

Author: Obernolte, et al. Analyst: Davi Milam Bill Number: AB 1171  
Related Bills: See Legislative History Telephone: 845-2551 Introduced Date: February 17, 2017  
Attorney: Bruce Langston Sponsor: \_\_\_\_\_

**SUBJECT:** Extension of Time for Filing Return Shall Not Be More Than 7 Months

### SUMMARY

This bill would, under the Administration of Franchise and Income Tax Laws, modify the extension of time to file certain returns.

### RECOMMENDATION – NO POSITION

### REASON FOR THE BILL

The reason for this bill is to allow a seven-month extension of time to file California partnership returns in lieu of the current six-month extension thereby providing an additional month between the state and the federal extended due date for partnership returns.

### EFFECTIVE/OPERATIVE DATE

As an urgency matter, this bill would be effective and operative immediately upon enactment.

### FEDERAL LAW

#### *Original Return Due Dates*

Federal law requires persons to file income tax returns in the manner prescribed by the Secretary, in compliance with due dates established in the Internal Revenue Code (IRC), if any, or by regulations.

Individuals generally must file by April 15 of the year following the close of the taxable year unless the 15<sup>th</sup> falls on a weekend or a federal holiday. For tax year 2016, the individual return is due by April 18<sup>th</sup> due to the federal Emancipation Day holiday observed on Monday, April 17, 2017.

For taxable years beginning on or after January 1, 2016, the IRC was amended<sup>1</sup> to shorten the due date for partnership returns by one month and extend the due date for C corporation returns by one month so that, unlike prior law, the filing deadline for partnerships would precede the due dates of their individual and corporate investors. Partnership returns are due by the 15<sup>th</sup> day of the third month following the close of the taxable year (generally March 15<sup>th</sup> for calendar-year partnerships). Under prior law, the partnership return due date was the 15<sup>th</sup> day of the fourth month (generally April 15<sup>th</sup> for calendar-year partnerships).

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<sup>1</sup> Surface Transportation and Veterans Health Care Choice Improvement Act of 2015.  
<https://www.congress.gov/bill/114th-congress/house-bill/3236/text>

### *Extended Return Due Dates*

Federal law generally provides that the Secretary may grant a reasonable extension of time for filing any return, declaration, statement, or other required document.<sup>2</sup> The extension of time to file does not extend the time to pay.

For individuals and partnerships, the IRS allows an extension of time to file of six months resulting in an extended due date for individual returns of October 15<sup>th</sup> and an extended due date of September 15<sup>th</sup> for partnership returns.

Federal law provides that the extension of time to file for corporations is six months, except in the following situations:<sup>3</sup>

- In the case of any return for a taxable year of a C corporation with a December 31 year end that begins before January 1, 2026, the extension is five months.
- In the case of any return for a taxable year of a C corporation which ends on June 30 and begins before January 1, 2026, the extension is seven months.

For the 2017 filing season (for 2016 returns), although federal law<sup>4</sup> provides a five-month automatic extension period for calendar-year C corporations, the IRS is instead granting a six-month automatic extension under the general rule that the Secretary may grant a “reasonable extension.”<sup>5</sup> As a result, for 2016 returns, calendar-year C corporations will have an original filing deadline of April 18, 2017, and an extended deadline of October 16, 2017.<sup>6</sup>

## **STATE LAW**

### *Original Return Due Dates*

Individuals with income that meets specified filing thresholds<sup>7</sup> are generally required to file an income tax return by April 15<sup>th</sup> of the year following the close of the taxable year. For taxable year 2016, due to the federal Emancipation Day holiday observed on Monday, April 17, 2017, tax returns filed and payments mailed or submitted on April 18, 2017, will be considered timely.

Rather than conforming to the federal law for due dates of filing tax returns of partnerships and C corporations, California has stand-alone law that generally mirrors recent federal changes that modified the original due date for partnership returns and C corporations. For taxable

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<sup>2</sup> IRC §6081(a).

<sup>3</sup> IRC §6081(b).

<sup>4</sup> IRC §6081(b).

<sup>5</sup> IRC §6081(a). The change is reflected in the new revision of the instructions for the extension application (Form 7004), and was confirmed in a news release issued by the IRS on February 8, 2017.

<sup>6</sup> [www.irs.gov/uac/rda-2017-02-08-2016-form-7004](http://www.irs.gov/uac/rda-2017-02-08-2016-form-7004)

<sup>7</sup> For 2016, the most recent year information is available; these filing thresholds are \$16,597 in gross income or \$13,278 in adjusted gross income (AGI) for single taxpayers and \$33,197 in gross income or \$26,558 in AGI for married filing joint taxpayers. These filing thresholds are increased based on the number of dependents claimed and are adjusted annually for inflation.

years beginning on or after January 1, 2016, partnership returns are due by the 15<sup>th</sup> day of the third month following the close of the taxable year (generally March 15<sup>th</sup>).<sup>8</sup> C corporation returns are due on or before the 15<sup>th</sup> day of the fourth month following the close of the taxable year.

