New York State Department of Taxation and Finance
Taxpayer Services Division
Technical Services Bureau

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 (8) Income Tax
(15) Corporation Tax
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Interest Payment Periods for Underpayments
and Overpayments of Tax

Chapter 61 of the Laws of 1989 repealed and amended various provisions of Article 22 (Personal Income Tax) and Article 27 (Corporate Tax Procedure and Administration) of the New York State Tax Law relating to the periods during which interest is to be paid on underpayments and overpayments of tax. The new law, explained below, applies to the New York State personal income tax, the corporation franchise taxes on general business, transportation and transmission, farmer co-operative, utility, banking and insurance corporations, the unrelated business income tax, the petroleum business tax, and the New York City and Yonkers income and nonresident earnings taxes.

Interest on Underpayments

Chapter 61 repealed the 30-day and 90-day interest free periods for payments of additional taxes shown on a notice of proposed increase (Statement of Audit Changes, Notice of Additional Tax Due or Statement of Audit Adjustment) and on a Notice of Deficiency, respectively. Accordingly, interest on these additional taxes will be computed from the due date of the original return (determined without regard to extensions of time) to the date the additional taxes are actually paid.

These changes will apply to additional taxes shown on a notice of proposed increase or a Notice of Deficiency issued on or after November 1, 1989.

Interest on Overpayments

The new law expands the application of the three-month interest free period for crediting or refunding an overpayment of tax to overpayments shown on an amended return or a claim for credit or refund. Previously, the interest free period applied, except for amended returns claiming a change of election, only to overpayments shown on an original return. Accordingly, interest will not be allowed or paid on any overpayment shown on an original return, amended return or claim for credit or refund that is credited or refunded by the Department within three months from the last date prescribed (or permitted by extension) for filing the return for the taxable year, or within three months after the return or claim is actually filed, whichever is later.

If an original return, amended return or claim for credit or refund is filed after the last date prescribed or permitted by extension for filing the return for the taxable year and the overpayment is not credited or refunded within three months, the new law provides that interest will not be allowed or paid for a period preceding the date the return or claim is actually filed. To the extent provided for in regulations which may be issued by the Commissioner of Taxation and Finance, this limitation on interest payable on an overpayment will not apply for any period during which interest would be charged on an underpayment if an item of income, gain, loss, deduction or credit is changed from one taxable year to the year in which it should have been reported and the change results in an overpayment for one taxable year and an underpayment for the other taxable year. However, in no event will this provision result in interest being paid on an overpayment for a period prior to the date prescribed (or permitted by extension) for filing a return for the overpayment year, nor does it extend the applicable statute of limitation for issuing a Notice of Deficiency or allowing a credit or refund.

The new rules also apply to overpayments that result from a federal change provided the taxpayer reports the change to New York State within 90 days of the final federal determination. If the taxpayer fails to report the change within the 90 day period, no interest will be paid or allowed on the overpayment regardless of when the credit or refund is made by the Department.

These changes will apply to an overpayment shown on an amended return or claim for credit or refund filed for a taxable year beginning after 1988.