

2009 Instructions For Form 760C

Underpayment of Virginia Estimated Tax by Individuals, Estates and Trusts

General Instructions

Purpose Of Form 760C

Virginia law requires that you pay your income tax in timely installments throughout the year by having income tax withheld or making payments of estimated tax. If you do not pay at least 90% of your tax in this manner, you may be charged an addition to tax. Use Form 760C to determine whether you met the minimum payment requirement and/or whether you are subject to an addition to tax charge.

You may also need to use this form to demonstrate that you have not made an underpayment, or that you have met an exception that voids the addition to tax, particularly if your income did not remain constant throughout the year. See the instructions for Line 5 for more information.

Who Must File Form 760C

There are four installment periods for determining whether you underpaid your tax during the year. For calendar year filers, the due dates for each installment period are: May 1, June 15, September 15, and January 15. Fiscal year filers should refer to Virginia Form 760ES and instructions to determine their installment due dates. **If your tax is underpaid as of any installment due date, you must file form 760C.** The form must be filed even if you are due a refund when you file your tax return.

Since underpayments are determined as of each installment due date, an overpayment in one installment period cannot "cancel out" an underpayment in a previous period. You must also file Form 760C if you were liable to make payments for less than four installment periods during the year (see the instructions for Line 5).

You are not required to file Form 760C if your income tax liability after subtracting the Spouse Tax Adjustment and nonrefundable credits is \$150 or less, or if you were not required to file an income tax return.

Special Rules For Farmers, Fishermen & Merchant Seamen

If you meet BOTH of the following tests, do not file this form; you do not owe an addition to tax.

1. Your gross income from self-employed farming, fishing and/or being a merchant seaman is at least two-thirds of your annual gross income for the taxable year, AND
2. You filed a Form 760, 760PY, 763 or 770 income tax return and paid the entire tax due by March 1, 2010.

If you meet Test 1 but not Test 2, use Form 760F, Underpayment of Estimated Tax by Farmers, Fishermen and Merchant Seamen, to determine whether you owe an addition to tax. If you do not meet Test 1, use Form 760C.

Questions

For assistance, contact the Commissioner of the Revenue, Director of Finance or Director of Tax Administration for your Virginia city or county; or the **Department of Taxation, P.O. Box 1115, Richmond, VA 23218-1115** or **(804) 367-8031**. Tenemos servicios disponible en Español. If you have access to the internet, you can obtain most Virginia income tax forms from www.tax.virginia.gov.

Line-by-Line Instructions

- Line-by-line instructions are provided only for lines that need additional clarification in order to be completed properly.
- **Fiscal Year Filers** - If you filed your return on a fiscal year basis, change the dates and interest rates accordingly on Form 760C. Attach your Form 760C and any computation schedules to your income tax return.

Part I - Compute Your Underpayment

Line 1 - Start with the tax liability reported on your income tax return. Subtract the Spouse Tax Adjustment and nonrefundable credits and enter the result here. (NOTE: Estimated tax payments, income tax withheld and extension payments are not nonrefundable credits.)

Line 5 - Enter the number of payments required. You are required to make estimated tax payments when you receive income from any source other than income on which sufficient Virginia income tax is withheld. For calendar year filers, if you first received income subject to the estimated tax payment requirements:

Income Received

On or before April 15
After April 15, but before June 2
After June 1, but before September 2
After September 1

Payments Required

4 payments were required
3 payments were required
2 payments were required
1 payment was required

If you were required to make less than four payments for 2009, you must file Form 760C to indicate this. Otherwise, the department will automatically compute your liability as if you were subject to pay estimated tax in all four installment periods, and you may be assessed an addition to tax.

Line 6 - These are the due dates for calendar year filers. Fiscal year filers must write in the appropriate due dates for their fiscal year installment periods.

Lines 8 through 10 - Use these lines to report timely payments and credits for each installment period. If you made any late payments, these amounts will be taken into consideration on Line 12. For purposes of applying income tax withheld on Line 8, you may divide the total amount withheld by four, or enter the exact amount withheld for each installment and attach a schedule showing your computation.

