

**MP&S TAX ALERT
MAY 2009**

HOW WILL NEW YORK'S 2009-2010 STATE BUDGET AFFECT YOU AND YOUR BUSINESS?

On April 7, 2009, New York Governor David Paterson signed into law New York State's Fiscal 2009-10 Budget. The enacted budget agreement closes a two-year \$17.7 billion 2009-10 budget gap and reduces the State's multi-year deficit by an estimated 80 percent from approximately \$60 billion to approximately \$11 billion.

New York residents and business owners will be impacted by the budget reduction through changes to income tax rates, definitions of real property for sourcing purposes, corporate estimated payments and annual partnership filing fees. This May 2009 MP&S Tax Alert highlights notable changes impacting New York under the state's 2009-2010 Budget.

Income Tax

The enacted budget will increase personal income tax rates through a temporary Personal Income Tax Surcharge for higher-income filers for a three-year period from tax year 2009 to tax year 2011.

For married couples filing jointly, the marginal rate will increase from 6.85 percent to 7.85 percent for filers with income above \$300,000 and 8.97 percent for filers with incomes above \$500,000. For individuals and married filing separately filers, the rate will increase to 7.85 percent with income over \$200,000 and to 8.97 percent with income over \$500,000.

In addition to the proposed increase in tax rates, the budget will eliminate all itemized deductions for taxpayers with New York adjusted gross income over \$1 million. However, taxpayers with incomes over \$1 million will still be allowed 50% of their charitable deductions.

Real Estate

The enacted budget expands the definition of real property located within the State to include an interest in a partnership, LLC, S Corp. and non-publically traded C Corp. with not more than 100 shareholders that own real property located in the state and that has a fair market value that is at least 50 percent of all assets of the entity on the date of sale or exchange.

The gain or loss derived from New York sources would equal: the total gain or loss reported for federal income tax purposes multiplied by a fraction:

$$\text{Total Federal gain/loss} \times \frac{\text{FMV of real property located in NYS on date of sale}}{\text{FMV of all the entity's property on date of sale}}$$

Only assets owned by the entity for at least 2 years before date of sale are used in determining the value of all the assets of the entity.

Corporate Estimated Payments and Partnership Annual Filing Fees

For taxpayers whose preceding year tax liability exceeded \$100,000, the required first corporate franchise estimated tax installment payment is increased from 30 percent to 40 percent. This is applicable to tax years beginning on or after January 1, 2010.

In addition, applicable for tax years beginning on or after January 1, 2009, all partnerships are subject to the annual filing fee which was previously limited to limited liability companies and limited liability partnerships. Partnerships with New York source gross income of less than \$1 million would be exempt.

NEWS TO KNOW

Reports indicate that more than 50,000 US taxpayers held accounts at Swiss bank UBS AG that were not disclosed to the IRS. The US Justice Department has reportedly opened criminal investigations against many American customers named by UBS. In response, the IRS has established a voluntary disclosure program (with a short reporting period) for individuals with undisclosed accounts at UBS and other foreign banks. For more information, visit the IRS website at www.irs.gov.

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FOR FURTHER INFORMATION

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