



# Alert

Economic Development Incentives

## Empire Zones: Decertification/Retention Certificates Have Been Issued by the ESD

Green & Seifter Attorneys, PLLC

May 20, 2009

Empire State Development has sent letters to EZ businesses reflecting the status of ESD's retention/decertification process. The letters we have seen so far fall into three categories:

- Letters notifying an EZ business that it has been approved for a Retention Certificate and should be receiving the Retention Certificate "no later than June 19th" and that no response is required. The letter is not the Retention Certificate and should not be filed with the New York tax return.
- Letters indicating that ESD requires additional information (to be submitted by June 30th) in order to determine whether the EZ business will meet the 1:1 cost benefit test described in our earlier alerts. ESD is providing a form for the taxpayer to provide summarized information for all years between 2001 and 2007 for which the EZ business submitted business annual reports (BARs). EZ businesses should address these requests immediately, in order to ensure that complete and accurate information is provided.
- Letters indicating that "it appears" that the EZ business "does not meet the qualifications for continued certification (although not stating the basis for this preliminary conclusion). These letters indicate that no response is required, and that additional information will be sent to the EZ business no later than June 19 with further details about ESD's findings and the process for appeal. A prompt response may be warranted, even though the letter does not call for one.

EZ businesses receiving either of the latter two letters should take immediate action. Green & Seifter's Empire Zones Task Force is available to advise and assist EZ businesses with their response strategies and documentation. Please contact Tim Lynn or Phil Bousquet for additional information or assistance.