Line 11 - If you overpaid your liability in any column, indicate this by placing the amount in brackets, for example, [\$500.00]. An overpayment as of any installment date must be applied to any underpayment in previous periods before being carried over to subsequent periods. For purposes of applying an overpayment on Form 760C, the overpayment is considered a payment made on the installment date for which the overpayment is reported. Enter each overpayment amount on the Late Payment/Overpayment Table located below Line 14. For example, if you compute an overpayment of \$500.00 in Column C, enter \$500.00 on the Late Payment/Overpayment Table, and indicate September 15, 2009 as the date of payment.

Line 12 - Other Payments - Enter on Line 12a, the earliest late payment or overpayment from the Late Payment/Overpayment Table. Then, enter the amount needed in each column to satisfy the underpayment in each period. Repeat this step for Lines 12b, 12c and 12d. Do not enter more than is needed to satisfy the underpayment. For example, if a payment being applied in Column A is greater than the underpayment on Line 11, any excess should be carried over and applied in Column B, then Column C, then to Column D. See Line 13 instructions for an example.

Line 13 - Enter the total timely payments reported on Lines 8, 9, 10 and 12. In considering amounts from Line 12, compare the date of payment with the installment due date.

For example, a taxpayer made a late payment of \$1,000 for the first installment on May 15, 2009 and had an underpayment on Line 11, Column A, of only \$500. Therefore, on Line 12 the taxpayer applied \$500 in Column A and \$500 in Column B. In considering timely payments for completing Line 13, the taxpayer will compare the payment date of May 15, 2009, with the installment due dates for Columns A and B. The installment due date for Column A is May 1, 2009. Since the date of payment (May 15), falls after the installment due date, the \$500 amount applied in Column A is a late payment and cannot be included on Line 13. The installment due date for Column B, however, is June 15, 2009, which falls after the date the payment was made. Therefore, the \$500 amount applied on Line 12, Column B, is a timely payment for the second period and will be included on Line 13.

Line 14 - Subtract Line 13 from Line 7. If the total of the underpayments on Line 14, columns A through D, is \$150 or less, stop here. You do not owe the addition to tax. Attach Form 760C to your return.

Part II - Exceptions That Void The Addition To Tax

If you computed an **underpayment** on Line 14 for any installment period, complete this section to determine if you meet an exception that voids the addition to tax. Exceptions are computed separately for each installment period; therefore, you can meet an exception in one or more periods or meet different exceptions in different periods. If you do not meet Exception 1 in a given period, you should try Exception 2, 3 and 4. *An exception met in one period does not automatically apply to any other period - each period must be considered separately.*

If you meet an exception, the addition to tax is voided for that period. If you do not meet an exception, the addition to tax must be computed on the underpayment amount reported on Line 14. An exception can only void the addition to tax; it cannot reduce or eliminate an underpayment. Only timely payments can be considered in determining whether an exception has been met. For example, if payments for the first installment period, May 1, 2009, are not made until after that date, no exception will be met for that period.

Line 15. Enter the total amount paid and/or withheld as of each installment date. Estimated payments should be applied as follows:

If Payment Is Made	Apply To Installment Date
On or before May 1	May 1
Between May 2 and June 15	June 15
Between June 16 and September 15	September 15
Between September 16 and January 15	January 15

Line 16 - Exception 1: Prior Year's Tax - This exception applies if your 2009 payments on Line 15 equal or exceed your 2008 income tax liability for each installment period. Your 2008 Virginia income tax return must have covered a full (twelve month) tax year, and must have reflected an income tax liability.

Exception 1 Worksheet

1. Enter the amount shown on your 2008 Form 760, Line 17; Form 763, Line 18; or Form 770, Line 4. _____
2. Enter the total of the amounts on your 2008 Form 760, Lines 21, 22 & the nonrefundable credits included on Line 23; or Form 763, Lines 19e, 19f & the nonrefundable credits included on Line 19g; or Form 770, the nonrefundable credits included on Line 5. _____
3. 2008 Tax Liability Subtract Line 2 from Line 1. Enter here and on Form 760C, Line 16. _____

After completing the Exception 1 worksheet, enter the results in the appropriate columns on Line 16. Compare the amount in each column to the amount entered in the corresponding column on Line 15. If the amount on Line 15 equals or exceeds the amount in the corresponding column on Line 16, you have met Exception 1 for that period. If you met Exception 1 for each period, you do not need to attach Form 760C to your return. If you did not meet the exception for every period in which you reported an underpayment, proceed to Exception 2, Line 17.

