

ORDER EXTENDING DUE DATE

Whereas the General Assembly changed the due date for monthly withholding tax returns to the 25th of every month by 2007 Acts, ch. 753 (HB 2284); and

Whereas the legislation did not amend the portion of *Va. Code* § 58.1-472 requiring that monthly withholding tax returns for seasonal employers be filed on the 20th of every month; and

Whereas the five day difference in due dates for the two classes of employers filing monthly withholding tax returns is certain to cause confusion among employers, tax practitioners, and payroll service firms, and require the Department to promulgate two sets of monthly withholding tax return forms and instructions; and

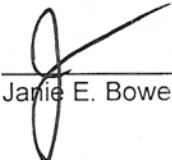
Whereas the Department does not have the authority to ignore the words of a statute even though it is likely that changing the due date for seasonal monthly withholding tax returns would be consistent with the General Assembly's intent; and

Whereas *Va. Code* § 58.1-112 grants to the Tax Commissioner the authority to grant extensions of time to file a return or pay a tax, or both, to any class of taxpayers upon finding that the normal due date would cause undue hardship to a class of taxpayers for any reason; and

Whereas the confusion attributable to different due dates for monthly withholding tax returns for different classes of employers, and the inevitable late filing and payment penalties that will be imposed on seasonal employers who were confused by the differing due dates, causes a hardship that is not warranted by any need of the Commonwealth for revenue or rational tax administration; and is therefore an undue hardship within the meaning of *Va. Code* § 58.1-112;

It is therefore **ORDERED** that the due date for filing monthly withholding tax returns and paying withholding tax for the class of seasonal employers required to file monthly returns during any season shall be extended five days to the 25th of every month consistent with the due date for other employers filing monthly withholding tax returns.

It is further ordered that this order shall be classified as a guidance document and preserved as required by *Va. Code* § 58.1-112 and that the modifying the forms and instructions for monthly withholding returns to reflect this order is adequate to inform the affected class so that no further publication is required.



Janie E. Bowen, Tax Commissioner

8/22/07
Date

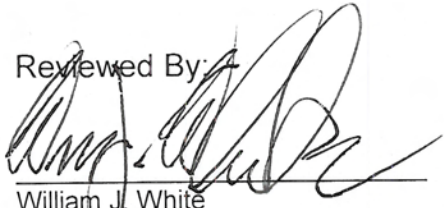
Requested By:



Patti Higgins
Assistant Commissioner, Channel

8-23-07
Date

Reviewed By:



William J. White
Assistant Commissioner, Tax Policy

8/23/07
Date