

Notice of Proposed Rule

DEPARTMENT OF REVENUE

Corporate, Estate and Intangible Tax

RULE NOS.:RULE TITLES:

12C-1.0222 Returns; Extensions of Time; Payments of Tentative Tax

12C-1.034 Special Rules Relating to Estimated Tax

12C-1.051 Forms

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rules 12C-1.0222 and 12C-1.034, F.A.C., is to implement statutory changes made by Chapter 2017-36, L.O.F., which amended provisions in Chapter 220, F.S., to conform the timing of filing returns, making payments, and filing declarations to related timing provisions at the federal level.

The purpose of the proposed amendments to Rule 12C-1.051, F.A.C., is to adopt, by reference, changes to forms used by the Department in the administration of corporate income tax.

SUMMARY: The proposed amendments restore the six-month extension of time to file the Florida corporate income tax return for calendar year filers; conform the timing of filing returns, making payments, and filing declarations to federal provisions; provide payment deadlines for estimated tax payments; and implement changes to corporate income tax forms.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: 1) no requirement for the Statement of Economic Regulatory Costs (SERC) was triggered under Section 120.541(1), F.S.; and 2) based on past experiences regarding rules of this nature, the adverse impact or regulatory cost, if any, do not exceed nor would exceed any one of the economic analysis criteria in a SERC, as set forth in Section 120.541(2)(a), F.S.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 213.06(1), 220.24, 220.32(2), 220.34(2)(f), (3), 220.34(3), 220.51, 220.192(7), 220.193(4), 220.196(4), 1002.395(13) FS.

LAW IMPLEMENTED: 119.071(5), 212.08(5)(p), 213.21, 213.755(1), 220.11, 220.12, 220.13(1), (2), 220.131, 220.15, 220.16, 220.181, 220.182, 220.183, 220.184, 220.1845, 220.185, 220.186, 220.1875, 220.1895, 220.1896, 220.1899, 220.191, 220.192, 220.193, 220.194, 220.195, 220.196, 220.21, 220.211, 220.22, 220.221, 220.222, 220.23, 220.24, 220.241, 220.31, 220.32, 220.33, 220.34, 220.41, 220.42, 220.43, 220.44, 220.51, 220.721, 220.723, 220.725, 220.737, 220.801, 220.803, 220.805, 220.807, 220.809, 221.04, 624.5105, 624.51055, 1002.395, FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: November 8, 2017, 9:00 a.m.

PLACE: 2450 Shumard Oak Boulevard, Building One, Room 1220, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Becky Avrett at (850)717-6799. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Brinton Hevey at (850)717-7082

THE FULL TEXT OF THE PROPOSED RULE IS:

12C-1.0222 Returns; Extensions of Time; Payments of Tentative Tax.

(1) No change.

(2) Requests for Extensions of Time to File Return.

(a)1. ~~For taxable year ends other than June 30, an extension will be effective until six (6) months after the original due date of the return. For taxpayers with a taxable year ending December 31, an extension of the due date of any required Florida corporate income/franchise tax return will be effective until five (5) months after the original due date of the return. For taxpayers with a taxable year ending June 30, an extension will be effective until seven (7) months after the original due date of the return. For taxable year ends other than December 31 and June 30, an extension will be effective until six (6) months after the original due date of the return.~~

2. An extension of the due date of any required Florida partnership information return will be effective until six (6) months after the original due date of the return.

3. If an automatic extension is not permitted because a federal extension has not been requested or is not allowed, the application for extension of time to file a return must contain sufficient facts to establish good cause why the return cannot be filed on or before the original due date. An extension of time for filing a return does not operate as an extension of time for payment of the tax or any part thereof.

) No change.

(3) Extended Return Due Dates.

(a) No change.

(b) The aggregate amount of time of extensions for a return cannot exceed six (6) months, unless the exception exceptions specified in paragraph (2)(a) of this rule applies apply. No further extensions are allowed.

