

May 23, 2011

Douglas H. Shulman
Commissioner of Internal Revenue
Internal Revenue Service
1111 Constitution Avenue, N.W.
Washington, D.C. 20024

By e-mail: *irs.commissioner@irs.gov

Re: Recommendations to Improve Tax Reporting

The New York State Society of Certified Public Accountants, representing more than 28,000 CPAs in public practice, industry, government and education, submits the following recommendations to you regarding tax reporting, specifically, tax filing due dates. NYSSCPA thanks the Internal Revenue Service for accepting these recommendations and comments.

The NYSSCPA Trust and Estate Administration Committee deliberated the practice problems referred to herein on behalf of tax preparers, taxpayers and the government. If you would like additional discussion with the committee, please contact Anthony Rappa, chair of the Trust and Estate Administration Committee, at (212) 751-9100, or Ernest J. Markezin, NYSSCPA staff, at (212) 719-8303.

Sincerely,



Margaret A. Wood
President

Attachment



Home of the Trusted Professional
3 park avenue, at 34th street, new york, ny 10016-5991
212.719.8300 • fax 212.719.3364
www.nysscpa.org

RECOMMENDATIONS TO IMPROVE TAX REPORTING

May 23, 2011

Principal Drafter
Ita M. Rahilly

NYSSCPA 2010 – 2011 Board of Directors

Margaret A. Wood, <i>President</i>	John Barone	J. Michael Kirkland
Richard E. Piluso, <i>President-elect</i>	Cynthia D. Barry	Mark G. Leeds
Joseph M. Falbo Jr., <i>Secretary/Treasurer</i>	S. David Belsky	Pei-Cen Lin
Scott M. Adair, <i>Vice President</i>	Ian J. Benjamin	Heather Losi
David R. Herman, <i>Vice President</i>	Robert W. Berliner	Anthony J. Maltese
Martha A. Jaeckle, <i>Vice President</i>	Anthony Cassella	Barbara A. Marino
Gail M. Kinsella, <i>Vice President</i>	Sherry L. DelleBovi	Avery E. Neumark
Joanne S. Barry, <i>ex officio</i>	Adrian P. Fitzsimons	Joel C. Quall
	Stephen E. Franciosa	Robert R. Ritz
	Jennifer R. George	Erin Scanlon
	Rosemarie A. Giovinazzo-	Robert E. Sohr
	Barnickel	George I. Victor
	Mitchell L. Gusler	Charles J. Weintraub
	John B. Huttlinger Jr.	Jesse J. Wheeler
	Nancy A. Kirby	F. Michael Zovistoski

NYSSCPA 2010 - 2011 Tax Division Oversight Committee

Scott M. Cheslowittz, <i>Chair</i>	Charles N. Morrow	Stephen P. Valenti
David S. Gibson	Jay G. Sanders	Amy M. Vega
Alan D. Kahn	David Sands	Cristina N. Wolff
Adam Lambert	P. Gerard Sokolski	

NYSSCPA 2010 - 2011 Trust and Estate Administration Committee

Anthony F. Rappa, <i>Chair</i>	Mark Josephson	Stuart A. Rosenblatt
Ita M. Rahilly, <i>Vice Chair</i>	Anna T. Korniczky	Erica F. Rubin
Melissa A. Abbott	Laura E. LaForgia	Michael Rudegeair
Frank J. Basile	Alfred J. LaRosa	Alan W. Saltzman
Paul L. Becker	Jerome Levy	David Schaengold
Warren M. Bergstein	Steven L. Lombrowski	Douglas Schnapp
Joshua E. Berman	T. Bassing Mantenfel	Susan R. Schoenfeld
Amerigo D'Amelio	Kevin Matz	David Silversmith
Eugene H. Fleishman	Gerald L. Mayerhoff	Sidney Smolowitz
Wil E. Goodison-Orr	James McEvoy	Nathan H. Szerlip
Adam J. Gottlieb	Robin Murray	Susan E. Van Velson
Charles D. Grossman	Karlene Ramsden	Martina Weihs-Werner

