

PUBLICATION

IRS Grants Relief to Tennessee Tornado Victims But Taxpayers Must Seek Extension from Revenue Department

March 21, 2012

Automatic Relief Granted by IRS. On March 19, 2012, the Internal Revenue Service (IRS) announced in News Release [AL/TN-2012-14TN](#) that it is granting tax relief to persons and businesses located in ten counties in Tennessee, including Bradley, Claiborne, Cumberland, DeKalb, Hamilton, Jackson, McMinn, Monroe, Overton and Polk.

President Obama declared the affected counties as disaster areas in response to the tornadoes and severe weather that began February 29, 2012. Taxpayers who reside or have a principal place of business in these counties now have the following automatic filing and payment extensions:

- **Filing Extension Until May 31, 2012** - Individual returns, C corporation returns, estate and trusts income tax returns, partnership returns, S corporation returns, trust returns, estate returns, gift tax and generation skipping tax returns that have an original or extended due date occurring on or after February 29 and on or before May 31, 2012 have an extended filing deadline to May 31, 2012.
- **Estimated Tax Payment Extension Until May 31, 2012** - Estimated tax payments that have an original or extended due date occurring February 29, 2012 and on or before May 30, 2012 have an extended filing deadline to May 31, 2012.
- **IRA Contributions** - Contributions to a taxpayer's 2011 Individual Retirement Account (IRA) have an extended contribution date to May 31, 2012.

The Release also includes the following provisions:

- **Casualty Losses** - Taxpayers in the affected counties may claim casualty losses on their 2011 or 2012 federal income tax returns. Returns may be amended to take advantage of the 2011 tax year if taxpayers have already filed. The taxpayer amending the 2011 return should put "Tennessee/Severe Storms, Tornadoes, Straight-line Winds and Flooding" at the top of the amended tax return.
- **Certain Returns and Payments Not Extended** - Forms W-2, 1098, 1099, 1042-S and 8027 are not extended for payment or filing. Employment and excise tax deposit due dates are also not extended. However, the IRS will abate penalties for failures to make deposits due on or before March 15, 2012 if the deposit was made by March 15, 2012.

Relief Must Be Requested from Department of Revenue. With respect to filings required by the Tennessee Department of Revenue (Department), legislation was enacted in 2011 authorizing the Department to extend the due date for returns in those situations where the return would otherwise be due on a Saturday, Sunday or a "legal holiday" as defined by the Internal Revenue Code. However, that legislation did not address filing extensions granted by the IRS as a result of natural disasters.

In September 2008, the Department did issue Notice #08-22 stating that the Department would consider, on a case-by-case basis, requests for relief for taxpayers who are unable to file tax returns, as required by law, because of the impact of hurricanes or other natural disasters. That Notice also stated that taxpayers that are granted an extension for disaster relief will not be assessed penalty for payments made on or before the extended due date. However, interest charges will apply. With respect to defining which taxpayers qualified for

such relief, the Notice stated that a taxpayer would qualify if the principal place of business is located in a federally declared disaster area or if their books, records or tax professionals' office are located in a federally declared disaster area.

As of the date of this Alert, the Department has not issued any further guidance with respect to extensions for State purposes where the IRS has granted extensions as a result of natural disasters. As a result, taxpayers in the ten counties identified by the IRS News Release must consider petitioning the Department pursuant to the 2008 Notice for an extension in appropriate circumstances.

Conclusion. Please contact any of the attorneys in the Firm's Tax Department with questions regarding how the IRS' News Release or Department's 2008 Notice may affect you or your business.