



June 12, 2020

Amanda Hiller, Esq.
NYS Dept. of Taxation and Finance
Albany, NY 12227

Re: Notice N-20-8

Dear Ms. Hiller:

Thank you for the issuance of N-20-8 on June 11, 2020 regarding the payments of estimated tax due for NYS and NYC for the first two quarters of this year. We appreciate the effort and considerations that went into the announcement, especially considering the pressures created by the Covid response. Although we would have preferred a deferral of the first and second quarter estimated payment to July, we do understand the budgetary constraints that create the necessity for cash flow.

However, there are still many questions being raised by our members that need further clarification. Notice N-20-2 contained the following statement:

“2019 returns due on April 15, 2020, and related payments of tax or installments of tax, including installments of estimated taxes for the 2020 tax year, **will not be subject to any failure to file, failure to pay, late payment, or underpayment penalties, or interest if filed and paid by July 15, 2020.”**

Notice N-20-8 which changes the 2020 estimated tax installment dates states that “penalties with respect to the underpayment of estimated tax for individuals and fiduciaries will be calculated based on these revised dates” of June 15th for the first installment and July 15th for the second.

For clarification, does this mean that taxpayers who have underpaid the first quarter will be penalized as of June 15th, rather than July 15th as per N-20-2? If that is the case, we would appreciate specific guidance on this matter (including with respect to abatement of penalties) since it is a change in treatment of guidance that was used to provide advice and instruction to our clients.

A second issue is the treatment of extension payments that, if resulting in an overpayment, will be applied to 2020 estimated tax. Will that overpayment applied to the now first quarter of June 15th be considered as paid timely or will it be subject to an underpayment penalty since the due date for the first quarter is one month earlier?

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The third issue is the method of calculating the underpayment on the annualized income method. Will the June 15th first installment still be calculated using the first 3 months and the second installment using 5 months? Or can we use 5 and 6 months respectively? The issue here is that if taxpayers are required to use 3 months, it is likely that the annualized method will be a distorted method since Pause began only at the end of the period.

A fourth issue is related to payments that have been scheduled for automatic withdrawals. Prior to N-20-8, the first quarter installment payment was scheduled for July 15th and the second quarter June 15th. Will those dates now be reversed in the payment system resulting in a different amount than expected being withdrawn from a taxpayer's bank account? This could create serious issues. How is DTF addressing this?

We appreciate the efforts by the entire DTF team during the current crisis and look forward to your clarification of these issues.

Sincerely,

A handwritten signature in cursive script that reads "Joanne S. Barry".

Joanne S. Barry, CAE
Executive Director/CEO

c.c. Edward Arcara, CPA
Philip London, CPA