



NCACPA Tax Resource Group Member Questions and Comments for NCDOR

TAXES
Individual Income Tax
<p>When will the NCDOR open eFile for individuals for the 2023 tax season?</p> <p>We are targeting to open by late January or early February; however, this is dependent on successful testing of updates to our systems. In addition, the IRS has not announced an opening date at this time which is a dependency for NC to open.</p>
<p>We have had an issue with a few individual returns that were extended with the IRS via electronic extension. Due to an error, the box was not checked on form D-400 indicating that the IRS granted an automatic extension. Notices are arriving assessing a failure to file penalty. The NCDOR requires federal transcripts to acknowledge the federal extension. We have offered reports from our tax software that prove a federal extension was transmitted and accepted. The federal extension is automatic, not conditional. NCDOR refuses this evidence of extension. Given the hardship of communicating with the IRS and the unreliability of their electronic communication venues, the NCDOR's position has resulted in some hardship to resolve what should be a simple issue. Can anything be done to streamline this process?</p> <p>G.S. 105-263(c) requires the taxpayer to certify on the State tax return that person was granted a federal extension. The Department uses the "box" as evidence of the taxpayer certification. If the box is not checked, the Department presumes the taxpayer did not receive an automatic federal extension.</p> <p>A taxpayer who received an automatic federal extension but failed to check the box can overcome the State's presumption if the taxpayer provides acceptable documentation that shows the taxpayer received an automatic federal extension. A federal transcript is acceptable documentation. The Department will accept other documentation if the documentation clearly shows the taxpayer was granted a federal extension.</p> <p>Importantly, the 2022 General Assembly added legislation to clarify that a taxpayer who receives an automatic federal extension because of a presidentially declared disaster does NOT receive an automatic State extension.</p>

Over the years, we have inquired about withholding records (e.g., wage and retirement withholding). NCDOR has not been able to provide this information up to now. When we have clients with delinquent returns—including deceased clients—it is often difficult (if not impossible) to obtain copies of old W-2s and 1099s. NC will not give credit for withholding without these forms. Does the Department intend to make these records available in the future?

The Department's current system does not have the capability to provide copies of these forms. When requested by the taxpayer, the Department can manually research and provide verbal or written confirmation of the information. The Department will use data gathered from information return filings, such as NC-3 and W-2, to verify and allow withholding credits. Generally, examination division includes credit for taxes withheld and paid as reflected on any W-2 submitted by taxpayer with their NC-3. However, we do not have 100% participation with taxpayer submitting electronic copies of W-2 with NC-3 submission.

FAQ #5 in the "FAQ Regarding State Tax Relief for Victims of Hurricane Ian" appears to say that if a NC extension was not specifically requested, then the taxpayer does not qualify for relief. Please clarify if taxpayers who only filed a federal extension qualifies for the relief.

G.S. 249.2(b) prohibits the Department from assessing certain penalties, including the failure to file a return on the day it is due, for any period in which the time for filing a federal return or report or for paying a federal tax is extended because of a presidentially declared disaster.

On October 5, 2022, the IRS announced that an individual impacted by Hurricane Ian has until February 15, 2023, to file certain tax returns and make certain tax payments that were due on or after September 28, 2022, through February 15, 2023. As noted in the Department's important notice, State tax relief applies to NC tax returns and payments due from September 28, 2022, through February 15, 2023, if the return is filed or the tax is paid by February 15, 2023.

Without a valid extension, the 2021 NC income tax return for a calendar year end individual ("2021 NC Return") was due April 15, 2022. Because the 2021 NC Return was due prior to September 28, 2022, an impacted taxpayer who did not receive an extension does not qualify for State tax relief.

This question pertains to businesses that elected to be taxed at the PTE level in other states for the 2021 tax year. Please explain what is necessary for the taxes paid to the other states to be creditable on the shareholder or partner's personal return.

On April 14, 2022, the Department issued an [important notice](#) to provide taxpayer's with information on North Carolina's taxed pass-through entity tax, including when a shareholder or partner can claim a credit for taxes paid for income taxes paid to another state. See Topic C.

