Deloitte.

Inside Deloitte

State Corporate Income Tax Due Dates — Disruption and Realignment

By Amber Rutherford, Waltreese Carroll-Williams, Meriellyn Rose, and Megan Robertson

State Corporate Income Tax Due Dates — Disruption and Realignment

by Amber Rutherford, Waltreese Carroll-Williams, Meriellyn Rose, and Megan Robertson

Amber Rutherford is a senior manager and Waltreese Carroll-Williams is a manager in Deloitte's Washington National Tax Multistate Tax Services practice. Meriellyn Rose is a manager and Megan Robertson is a senior consultant in Deloitte's Multistate Tax Services practice.

In this installment of Inside Deloitte, the authors examine federal conformity and the need for states to allow time between the due dates of federal returns and state returns.

To varying degrees, states generally incorporate federal income tax law into their own income tax systems. This connection between the state and federal income tax systems is often referred to as federal conformity. States conform to the federal income tax system to promote uniformity and simplicity. Federal conformity makes it easier for taxpayers to comply with — and for tax authorities to administer — state income tax systems. Perhaps the most prominent example of federal conformity in state corporate income tax systems is the use of federal taxable income (FTI) as the starting point for computing state taxable income (STI). Most states have adopted this approach for their STI calculation. Because the federal income tax system and the calculation of FTI may change from year to year, most states have adopted processes for conforming to, or decoupling from, those changes. Some states respond to those changes automatically, while others routinely update conformity through legislative action.[1]

Historically, a version of federal conformity also existed for state corporate income tax due dates. Most extended state corporate filing deadlines were one month after the extended due date for federal corporate income tax returns.[2] Before the enactment of 2015 federal legislation, federal corporate income tax returns for calendar year-end taxpayers were due on September 15, and most state filing deadlines were October 15, with exceptions.[3] The Appendix below lists extended state due dates before the federal change. Note that 30 out of 47 jurisdictions (45 states, plus Washington, D.C., and New York City) with an income or similar tax provided an extended due date that was at least one month after the federal due date.

This version of federal conformity, or consistent nonconformity — under which most state extended due dates were one month after the federal — was beneficial to taxpayers. The extra month gave taxpayers time to prepare and file state returns after filing corresponding federal returns. The one-month buffer between the federal and state extended due dates paralleled the conformity that exists in the FTI-to-STI calculation. Because the calculation of STI

[1]For example, Alabama automatically adopts the most recent version of the Internal Revenue Code. *See* Ala. Code section 40-18-1.1(b). This is commonly referred to as rolling conformity. Conversely, for tax years beginning on or after January 1, 2015, California conforms to the IRC as of January 1, 2015, which is commonly referred to as fixed-date conformity. *See* Cal. Rev. & Tax. Code sections 23051.5(a) and 17024.5(a).

[2]The reference to tax returns refers to corporate income tax returns, and due date and filing deadline refer to the extended due date, unless otherwise noted.

[3]Florida, for example, had an extended due date that was 15 days after the extended due date of the federal return. The jurisdictions that were due the same day as the federal return included Alabama, Arkansas, the District of Columbia, Georgia, Massachusetts, Mississippi, Nebraska, New Mexico, New York, New York City, Oklahoma, Rhode Island, South Carolina, and West Virginia.

generally begins with FTI, taxpayers need a final federal income tax return to prepare the corresponding state return. Some aspects of preparing the state tax return cannot begin until the federal return is complete. Most states had previously aided taxpayers by providing them with an extra month to file the state return.

In 2015 this balance between state and federal due dates was disrupted. Effective for tax years beginning on or after December 31, 2015, the Surface Transportation and Veterans Health Care Choice Improvement Act (the due date act)[4] moved the federal corporate income tax return extended due date for calendar-year taxpayers to October 15. Since many state returns were also due on October 15 on extension, taxpayers lost the additional month to prepare and file their returns in those states. And unlike the link between STI and FTI, most state returns that historically were due on October 15 there were no automatic or routine process to respond to the federal change and reinstate the buffer between the federal and state due dates. In fact, immediately following the 2015 federal due date change, the number of states that allowed taxpayers at least an extra month to file the state return fell from 30 to 12.

