



## **Electronic Filing and Electronic Payment Mandate for Personal Income Taxpayers**

Under a new electronic filing (e-file) mandate, a taxpayer who does not use a tax return preparer, but instead prepares his or her income tax return using tax software, must file that return electronically. This mandate is effective **January 1, 2012**, and is due to sunset on December 31, 2012.

Chapter 61 of the Laws of 2011 required the Tax Department to issue a report by September 15, 2011, to the Governor, the Director of the Budget, the Speaker and Minority Leader of the Assembly, and the Majority and Minority Leaders of the Senate reporting the percentage of individual taxpayers who electronically filed their 2010 personal income tax returns through August 31, 2011. New requirements for individual taxpayers would go into effect if the Department reported that the percentage was less than 85%.

The Department has since reported that the percentage of individual taxpayers that electronically filed their 2010 personal income tax returns through August 31, 2011, was less than 85%. As a result, the following new requirements for individual taxpayers will take effect:

- If an individual taxpayer prepares his or her personal income tax return or other authorized tax document using tax software, he or she must e-file that return or document. This requirement will apply to any return or authorized tax document prepared using tax software and filed **on or after January 1, 2012**. An authorized tax document is a return, report, or any other document relating to a tax or other matter administered by the commissioner and that the commissioner has authorized to be filed electronically.
- The Commissioner **may** require the tax liability or any other amount due on the return or other authorized tax document to be paid electronically if the return or document is required to be filed electronically.
- If a taxpayer is required to electronically file any return or other authorized tax document or electronically pay any tax liability or other amount due for personal income tax (Articles 22, 30, 30-A, and 30-B) and fails to e-file one or more of those returns or documents or electronically pay one or more of those liabilities or other amounts due, the taxpayer will be subject to a penalty of \$25 for each failure. The penalty will be imposed unless the taxpayer can show that the failure was due to reasonable cause and not willful neglect.

- If a taxpayer who is required to e-file any return or other authorized tax document fails to e-file the return or authorized tax document, the taxpayer will not be eligible to receive interest on any overpayment until the return or document is filed electronically.

The new provisions outlined above for individual taxpayers are due to sunset on December 31, 2012. The e-file mandate rules that were in effect prior to the new provisions will be restored as of January 1, 2013. Additional information about these provisions will be available on the Department Web site ([www.tax.ny.gov](http://www.tax.ny.gov)).

(Tax Law sections 29, 658(g)(10), and 685(u)(5))

NOTE: A TSB-M is an informational statement of existing department policies or of changes to the law, regulations, or department policies. It is accurate on the date issued. Subsequent changes in the law or regulations, judicial decisions, Tax Appeals Tribunal decisions, or changes in department policies could affect the validity of the information presented in a TSB-M.