Corporate Income and Franchise Tax - C and S Corporations

When will the NCDOR open eFile for businesses for the 2023 tax season?

We are targeting to open by mid-January; however, this is dependent on successful testing of updates to our systems.

Does the PTE tax take into account separately stated items of income but not separately stated items of deduction?

Yes. Separately stated items of deduction are not included when calculating each shareholder's pro rata share of the taxed S Corporation's taxable income (or each partner's distributive share of the taxed partnership's taxable income.) For more information, see [G.S. 105-131.1A\(b\)\(2\)](#) and [105-154.1\(b\)\(2\)](#) and the Department's [important notice](#) (FAQ number A6).

Partnership, LLC, and Fiduciary Returns

When will the NCDOR open eFile for businesses for the 2023 tax season?

We are targeting to open by mid-January; however, this is dependent on successful testing of updates to our systems.

How does a cash basis partnership make payment of the PTET in 2022 before the 2022 return making the PTE election gets filed in March 2023?

A partnership that plans to make a taxed PTE election in 2022 can voluntarily pay North Carolina income tax based on the estimated net income of the partnership. The Department provides specific tax forms for the partnership to make estimated income tax payments. The forms are available on the [DOR website](#). For more information, see the Department's [important notice](#) (FAQ number A9).

When will the NCDOR make available the ability to pay online taxes related to fiduciary income tax returns?

Fiduciary income taxes can be paid online using our online file and pay application: <https://electronic-services.dor.nc.gov/wps/portal/d407v>. In addition, the tax can be paid using commercial software products. For a full list of electronic options, see: <https://www.ncdor.gov/file-pay/electronic-filing-options-and-requirements>.

We are experiencing tax notices on fiduciary returns that are electronically filed with balances due. Is there a way the NCDOR can draft tax due—via tax preparation software—for fiduciary tax returns? Alternatively, would the NCDOR consider delaying the issuance of notices to allow for the processing of payments?

Software products have the option to support fiduciary tax return payments; however, not all software products choose to support payments. We encourage you to check with your provider to see if they offer this option. If they need assistance or more

information on this option, they can contact the Department's eFile area for assistance.

The Department has processes in place that delays the issuance of notices for electronically filed returns to allow time for processing payments. If you have examples where this delay was not sufficient or a notice was immediately issued, please provide examples to brittany.johnson@ncdor.gov so we can research.

Sales and Use Tax (excluding Consumer Use Tax)

None

Consumer Use Tax

None

Tax Credits

None

DEALING AND INTERACTING WITH THE DEPARTMENT

Communications with the Department of Revenue

We occasionally receive an email from ofps.revenue@ncdor.gov with the subject line: NCDOR Confirmation. Here is an example of the body of the email:

"For ID number ending in 3727. Your electronic Individual Income D-400V submission at 16:17:45 10/16/2022 to the North Carolina Department of Revenue has been received. If you need to contact us, please reference confirmation number 182210161617454662 and document locator number 4228924003817. Thank you for using the North Carolina Department of Revenue Online Filing and Payments website."

Is it possible for additional information to be provided in these emails, such as the taxpayer's name (even if truncated) and the amount paid?

Because these emails are sent via unencrypted email, N.C.G.S. 105-259 limits the Department's ability to include this information because of potential unintended disclosure. Additional details were recently added to address this concern; however, we are unable to add the taxpayer name and payment amount.

Now that POAs are filed electronically, what is the timeline for the Department's ability to automatically share notices with the POA representative as well as the taxpayer?

We will begin testing the notice of collections with external customers by the middle of the year.

Taxpayer Audits, Enforcement, and Collection Actions

Some taxpayers have received levies prior to the receipt of a demand notice. How does a taxpayer resolve this issue and ensure that they do not lose their rights? Is the Department taking steps to correct this issue (e.g., issuing notices via certified mail)?

