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NYS Decreases Tax Penalties, But Only For Three Months

New York State wants to encourage taxpayers to pay off their tax liabilities. NYS's Penalty and Interest Discount ("PAID") Program runs from January 15, 2010 through March 15, 2010. Its purpose is to allow eligible taxpayers who participate in the program to receive a reduction in the accrued interest and penalty currently owed on eligible tax liabilities.

An "eligible taxpayer" is an individual, partnership, estate, trust, corporation, limited liability company, joint stock company, or any other company, trustee, receiver, assignee, referee, society, association, business, or any other person described in the tax law who has a tax liability with regard to one or more taxes, fees, or surcharges that meets the conditions to be considered an eligible tax liability.

Not eligible to participate are taxpayers who have been convicted of a crime under the tax law or penal law and who are subject to a court order to pay a tax liability as a result of that conviction.

An "eligible tax liability" is one that is fixed and final, and for which an assessment or final determination was issued on or before December 31, 2006.

An eligible tax liability does not include an assessment or final determination that includes:

- fraud penalties,
- penalties related to the Voluntary Compliance Initiative,

- the willful failure to collect and pay withholding tax,
- the substantial understatement of tax,
- a reportable transaction understatement,
- aiding or assisting in the giving of fraudulent returns, reports, statements, or other documents,
- failure to disclose or provide reportable transaction information or returns,
- failure to maintain a list of advisees (related to reportable transactions),
- substantial understatement that results in the imposition of the tax preparer penalty, and
- promoting abusive tax shelters.

In early January 2010, the New York State Tax Department will send a written invitation to each eligible taxpayer to participate in the program. The notice will include a list of the taxpayer's eligible tax liabilities, the reduced amounts due for each eligible tax liability under the program, and the amount of the potential savings for each eligible liability.

The taxpayer will then be able to select one or more of the listed eligible tax liabilities that they intend to pay in full during the program period. At that time, the taxpayer may choose to make full, partial, or zero payment for one or more of the eligible liabilities.

If the taxpayer does not make full payment of an eligible liability by March



15, 2010, the taxpayer will not receive any savings on that liability. The program is a one-time opportunity to qualify for the savings.

The amount due and the savings under the program for an eligible tax liability are computed as follows.

- If the assessment or final determination was issued on or before December 31, 2003, the amount due will include the underlying tax liability and only 20% of the accrued interest and penalty. As a result, the savings would be 80% of the accrued interest and penalty.
- If the assessment or final determination was issued after December 31, 2003 and on or before December 31, 2006, the amount due will include the underlying tax liability and only 50% of the accrued interest and penalty. As a result, the savings would be 50% of the accrued interest and penalty.

If you receive a notice from New York State for the PAID program and would like to discuss it, please contact Tax Manager Jacqueline Fackler at (631) 719-3244, JFackler@hrrllp.com.

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