



Important Notice

July 6, 1999

STATE TO APPEAL COURT RULING IN "COMMUTER TAX" CASE Employers advised to continue withholding for non-New Yorkers

Reproduced below is a press release issued by the Tax Department on June 30, 1999, explaining the effects of New York State's decision to appeal a recent court ruling concerning the New York City nonresident earnings tax (commuter tax). In its ruling, the court held that it was unconstitutional to apply the tax only to out-of-state residents.

As explained in the release, the State is in the process of appealing the lower court ruling and the court's decision on the issue did not enjoin continued administration of the tax, as amended by Chapter 5 of the Laws of 1999, pending the outcome of the appeal. Thus the New York City nonresident earnings tax will continue to apply to New York City commuters who live outside both New York City and New York State. Accordingly, employers must continue to follow the withholding tax guidelines contained in the Department's "Important Notice" TSB-M-99(4)I, issued June 1, 1999.

STATE TO APPEAL COURT RULING IN "COMMUTER TAX" CASE Employers advised to continue withholding for non-New Yorkers

State Taxation and Finance Commissioner Arthur J. Roth today advised New York companies to continue withholding New York City "commuter tax" payments for out-of-state residents following a decision by the Attorney General to appeal a recent court ruling that invalidated the tax.

The tax will continue to apply to out-of-state residents who work in New York City until the issue is finally resolved by appellate-level courts.

"Non-New York residents who commute to work in New York City will continue to be subject to the non-resident earnings tax as long as this issue remains before the courts," Commissioner Roth said.

"New York commuters, on the other hand, will get the promised benefit of the commuter tax repeal effective July 1," Commissioner Roth said.

More than 300,000 out-of-state commuters from all 49 other states, the District of Columbia, Puerto Rico and more than a dozen foreign countries paid the New York City non-resident tax in 1996. The tax rate is .45 percent of wages and .65 percent of self-employment income.

Effective July 1, the commuter tax no longer will apply to 450,000 New York State residents who commute to work in New York City under legislation signed by Governor Pataki on May 27.

Employers with questions about "commuter tax" withholding may obtain more information by contacting the Tax Department at (800) CALL TAX, or on the Internet at www.tax.state.ny.us