An employer garnishment or wage garnishment should not be issued until after the notice of collection has been mailed to the taxpayer. A notice mailed to a taxpayer is presumed to have been received by the taxpayer unless the taxpayer makes an affidavit to the contrary with 90 days after the notice was mailed. If the taxpayer makes this affidavit, the notice is considered to have been delivered on the date the taxpayer makes the affidavit, and any time limit affected by the notice is extended to the date the taxpayer makes the affidavit. If you have specific examples of this, please contact me at Cale.Johnson@ncdor.gov or (919) 614-3984 so the Department can review processes to determine the root cause.

Interaction with Practitioner Priority Service Offices

None

NCDOR website, eServices, or other web services comments and suggestions

Does the NCDOR have any plans to expand eServices?

A client who always pays his federal and state taxes electronically erroneously omitted a digit from his bank account number when scheduling a payment to NC. Because the payment was large and to be drafted from his brokerage account, not his personal checking account, he was not aware of the error until he received a penalty notice from the NCDOR several months later. Even if he had noticed the payment not being drafted from his brokerage account or personal checking account, it would have been late by the time he was aware. Would the NCDOR consider notifying taxpayers when an electronic draft is rejected (for all tax types)?

Currently, we do not have the ability to notify taxpayers when a payment is returned. The ability to immediately notify a taxpayer when an electronic payment is returned is an enhancement we have noted for an upgraded tax system, along with real-time verification of banking information. In the meantime, we encourage taxpayers to sign up for alerts from their financial institution that will provide notification.

OTHER

Forms, Filings, and Operational Procedures

What is the expected date for draft forms to be available for the next filing season?

The Department does not post draft forms. In mid-December, many final forms have been posted for individual and partnership income tax. Additional forms and instructions will be posted once they are available. All forms and instructions should be posted by early January.

Would the NCDOR consider adding an electronic filing option for the NC5-Q withholding return?

The Department implemented an electronic option for filing Form NC-5Q in 2020. You can access the application to file by visiting: <https://www.ncdor.gov/taxes-forms/withholding-tax/enc5q>

All of the Department's electronic filing options can be found at: <https://www.ncdor.gov/file-pay/electronic-filing-options-and-requirements>

Practitioners occasionally run into items that they think should be an addition or deduction to NC income that are not included on Schedule S. What does NCDOR recommend we do in such situations? Is it NCDOR's position that only adjustments on Schedule S should be made?

Form D-400 Schedule S, Part A and Part B list all required (and allowable) North Carolina adjustments to federal adjusted gross income ("AGI"). If the practitioner does not see an addition or deduction listed on Form D-400 Schedule S, the practitioner should contact the Department before making an adjustment to AGI.

If a PTE makes estimated payments for the PTET and subsequently becomes ineligible to make the PTE election, how will the payments be handled? Will there be a way to push them to the partners or shareholders?

When a PTE files an NC Tax Return reflecting an overpayment, the Department must refund the overpayment to the PTE within the provisions of N.C. Gen. Stat. § 105- 241.7. The Department will, however, apply any estimated tax payments made by a PTE to the income tax due for:

- Every nonresident owner or partner (See [G.S. 105-154\(d\)](#))
- Any nonresident shareholder who elects to pay income tax on an S Corporation composite tax return. (See [G.S. 105-131.7\(b\)](#)).

Regarding PTE estimated payments, has it been settled that there is not going to be the ability to reclassify estimated payments made by individuals to the PTE?

See response above.

If clients preemptively use CD-429 to make an estimated tax payment for their PTE for tax year 2022, how can these clients ensure the payment they made will be applied as an estimated tax payment that should have used Form NC-429 PTE?

A PTE that used Form CD-429 to make estimated tax payments for tax year 2022 should contact the Department at the following address:

NCDOR
Attention: Corporate Tax Administration
PO Box 871
Raleigh, NC 27602

Please include a copy of the cancelled check (front and back)

Other General Questions

Please clarify the Department's position on whether online payments initiated on the due date are considered timely filed.

For payments submitted on the due date, the payment will be considered timely as long as the first available draft date is selected.