1. For a corporation whose taxable year ends December 31, a required Florida corporate income/franchise tax return is due May 1 of the following year. ~~When a taxpayer is granted an extension of time to file its federal income tax return, the extended due date for the federal return is September 15.~~ When the requirements of this rule are met, and the corporation is granted an extension of time to file its Florida corporate income/franchise tax return, the extended due date for the Florida return is November ~~October~~ 1.

2. A partnership whose taxable year ends on December 31, will be granted an extension of time from April 1 to October 1 to file its Florida partnership information return when all the requirements for an extension of the due date of a return provided in this rule are met.

(c) No change.

Rulemaking Authority 213.06(1), 220.32(2), 220.51 FS. Law Implemented 220.222, 220.32, 220.801 FS. History—New 10-20-73, Amended 10-8-74, 4-21-75, 3-5-80, 12-18-83, Formerly 12C-1.222, Amended 12-21-88, 12-19-89, 4-8-92, 3-18-96, 3-13-00, 3-15-04, 9-1-09, 1-10-17,_____.

12C-1.034 Special Rules Relating to Estimated Tax.

(1) No change.

(2)(a) ~~For tax years that begin before January 1, 2017, a declaration of estimated tax must be filed before the first day of the fifth month of the taxable year, if the taxpayer can reasonably expect before the first day of the fourth month to owe more than \$2,500 in tax for the taxable year.~~

~~(b)1-~~ Except for taxpayers with a June 30 taxable year end, a declaration of estimated tax ~~for tax years beginning on or after January 1, 2017,~~ must be filed before the first day of the sixth month of the taxable year, if the taxpayer can reasonably expect before the first day of the fourth month to owe more than \$2,500 in tax for the taxable year.

~~(b)2-~~ No change.

(c) Installment due dates that fall on a Saturday, Sunday, or legal holiday extend to the next business day, with the exception of installments due on the last day of June, which must be paid on or before the last Friday of June.

(d) For a list of deadlines for initiating electronic payments on time, visit www.floridarevenue.com/forms, select the e-Services section, and then select the current year *Florida e-Services Calendar of Due Dates* (Form DR-659).

(3) Reasonably Expect.

(a)1. through 2. No change.

3. A business is required to make a declaration of estimated tax by the date specified in subsection (2), even though income may not actually be earned until later in the taxable year. For example, a seasonal business that can

reasonably expect before the first day of the fourth month of a taxable year beginning on or after January 1, 2017, to owe more than \$2,500 for the taxable year will be required to make a declaration of estimated tax before the first day of the sixth month of the taxable year (before the first day of the fifth month of the taxable year for a taxpayer with a June 30 taxable year end). Therefore, a Christmas shop with a taxable year ending January 31, 2018, will be expected to make a declaration before July 1, 2017 (the first day of the sixth month following the end of the taxable year) if the corporation reasonably expects to owe more than \$2,500 in tax for the tax year. It does not matter whether the corporation is making sales by that date or not.

(b) through (e) No change.

(4) through (7) No change.

(8) Overpayments of Estimated Tax.

(a) through (b) No change.

(c)1. No change.

2. Example: A calendar year taxpayer requested an extension of the filing date for the 2016 Florida corporate income/franchise tax return from May 1, 2017, until October 1, 2017. The first payment of estimated tax for the succeeding tax year is due May 31 ~~May 30~~, 2017. The 2016 return is filed on September 29, 2017. If the taxpayer requested that the overpayment of estimated tax be applied to the next tax year, the overpayment is applied effective May 31 ~~May 30~~, 2017.

(d) through (e) No change.

(9) Underpayment of estimated tax.

(a) No change.

(b)1. No penalty or interest will be imposed for any underpayment of any installment of estimated tax if, on or before the date prescribed for payment of the installment, the total amount of all payments of estimated tax made equals or exceeds the amount which would have been required to be paid on or before such date if the estimated tax were the lesser of the following amounts:

a. through b. No change.

c.(I) No change.