Refer again to the Appendix and note that most state returns were due either on or before the federal due date (nine states' returns were due before the federal return for the 2016 tax year), and only 15 were due after October 15 that year. During the 2016 tax year, the states that allowed at least an extra month after the federal extended due date were Indiana, Louisiana, Maine, Maryland, Michigan, Minnesota, Montana, New Hampshire, North Dakota, Oklahoma, Texas, and Wisconsin.

For many states, adjusting to the new federal due date to reinstate the one-month buffer requires nonroutine, specific state legislative or administrative action. Some states have statutes that authorize state tax agencies to change the return due date. Conversely, some states require that a due date change be made legislatively through a statutory amendment, leaving state tax authorities with limited or no discretion to amend the filing deadline. In some cases, states were able to adjust due dates quickly, but in other cases it has taken many years for states to address the federal due date change. Still other states have not yet addressed the issue.

Corporate Taxpayer Community Advocates for Change

Following the due date act's change to the federal due date and the disruption it caused in the state corporate compliance process, several organizations representing corporate taxpayers began to advocate for a restoration of the time between state and federal due dates. The Council On State Taxation has communicated with stakeholders and encouraged states to provide an extra month to file state returns. The American Institute of CPAs has been listening to the feedback of its members, and through its State and Local Tax Technical Resource Panel (SALT TRP) is developing resources[5] to assist state CPA societies in their advocacy efforts. The Tax Executives Institute is also actively working to promote this change. Deloitte and other national accounting firms, as AICPA members, have provided resources to the AICPA's effort to gather data and create materials that will educate stakeholders and assist state CPA societies working on this issue.

Complexities Caused by Contemporaneous Federal and State Filing Due Dates

Generally, STI is computed by starting with FTI, which is modified to account for the differences between federal and state tax laws. In most states, taxpayers rely on FTI to calculate STI

[4]See H.R. 3236, 114th Cong. (2015-2016), which became P.L. 114-41, effective July 31, 2015.

[5]*See* AICPA, State and Local Tax Advocacy Resources (undated).

and prepare their state returns. This is one reason why the one-month buffer between the federal and state filing deadline is important to many taxpayers.

The potential problem with having the same federal and state due date is apparent — lack of time for taxpayers to prepare their state return. However, so is one potential solution: Taxpayers should complete the federal return before the due date to allow themselves sufficient time to prepare the state return. But for various practical reasons, this seemingly straightforward solution has been difficult to implement. According to Fred Nicely, senior tax counsel at COST:

> The reality of our current system is that for our members, large corporate taxpayers, the federal compliance (return preparation) process usually runs right up to the extended federal due date. And for various reasons (for example, end of the year federal tax changes made by Congress) efforts to have the federal returns completed early have been unsuccessful. While the reasons why federal returns cannot be completed well before the due date can be debated, for many of our members, it's simply a fact of life. And the rush to complete the state (and some local) returns often leads to the subsequent filing of amended returns to correct the filing of returns with incomplete information, which is burdensome to both taxpayers and state tax administrators.

If we accept that many federal corporate income tax returns will not be completed until at or near the extended federal due date, what are the consequences when the state does not allow additional time to file a state return? Taxpayers experience compression — in which they have little time to prepare and timely file their state returns. We are unaware of any studies that have been published to measure the consequences of compression. We are also unaware of any studies that compare the accuracy or timeliness of returns filed in states that allow extra time to file with those of returns filed in states that do not. Intuitively, however, it would make sense that there would be significant benefits to allowing additional time to file state returns. However, to date, there is little published data on the subject.

Commentators — including COST, TEI, and the AICPA — suggest a range of potential benefits associated with allowing the extra month for state returns. Eileen Sherr, a director of tax policy and advocacy at the AICPA, explains that the AICPA's SALT TRP has identified for the state CPA societies the following potential benefits:

- decreased non-filing or late filing of state returns and decreases to the notices, penalties, and requests for relief that come with non-filing or late filing;
- increased accuracy of state returns and decreases to the notices, penalties, and amended returns that come from return errors;[6] and
- increased e-filing (that is, decreased paper filings);[7]

Sherr acknowledged in a conversation with us that the AICPA was unaware of any published studies documenting these benefits, but she noted that "many of our members and the state CPA societies that we have worked with and the state officials that they have communicated with see the benefits of allowing extra time to file."

