

SPECIAL ACCRUALS - CHANGE OF RESIDENCE

Section 654(c)(1) of the Tax Law provides that a taxpayer who changes his status from resident to nonresident is required to accrue items of income, gain, loss or deduction, including income or gain on the remaining installments due to an election to report on an installment basis, on his final return covering the period prior to such change of residence even though he normally reports such items on another accounting basis.

Section 654(c)(4), however, permits the taxpayer to elect to file his final return on the basis of his normal method of reporting providing he files with the Tax Commission a bond or other securities acceptable to the Commission, conditioned upon the inclusion of the amounts accruable in New York State adjusted gross income for one or more subsequent taxable years as if a change of residence had not occurred.

The provisions of the Tax Law relating to the determination of minimum taxable income are also subject to the provisions relating to special accruals.

Interest on an installment sale contract which involves the sale of the assets of a business carried on in New York is not accruable upon a change of residence. The unearned interest income as of the date of the change of residence is to be reported on nonresident returns for the years in which such income is received. This rule applies to interest on the sale of real property located in New York State, if such real property was held by the taxpayer primarily for the purpose of leasing such property for profit.

The special accrual provisions of section 654(c) do not apply to the unincorporated business tax. Gains attributable to the liquidation of an unincorporated business are reported annually, if installment payments are received, in accordance with Article 23 of the Tax Law.

If a surety bond is offered pursuant to section 654(c)(4) of the Tax Law, it must be in the amount of the deferred tax and be accompanied by properly executed Form IT-260 in triplicate. "Deferred tax" is the additional tax which would be due if the balance of the installment gain receivable had been accrued on the final resident return.

There may be submitted, in lieu of a surety bond, collateral securities acceptable to the Tax Commission (Tax Law, § 654(c)(4)). In the event collateral is offered, the amount and the acceptability of the collateral tendered will be determined by the Central Office Audit Bureau. Collateral tendered under this section of the law may include:

1. United States Treasury bonds.
2. Bonds of the State of New York.
3. Bonds of any political subdivision of New York State having general governmental powers and in connection with which the credit of the political subdivision is pledged for the payment of the principal and interest due on such bonds.

Securities offered as collateral should be bearer bonds having a maturity date at least five year's subsequent to the date of filing with the Tax Commission. The amount of the security required to be filed will generally be based on fair market value of from one and one-half to twice the amount of the deferred tax. Fair market value greater than par or maturity value will not be recognized for this purpose.

If collateral is offered in lieu of a surety bond, it must be accompanied by a properly executed agreement, Form IT-260.1, in triplicate.