

UPDATE ON TAX RELIEF FOR VICTIMS OF HURRICANES HARVEY AND IRMA

New York State Residency Alert
September 15, 2017

The IRS has extended tax relief to victims of the Hurricanes Harvey and Irma with respect to the filing of 2016 tax returns currently on extension. Eligible businesses, trusts, tax-exempt organizations, and individuals that currently have a valid extension to file their 2016 tax returns to either September 15, 2017 or October 15, 2017 will now have until January 31, 2018 to file returns and pay any taxes due. This includes the September 15, 2017 and January 16, 2018 deadlines for making federal estimated tax payments. The IRS is offering this relief to any area designated by the Federal Emergency Management Agency (FEMA) as qualifying for individual assistance. The current list of eligible localities is available on the disaster relief page on IRS.gov. The IRS News Release regarding the tax relief is available [here](#).

What about New York? Tax Department officials have indicated that they do not have the authority to extend filing deadlines for disasters outside of the state. Nevertheless, the Department has the authority to abate late-filing and late-payment penalties for reasonable cause. The tax regulations (20 NYCRR §2392.1) provide examples of reasonable cause for penalty abatement that include destruction of records and inability to timely assemble information, as well as a catch-all provision for “any other ground for delinquency” that indicates a “reasonable cause for delay” and an “absence of willful neglect.” Thus, taxpayers who might file a 2016 return late because their records are in an affected area or they are otherwise impacted by one of the hurricanes can protest any late-filing or late-payment penalties imposed by New York, using one of the grounds for reasonable cause noted above. Taxpayers might also consider using New York’s voluntary disclosure program to avoid penalties for a late-filed return.

Taxpayers should check with their tax advisors to determine if any filing deadlines have been extended or penalty abatement programs created in other state and local jurisdictions for those affected by the hurricanes.

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