Some state officials have raised concerns, though. They generally do not dispute the potential benefits of allowing the extra time to file, but they point to potential offsetting negative

---

[6]Sherr noted that the potential for decreased accuracy is further compounded by federal tax reform. Many states have varying levels of conformity with the federal tax code, and state guidance might not address or conform to some of the notable corporate tax provisions such as the net business interest limitation under IRC section 163(j), the 80 percent limitation on net operating losses, the dividends received deduction, 100 percent bonus depreciation, the foreign-derived intangible income regime, and the global intangible low-taxed income regime. Taxpayers often need to know how a position relating to tax reform will be taken on a federal return before they can assess the state implications.

[7]While no published studies on the effect of compression on e-filing exists, based on anecdotal information, commentators from AICPA and COST suggest that taxpayers faced with compression may file paper returns instead of e-filing because state e-file systems often will not allow a return to be filed if it is lacking some information or contains even a small calculation error. To bypass these e-file requirements taxpayers may print and file paper returns that would have been e-filed if the taxpayer had time to correct the errors before the filing deadline.

consequences for the states. Joe Garrett, a former Alabama Department of Revenue deputy commissioner and current Deloitte Tax managing director, observed the following concerns that he believes state officials could raise as potential negative consequences of allowing an extra month to file:

- delayed or reduced revenue collections;
- delayed return processing;
- expenses associated with implementing changes to state information systems to reflect the due date change; and
- secondary delays to state administrative processes like budgeting (dependent on return information for revenue estimates), auditing returns, processing refunds, and identifying and correcting form errors from one year to the next.

However, Garrett suggests that through conversations and educational efforts with state officials, many concerns could be greatly reduced. According to Garrett — who spoke with us on this subject — a state tax agency's biggest initial concern could be the potential for reduced or delayed revenue collections, but those concerns can be largely resolved by the fact that corporate taxpayers are not asking for more time to pay, just more time to file the return. "The proposals I've seen be most successful move the extended due date to November 15 without moving the original due date. And without getting too far into the weeds, moving the extended due date without moving the original due date means that you are not making changes to payment due dates, you are not moving revenue," he said. Garrett notes that other potential concerns from state officials, like the expenses associated with changing state return processing systems to reflect the new due date, are real, but he is optimistic that most state officials would see the long-term benefits of the change. More accurate returns outweigh short term transition costs, like system changes.

Status of State Corporate Income Tax Extended Due Dates

While change has come slowly, advocates of changing state corporate filing due dates have seen successes. In recent years, several states amended their statutes or regulations or changed their administrative policies to allow for additional time between the filing of federal and state corporate tax returns. Alabama, Alaska, Arizona, Arkansas, California, Connecticut, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Montana, Nebraska, New Hampshire, New Jersey, North Dakota, Oklahoma, Oregon, Pennsylvania, Tennessee, and Texas provide for an extended due date of at least one month after the federal date, though some states require that conditions be met to qualify for the extension.[8]

However, as of the writing of this article, there are still 17 states that have an extended due date of October 15, providing taxpayers with no buffer.[9] While we are now back number-wise to the pre-2015 status quo, this disruption has highlighted the importance of this issue and its potential problems. Expect state corporate taxpayer advocates to continue to push for the remaining states to make a change and allow extra time to file the state return. Todd Lard, tax counsel at TEI, said in a conversation with us that his organization would continue to work for change "as long as there were any states left that did not allow the extra time." Lard said it is a "common-sense change that his organization saw as win/win for taxpayers and states."

Conclusion

The change to the federal corporate return due dates reverberated through state corporate return due dates and the return processing systems that

[8] See the Appendix for extended due dates for the tax year ending December 31, 2022 (as of March 2023). Those dates assume that the necessary requirement to obtain the standard applicable extension in that state has been met, such as the filing of a federal extension and timely filed estimate and extension payments.

