

**New York State Department of Taxation and Finance
Taxpayer Services Division
Technical Services Bureau**

TSB-M-83 (5)I (Rev.)
Income Tax
August 22, 1983

This memorandum supercedes memorandum
TSB-M-83-(5)-I dated February 23, 1983,
which should be destroyed.

Extension of Time to File

New York State will no longer automatically accept copies of federal extensions of time to file for the purpose of extending the time to file New York income tax returns (see exception below).

Sections 151.1 through 151.9 of the Personal Income Tax Regulations under Article 22 of the New York State Tax Law were amended to provide for an automatic 4-month extension of time to file New York State and City of New York income tax returns.

The 4-month extension of time to file resident, nonresident, fiduciary and partnership returns will be allowed automatically if Form IT-370, Application for Automatic Extension of Time to File, is filed on or before the due date of the return and any tax due is paid with it. An individual, fiduciary, or partnership who anticipates owing no New York State and/or New York City personal income tax, or New York City nonresident earnings tax on the due date for filing the return, may file a copy of his federal Application for Automatic Extension of Time to File (Form 4868) instead of New York's Application for Automatic Extension of Time to File (Form IT-370).

An extension of time to file a New York State income tax return automatically extends to the same date the time to file City of New York resident income tax and nonresident earnings tax returns.

An extension of time to file beyond the automatic 4-month period must be applied for, by using Form IT-372, Application for Extension of Time to File, and must be specifically granted in writing. Form IT-372 must be filed on or before the expiration of the automatic 4-month extension of time to file. The maximum extension of time to file is 6 months from the original due date of the return for taxpayers within the United States.

American citizens traveling or residing abroad on the date their federal income tax returns are due and who qualify for an extension of time to file their federal income tax returns are entitled to a similar 2-month extension, without application, to file their New York State and City of New York income tax return, and pay their tax. If an additional extension is needed, Form IT-370 must be filed, and any tax due must be paid with it.

Regulation section 151.8 was added to provide interest and penalty provisions. Interest will be charged on tax not paid by the due date of the return (whether or not there was an extension of time to file) until the date the tax is paid. Penalties may be imposed (whether or not an extension of time to file was requested) on any balance of tax remaining unpaid on the due date of the return. If at least 90% of the tax due was paid on or before the original due date of the

return, no penalty will be imposed. If this test is not met, it will be considered that a valid extension to file never existed and the taxpayer will be subject to both 685(a)(1) failure to file penalty, and 685(a)(2) failure to pay penalty. No penalty will be imposed if the failure is due to reasonable cause.

The above provisions apply to returns for which the due date for filing (determined without regard to extensions) is after July 22, 1983.