

PP-2008-10
03/20/08

STATEMENT OF AUDIT PROCEDURE

PROCEDURE FOR REPORTING FEDERAL OR STATE AUDIT CHANGES

1. **BACKGROUND**

This Statement of Audit Procedure provides general guidance to taxpayers and Finance staff on how meet statutory requirements when notifying the Department of New York State (NYS) or Federal audits results. This guidance includes:

- statutory requirements
- what to do when a taxpayer is also undergoing a City audit for the comparable tax and tax period and
- guidance for taxpayers on what to do when they are having difficulty computing the City tax consequence of a State or Federal audit result.

2. **Statutory Provisions**

- **Filing requirement:** NYC Administrative Code §§11-605(3), 11-646(e) and 11-519 provide that a taxpayer must report any change or correction in tax by the IRS or the NYS Tax Commissioner within 90 days after the Federal or State audit adjustment becomes final.
- **Combined:** A taxpayer filing a combined return must report a final Federal or State audit adjustment within 120 days.
- The law allows taxpayers to attach a statement to their report explaining why they believe the adjustments are erroneous. To the extent that the taxpayer concedes the accuracy of the adjustment or does not attach a statement indicating why any adjustment is erroneous, any resulting deficiency is deemed to be self-assessed and collection activity can begin.

- If the taxpayer does not file the required report of a final Federal or State change, the Department may assess a deficiency based on the Federal or State adjustment by mailing the taxpayer a Notice of Proposed Tax Adjustment. The deficiency is deemed assessed, and we can take collection actions 30 days after the mailing of the notice, unless within that 30-day period, the taxpayer properly reports the change and includes a statement indicating why the taxpayer believes the Federal or State adjustment and the City Notice of Proposed Tax Adjustment are erroneous.

The above provisions apply regardless of whether the taxpayer is under a City audit.

3. Further Explanation

Request for Accelerated Audit:

- If for any reason the taxpayer cannot timely and properly compute the correct NYC tax liability based upon the Federal or State change, the taxpayer may request an accelerated audit so that the correct liability can be redetermined within the statutory period.
- The request must be by letter and within the statutory period. Such a request might be made, for example, where the taxpayer believes that the combined group as reported for NYC purposes differs from the group for NYS or Federal reporting purposes and the taxpayer cannot compute its liability until the correct filing group for NYC purposed is agreed upon.
- The letter should be sent to the Assistant Commissioner of Audit, New York City Department of Finance, Audit Division, 345 Adams Street, 10th Floor, Brooklyn, New York 11201 and should include the basis for such request.
- Additionally, where a taxpayer believes such issues may arise for future periods not currently under audit, the taxpayer can request that a period be audited jointly by NYS and NYC so as to resolve such issues prior to completion of the audit by either of the taxing authorities.

Changes reported in the field:

- If a taxpayer gives an auditor in the field either a NYC-3360 or a NYC-115 or a NYC-3360B (Report of Federal/State Change) the auditor must forward the form to the appropriate unit for processing.
- If a payment is remitted with the Report of Federal/State Change form, then the auditor is required to follow the established procedures for recording and depositing payments.
- Otherwise, the taxpayer must file the NYC-3360 or the NYC-115 or the NYC-3360B as indicated in the Instructions to the Form.