(II) Example: A calendar year taxpayer remitted four estimated payments of \$16,000 each on May 31, 2017; June 30, 2017; September 30, 2017; and December 31, 2017. The taxpayer also made a \$15,000 contribution to an SFO and was issued a certificate of contribution on June 20, 2017, which generated a tax credit for the taxpayer. For the prior tax year ending December 31, 2016, corporate income tax of \$80,000 was due. Taxpayer's prior year exception computation is as follows:

Due dates of installments	(1st) 5/31/2017	(2nd) 6/30/2017	(3rd) 9/30/2017	(4th) 12/31/2017
Current year: Total cumulative amount paid (or credited) from the beginning of the taxable year through the installment date indicated	16,000.00	32,000.00	48,000.00	64,000.00
(a) Prior year exception: Tax on prior year's income using current year's rates	25% of tax 20,000.00	50% of tax 40,000.00	75% of tax 60,000.00	100% of tax 80,000.00
(b) Cumulative donations made to SFOs from the beginning of the taxable year through the installment date indicated. Certificate of contribution must be issued on or before installment due date.	0.00	0.00	15,000.00	15,000.00
(c) The prior year exception adjusted for the credit for contributions to SFOs per Section <u>1002.395(5)(g)</u> 1002.395(5)(f) , F.S., equals (a) less (b)	20,000.00	40,000.00	45,000.00	65,000.00
Installment meets prior year exception? To answer Yes, Current year must equal or exceed Prior year (c).	No	No	Yes	No

Taxpayer has met the prior year exception for the third installment through a combination of estimated payments and SFO credit so that estimated tax penalty and interest will not apply for the third installment.

(III) Example: A calendar year taxpayer remitted four estimated payments of \$10,000 each on May 31, 2017; June 30, 2017; September 30, 2017; and December 31, 2017. The taxpayer also made four \$10,000 contributions to an SFO and was issued certificates of contribution on May 31, 2017; June 30, 2017; September 30, 2017; and December 31, 2017. For the prior tax year ending December 31, 2016, corporate income tax of \$80,000 was due. Taxpayer's prior year exception computation is as follows:

Due dates of installments	(1st) 5/31/2017	(2nd) 6/30/2017	(3rd) 9/30/2017	(4th) 12/31/2017
Current year: Total cumulative amount paid (or credited) from the beginning of the taxable year through the installment date indicated	10,000.00	20,000.00	30,000.00	40,000.00
(a) Prior year exception: Tax on prior year's income using current year's rates	25% of tax 20,000.00	50% of tax 40,000.00	75% of tax 60,000.00	100% of tax 80,000.00
(b) Cumulative donations made to SFOs from the beginning of the taxable year through the installment date indicated. Certificate of contribution must be issued on or before installment due date.	10,000.00	20,000.00	30,000.00	40,000.00
(c) The prior year exception adjusted for the credit for contributions to SFOs per Section <u>1002.395(5)(g)</u> 1002.395(5)(f) , F.S., equals (a) less (b)	10,000.00	20,000.00	30,000.00	40,000.00
Installment meets prior year exception? To answer Yes, Current year must equal or exceed Prior year (c).	Yes	Yes	Yes	Yes

Taxpayer has met the prior year exception for all four installments through a combination of estimated payments and SFO credit so that estimated tax penalty and interest will not apply to any of the four installments.

(9)(b)2.a. through (13) No change.

Rulemaking Authority 213.06(1), 220.24, 220.34(2)(f), 220.34(3), 220.51, 1002.395(13) FS. Law Implemented 213.21, 220.131, 220.24, 220.241, 220.33, 220.34, 1002.395 FS. History—New 10-20-72, Amended 10-20-73, 7-27-80, 12-18-83, Formerly 12C-1.34, Amended 12-21-88, 4-8-92, 5-17-94, 3-18-96, 3-13-00, 9-28-04, 7-28-15, 1-10-17, _____.