[9] See the Appendix for a list of states that are due on October 15 for calendar-year taxpayers. Because the 15th falls on a Sunday in 2023, returns are due on Monday, October 16, 2023. These due dates do not reflect the additional time available for some types of taxpayers, such as combined filers in Washington, D.C., and Massachusetts or second or additional extensions that may be available in some jurisdictions, such as New York and New York City.

operate to meet those deadlines. States and taxpayers are still responding over seven years later. But there appears to be an emerging consensus that states should allow additional time after the federal due date for taxpayers to file their returns. With the changes that states have implemented in recent years, only 17 states are left with a due date that is the same as the federal. Based on our conversations with the commentators discussed above, we expect efforts to continue in those remaining states to provide taxpayers with extra time to file.[10]

[10]This article contains general information only and Deloitte is not, by means of this article, rendering accounting, business, financial, investment, legal, tax, or other professional advice or services. This article is not a substitute for such professional advice or services, nor should it be used as a basis for any decision or action that may affect your business. Before making any decision or taking any action that may affect your business, you should consult a qualified professional adviser. Deloitte shall not be responsible for any loss sustained by any person who relies on this article.

Appendix

The following chart provides corporate extended due dates[11] for calendar-year taxpayers before the due date act (that is, for tax years ending before December 31, 2015) and immediately after the due date act (that is, for tax years ending on or after December 31, 2015, but before December 31, 2016), and current due dates for the tax year ending December 31, 2022 (as of March 2023).

[11]The due dates listed above are statutory due dates that have been adjusted to reflect the actual due date if the statutory due date falls on a weekend or federal holiday. The above-listed due dates are for illustrative purposes only and should not be relied on without independent verification. Special rules that modify the statutory extended due dates — including filing or paying electronically, filing combined returns, and filing state-specific forms that grant additional administrative extensions — are not reflected in this chart.

Jurisdiction	Extended Due Date Before the Due Date Act	Extended Due Dates Immediately After the Due Date Act	Extended Due Date for 2022 Tax Year
Federal[a]	9/15/2016	10/16/2017	10/16/2023
Alabama[b]	9/15/2016	9/15/2017	11/15/2023
Alaska[c]	10/17/2016	10/16/2017	11/14/2023
Arizona[d]	10/17/2016	10/16/2017	11/15/2023
Arkansas[e]	9/15/2016	9/15/2017	11/15/2023
California[f]	10/17/2016	10/16/2017	11/15/2023
Colorado[g]	10/17/2016	10/16/2017	10/16/2023
Connecticut[h]	10/3/2016	11/1/2017	11/15/2023
Delaware[i]	10/3/2016	10/2/2017	10/16/2023
District of Columbia[j]	9/15/2016	10/16/2017	10/16/2023
Florida[k]	10/3/2016	10/2/2017	11/1/2023
Georgia[l]	9/15/2016	10/16/2017	10/16/2023
Hawaii[m]	10/20/2016	10/20/2017	10/20/2023
Idaho[n]	10/17/2016	10/16/2017	10/16/2023
Illinois[o]	10/17/2016	10/16/2017	11/15/2023
Indiana[p]	10/17/2016	11/15/2017	11/15/2023
Iowa[q]	10/31/2016	10/31/2017	10/31/2023
Kansas[r]	10/17/2016	10/16/2017	11/15/2023
Kentucky[s]	10/17/2016	10/16/2017	11/15/2023
Louisiana[t]	11/15/2016	12/15/2017	11/15/2023
Maine[u]	10/17/2016	11/14/2017	10/16/2023
Maryland[v]	10/17/2016	11/15/2017	11/15/2023
Massachusetts[w]	9/15/2016	9/15/2017	10/16/2023
Michigan[x]	1/2/2017	1/2/2018	1/2/2024
Minnesota[y]	10/17/2016	11/15/2017	11/15/2023
Mississippi[z]	9/15/2016	9/15/2017	10/16/2023
Missouri[aa]	10/17/2016	10/16/2017	10/16/2023
Montana[bb]	11/15/2016	11/15/2017	11/15/2023
Nebraska[cc]	9/15/2016	9/15/2017	11/15/2023
Nevada	N/A	N/A	N/A
New Hampshire[dd]	10/17/2016	11/15/2017	11/15/2023
New Jersey[ee]	10/17/2016	10/16/2017	11/14/2023

