



October 13, 2016

## **Important Notice: Tax Relief for Victims of Hurricane Matthew**

In response to Governor Pat McCrory's Request for Expedited Federal Disaster Assistance, President Obama declared a major disaster on October 10, 2016 in some North Carolina counties and ordered federal aid to supplement State, tribal, and local recovery efforts in the counties affected by Hurricane Matthew beginning October 4, 2016 ([www.fema.gov/disaster/4285](http://www.fema.gov/disaster/4285)). The President's declaration makes federal funding available to affected individuals in designated counties. The designated counties are Beaufort, Bertie, Bladen, Columbus, Cumberland, Edgecombe, Greene, Harnett, Hoke, Johnston, Lenoir, Nash, Pitt, Robeson, Sampson, Wayne, and Wilson (collectively "Disaster Counties").

On October 11, 2016, the Internal Revenue Service ("IRS") announced tax relief available to individual taxpayers who reside in or taxpayers who have a business in the Disaster Counties (IR-2016-131). The tax relief is also available to taxpayers whose necessary records to meet a tax deadline are located in the Disaster Counties and workers assisting in relief activities in the Disaster Counties who are affiliated with a recognized government or philanthropic organization. These taxpayers and workers are collectively referred to as "Affected Taxpayers" (Treas. Reg. §301-7508A-1(d)(1)).

### Federal Tax Relief

The federal tax relief gives Affected Taxpayers until March 15, 2017 to file certain individual and business tax returns and make certain tax payments that were due on or after October 4, 2016 through March 15, 2017. This includes income tax returns due (original or under extension) on October 17, 2016, quarterly payroll or excise tax returns due on October 31, 2016 and January 31, 2017, quarterly estimated tax payments due on January 17, 2017, and the March 1, 2017 deadline for farmers and fishermen to file their income tax returns in lieu of making quarterly estimated tax payments. In addition, the IRS will waive any late-deposit penalties for federal payroll or excise tax deposits due on or after October 4, 2016 and before October 19, 2016 if the deposits are made by October 19, 2016. The additional time to file a return does not extend to federal payroll information returns. For detailed information about the federal tax relief, see [www.irs.gov](http://www.irs.gov).

### North Carolina Tax Relief

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. 105-236(a)(4)) (collectively "Late Action") 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 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 Policy authorizes 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.

Except as noted in "*Exceptions*" below, the Department will waive any penalties assessed against Affected Taxpayers for any Late Action occurring on or after October 4, 2016 and on or before March 15, 2017, if the license is obtained, the return is filed, or the tax is paid by March 15, 2017. The waiver will be considered a waiver for automatic reasons and will not be considered as a waiver for good compliance, which can only be granted once every three years per tax type.

Under the Department's Penalty Policy, a taxpayer not located in a Disaster County ("Non-Affected Taxpayer") can request waiver of the penalties for any Late Action occurring within 3 months following the date of the natural disaster. If a Non-Affected Taxpayer is unable to comply with the General Statutes' requirements to timely file a tax return or timely pay tax due because of the natural disaster, the Non-Affected Taxpayer must provide documents that support the taxpayer's claim that Hurricane Matthew was the cause for the Late Action.

Interest will be assessed on any tax due from the date the tax was due until the date the tax is paid for any Late Action filed by an Affected Taxpayer or Non-Affected Taxpayer. 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*

- The federal tax relief given to Affected Taxpayers until March 15, 2017 only applies to quarterly federal payroll tax returns due to be filed on October 31, 2016 and January 31, 2017. All federal payroll deposits are required to be made electronically. Penalties for failure to timely deposit federal payroll tax deposits due on or after October 4, 2016 and before October 19, 2016 are waived only if the deposits are made on or before October 19, 2016. North Carolina's waiver of penalties for failure to file or failure to pay will apply to all quarterly, monthly, and semiweekly filers who are Affected Taxpayers that file withholding returns and pay the tax due by March 15, 2017 except those who remit an average of \$20,000 per month in withholding tax and are required to pay electronically. Affected Taxpayers who remit an average of \$20,000 per month in withholding tax and are required to pay electronically will receive a waiver of the penalty for failure to pay the tax when due for any tax due on or after October 4, 2016 and before October 19, 2016 if the tax is paid on or before October 19, 2016. Affected Taxpayers who remit an average of \$20,000 per month in withholding tax and are required to pay electronically but who cannot pay the tax by October 19, 2016, as well as Non-Affected Taxpayers, can request waiver of the penalty for failure to pay the tax when due for withholding tax due within three (3) months following the date of the natural disaster in keeping with the Department's Penalty Waiver Policy.
- The federal relief allows taxpayers to make their quarterly estimated income tax payments due on January 17, 2017 by March 15, 2017. 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 October 4, 2016 and March 15, 2017 remain due on the statutory due dates.

### How to Obtain A North Carolina Penalty Waiver

Any Affected or Non-Affected Taxpayer who cannot meet its filing or payment requirements as a result of Hurricane Matthew should mail Form NC-5500, Request to Waive Penalties (“NC-5500”), with the Late Action item to the Department. The Affected and Non-Affected Taxpayer should write “Hurricane Matthew” on the top of the Late Action item and the NC-5500. The NC-5500 is available at all Department offices and at [www.dornnc.com/downloads/penalty.html](http://www.dornnc.com/downloads/penalty.html). All taxpayers requesting waiver of the penalties as a result of Hurricane Matthew should place an “X” in the block beside “natural disaster” on the NC-5500 and provide all of the required information. An Affected or Non-Affected Taxpayer that does not have access to this form can attach a letter explaining the reason for the Late Action. The letter should contain the Taxpayer’s name, address, SSN or FEIN, Account ID, tax type, tax period and name of Disaster County. If the NC-5500 is not sent with the Late Action item or if the application, return, or payment is submitted to the Department electronically, the NC-5500 or a letter containing the required information can be submitted later if the taxpayer is assessed a penalty. The NC-5500 or letter should be mailed to the North Carolina Department of Revenue, Customer Service, PO Box 1168, Raleigh, NC 27602.

### Further Developments

If other North Carolina counties are declared disaster areas, the time period of relief provided by the Internal Revenue Service will also apply to taxpayers in those counties for State tax purposes. Check the Department’s website, [www.dornnc.com](http://www.dornnc.com), for updates.

### Questions

If you have any questions about this Important Notice, you may call 1-877-252-3052 to speak with a customer service representative or write to Customer Service, PO Box 1168, Raleigh, NC 27602.