### *Extended Return Due Dates*

Existing state law authorizes the Franchise Tax Board (FTB) to grant an automatic paperless extension to file of up to six months from the original due date for taxpayers subject to the Personal Income Tax Law (PITL), including individuals and pass-through entities.<sup>9</sup> The granting of the extension is conditioned on the filing of a return within the automatic extension period.<sup>10</sup>

Existing state law authorizes the FTB to grant an automatic extension of up to seven months for returns filed under the Corporation Tax Law if the return is filed within the extension period. For taxable years beginning on or after January 1, 2016, the FTB will allow an automatic extension of time to file of six months to all taxpayers in good standing filing Forms 100, 100W, and 100S.<sup>11</sup>

The extension of time to file does not extend the time for any payment of tax. Tax is due on the original due date of the return without regard to extension. If the return is filed after the extended due date, the automatic extension does not apply and a late filing penalty plus interest is assessed.

### **THIS BILL**

This bill would extend from six months to seven months the maximum number of months that the FTB may grant as an automatic extension of time for filing returns required to be filed under the PITL.

Under the terms of this bill, the FTB would be authorized to allow an additional month to file for individuals and pass-through entities resulting in the following possible extended due dates:

- For Individuals: November 15<sup>th</sup> instead of October 15<sup>th</sup>.
- For Pass-through entities: October 15<sup>th</sup> instead of September 15<sup>th</sup>, which would mirror the current federal and California extended due date for calendar-year C corporations.

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<sup>8</sup> AB 1775 (Chapter 348, Statutes of 2016). Limited partnerships, limited liability partnerships, limited liability companies (LLC) classified as a partnership, and single member LLCs (SMLLCs) owned by an S corporation, partnership, or a SMLLC classified as a partnership also would have an original return due date of the 15<sup>th</sup> day of the third month following the close of the taxable year.

<sup>9</sup> Title 18, Code of California Regulations, Section 18567.

<sup>10</sup> In the case of individual calendar-year taxpayers residing or traveling abroad on April 15, the statutory due date is June 15. With the automatic six-month extension, the extended due date for filing is December 15.

<sup>11</sup> Refer to FTB Notice 2016-04 for more details. <https://www.ftb.ca.gov/law/notices/2016/04.pdf>

## **IMPLEMENTATION CONSIDERATIONS**

Implementation would require system changes, education and outreach, and changes to forms and instruction.

The department has already developed the forms and instructions for the 2016 taxable year and taxpayers have begun filing returns for that tax year. Tax preparation software vendors have also developed programs for the 2016 taxable year. To adopt this statutory change for the 2016 taxable year, the department and tax preparation software vendors would incur additional costs to revise tax forms and instructions and reprogram information systems in the short time frame necessary to ensure they are available for taxpayers. Additionally, the FTB would need to suspend the processing of all individual and partnership returns until our systems have been updated. Tax preparation software vendors may also need to reduce the availability of tax return preparation software until it has been updated. To alleviate these concerns, the author may wish to change the operative date to returns filed on or after January 1, 2018, for taxable years beginning on or after January 1, 2017.

This bill would allow up to a seven-month extension of time to file for all returns required under the PITL rather than only pass-through entity returns. Modifying the extended due date of a tax return until November 15<sup>th</sup> would significantly impact the department's operations for current year filings and could delay the FTB's ability to implement the return processing infrastructure for the next year's tax return, which the FTB historically makes available the first business day of January. If this is inconsistent with the author's intent, it is recommended that the bill be amended.

## **LEGISLATIVE HISTORY**

AB 1775 (Oberholte, Chapter 348, Statutes of 2016) modified the original due dates for the California returns of partnerships and C corporations to mirror the federal due dates for such returns.

## **OTHER STATES' INFORMATION**

*Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York* laws do not allow a seven-month extension of time to file as proposed by this bill. These states were selected due to their similarities to California's economy, business entity types, and tax laws.

For the 2016 tax year, *New York* is the only state surveyed that has conformed to the recent federal change requiring partnership returns to be filed by the fifteenth day of the third month (15<sup>th</sup> day of the 3<sup>rd</sup> month) following the close of the taxable year, and allows a six-month extension of time to file. For calendar-year partnerships, the 2016 tax year extended due date is September 15<sup>th</sup>.

## **FISCAL IMPACT**

The department's costs to implement this bill have yet to be determined, but are anticipated to be significant if the proposed extended due date is allowed for 2016 tax returns. As the bill moves through the legislative process and the implementation concerns are resolved, costs will be identified and an appropriation will be requested, if necessary.

## **ECONOMIC IMPACT**

This bill as introduced on February 17, 2017, would not impact state income tax or franchise tax liabilities but may have an impact on the timing of payments received with returns filed by the extended due date.

This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill.

## **SUPPORT/OPPOSITION**

Support: California Taxpayers Association (sponsor).

Opposition: None provided.

## **ARGUMENTS**

Proponents: Some may say that allowing an additional month to complete certain state income tax returns would reduce the compliance burden and the potential for inaccuracies.

Opponents: Some may say that aligning the extended filing deadline for partnership returns with their corporate investors could result in an increase in amended return filings by partnership investors due to the untimely receipt of K-1s *Partner's Share of Income, Deduction, Credits, etc.*

## **POLICY CONCERNS**

Newly enacted, AB 1775 (Oberholte, Chapter 348, Statutes of 2016), mirrored recent federal legislation that accelerated by one month the original return filing deadline for partnerships so that the deadline preceded the due dates of their individual and corporate investors. The intent of the amendment to the respective due dates was to allow both individual and C corporation taxpayers to have the information from pass-through entities in order to accurately prepare their respective returns. Adopting the extension, as proposed by this bill, could be considered to be contrary to the intent of that legislation.

## **LEGISLATIVE STAFF CONTACT**

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