

TAXATION AND REVENUE:

Corporate taxpayer receiving authority to file income tax return after due date thereof does not thereby forfeit option to pay tax due in installments.

May 5, 1949



5/26/49

Mr. T. R. Allen  
Supervisor, Income Tax  
Department of Revenue  
Capitol Building  
Jefferson City, Missouri

Dear Sir:

Reference is made to your request for an official opinion of this department reading as follows:

"In view of circumstances which have arisen in connection with the administration of Section 11367 and 11369, R. S. Mo. 1939, and Amended Laws, this department desires a written opinion by which to be governed.

"First, Section 11369 provides for the granting of extensions of time to corporations not to exceed thirty days. Second, Section 11367 provides that the taxpayer may elect to pay taxes in excess of ten dollars in four equal installments. This section also provides that returns be filed on or before the thirty-first day of March and that the tax becomes delinquent on the first day of April.

"In the granting of an extension of thirty days under which the taxpayer electing to avail himself the option of installment payment does he disqualify his right to installment payments by the granting of the extension inasmuch as Section 11367 does provide that where an installment is not paid on original due date requires that the payment of the full amount of tax becomes due and payable at once?

"This, of course, contemplates that the taxpayer files his return and makes the first installment payment within the period of time granted by the extension.

May 5, 1949

"I shall appreciate very much your prompt action with regard to this ruling as it will affect the administration of this section with regards to returns being filed at this time."

Section 11369, Mo. R. S. A., mentioned in your letter of inquiry, reads as follows insofar as the same pertains to the question under consideration:

"In case of neglect occasioned by the sickness or absence of an officer of any corporation, joint stock company or association required to make and file a return, or for other sufficient reason, the Director of Revenue may allow such further time for making and filing such return as he may deem necessary, not to exceed thirty days. \* \* \*"

The privilege of paying income tax in installments is granted under Section 11367, Mo. R. S. A. This section reads in part as follows:

"\* \* \*The taxpayer may elect to pay taxes in excess of ten dollars in four equal installments; in which case the first installment shall be paid on the day preceding the date on which the taxes shall become delinquent; the second installment shall be paid on or before the last day of the third month; the third installment shall be paid on or before the last day of the sixth month; and the fourth installment shall be paid on or before the last day of the ninth month after such date. If any installment is not paid on or before the date fixed for its payment the whole amount of taxes unpaid shall become delinquent. \* \* \*"

We have carefully examined other statutes relating to the payment of income tax, and we do not find that the granting of an extension of time for the filing of the return will cause the corporate taxpayer to forfeit the privilege of paying the tax due in installments.

#### CONCLUSION.

In the premises we are of the opinion that a corporate taxpayer that has been permitted to file its return within a period



Mr. T. R. Allen

-3-

May 5, 1949

not greater than thirty days subsequent to the filing date provided by law may yet avail itself of the privilege of paying the income tax due in four equal installments as provided by Section 11367, Mo. R. S. A.

Respectfully submitted,

APPROVED:

WILL F. BERRY, JR.  
Assistant Attorney General

J. E. TAYLOR  
Attorney General

WFB/few