Illinois Department of Revenue

FY 2022-01
September 2021

informational
Bulletin

David Harris, Director

Illinois Income Tax Act changes may require you to make or increase estimated payments to avoid penalty

To: Corporations who file Form IL-1120 or Form IL-1120-ST
Partnerships who file Form IL-1065
Individuals who file Form IL-1040

For information or forms
Visit our website at:
tax.illinois.gov

Email us at:
Business income tax questions:
REV.TA-BIT-WIT@illinois.gov
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Call us at:
1 800 732-8866 or
217 782-3336

Call our TDD
(telecommunications device
for the deaf) at:
1 800 544-5304

Hours:
Monday through Friday,
8:00 a.m. - 5:00 p.m.

*IRC - Internal Revenue Code

Illinois Income Tax Act (IITA) changes enacted on June 17, 2021, and August 27, 2021, may increase current tax year liabilities for certain taxpayers. These changes impact bonus depreciation, net loss deductions for corporations, foreign dividend reporting, and pass-through entities (see Page 4 for details). Due to these changes, some taxpayers may need to

- begin making estimated tax payments, or
- increase their estimated tax payments

for the remainder of the tax year to avoid or minimize the late-payment penalty for underpayment of estimated tax due. In both cases, taxpayers will want to make up the difference from the missed estimated payments with the next payment.

This bulletin provides information to help these taxpayers determine if they must start paying estimated payments or modify their estimated tax payments. In addition, the bulletin defines what schedule to file with their tax return to minimize or avoid a late-payment penalty for underpayment of estimated tax due.

What are the estimated payment requirements?

For **corporations who file Form IL-1120**, you are required to make estimated payments if you reasonably expect your Illinois income and replacement tax and surcharge liability to be more than $400 for the tax year. The due dates for filing estimated payments are the 15th day of the 4th, 6th, 9th, and 12th months of your tax year. See IL-1120 Instructions, Appendix B, Estimated Payment Worksheets, to determine the amount of your estimated payments.

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For **individuals who file Form IL-1040**, you are required to make estimated payments if you reasonably expect your Illinois individual income tax liability to be more than $1,000 for the year. You must pay your estimated tax in four equal installments by the 15th day of the 4th, 6th, and 9th month of your tax year and the 15th day of 1st month of the immediately succeeding taxable year. See IL-1040-ES, Estimated Income Tax Payments for Individuals, to determine the amount of your estimated payments.

For both **corporations and individuals**, you may be assessed a late-payment penalty for the underpayment of estimated taxes if you do not pay the required estimated payments on time. However, you may avoid being assessed a late-payment penalty if you pay the lesser of:

- 90 percent of the tax shown on the taxpayer's return for the taxable year or, if no return is filed, 90 percent of the tax for that year; or
- if a return showing a liability for tax was filed for the preceding taxable year, and that taxable year consisted of a period of 12 months, 100 percent of the tax shown on the taxpayer's return for that preceding taxable year.

For more information about the late-payment penalty for underpayment of estimated tax due, see Publication 103, Penalties and Interest for Illinois Taxes.

What should I do now to minimize or avoid penalty?

If you are already making estimated payments, you should recalculate your estimated payments based on the statutory changes. The first estimated payment after June 17th, should include the additional amounts that would have been due with your previous quarterly payments, as well as the full current quarterly payment. This quarterly payment makes up the difference in your estimated payments.

*If you are **not** currently making estimated payments*, you should determine if the statutory changes cause your tax liability to increase to more than the estimated payment requirement. Your first payment should be made on or before your next quarterly estimated payment due date. The payment should include the current estimated payment due and the amount of all the previous quarterly payments due based on the statutory changes. This quarterly payment makes up the difference in your estimated payments.

What should I do when I file my return?

You may reduce or eliminate your late payment penalty for the underpayment of estimated tax by using the annualized income installment method, This method allows you to compute your income and liability for each period according to the Illinois Income Tax Act in effect as of the end of that period. The annualized income installment method is found in Step 6 of IL-2220, Computation of Penalties for Businesses and IL-2210, Computation of Penalties for Individuals.

