



Georgia Department of Revenue
Informational Bulletin IT 2009-5-29
Adherence to Federal Automatic Extension Rules for the Filing of
Georgia Tax Returns

May 29, 2009

1) **Purpose/Subject:** To announce how the extension due dates announced in Internal Revenue Service (“IRS”) Treasury Decision 9407 will apply to the related Georgia tax returns.

2) **Effective Date:**

The new Federal temporary regulations allowing partnerships, trusts, and estates to obtain only an automatic 5-month extension will apply as discussed below.

The finalized Federal regulations (relating to individuals, corporations, and employee plans) discussed in the “Other Extensions” section below are effective for Georgia purposes on the same date as they were effective for Federal purposes, which was July 1, 2008.

3) **Supersedes:** All previous documents and any oral directives in conflict herewith.

4) **Authority:**

IRS Treasury Decision 9407 issued new temporary regulations shortening the automatic extension period for partnerships, trusts, and estates. It also finalized temporary regulations on automatic extension procedures for other types of taxpayers.

Georgia Regulation 560-7-8-.08 provides that *“The automatic extension for filing a return accepted by the Internal Revenue Service is honored by the State of Georgia for the same number of months from the statutory due date of the Georgia return. A regular extension of time for filing for an individual and an additional extension of time for filing for a corporation granted by the Internal Revenue Service is accepted by the State of Georgia to the same due date of the Federal return. The taxpayer may petition for additional time, however Georgia Law prohibits the granting of an extension of over 6 months in the aggregate from the statutory due date of the return”*.

- 5) **Issue:** For purposes of filing related Georgia Tax returns, whether the Department of Revenue will recognize and follow the Federal extension due dates stated in IRS Treasury Decision 9407.

Discussion of Issues:

Extensions for Partnerships and Trusts and Estates:

New temporary regulations were issued that change the automatic filing extension period from 6 months to 5 months, with no additional extension period allowed, for partnerships filing Form 1065 (*U.S. Partnership Return of Income*) and estates or trusts filing Form 1041 (*U.S. Income Tax Return for Estates and Trusts*). For Federal purposes, these regulations were effective for returns filed on or after January 1, 2009. Because Georgia Regulation 560-7-8-.08 provides that an automatic extension accepted by the Internal Revenue Service is honored by the State of Georgia for the same number of months from the statutory due date of the Georgia return, the Department will adhere to the 5-month extension period for the related Georgia Partnership Form 700 or Trust and Estate Form 501.

However, for tax years beginning before January 1, 2010, if the taxpayer wants an additional one month extension for the Form 700 or Form 501 the taxpayer may file Form IT-303 and request it. Alternatively, if the taxpayer requests a Georgia-only extension on Form IT-303, the Department will grant an extension of up to 6 months.

For tax years beginning on or after January 1, 2010, Georgia will not grant an extension (either directly on Form IT-303 or indirectly through acceptance of the Federal extension) that exceeds 5 months for Form 700 and Form 501.

Other Extensions:

On June 24, 2008, the IRS finalized a number of temporary Treasury regulations originally issued in 2005 concerning simplified automatic extension procedures for a wide array of taxpayers. The Georgia Department of Revenue will:

- Continue to honor the automatic 6-month individual extension granted upon the completion and acceptance of IRS Form 4868 (*Application for Automatic Extension of Time To File U.S. Individual Income Tax Return*).
- Continue to honor the automatic 6-month extension for corporate returns granted upon the completion and acceptance of newly titled IRS Form 7004 (*Application for Automatic 6-Month Extension of Time to File Certain Business Income Tax, Information, and Other Returns*).
- Continue to honor the automatic 2-and-a-1/2 month extension permitted by filing IRS Form 5558 (*Application for Extension of Time to File Certain Employee Plan Returns*).

With regard to Federal consolidated returns, the Georgia Department of Revenue will continue to honor the consolidated Federal extension granted to a member or members of a Federal affiliated group of corporations which files separate or consolidated returns with Georgia.

- 6) **Scope:** An informational bulletin is intended to provide guidance to the public and to Department personnel. It is a written statement issued to apply principles of law to a specific set of facts or a general category of taxpayers. An informational bulletin does not have the force or effect of law, and is not binding on the public. It is, however, the Department's position and is binding on agency personnel until superseded or modified by a change in statute, regulation, court decision, or advisory opinion.

(Last updated: May 29, 2009)

FOR MORE INFORMATION

For more information on this subject, contact the Taxpayer Services Division at 404-417-4480 from 8:00 am to 4:30 pm EST, Monday through Friday, excluding holidays. Persons with hearing or speech impairments may call our TDD number at 404-417-4302. For forms and other information, visit our website (www.dor.ga.gov).