NYSSCPA Staff

Ernest J. Markezin
William R. Lalli

New York State Society of Certified Public Accountants

Recommendations to Improve Tax Reporting

Reasons for Our Recommendations

The spirit in which these recommendations are made is that taxpayers and tax preparers want to prepare and file complete and accurate tax and information returns. The current due date structure makes it difficult and, in some cases, impossible to do so. The business environment in which we live and operate is significantly different from, and more complicated than, what it was even a decade ago, and considerably different from when most of the due dates for returns were established. The interconnectedness of entities, as well as individuals, combined with the complexity of the tax code necessitate revisiting and revising the due dates of tax and information returns to provide a more rational ordering of filings.

It should be noted that there has been one fairly recent change in due dates, and that change was the result of REG 115457-08 which was effective for taxable years beginning after September 30, 2008. It changed the extended due date for calendar year partnership and fiduciary returns from October 15th to September 15th. In November 2007, the New York State Society of CPAs wrote to then acting Commissioner of the Internal Revenue Service Linda Stiff, in support of the proposed change of the extended due date for partnership returns from October 15th to September 15th. While this regulation provided some relief for partners and members of partnerships and, to some extent, estates, trusts and their beneficiaries, it was not a comprehensive solution. We recognize that there will be no perfect solution; however, we believe that a more logical ordering will facilitate the ultimate goal of preparing and filing complete and accurate tax and information returns.

Summary of Our Recommendations

We recommend revising the original due dates and the extended due dates of certain entity returns in order to provide for a more logical flow of information for taxpayers.

- Partnership Returns—we recommend changing the original due date of partnership returns from April 15th to March 15th, and we recommend reinstating a six-month rather than the current five-month extension for partnership returns. With this proposed structure, the extended due date of partnership returns, September 15th, would remain as it is.
- S Corporation Returns—we recommend changing the original due date from March 15th to March 31st, and we recommend maintaining a six-month extension which will result in an extended due date of September 30th rather than the current extended due date of September 15th.
- Fiduciary Income Tax Returns—we recommend maintaining the current original due date of April 15th, and we recommend a five and one-half month extension resulting in an

extended due date of September 30th for calendar year returns; or in the case of fiscal year returns, the original due date would be the 15th day of the fourth month after the close of the year end and the extended due date of the last day of the ninth month after the close of the year end.

- C Corporations—we recommend changing the original due date for C Corporation calendar year returns from March 15th to April 15th, and we recommend maintaining a six-month extension which will result in an extended due date of October 15th rather than September 15th.
- Employee Benefit Plans—we recommend maintaining the initial due date for calendar year end employee benefit plans of July 31st, the last day of the seventh month following the close of the year end; however, we recommend an extended due date of November 15th (which is an extended due date of three and one-half months rather than the current two and one-half month extension).
- Exempt Organizations, IRS Form 990, *Return of Organization Exempt From Income Tax*—while we are not recommending a change in the due date for exempt organization returns, we are recommending that organizations be permitted to file one automatic regulatory extension on IRS Form 7004, *Application for Automatic Extension of Time To File Certain Business Income Tax, Information, and Other Returns*, rather than two three-month extensions, the first of which is automatic and the second which requires an explanation of reasonable cause for the requested additional three-month extension.

Partnership Returns

Partnerships are pass-through entities; they pay no income tax at the entity level and all income, losses, deductions, credits and other tax attributes are passed through to partners or members. A partnership interest may be held by an individual, a C Corporation, an S Corporation, an estate, a trust, an exempt organization, an employee benefit plan as well as another partnership. Because the attributes reported on a partnership return are passed through to the partners or members, the partners or members are not able to complete their tax returns until the partnership K-1 is received.

The appeal of limited liability entities, hedge funds and tiered partnerships has resulted in a significant increase in the number of partnership information return filings. Given the number of taxpayers invested in entities that file partnership returns, it is logical that the due date for partnerships returns should be considered before the due dates for other entities.