This relief is appropriate when the first quarterly estimated payment due after June 17, 2021, is paid timely and makes up the difference in your previous estimated payments for the year and all subsequent payments are timely and equal the required payment due amount.

Any penalty assessment is based on the timely estimated installment payments equaling at least 90 percent of this year's tax liability or 100 percent of the prior year's tax liability. See 86 Ill. Adm. Code 100.8010(h) for more information.

How are pass-through entities affected by new estimated payment requirements?

Public Act 102-0658, enacted August 27, 2021, creates an entity-level tax for partnerships and subchapter S corporations allowing partners and shareholders to work around the federal cap on the deduction for state and local taxes effective for tax years ending on or after December 31, 2021. When a partnership or S corporation makes the election to pay the entity-level tax, it is required to make quarterly estimated payments if the expected tax due is more than $500 or incur late estimated payment penalties per Illinois Income Tax Act Section 804.

Given that for most taxpayers, two estimated payment deadlines have already passed and the third quarterly

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estimated payment for calendar-year filers is due on or before September 15, 2021, the Department will waive late estimated payment penalties related to an election to pay an entity-level tax for tax years ending before December 31, 2022.

The Department encourages these taxpayers to make voluntary prepayment of the pass-through entity-level tax to reduce any tax payment due when the return is filed. These prepayments can be made

- electronically using MyTax Illinois or ACH Credit or
- by mail using 2021 Form IL-1065-V, Payment Voucher for Partnership Replacement Tax or 2021 Form IL-1120-ST-V, Payment Voucher for Small Business Corporation Replacement Tax.

The penalty relief only applies to partnerships and subchapter S corporations that elect to pay pass-through entity-level tax. Individual partners and shareholders of these entities are not eligible for the penalty relief. However, partners and shareholders may claim a tax credit against their own tax liability for distributive shares of the pass-through entity-level tax credit they receive and may adjust their estimated payments accordingly.

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What are the statutory changes?

Public Act 102-0016 makes changes

- for **individuals** filing Form IL-1040 by decoupling from the federal 100 percent bonus depreciation for tax years ending on or after December 31, 2021. Taxpayers electing to claim 100 percent bonus depreciation federally must complete Form IL-4562, Special Depreciation. On Line 8 of Form IL-4562, taxpayers will list the amount of federal depreciation they would have claimed had they made the election under IRC Section 168(k)(7) to not claim bonus depreciation on that property.

- for **corporations** by
  - disallowing corporations filing Form IL-1120, for tax years ending on or after June 30, 2021, from
    - the federal 100 percent foreign dividends received deduction,
    - the deduction for global intangible low-taxed income (GILTI), and
    - the deduction under IRC* Section 243(e) for foreign dividends treated as domestic dividends.

    See FY 2021-27, Foreign Dividend Reporting Changes for Corporate Filers Effective for Tax Years Ending on or after June 30, 2021 for more information.
  - disallowing corporations filing Form IL-1120, for tax years ending on or after June 30, 2021, a subtraction modification
    - for foreign dividends eligible for deduction federally under IRC Section 245(a), and
    - for IRC Section 1248 gain.

    See FY 2021-27, Foreign Dividend Reporting Changes for Corporate Filers Effective for Tax Years Ending on or after June 30, 2021 for more information.
  - decoupling corporations filing Form IL-1120 from the federal 100 percent bonus depreciation for tax years ending on or after December 31, 2021. Taxpayers electing to claim 100 percent bonus depreciation federally must complete Form IL-4562, Special Depreciation. On Line 8 of Form IL-4562, taxpayers will list the amount of federal depreciation they would have claimed had they made the election under IRC Section 168(k)(7) to not claim bonus depreciation on that property.
  - limiting net loss deductions for corporations filing Form IL-1120 to $100,000 for tax years ending on or after December 31, 2021, and before December 31, 2024.
    See 35 ILCS 5/207(d) for more information.

Public Act 102-0658, enacted August 27, 2021, creates an entity-level tax for **pass-through entities** (partnerships and subchapter S corporations) allowing partners and shareholders to work around the federal cap on the deduction for state and local taxes effective for tax years ending on or after December 31, 2021. See additional details in “How are pass-through entities affected by new estimated payment requirements?” on Page 2.