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Alert

Tax Planning and Advocacy

2010 NYS Tax Amnesty Program

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Beginning on January 15, 2010 and continuing through March 15, 2010, the New York State Department of Taxation and Finance will offer a limited tax amnesty program known as the Penalty and Interest Discount Program ("PAID"). The program offers taxpayers an opportunity to take advantage of reductions in penalty and interest amounts on eligible tax liabilities that are more than three years old.

Program Benefits

Under PAID, eligible taxpayers will save:

- 50% on any accrued penalty and interest for assessments or final determinations issued after December 31, 2003 but before December 31, 2006 (generally tax years 2004, 2005 and 2006).
- 80% on any accrued penalty and interest for assessments or final determinations issued prior to December 31, 2003 (generally any tax period before 2004).

NOTE: PAID is only a means to reduce penalty and interest. Any unpaid tax for the period(s) being addressed must still be paid in full under this program.

Who Can Apply

Those eligible to participate in PAID include individuals, partnerships, estates, trusts and corporations who have received an assessment or a final determination on a tax, fee, and/or surcharge for a tax period prior to December 31, 2006. The program covers interest and penalties that have accrued on all types of New York taxes, including income, sales and withholding taxes. However, this program is not available for certain tax liabilities, including:

- Unpaid assessments or final determinations for any tax period after 2006
- Penalties relating to fraud, substantial understatements, failure to disclose reportable transaction information
- Penalties imposed under the Voluntary Compliance Initiative of 2005
- Responsible person penalties
- Any liability required to be paid as the result of a criminal conviction.

Nor can this new amnesty program be used as a basis to seek a refund of any penalty or interest that has already been paid which could have qualified under PAID.

How to Apply

The Tax Department intends to identify all taxpayers that have assessments and final determinations that are eligible for PAID. The Department will compute the total amount of tax, interest and penalty due under the program and send written notice to eligible taxpayers during the beginning of January, 2010. From that notice, taxpayers can select the tax liability(ies) that they intend to pay during the program. Eligible taxpayers must make full payment of the penalties, interest and outstanding tax liability by the March 15th deadline in order to receive the reduction offered under the program. If an eligible taxpayer does not receive any notice, (s)he may visit the Tax Department website, www.nystax.gov, or call 1-888-272-9697 (518-457-1726) for instructions on how to participate in PAID.

If you have any questions about this new program, please contact Paul M. Predmore at 315-422-1391 or by email at ppredmore@gslaw.com. Also, be on the lookout for upcoming Green & Seifter alerts regarding the other significant changes in the New York State Tax Laws.