

September 18, 2020

The Honorable Charles P. Rettig
Commissioner
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, D.C. 20224

RE: Request for Late Filing Relief as a Result of the September 15 CCH Software Outage

Dear Commissioner Rettig:

We are writing to request relief from late filing penalties and late elections as a result of a CCH Axxess electronic filing outage on Sept. 15, 2020, for affected taxpayers.

Sept. 15, 2020 was the last filing date for 2019 Partnership, LLC and S corporation returns. Fiscal year taxpayers filing trust, estate or C corporation tax returns may have been impacted on either an extension or final filing deadline. The TXCPA has learned that at approximately 2:30 p.m., Central Daylight Time, users of CCH Axxess e-filing software began experiencing problems with e-filing their clients' tax returns.

Within a few minutes, these users could no longer file any tax returns; this outage continued until approximately 7:30 a.m. the following day.

This outage hindered many practitioners from timely filing tax returns on behalf of their clients, regardless of the intent and diligence of practitioners and their clients.

We, therefore, request the IRS to consider returns otherwise due on Sept. 15, 2020, to be timely filed if filed within a reasonable period of time, possibly by Sept. 30, 2020. Of particular concern are returns with elections reliant on timely submission, for instance, Section 754 or Section 179.

A precedent for this relief exists. A similar circumstance occurred with CCH in 2019 and the IRS granted relief as follows:

May 14, 2019

The IRS has been working closely with CCH to ease the impact on taxpayers caused by their recent software outage.

The IRS encourages these taxpayers with a May 15 deadline to file on time, if possible. Taxpayers who cannot file on time are encouraged to file for an extension.

Taxpayers affected by the CCH outage who do not file an extension and file after the deadline should include the phrase "Late filed return due to CCH Software Outage" as a statement of reasonable cause.

Potential tax returns affected by this include Forms 990, 1120, 1120S and 1065 for some calendar year and fiscal year filers.

Specific instructions for taxpayers and preparers seeking reasonable cause penalty relief:

For Paper:

To clearly identify an impacted paper-filed return, please have the filer attach a separate written statement to the signed tax return that's titled "Reasonable Cause Waiver Request - IRC 6651, Failure to File Penalty" that contains the same text noted below for the e-filed return. It must be attached to the original signed return.

For E-Filed Returns:

For 990s: in the Reasonable Cause Statement element of the electronic file, include the following text: "Late filed return due to CCH Software outage"

For 1120, 1120S, 1065:

Complete the Special Condition Description element for the F1120 form family and F1065. In the "Special Condition Desc" element of the electronic file, include the following text "Late filed return due to CCH Software outage".¹

The specific relief we are requesting is similar—to accept returns filed within a reasonable period of time, by affected taxpayers, to be considered timely filed. Since many practitioners will have submitted the returns on Sept. 16, 2020, when the outage ended, it will not be possible for the returns to indicate that they were impacted specifically by the CCH software outage. So, we respectfully request this relief for all e-filed returns due on Sept. 15, 2020, that are submitted between Sept. 16, 2020, and Sept. 30, 2020.

If you have any questions, or if we can assist further, please feel free to contact me at 832-333-7431 or ddonnelly@cricpa.com; or TXCPA Staff Liaison Patty Wyatt at 817-656-5100 or pwyatt@tscpa.net.

Sincerely,



David P. Donnelly, CPA
Chair, Federal Tax Policy Committee



Jodi Ann Ray, CAE
President/CEO

¹ IRS website at <https://www.irs.gov/newsroom/irs-statement-and-instructions-regarding-recent-software-outage>