As previously noted, we are recommending that the due date for partnership returns be changed from April 15th to March 15th and that the extended due date for partnership returns remain at September 15th. By making partnership returns due prior to other entity returns and individual returns, the K-1s issued by partnerships will be available prior to the due date for the other types of returns. Under the proposal detailed in this letter, this will support the goal of enabling taxpayers and tax preparers to prepare and file complete and accurate tax returns. The one exception will be tiered partnerships; however, as noted above, there is no perfect solution.

S Corporation Returns

An S Corporation is an entity similar to a partnership in that most of the tax attributes are passed through to shareholders and not taxed at the entity level. As such, shareholders are not able to prepare their tax returns until they receive the K-1s from the S Corporation. However, S Corporations that own interests in partnerships or limited liability entities are not able to prepare their S Corporation return until they receive the partnership K-1.

Given the aforementioned, we are recommending an initial due date for S Corporation returns of March 31st and an extended due date of September 30th. These due dates are approximately two weeks after the partnership return due dates. Thus, tax preparers and taxpayers would have time to obtain the necessary partnership K-1s, analyze them, raise questions as needed, and incorporate that K-1 information into the S Corporation return. While two weeks is not a lot of time, it is preferable to having partnership and S Corporations having the same extended due date.

Fiduciary Income Tax Returns

Frequently, fiduciary income tax returns cannot be prepared until the executor or trustee receives K-1s from partnerships and S Corporations. As such, our recommendation is that the initial due date for calendar year fiduciary returns remain as April 15th, and we recommend that the extended due date be September 30th. This will provide executors and trustees with two weeks from the final due date for partnership returns to receive the partnership K-1, analyze same, raise any questions concerning the information reported, and incorporate partnership K-1s into the fiduciary income tax return. While this may not be ideal for estates and trusts that own stock in S Corporations because our proposal is that S Corporations and fiduciary income tax returns have the same extended due date, as previously noted, there is no perfect solution.

Estates and trusts may very well be required to issue K-1s to beneficiaries. An extended due date of September 30th enables the K-1 to be provided to a beneficiary approximately two weeks before an extended individual return is due. This gives the beneficiary or the tax preparer time to review and analyze the information reported on the K-1, raise any questions he or she may have and then record the income on the beneficiary's return.

C Corporation Tax Returns

Our recommendation for changing the original due date of C Corporation returns from March 15th to April 15th and the extended due date from September 15th to October 15th, would enable C Corporations that own partnership interests or interests in multi-member limited liability entities to have time to obtain their respective K-1s and conduct any due diligence required before completing the corporate returns.

Employee Benefit Plans

Our recommendation is to maintain the existing original due date of July 31st for calendar year employee benefit plans; however, we are recommending that the extended due date for employee benefit plans be changed from October 15th to November 15th. This would allow for an extension of thirty days beyond the proposed extended deadline for C Corporations and the actual extended deadline for individuals. Under these recommendations, extending the filing deadline to

November 15th provides C Corporation taxpayers and tax preparers a thirty-day period from their extended filing due date.

Exempt Organizations

As previously noted, we are not recommending any changes to the original or extended due dates of exempt organization returns. We are, however, recommending a change in the procedure for extending exempt organization returns. Currently, an initial three-month automatic extension for Form 990 is obtained by completing Form 8868, *Application for Extension of Time To File an Exempt Organization Return*. A second three-month extension can be obtained for reasonable cause by completing the same form and providing an explanation of the reason the return cannot be completed prior to the first extended due date. We recommend that an automatic six-month extension be available to exempt organizations and we also recommend that this extension be available by filing Form 7004.

Individual Income Tax Returns

We are not recommending any changes to the original or extended due dates of individual income tax returns.

Summary

The current due date structure does not provide adequate time for certain entities to obtain the required information to accurately complete tax returns. As previously stated, our recommendations are being made in order to facilitate the preparation, review and filing of complete and accurate income tax returns and information returns.