Line 17 - Exception 2: Tax on prior year's income using 2009 rates and exemptions - This exception applies if your withholding and/or timely estimated tax payments for the taxable year 2009 equal or exceed an amount that would have been due by recomputing your tax for the taxable year 2008 based on the facts shown on your return for, and the law applicable to, that taxable year, but using 2009 rates and personal exemptions.

Exception 2 Worksheet

1. 2008 Virginia adjusted gross income. _____
2. 2008 deductions (Form 760, Lines 10 and 12, 760PY or 763, Lines 11 and 13; or Form 770, enter 0). _____
3. 2009 personal exemptions (Form 760 Line 11, 760PY or 763, Line 12; or Form 770, enter 0). _____
4. Taxable Income - Subtract Lines 2 and 3 from Line 1. _____
5. Virginia Tax - Enter the tax computed on Line 4. _____
6. Total 2008 Spouse Tax Adjustment and nonrefundable credits allowed. _____
7. Exception 2 Tax - Subtract Line 6 from Line 5. Enter here and on Form 760C, Line 17. _____

After completing the Exception 2 worksheet, enter the results in the appropriate columns on Line 17. Compare the amounts in each column to the amounts in the corresponding columns on Line 15. If the amount in any column on Line 15 equals or exceeds the amount in the corresponding column on Line 17, you have met the exception for that period. If you met Exception 2 for each period, you do not need to attach Form 760C to your return. If you have not met an exception for every period in which you computed an underpayment, proceed to Exception 3.

Line 18 - Exception 3: Tax on Annualized 2009 Income - This exception applies if your 2009 payments on Line 15 equal or exceed 90% of the tax for each installment period computed on annualized income.

"Annualized Income" means the actual income received for the first four, five and eight months of the taxable year (three, four and seven months for estates & trusts), multiplied by the factors shown above Line 18 to arrive at the amount that would have been your taxable income if your income had remained constant during the year.

Complete Lines 18a through 18g - Since Exception 3 cannot be applied to the final installment period, enter amounts for the first three installment periods only. Compare the amount on Line 18g in each column to the amount reported in the corresponding column on Line 15. If the amount in any column on Line 15 equals or exceeds the amount in the corresponding column on Line 18g, you have met the exception for that period. If you have not met an exception for every period in which you reported an underpayment, proceed to Exception 4.

Line 19 - Exception 4: Tax on 2009 Income Over a 4, 5 and 8 Month Period - This exception applies if your 2009 payments on Line 15 equal or exceed 90% of the income tax computed on the actual income received for the first four, five and eight months of the taxable year.

Complete Lines 19a through 19g - Since Exception 4 cannot be applied to the final installment period, enter amounts for the first three installment periods only. Compare the amount on Line 19g in each column with the amount reported in the corresponding column on Line 15. If the amount in any column on Line 15 equals or exceeds the amount reported in the corresponding column on Line 19g, you have met the exception for that period.

Part III - Compute The Addition To Tax

Line 21 - If you applied any payments on Line 12, Part I, to offset the underpayments entered on Line 20, use the same date of payment you used on Line 12. Otherwise, use the actual date the tax was paid in full or May 1, 2010, whichever is earlier. If you applied more than one payment per installment period to offset an underpayment, you must compute the addition to tax separately for each payment applied. For example, if you report an underpayment of \$1,000 for the first installment period and pay \$500 on May 15, 2009, AND \$500 on June 30, 2009, you will need to make two separate computations:

Amount of Underpayment	From	To
\$500.00	5/1/09	5/15/09
\$500.00	5/1/09	6/30/09

If you are required to make more than one computation, you should compute your addition to tax on a separate schedule and attach the schedule to Form 760C.