Temporary Relief for NC Taxpayers Under New COVID-19 Legislation

Friday, May 8, 2020

Members of the North Carolina General Assembly made good use of their time leading up to the short session that began on April 28, with each chamber filing a COVID-19 relief bill within twenty-four hours of reconvening. Senate Bill 704, which passed unanimously in the Senate and the House, was signed into law by the Governor on May 4th.

The law contains certain tax-related provisions that were somewhat predictable, given action already taken by the NC Department of Revenue, but nonetheless, these tax relief provisions are important to understand.

Interest Waiver

The very first section of Senate Bill 704 requires the NC Secretary of Revenue to waive all interest that otherwise would accrue from April 15, 2020 to July 15, 2020 on due and owing state franchise, corporate income, and individual income tax liabilities for returns with deadlines falling in that period. The interest relief also applies to estimated North Carolina individual and corporate income taxes. This relief measure is the General Assembly's way of shoring up the NC Department of Revenue's ("the NC DOR") existing COVID-19 related filing and payment extensions,
which removed late-filing and late-payment penalties for certain returns and tax payments due on or after April 15, 2020 if such returns are filed and tax payments are made on or before July 15, 2020. (See https://www.ncdor.gov/home/ncdor-actions-covid-19 for COVID-19 notices issued by the NC DOR.)

Without this legislation, the NC DOR would not have the authority under state law to waive interest from accruing on late tax payments, which is why the General Assembly also was required to act in this instance. While most North Carolina taxpayers likely already have filed returns and made the corresponding payments that would have been due in the absence of these automatic extensions, those taking advantage of extensions will be happy to hear that they no longer will owe interest (which had been accruing at 5%, annually) for franchise and income tax liabilities outstanding during this period.

Statute of Limitations Change

Another important provision of the new state law extends the statute of limitations for certain tax refund claims, with the allowable period now extended to July 15, 2020 in cases where the deadline for seeking a refund had been set to expire between April 15, 2020 and July 15, 2020. Presumably, the General Assembly wanted to help ensure that taxpayers would not be deprived of refunds on account of COVID-19 related disruptions, quarantine, or stay-at-home orders.

As with the waiver of interest mentioned above, this extension applies only to refunds of franchise, corporate income, and individual income tax. In North Carolina, the statute of limitations for claiming a refund of an overpayment of state tax generally is the later of: (1) three years after the due date of the return, and (2) two years after payment of the tax (see NC Gen. Stat. § 105-241.6). Consequently, the statute of limitations extension contained in Senate Bill 704 will apply most often to those seeking refunds under returns filed in April, May, June, or July of 2017 (most commonly for tax year 2016 returns) or for payments made in April, May, June, or July of 2018. Practically, this relief may be most beneficial for those taxpayers who had planned to seek a refund with respect to their 2016 returns in 2020.

Requests for Administrative and Judicial Review

In the same spirit as the statute of limitations extension for claiming refunds, Section 1.1.(c) of Senate Bill 704 provides that certain tax appeal-related requests and petitions will be considered timely made if filed on or before July 15, 2020. The provision operates to extend deadlines that normally would fall between April 1, 2020 and July 15, 2020, and applies to (1) review of a NC DOR proposed denial of a refund or a proposed assessment under NC Gen. Stat. § 105-241.11, (2) petitions for a contested case hearing at the Office of Administrative Hearings under NC Gen. Stat. § 105-241.15, and (3) petitions for judicial review of a final decision in a contested case under NC Gen. Stat. § 105-241.16. Under this provision, taxpayers believing that the NC DOR has erroneously assessed tax or denied a refund will have additional time to file for administrative or judicial review of those matters.

Conclusion
The temporary relief granted under Senate Bill 704 is important and will undoubtedly lead to fewer injustices for North Carolina taxpayers who have been impacted by the COVID-19 pandemic. However, with these transient extensions and relief provisions expiring on July 15, 2020, the time for taxpayers to make necessary filings and payments is short. If you have any question as to whether the recent North Carolina or Federal tax relief impacts you or your business, Ward and Smith's tax and estate planning teams stand ready to work with you and your other tax advisors to ensure that any necessary action can be taken by July 15.

© 2020 Ward and Smith, P.A.. All Rights Reserved.