AICPA Recommendations for Administrative, Filing and Payment Relief for State and Local Taxes during the Coronavirus Pandemic

The AICPA encourages state CPA societies to advocate for fair, reasonable, and administrable tax rules that minimize the complexities and burdens to taxpayers and state tax authorities alike.

To assist state CPA societies, the AICPA identified the below list of administrative, filing, and payment relief for state and local taxpayers in response to the COVID-19 pandemic. AICPA is also updating a state tax guidance chart.

Tax practitioners responsible for preparing federal, state, and local tax returns of taxpayers are now required to telework and, in many cases, shelter in place to prevent the spread of the COVID-19 virus. The unique and unprecedented nature of this crisis makes many deadlines and administrative practices traditionally required by state and local tax administrators unworkable.

The below list outlines recommendations that state and local tax administrators should provide to assist taxpayers, businesses, and governments during the next few months, as taxpayers in the state adapt to the limitations this disruption presents.

**During the pandemic, state and local jurisdictions should:**

1. **Permit businesses to adhere to work locations for state and local tax purposes during the pandemic and allow businesses the option to use these employees’ work locations for payroll withholding, nexus, and apportionment purposes while such telework requirements are in place.**

   a. **Provide that the presence of an employee working in a state due to shelter-in-place restrictions will not create nexus for tax purposes in that state.**

      - Example: 14 states - AL, DC, GA, IA, IN, MA, MD, MN, MS, ND, NJ, PA, RI, and SC and City of Philadelphia

   b. **Provide the option for newly remote workers sheltering in place to continue to have the business withhold income tax based on the state where the employer is located (not where the employee is sheltering in place during the pandemic) for state and local payroll tax purposes, including personal income tax withholding by the employer and employee income tax liability.**

      This treatment would help prevent a double tax where one state uses the convenience of employer test to source wage payments and the other state uses the physical presence standard. State and local jurisdictions should:

      - Allow businesses to continue to withhold income tax in the state where employer is located (not employee).

      - Allow the employee who is temporarily telecommuting to continue to pay tax to the state where employer is located.

      - Examples: 13 states - AL, GA, IL, IN, MA, MD, MN, MS, NE, NJ, PA, RI and SC

   c. **Provide that newly remote workers because of COVID-19 will not count against companies taking P.L. 86-272 positions.**

      - Example: 5 states - Georgia, Indiana, Iowa, Massachusetts, Rhode Island
2. Delay until 7/15 all state and local income and franchise filing and payment and estimated tax payment deadlines originally due 3/1/20-7/15/20.
   a. *The delay should apply to all taxpayers*, including calendar and fiscal year filers, individuals, corporations, exempt organizations, estate and trust income tax returns, partnerships, S corporations, estate and gift tax returns, and information returns.
   b. *Localities should follow the lead of states and the federal government and broadly postpone all tax filing and payment deadlines for local taxes, preferably by statewide action to ensure consistency among local governments.*

3. Delay until 7/15 all state and local sales and use taxes, property taxes, business activity taxes, and other tax filing and payment deadlines

4. Waive interest and penalties and provide broad reasonable cause relief for late payment and late filing for returns originally due 3/1-7/15 that are filed by 7/15 and other delays and late actions as a result of the pandemic.

5. Permit electronic fund transfers for payments with no additional fees (instead of paper checks).
   - Example: Mississippi

6. Permit electronic images (scanned or photographed) of signatures (instead of wet signature requirements).
   - Examples: AZ, CA, MA, MD, MS, NE, NJ, NY, PA

7. Permit electronic filing and email transmission of documents and returns (including allowing an email of a PDF of a return).
   - Example: Maryland, Mississippi, New York

8. Suspend any requirement to send items and returns via certified mail.
   - Example: Mississippi

9. Extend the time to file a refund claim for a previous tax year with a statute of limitation that expires from 3/1/20 until 90 days after the end of the Governor’s declared state of emergency in the state.
   - Example: California, Georgia, New Jersey, Oregon

10. Provide taxpayers with extensions until 90 days after the end of the Governor’s declared state of emergency in the state for audit, exams, appeal deadlines, protest matters, refund claims for previous years and stop during the pandemic all enforcement type activity and automated notices as many of these situations require time sensitive response.
    - Examples: Georgia, Indiana, Maryland, Minnesota, Mississippi, Pennsylvania

11. Provide an exemption from sales and use tax for donated products, including donations of Personal Protective Equipment (PPE), to a charity or governmental entity.
    - Example: Indiana

Note: TEI and COST support many of these recommendations.

As of: 7/17/20  9 am et