Jurisdiction	Extended Due Date Before the Due Date Act	Extended Due Dates Immediately After the Due Date Act	Extended Due Date for 2022 Tax Year
New Mexico[ff]	9/15/2016	10/16/2017	10/16/2023
New York[gg]	9/15/2016	10/16/2017	10/16/2023
New York City[hh]	9/15/2016	10/16/2017	10/16/2023
North Carolina[ii]	10/17/2016	10/16/2017	10/16/2023
North Dakota[jj]	10/17/2016	11/15/2017	11/15/2023
Ohio	N/A	N/A	N/A
Oklahoma[kk]	9/15/2016	11/14/2017	11/14/2023
Oregon[ll]	10/17/2016	10/16/2017	11/15/2023
Pennsylvania[mm]	10/17/2016	10/16/2017	11/15/2023
Rhode Island[nn]	9/15/2016	9/15/2017	10/16/2023
South Carolina[oo]	9/15/2016	10/16/2017	10/16/2023
South Dakota	N/A	N/A	N/A
Tennessee[pp]	10/17/2016	10/16/2017	11/15/2023
Texas[qq]	11/15/2016	11/15/2017	11/15/2023
Utah[rr]	10/17/2016	10/16/2017	10/16/2023
Vermont[ss]	10/17/2016	10/16/2017	11/14/2023
Virginia[tt]	10/17/2016	10/16/2017	11/14/2023
Washington	N/A	N/A	N/A
West Virginia[uu]	9/15/2016	9/15/2017	10/16/2023
Wisconsin[vv]	10/17/2016	11/15/2017	11/15/2023
Wyoming	N/A	N/A	N/A

[a]26 U.S.C. section 6072(a); 26 U.S.C. section 6081(b).

[b]Ala. Code section 40-18-39.2(a)(1); Ala. Admin. Code r. 810-3-39-.02.

[c]Alaska Stat. section 43.20.030(a).

[d]Ariz. Rev. Stat. Ann. section 43-325; Ariz. Rev. Stat. Ann. section 42-1107.

[e]Ark. Code Ann. section 26-51-806(a)(2); Ark. Code Ann. section 26-51-807(a)(1).

[f]Cal. Rev. & Tax. Code section 18601(a); *see* California FTB Notice 2019-07 (Dec. 2, 2019); Cal. Rev. & Tax. Code section 18604.

[g]Colo. Rev. Stat. section 39-22-608(2); 39 Colo. Code Regs. section 22-608(2).

[h]Conn. Gen. Stat. section 12-222(b)-(c); 2022 instructions to Form CT-1120 EXT, "Application for Extension of Time to File Connecticut Corporation Business Tax Return."

[i]Del. Code Ann. tit. 30, section 1904(b); Del. Code Ann. tit. 30, section 511(b).

[j]D.C. Code Ann. section 47-1805.03(a); D.C. Code Ann. section 47-1805.03(b).

[k]Fla. Stat. section 220.222(1)(a); Fla. Stat. section 220.222(2).

[l]Ga. Code Ann. section 48-7-56; Ga. Code Ann. section 48-2-36; Ga. Comp. R. & Regs. 560-7-8.08.

[m]Haw. Rev. Stat. section 231-21; Haw. Rev. Stat. section 235-97(b); Haw. Rev. Stat. section 235-98; Haw. Regs. section 18-235-98.

[n]Idaho Code section 63-3032(1)(a); Idaho Code section 63-3033(a).

[o]35 ILCS 5/505(a)(1); 35 ILCS 5/505(b).

[p]Ind. Code Ann. section 6-3-4-3(a); Ind. Code Ann. section 6-8.1-6-1(c)(1).

[q]Iowa Code Ann. section 422.21(1); Iowa Admin. Code r. 701-501.2(4); Iowa Admin. Code r. 701-301.2(4).

