

T. Dennis Connally Consultant, P.C.

Certified Public Accountant

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New Filing Extension Rules Kick-In For 2005 Returns

As April 17 approaches, the IRS is preparing for an increase in extension requests and many questions about how to get an extension. Last November, the IRS announced that all taxpayers would get an automatic six-month extension of time to file their 2005 returns. While the procedures are similar for individuals, businesses and estates and trusts, there are important differences, notably in which forms to file. Individuals, businesses, and estates and trusts are all eligible for an automatic six-month extension of time to file but their requests must be made on different forms.

- The six-month extension is automatic. Taxpayers do not have to give the IRS an explanation. However, it is not “automatic” in the sense that there is nothing to do: forms must still be filed and proper tax payments made in order to have an automatic extension considered valid.

Extensions

Businesses. Form 7004, Application for Automatic Six-Month Extension of Time to File Certain Business Income Tax, Information, and Other Returns, has been revised for use by noncorporate as well as corporate taxpayers. Previously, only corporations used Form 7004. This year, and in future years, partnerships and other noncorporate entities will also use Form 7004 to request an automatic six-month extension of time to file.

- This is a windfall for noncorporate taxpayers that previously had to request a three-month extension and request another three-month extension if more time was needed.

Estate and gift returns. Form 4768, Application for Extension of Time To File a Return and/or Pay U.S. Estate (and Generation-Skipping Transfer) Taxes has been revised to reflect the automatic six-month extension for filers of estate and gift tax returns. Estate and gift tax return filers previously had to make multiple requests to secure a maximum extension of six months.

- Form 8892, Payment of Gift/GST Tax and/or Application for Extension of Time to File Form 709, has also been revised. It must be filed when paying a gift tax liability or when the taxpayer is extending Form 709 only without extending the Form 1040. The IRS explained that Form 8892 may be caused to request an automatic six-month extension for filing Form 709 in cases where a Form 4868 was not filed. A new tear off section, Form 8892-V, includes a voucher for paying a gift/GST-tax liability.

Individuals. Individuals may request an automatic six-month extension by filing Form 4868, Application for Automatic Extension of Time to File U.S. Individual Income Tax Return.

- ◆ Individuals, as well as businesses and filers of estate and gift tax returns, must file their requests for extensions before the due date of the return. The IRS will only notify taxpayers whose requests are denied.
- ◆ All extension forms may be filed on paper. Forms 7004 and 4868 may be e-filed. E-filing or paper filing the extension request does not lock the taxpayer into following the same manner of filing for the return itself.

Penalties and interest

Additional time to file does not mean additional time to pay. Interest will accrue on past due taxes and penalties may be imposed if payment is not made by the due date. Also, if the taxpayer does not file the return by the extension due date, a penalty for failure to file may be imposed.

- ◆ Failure to file and failure to pay penalties may be avoided if the taxpayer demonstrates that the delay (in filing or paying) resulted from a reasonable cause and not from willful neglect. Reasonable cause generally requires that the taxpayer exercised ordinary business care and prudence but was still unable to file or pay on time.

Late return penalty. The late return penalty is generally five percent for the first month of failure and an additional five percent for every additional month of failure, up to 25 percent, based on the amount of tax that has not yet been paid.

Late payment of tax penalty. The failure to pay penalty is 0.5 percent of the amount of the tax per month up to a maximum of 25 percent. If a taxpayer has been assessed both a failure to file and a failure to pay penalty, both penalties shall not exceed five percent each month although the overall maximums of 25 percent apply separately to each penalty.

Interest. The IRS charges interest from the due date of the return until the day the taxes are actually paid and the interest is charged on the unpaid tax as well as on any penalty imposed.

Treasury and IRS Provide Guidance on Energy Credit To Home Builders

IR-2006-32, Feb 21, 2006

Washington — The Internal Revenue Service today provided guidance regarding the energy efficient homes credit available under the Energy Policy Act of 2005. Under the new provision, an eligible contractor who constructs a qualified new energy efficient home may qualify for a credit of up to \$2,000. The credit is available for all new homes, including manufactured homes constructed in accordance with the Federal Manufactured Homes Construction and Safety Standards.

The home qualifies for the credit if:

- ◆ It is located in the United States;
- ◆ Its construction is substantially completed after August 8, 2005;
- ◆ It meets the statutory energy saving requirements, and
- ◆ It is acquired from the eligible contractor after December 31, 2005, and before January 1, 2008, for use as a residence.

In general, to meet the energy saving requirements, a home must be certified to provide a

level of heating and cooling energy consumption that is at least 30 to 50 percent in the case of manufactured homes, and 50 percent for other homes below that of a comparable home constructed in accordance with the standards of the 2004 Supplement to the 2003 International Energy Conservation Code. It must also have building envelope component improvements providing a level of heating and cooling energy consumption that is at least 10 percent below that of a comparable home.

Manufactured homes can also qualify for the credit by meeting Energy Star standards.

- ◆ Site-built homes qualify for a \$2,000 credit if they reduce energy consumption by 50 percent relative to the International Energy Conservation Code standard.
- ◆ Manufactured homes qualify for a \$1,000 or \$2,000 credit depending on the level of energy savings achieved. The guidance provides information about the certification process that a builder must complete to qualify for the credit. The guidance also provides for a public list of software programs that may be used in calculating energy consumption for purposes of obtaining a certification.