

## Reporting Federal or State Audit Changes

This Statement of Audit Procedure provides general guidance to taxpayers and Department of Finance staff on how to handle notification of NYS or Federal audit results in order to ensure that the statutory requirements are met. This guidance includes a description of the statutory requirements, how to handle such requirements where the taxpayer is undergoing a NYC audit for the comparable tax and tax period and guidance for taxpayers on how to handle situations where they are having difficulty computing the NYC tax consequence of a NYS or Federal audit result.

NYC Administrative Code Sections 11-605(3) and 11-646(e) 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. A taxpayer filing a combined return must report a final Federal or State audit adjustment within 120 days. The law allows a taxpayer to attach a statement to the report indicating 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 Tax Due. The deficiency is deemed assessed, and thus subject to collection, after 30 days following 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 Tax Due are erroneous.

All of the above provisions apply regardless of whether the taxpayer is under audit by the City. If for any reason the taxpayer cannot properly compute, within the statutory period, the correct NYC tax liability based upon the Federal or State change, the taxpayer may request, by letter, within the statutory period, an accelerated audit so that the correct liability can be redetermined 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 City purposes is agreed upon. The letter should be sent to Pauline Hyles, Assistant Commissioner, New York City Department of Finance, Audit Division, 345 Adams Street (10<sup>th</sup> 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.

If an auditor in the field is given either a NYC-3360 or a NYC-115 or a NYC-3360B (Report of Federal/State Change) by a taxpayer, 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. In all other instances, the taxpayer must file the NYC-3360 or the NYC-115 or the NYC-3360B as indicated in the Instructions to the Form.