May 6, 2015

Important Notice: Limited-Time Extension of the Statute of Limitations With Respect to Refunds of Individual Income Tax Paid on Amounts Received as a Result of an Airline Carrier Bankruptcy

The purpose of this notice is to inform certain airline employees of a limited-time exception to the general statute of limitations for requesting a refund of individual income tax. This exception exists as a result of the enactment of Session Law 2015-6, signed by Governor McCrory on April 9, 2015. To be eligible for this limited-time exception, an airline employee, or the surviving spouse of an airline employee, must meet all of the following conditions:

(1) Received a payment from a commercial passenger airline under the approval of an order of a Federal bankruptcy court in a case filed after September 11, 2001 and before January 1, 2007 or a case filed on November 29, 2011 by American Airlines and its parent corporation, AMR ("airline payment amount").
(2) Received the airline payment amount in a taxable year beginning before January 1, 2012, and included the amount in federal adjusted gross income.
(3) Transferred any portion of the airline payment amount to a traditional IRA, either by direct contribution or indirectly by contribution to and subsequent rollover from a Roth IRA, by August 13, 2012.
(4) Filed a claim for refund of federal individual income tax paid on the airline payment amount by April 15, 2015, that was approved by the Internal Revenue Service.

An airline employee,or surviving spouse of an airline employee, that meets all four conditions has until October 15, 2015 to file a claim for refund of North Carolina individual income tax.

Taxpayers receiving an airline payment amount in a taxable year beginning on or after January 1, 2012 are also entitled to exclude from gross income the portion of the payment that is rolled over into a traditional IRA within 180 days of receipt. The general statute of limitations applies to their claims for refund.

Taxpayers shall file the claim for refund by filing an amended individual income tax return for the tax year in which the airline payment was included in federal adjusted gross income. For tax years 2001 through 2008 and tax years 2012 through 2014, the amended return form was Form D-400X. For tax years 2009 through 2011, the amended return form was Form D-400X-WS. The amended return form may be downloaded by visiting the Department's website at http://www.dornc.com/downloads/individual.html. Taxpayers can call the Department at 1-877-252-3052 (toll-free) to request the forms by mail. Taxpayers can also call that phone number for additional information or assistance in completing the amended return.

Reason for Limited-Time Exception

Federal law enacted in 2012 authorized an airline employee who received an airline payment amount and who subsequently transferred any portion of that amount, not to exceed 90% of that amount, to a traditional IRA within 180 days of receipt to consider such amount as a rollover contribution under Code section 402(c). A rollover contribution is not included in taxable income in the year of transfer; instead, it is taxed when the taxpayer receives distributions from the IRA. For taxpayers who had already received airline payment amounts, the federal law allowed the taxpayer until August 13, 2012 to transfer the payment to a traditional IRA and qualify for the rollover contribution tax treatment. The law also allowed the taxpayer until April 15, 2013 to claim a federal income tax refund. Federal law enacted in 2014 amended the 2012 federal law to extend the favorable tax treatment to airline payments received under the approval of an order of a Federal bankruptcy court in a case filed on November 29, 2011 by American Airlines and its parent corporation, AMR. The law also extended the time to file a refund claim to April 15, 2015.

North Carolina follows federal law with respect to the timing of the taxation of rollover contributions to IRAs; however, North Carolina has its own statute of limitations for requesting refunds and did not have an exception to the general rule requiring a claim for refund be made by the later of (i) three years after the due date of the return on which the income was originally reported, or (ii) two years after payment of the tax. As a result, the State tax paid on the income when originally received could not be refunded and the amount subsequently distributed from the traditional IRA will be taxed for both federal and State purposes when distributed. Those taxpayers who received and transferred such airline payment amounts to a traditional IRA will avoid double taxation of that income by claiming a refund by the extended due date of October 15, 2015.