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TIR 11-10: Extension of Time for Certain Tax Filings and Payments for Taxpayers Affected by Tropical Storm Irene

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I. Introduction

This TIR announces that the Massachusetts Department of Revenue ("Department") will grant automatic extensions of time until October 31, 2011 for certain tax filings and payments otherwise required to be made by certain taxpayers between August 27, 2011 and October 31, 2011. As of September 9, 2011, the President of the United States declared a disaster area for certain counties and municipalities in Connecticut, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Puerto Rico, and Vermont due to Tropical Storm Irene that struck those areas in late August, 2011. For Massachusetts in particular, the Massachusetts counties of Berkshire and Franklin have been declared disaster areas. Following that declaration, the Internal Revenue Service ("IRS") announced extensions of time for certain federal tax filing and payment deadlines. See IRS Release IR-2011-87 (Sept. 1, 2011) <http://www.irs.gov/newsroom/article/0..id=245004.00.html>. See also G.L. c. 62C, § 87. The IRS also announced a one-week filing extension for taxpayers whose tax preparers were affected by the storm. See IRS Release IR-2011-88 (Sept. 1, 2011) <http://www.irs.gov/newsroom/article/0..id=245044.00.html>. The Department will grant a similar extension to affected taxpayers, as explained below.

II. Grant of Relief

A. Taxpayer Extensions

The due date for certain returns and tax payments required from affected taxpayers will be extended until October 31, 2011, consistent with the guidance stated in the IRS Release. This extension applies to tax returns and tax payments, including estimated tax payments, relating to the taxes described below, that either have an original or extended due date occurring between August 27, 2011 and October 31, 2011. For example, this extension applies to corporations and businesses that previously obtained an extension until September 15, 2011, to file their 2010 corporate excise or income tax returns. This extension also applies to individuals filing their 2010 personal income tax returns and corporations and businesses filing their 2010 corporate excise or income tax returns (including combined reports of corporations) that previously obtained an extension until October 17, 2011. The extension also applies to estimated tax payments that would normally be due by September 15, 2011 or October 17, 2011. Also, the extension applies to the filing of corporate excise or unrelated business income tax returns in the instance of a corporation or non-profit corporation with a fiscal year-end that has a filing due date within the extension period,^[1] and to estate and trust income tax returns, estate tax returns, partnership returns, and S corporation returns that have filing due dates within the extension period, as well as to payments that are due with such returns. However, as described below, this extension does not apply to trustee tax returns and payments, including those relating to sales or use taxes, meals taxes, room occupancy taxes, and

employer and other withholding taxes. Further, this extension does not apply to taxpayers that have previously filed their returns but not yet made payment. See, further, Paragraph II.C. below.

Taxpayers who live in or have principal places of businesses in states and territories outside of Massachusetts should refer to tax relief announcements for the individual states at www.irs.gov to determine their eligibility for relief in Massachusetts.

B. Tax Preparer Extensions

Consistent with the IRS action described in IRS Release IR-2011-88, *supra*, the Department will also grant a one-week extension, to September 22, 2011, to taxpayers not covered by the extension described in the preceding Paragraph II.A. whose returns would normally be due September 15, 2011 and whose preparers were affected by Tropical Storm Irene. The taxpayer's preparer must be located in an area that was under an evacuation order or a severe weather warning because of the storm, even if the preparer is located outside of the federally-declared disaster areas. This relief, which primarily applies to corporations, partnerships and trusts that previously obtained a tax filing extension, is available to taxpayers regardless of their location. This relief does not apply to any tax payment requirements. This relief is in addition to the filing and payment relief the Department is providing to taxpayers located in Presidentially-declared disaster areas, as explained in the preceding Paragraph II.A., and is subject to the exclusions and other conditions described below.

C. Exclusions; Other Relief Criteria

The extensions for taxpayers and tax preparers *do not* apply to trustee tax returns and payments, including sales or use tax returns and payments, meals tax returns and payments, room occupancy tax returns and payments, and employer and other withholding tax returns and payments. However, the Department expects that late-file and late-pay penalties will generally be waived with respect to such trustee tax returns and payments where the taxpayer has reasonable cause for the late filing and payment under existing Departmental procedures for reasonable cause. See AP 633.

In addition, the extensions *do not* apply to taxpayers that have previously filed their returns but not yet made payment.

During the time of the extensions, when applicable, no interest or penalties will accrue. However, a taxpayer that does not meet the extended October 31, 2011 due date will owe interest and penalties dating back to the original tax return or tax payment due date. A tax return filed by a preparer that does not meet the extended September 22, 2011 due date in Paragraph II.B. above will also owe interest and penalties dating back to the original return or tax payment due date.

The extension of time granted under this TIR shall not affect tax deficiencies existing prior to the period beginning August 27, 2011, nor will it apply to claims for refund or abatement, the making of elections, the filing of any other tax documents with the Department, or filings with the Appellate Tax Board or tax appeals filed with Massachusetts Courts.

III. Affected Taxpayers

For purposes of this TIR, "affected taxpayers" are any individuals who live, and businesses whose principal place of business is located, in any of the federally-declared disaster areas named in connection with Tropical Storm Irene. Affected taxpayers also include individuals and businesses whose tax records, including records needed for tax payments, are located in these counties or municipalities, and relief workers affiliated with a recognized government or philanthropic organization assisting in the relief activities in the covered disaster areas.

IV. To Claim the Extension

The Department's computer systems will identify taxpayers located in the covered disaster area and apply automatic filing and payment relief for electronically-filed returns. If for some reason the taxpayer is unable to file electronically, the taxpayer's paper forms and returns should be marked at

top in red ink with the notation "2011 Tropical Storm Irene." Any affected taxpayer who files and pays by the extended deadline and still receives late filing or payment penalties should contact the Department's Customer Service Bureau.

In the event that the President of the United States declares a disaster area in connection with Tropical Storm Irene in other counties or municipalities of Massachusetts or other previously-named states, or in counties or municipalities of other states, after the date of issuance of this TIR, the provisions of this TIR will also apply to taxpayers in the affected counties or municipalities in those states.

/s/James J. Reynolds

James J. Reynolds
Senior Deputy Commissioner

JJR:MTF:rmh

September 9, 2011

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[\[1\]](#) For purposes of this TIR, corporations include financial institutions within the meaning of G.L. c. 63, § 1, utility corporations within the meaning of G.L. c. 63, § 52A and insurance companies within the meaning of G.L. c. 63, §§ 20-29D.