12C-1.051 Forms.

(1)(a) No change.

(b) Copies of these forms are available, without cost, by one or more of the following methods: 1) downloading the form from the Department's ~~website~~ ~~Internet site~~ at www.floridarevenue.com/forms ~~www.myflorida.com/dor/forms~~; or, 2) calling the Department at ~~(850)488-6800~~ ~~1(800)352-3671~~, Monday through Friday ~~(excluding holidays), 8:00 a.m. to 7:00 p.m. (Eastern Time)~~; or, 3) visiting any local Department of Revenue Service Center; or, 4) writing the Florida Department of Revenue, Taxpayer Services, 5050 West Tennessee Street, Tallahassee, Florida 32399-0112. Persons with hearing or speech impairments may call the Florida Relay Service at 1(800)955-8770 (Voice) and 1(800)955-8771 (TTY).

Form Number	Title	Effective Date
(2) through- (3) No change		
(4) F-1120A	Florida Corporate Short Form Income Tax Return (R. 01/18 01/17) (http://www.flrules.org/Gateway/reference.asp?No=Ref-07766)	01/18 01/17
(5)(a) No change		
(b) F-1120N	F-1120 Instructions for Corporate Income/Franchise Tax Return	01/18 01/17

for taxable years beginning on or after January 1, ~~2017~~ ~~2016~~ (R. ~~01/18~~ ~~01/17~~)
(<http://www.flrules.org/Gateway/reference.asp?No=Ref-07768>)

(6) through (11) No change
(12) F-1196

Allocation for Research and Development Tax Credit for Florida
Corporate Income/Franchise Tax (R. ~~01/18~~ ~~01/16~~)

~~01/18~~ ~~01/16~~

(<http://www.flrules.org/Gateway/reference.asp?No=Ref-06348>)

(13) F-2220

Underpayment of Estimated Tax on Florida Corporate Income/Franchise
Tax (R. ~~01/18~~ ~~01/17~~)

~~01/18~~ ~~01/17~~

(<http://www.flrules.org/Gateway/reference.asp?No=Ref-07770>)

(14) No change

Rulemaking Authority 213.06(1), 220.192(7), 220.193(4), 220.196(4), 220.51, 1002.395(13) FS. Law Implemented 119.071(5), 212.08(5)(p), 213.755(1), 220.11, 220.12, 220.13(1), (2), 220.15, 220.16, 220.181, 220.182, 220.183, 220.184, 220.1845, 220.185, 220.186, 220.1875, 220.1895, 220.1896, 220.1899, 220.19, 220.191, 220.192, 220.193, 220.194, 220.195, 220.196, 220.21, 220.211, 220.22, 220.221, 220.222, 220.23, 220.24, 220.241, 220.31, 220.32, 220.33, 220.34, 220.41, 220.42, 220.43, 220.44, 220.51, 220.721, 220.723, 220.725, 220.737, 220.801, 220.803, 220.805, 220.807, 220.809, 221.04, 624.5105, 624.51055, 1002.395 FS. History—New 9-26-77, Amended 12-18-83, Formerly 12C-1.51, Amended 12-21-88, 12-31-89, 1-31-91, 4-8-92, 12-7-92, 1-3-96, 3-18-96, 3-13-00, 6-19-01, 8-1-02, 6-19-03, 3-15-04, 9-24-04, 6-28-05, 5-1-06, 4-5-07, 1-1-08, 1-27-09, 1-11-10, 4-26-10(12)(a), (b), 4-26-10(13)(a), (b), 6-28-10, 1-12-11, 6-6-11, 1-25-12, 1-17-13, 3-12-14, 1-19-15, 1-11-16, 1-10-17,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Brinton Hevey

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor and Cabinet

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 17, 2017

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: September 5, 2017