



COMMONWEALTH of VIRGINIA

Department of Taxation

May 28, 2020

Ms. Vivian J. Paige, CPA
Chair, 2020-2021 Tax Advisory Committee
Virginia Society of CPAs
4309 Cox Road
Glen Allen, Virginia 23060

Dear Ms. Paige:

Thank you for your letter regarding the penalty waiver for certain income tax filings as described in Tax Bulletins 20-4 and 20-5. Tax Bulletin 20-4 specified the taxes to which the penalty waiver would apply:

Taxes eligible for this payment extension and penalty waiver include individual, corporate, and fiduciary income taxes, as well as any estimated income tax payments that are required to be paid to the Department during this period.

Withholding taxes, including employer and pass-through entity withholding, were intentionally excluded because they raise trust fund tax issues as they represent tax money that is being held by an employer or pass-through entity in trust for the Commonwealth. See *Va. Code* § 58.1-474 and § 58.1-486.2(G).

This is consistent with the announcement from Governor Northam, requiring extension of the due date by which taxpayers could make payments of Virginia individual and corporate income taxes penalty-free. Certain nonresident partners may still avail themselves of this penalty waiver for late payments. In addition, composite return payments qualify for the waiver.

After the publication of Tax Bulletin 20-4, the Department received a number of inquiries regarding whether this would apply to pass-through entity withholding and employer withholding. Accordingly, Tax Bulletin 20-5 clarified the treatment of pass-through entity withholding for purposes of both the penalty and interest waivers.

We are aware that some tax practitioners assumed that the penalty waiver applied to pass-through entity withholding. Any taxpayer or practitioner in this situation is encouraged to make the payment by June 1 and administratively request the waiver of penalties. Please note that even if penalties are waived, the Department does not have the authority to waive the interest for such payments.

Please let us know if you have any additional questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Craig M. Burns".

Craig M. Burns
Tax Commissioner

Cc: The Honorable Aubrey L. Layne, Secretary of Finance
Ms. Emily Walker, VSCPA Vice President, Advocacy