[r]Kan. Stat. Ann. section 79-3221(c)(2).

[s]Ky. Rev. Stat. Ann. section 141.160(1); Ky. Rev. Stat. Ann. section 141.200(13); Ky. Rev. Stat. Ann. section 141.170(2); 103 Ky. Admin. Regs. 15:050 section 3(3).

[t]La. Stat. Ann. section 47:287.614(A), (D).

[u]Me. Rev. Stat. Ann. tit. 36, section 5227; Me. Rev. Stat. Ann. tit. 36, section 5231.

[v]Md. Code Ann., Tax-Gen. section 10-821(a)(1); Md. Code Ann., Tax-Gen. section 10-823.

[w]Mass. Gen. Laws ch. 62C, section 11; Mass. Gen. Laws ch. 62C, section 19.

[x]Mich. Comp. Laws section 206.685(1), (3).

[y]Minn. Stat. section 289A.18(1); Minn. Stat. section 289A.19(2).

[z]Miss. Code Ann. section 27-7-41; Miss. Code Ann. section 27-7-50; 35 Miss. Code R. section 35-003-001-11(101).

[aa]Mo. Rev. Stat. section 143.511; Mo. Rev. Stat. section 143.551.

[bb]Mont. Code Ann. section 15-31-111(2)(a), (3)(a).

[cc]Neb. Rev. Stat. section 77-2768; Neb. Rev. Stat. section 77-2761(5); Neb. Rev. Stat. section 77-2770(1); Neb. Admin. R. & Regs. 316-24-007.01. Nebraska provides for an extension of up to seven months for corporate taxpayers, which is included in the statutory language.

[dd]N.H. Rev. Stat. Ann. section 77-A:6(I); N.H. Rev. Stat. Ann. section 77-A:9; N.H. Code Admin. R. Dept. Rev. Admin. 307.09.

[ee]N.J. Rev. Stat. section 54:10A-15(c); N.J. Admin. Code tit. 18, section 7-11.12(b).

[ff]N.M. Stat. Ann. section 7-2A-9; N.M. Stat. Ann. section 7-1-13(D).

[gg]N.Y. Tax Law section 211(1).

[hh]N.Y.C. Admin. Code section 11-655(1).

[ii]N.C. Gen. Stat. section 105-130.17(b); N.C. Gen. Stat. section 105-263(b), (c); N.C. Admin. Code tit. 17, section 5C.2004.

[jj]N.D. Cent. Code section 57-38-34(2), (6). Instructions to 2022 Form 40, "Corporation Income Tax Return," p. 1.

[kk]Okla. Stat. Ann. tit. 68, section 2368(H)(4), (5); Okla. Stat. Ann. tit. 68, section 216; Okla. Admin. Code section 710:50-3-4. Administrative guidance indicates that Oklahoma provides an extension of up to seven months; however, the statutory language provides for an automatic six-month extension. The extended due date for Oklahoma listed above is October 16, 2023, based on the statutory language.

[ll]Or. Rev. Stat. section 314.385(1)(b), (c); Or. Admin. R. 150-314-0167(2)(c).

[mm]72 Pa. Stat. section 7405.

[nn]R.I. Gen. Laws section 44-11-3(c); R.I. Gen. Laws section 44-11-5; Rhode Island ADV 2017-06, Rhode Island Division of Taxation (Feb. 8, 2017).

[oo]S.C. Code Ann. section 12-6-4970(A); S.C. Code Ann. section 12-6-4980.

[pp]Tenn. Code Ann. section 67-4-2015(a), (h)(1)(A).

[qq]Tex. Tax Code Ann. section 171.202(c).

[rr]Utah Code Ann. section 59-7-505(2), (3).

[ss]Vt. Stat. Ann. tit. 32, section 5862(a); Vt. Stat. Ann. tit. 32, section 5868.

[tt]Va. Code Ann. section 58.1-441; Va. Code Ann. section 58.1-453(A).

[uu]W. Va. Code section 11-24-13(a); W. Va. Code section 11-24-18; "Business Tax Due Date Changes," West Virginia Tax Division.

[vv]Wis. Stat. section 71.24(1).

■