

**New York State Department of Taxation and Finance**  
**Taxpayer Services Division**  
**Technical Services Bureau**

TSB-M-91 (3) I  
Income Tax  
February 15, 1991

Extensions of Time for Filing New York Returns

Part 151 of the New York State Personal Income Tax Regulations, relating to extensions of time to file New York returns, has been amended. The new rules, explained below, apply to returns required to be filed for taxable years ending on or after December 31, 1990.

Extensions of Time to File - Individuals

An individual required to file a New York State personal income tax return will be allowed an automatic four-month extension of time by filing Form IT-370, Application for Automatic Extension of Time to File For Individuals and Gift Tax Return Filers. The form must be signed by the individual or other person duly authorized to sign, and must be filed with the Department on or before the original due date for filing the return. Form IT-370 must show the full amount properly estimated as the New York State, City of New York and City of Yonkers tax liabilities for the year and must be accompanied by a full remittance of the properly estimated amount of taxes remaining unpaid as of the original due date of the return.

In lieu of filing Form IT-370, individuals who anticipate having no amount of properly estimated New York State, New York City or Yonkers tax remaining unpaid as of the original due date of the return (the taxpayer expects to receive a refund or have no tax liability), may obtain the automatic four-month extension by filing a copy of federal Form 4868, Application for Automatic Extension of Time to File U.S. Individual Income Tax Return. The copy of the federal form must be submitted to the Department on or before the original due date of the return.

An individual may request an additional extension of time to file beyond the automatic four-month period by filing, in duplicate, Form IT-372, Application for Additional Extension of Time to File for Individuals and Gift Tax Return Filers. The request must be filed early enough to permit the Department to consider the application and reply before the expiration of the automatic four-month extension period. If the taxpayer has requested an additional federal extension, the taxpayer may submit, in lieu of Form IT-372, an approved copy of the federal Form 2688, Application for Additional Extension of Time to File U.S. Individual Income Tax Return, on or before the expiration of the automatic four-month extension period. Upon timely filing of the approved federal extension, an additional extension to file the New York return will be allowed up to the date of the federal extension.

In general, the total extended period to file a New York return (both the four-month automatic extension and any additional extension granted) cannot exceed six months. However, an extension of time for more than six months may be granted upon written request for taxpayers who are outside the United States and Puerto Rico, or who intend to claim nonresident status under the provisions of section 605(b)(1)(A)(ii) of the Tax Law (548-day rule). Taxpayers who qualify must attach their request for this extension to the front of their return when it is filed. Requests for an extension of more than six months will not be approved or denied prior to the filing of the return.

An extension of time to file a New York State return also extends the date for filing a New York City or Yonkers Nonresident Earnings Tax Return (Form NYC-203 or Y-203).

#### United States Citizens Abroad

A taxpayer who is outside the United States and Puerto Rico and who qualifies for the automatic two-month extension to file a federal return is entitled to a similar extension of time to file a New York return. Taxpayers claiming this extension must attach to their New York return a statement showing that they qualify for the federal automatic two-month extension. The time to pay any New York State, New York City or Yonkers taxes is similarly extended. However, interest will be charged on any tax not paid on or before the original due date of the return.

A taxpayer may request an additional two-month extension of time by filing Form IT-370 before the expiration of the automatic two-month period. The request must be accompanied by any required payments of state and city income taxes. An additional extension of time beyond the four-month period may be requested by filing Form IT-372.

#### Extensions of Time to File - Partnerships, Trusts and Estates

A partnership, trust or estate that is required to file a New York State tax return will be allowed an automatic three-month extension of time to file by filing Form IT-370-PF, Application for Automatic Extension of Time to File for Partnerships and Fiduciaries. The form must be signed by a person duly authorized to request the extension and must be filed with the Department on or before the original due date of the return. Form IT-370-PF, filed for a trust or estate, must show the full amount properly estimated as the New York State, New York City and Yonkers tax liabilities for the year and must be accompanied by a full remittance of the amount of properly estimated taxes remaining unpaid as of the original due date of the return.

In lieu of filing Form IT-370-PF, a partnership, or a trust that anticipates having no amount of properly estimated New York State, New York City or Yonkers taxes remaining unpaid as of the original due date of the return (the trust expects to receive a refund or have no tax liability), may obtain the automatic three-month extension of time by submitting a copy of federal Form 8736, Application for Automatic Extension of Time to File Return for a U.S. Partnership, REMIC, or for Certain Trusts. The copy of the federal form must be submitted to the Department on or before the original due date of the return. Estates are not permitted to file a copy of the federal extension form since federal regulations do not allow an automatic three-month extension for estates.

A partnership, trust or estate may request an additional extension of time beyond the three-month period by filing, in duplicate, Form IT-372-PF, Application for Additional Extension of Time to File for Partnerships and Fiduciaries. The request must be submitted early enough to permit the Department to consider the application and reply before the expiration of the three-month extension. If the entity has received an additional federal extension, the entity may submit, in lieu of Form IT-372-PF, an approved copy of the federal additional extension request on or before the expiration of the automatic three-month period. Upon timely filing of the approved federal copy, an additional extension to file the New York return will be allowed up to the date of the federal extension. The total extended period (including the automatic three-month period) for filing a partnership, trust or estate return cannot exceed six months.

An extension of time to file a New York State fiduciary return also extends the date for filing a New York City or Yonkers Nonresident Fiduciary Earnings Tax Return (Form NYC-206 or Y-206).

#### Termination of Automatic Extensions

The Department may, in its discretion, terminate at any time an automatic four-month or three-month extension by mailing to the individual, partnership or fiduciary, or the person who requested the extension, a notice of termination. The notice of termination will be mailed at least 10 days before the termination date specified in the notice. The notice of termination will be considered valid when mailed to the address shown on New York State Form IT-370 or IT-370-PF or on the federal copy of Form 4868 or Form 8736, or it is sent to the last known address or place of business of the person who requested the extension, even if that person is deceased or under a legal disability.

Penalties

Taxpayers who have been granted extensions of time to file and who file their returns within the extended period and pay in full any balance due shown on the return will not be assessed late payment penalties provided at least 90% of the taxes as finally determined were paid (either through withholding, estimated tax or payments submitted with Forms IT-370 or IT-370-PF) on or before the original due date of the return, or on or before the expiration of the automatic two-month extension period of U.S. citizens abroad. If this test is not met, the taxpayers will be subject to the late payment penalty under section 685(a)(2) of the Tax Law. The amount of penalty will be computed from the original due date of the return to the date the return is filed and the taxes are paid. However, the penalty may be waived if taxpayers can establish reasonable cause for failure to timely prepay the correct amount of tax. If this is the case, taxpayers should request that the late payment penalty be waived by attaching an explanation of the reasonable cause to the front of their return when it is filed.