

## **NEW YORK CHANGES PERSONAL INCOME TAX RULES, AUGUST, 2016**

New York State just released a summary of recently enacted legislation regarding income taxes that may be levied in addition to those personal income taxes described in the state's Budget for 2015-2016 corporate tax provisions.

### **New York City enhanced real property tax credit extended**

The New York City enhanced real property tax credit was extended from the period 1/1/2014 – 12/31/2015 to the period 1/1/2014 – 12/31/2019. The tax credit allows for a credit to qualified taxpayers that are full-year New York City residents, and pay either real property taxes or rent for his or her residence, and occupy the same residence for six months or more during the tax year, and have household gross income of less than \$200,000 for the tax year.

The maximum amount of credit allowed per household is \$500. In addition, only one credit per household and per qualified taxpayer will be allowed for each tax year. If the amount of the enhanced real property tax credit exceeds the taxpayer's tax due for the year, the excess may be credited or refunded without interest. City resident individuals who are not required to file a New York State personal income tax return may nevertheless qualify for a refund of the full amount of credit.

### **New York City income tax credit for general corporation taxes paid extended**

The New York City income tax credit for general corporation taxes paid was extended from the period 1/1/2014 – 6/30/2015 to the period 1/1/2014 – 6/30/2019. The tax credit allows for a tax credit to certain New York City resident individuals, estates, and trusts whose City adjusted gross income includes a pro rata share of income, gain, loss, or deductions from one or more New York S corporations or exempt qualified subchapter S subsidiaries (QSSSs).

### **Property tax relief credit established**

A property tax relief credit has been established for eligible taxpayers for tax years 2016 through 2019. Each year the credit is allowed, the Tax Commissioner will identify taxpayers who meet the income

eligibility requirements for the property tax relief credit using information from personal income tax returns on file for the tax year two years prior (2014, 2015, 2016, and 2017, respectively). The Tax Department will compute the property tax relief credit amount and mail checks to eligible taxpayers.

To be eligible for the credit, a taxpayer must 1) own and primarily reside in real property receiving the STAR exemption authorized by section 425 of the Real Property Tax Law or the school tax relief (STAR) credit; 2) be authorized by section 606(eee) of the Tax Law; 3) be a resident of New York State; and 4) have qualified gross income no greater than \$275,000. A credit will not, however, be allowed if the taxpayer's property is located in an independent school district that has adopted a budget in excess of the applicable tax levy limit; in a city with a dependent school district that has adopted a budget in excess of the applicable tax levy limit; or in New York City.

**Amount of the credit.** For tax year 2016, if an eligible taxpayer resides within the metropolitan commuter transportation district (MCTD) and outside New York City, the amount of the credit is \$130.00. If an eligible taxpayer resides outside the MCTD, the amount of the credit is \$185.00. For tax years 2017, 2018, and 2019, if an eligible taxpayer owns and primarily resides in real property receiving the **enhanced or basic STAR exemption or the enhanced or basic STAR credit**, the amount of the property tax relief credit equals the STAR tax savings multiplied by a specific percentage, the details of which are provided by the Department.

Only one credit per residence is allowed per tax year. In addition, the amount of the credit may not exceed the school district taxes due for the residence for that tax year.

Taxpayers who do not receive a property tax relief credit check that they believe they are eligible for, taxpayers who receive a check that is less than the amount they believe they are eligible for, and taxpayers who were not required to file a tax return but otherwise meet the eligibility requirements for the credit, may request payment of the claimed deficiency in a manner to be determined by the Department.

**Add-back of property tax relief credit.** A taxpayer is not eligible for this credit if the school district taxes levied upon the residence during the tax year remain unpaid 60 days after the last date they could have been paid without interest. In the case of a school district where the taxes are paid in installments, a taxpayer is not eligible for the credit if the taxes remain unpaid 60 days after the date the last installment could have been paid without interest.

Accordingly, if a taxpayer receives the property tax relief credit for a tax year, and the taxes that were levied in that same year remain unpaid on the sixtieth day after the last date they could have been paid without interest, the amount of property tax relief credit received by the taxpayer must be added back as tax on the taxpayer's personal income tax return for the tax year in which the sixtieth day occurs.

## **Taxpayer refund choice act extended**

The Taxpayer Refund Choice Act (the Act) has been extended for five additional tax years (i.e., until November 15, 2021). The Act provides that all personal income tax taxpayers have the right to receive personal income tax refunds by paper check, and opt out of any prepaid debit card or direct deposit program for payment of personal income tax refunds. Additionally, the Department is required to provide taxpayers with a clear written statement about these rights.

If the Commissioner elects to implement a program that allows the Department to pay personal income tax refunds by prepaid debit cards or by direct deposit, the Department's forms must also allow the taxpayer an option to receive a paper check. The paper check option (check the box) must appear with the selection of options for receiving a personal income tax refund. In addition, in any written notice the Department issues about a prepaid debit card program for the payment of tax refunds, the Department must describe to taxpayers all of the features of the debit card program, including any fees that may be charged to the taxpayer when using the debit card.

## **Yonkers resident income tax surcharge and the Yonkers earning tax on nonresidents extended**

The Yonkers resident income tax surcharge and the Yonkers nonresident earnings tax have been extended through tax years ending before 2018. Under previous law, these taxes would have expired for tax years beginning after 2016.

## **PARTNER PROFILE**

### **Steven P. Bryde, JD**

Steven P. Bryde, JD, is a lawyer and a Principal in the Tax Practice at Marks Paneth LLP. He specializes in state and local taxation for corporations and flow-thru entities in a cross section of industries as well as for individuals.

With more than 30 years of tax experience, Mr. Bryde has spent nearly his entire career in public accounting. Over the years, he has held positions at both global and regional accounting firms.

Among his accomplishments in this area, he represented a \$6.8 billion public advertising agency, including successfully representing the company for corporate income tax audit defense in California, New York State and New York City. His representation of this taxpayer resulted in a combined tax savings of \$6 million.

Mr. Bryde also litigated an Article 32 bank tax case for a major New York-based bank, including representing the bank at an Administrative Law Judge (ALJ) trial, plus filing pre-trial and post-trial briefs, and handling briefing and oral arguments on appeal to the New York State Tax Appeals Tribunal.

Mr. Bryde has successfully represented several high-net-worth individuals in defense of their multi-million dollar New York State and City residency income tax audit assessments.

His broad background also includes experience working in industry. He spent 7 years working as a tax counsel for a global energy corporation. In that position, he was involved with international as well as federal, state and local taxation.

Mr. Bryde is admitted to practice before the New York State Supreme Court, the Federal District Court (Southern and Eastern Districts) and the US Tax Court. He is a member of the American Bar Association, the New York State Bar Association and the Westchester County Bar Association.

Steven Bryde holds a Bachelor of Arts in Economics from Fordham University, as well as a Juris Doctor degree from Fordham University School of Law. Mr. Bryde is based in Marks Paneth LLP's midtown Manhattan headquarters and has been admitted to the bar in New York State. He resides in Scarsdale, New York.

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