. 105-263**

- The Secretary may extend the time in which a person must file a return with the Secretary.
- **To obtain an extension of time for filing a return, a person must comply with any application requirement set by the Secretary.**
- An extension of time for filing a franchise tax return or an income tax return does not extend the time for paying the tax due or the time when a penalty attaches for failure to pay the tax.



## Application Requirement by Administrative Rule

The Secretary has adopted administrative rules for purposes of administering the current extension process.

- **Franchise Tax** - 17 NCAC 05B .0107
- **Corporate Income Tax** - 17 NCAC 05C .2004
- **Individual Income Tax** - 17 NCAC 06B .0107



## Statistics on Current Extension Process

Number of extensions filed tax year 2015	
• Individual Income	228,651
• Corporate	104,459
• Franchise	96,574
• Partnership	49,327

Number of extensions filed tax year 2016	
• Individual Income	186,687
• Corporate	94,213
• Franchise	84,291
• Partnership	52,325



## Statistics on Current Extension Process

Total number of failure to file penalty assessments generated from April to October 2015		
Tax Type	Number of Assessments	Amount Assessed
• Individual	37,104	\$3,552,194
• Partnership	613	\$332,763
• Corporate	4,842	\$292,072
• <b>Totals</b>	<b>42,559</b>	<b>\$4,177,029</b>

  

Total number of failure to file penalty assessments generated from April to October 2014		
Tax Type	Number of Assessments	Amount Assessed
• Individual	39,624	\$3,658,847
• Partnership	426	\$101,447
• Corporate	4,099	\$229,985
• <b>Totals</b>	<b>44,149</b>	<b>\$3,990,279</b>



## Interviews with Selected States

DOR contacted the following States regarding the process of granting a 6 month state extension based on the approved federal extension:

- **South Carolina**
- **Pennsylvania**
- **Maine**
- **Rhode Island**

**Note.** Details of the Department's finding for each state can be found in the Secretary's memo to the Revenue Laws Study Committee dated January 22, 2018.



## Possible Options for Extension Processing in 2019

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### Option one

Do nothing. Department will continue with current process.



## Possible Options for Extension Processing in 2019

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### Option two

- Provide an automatic six month extension to **all** taxpayers who file an income tax return within six months of the original due date **and** have received a federal extension.
- Modify tax return to include a “check off” box. **If taxpayer “checks the box”, taxpayer certifies that a federal extension was received.**
- If the box is not checked, no extension allowed. Failure to file penalty assessed on additional tax due.

**Note.** States do not receive information from the IRS regarding federal extensions filed with the IRS. The Department can not verify whether or not a taxpayer’s request for federal extension was approved or denied by the federal government.



## Possible Options for Extension Processing in 2019

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### Option three

- Continue with current process **with one exception**. If taxpayer files an income tax return with the Department
  - (1) within six months of the original due date **and**
  - (2) “checks the box” certifying a federal extension was received, **and**
  - (3) the income tax return reflects no tax due, taxpayer will receive a six month extension.
  
- If the box is not checked, no extension allowed. Failure to file penalty assessed on additional tax due.



## Legislative Recommendation

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- The Department recommends **Option three**.
- Department will continue to offer and process State extension forms.
- If Option two is implemented, the **failure to file penalty** generated from April to October may be sharply reduced or eliminated.
- All civil penalties collected by the Department are remitted to the Office of State Budget and Management for deposit in the Civil Penalty and Forfeiture Fund (CPFF). CPFF deposits are appropriated to the State Public School Fund.

## Questions?

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