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**Subject: New York State Issues Revised
Withholding Audit Guidelines**
Date: April 20, 2005

To Our Clients and Friends:

New York State has issued a revised version of its withholding tax field audit guidelines, dated April 5, 2005. Highlights of the revisions from the original guidelines (issued last September) are set forth below.

By way of background, the guidelines memorialize New York State's new policy with respect to withholding requirements for employers with nonresident employees performing services within and without New York State. The guidelines include a de minimis rule whereby withholding is not required on wages paid to certain nonresident employees assigned to a primary work location outside of New York State who perform services in New York State for 14 days or less during the calendar year (hereinafter, "the 14-day rule"). The guidelines, effective for all open periods, have forced many companies to alter their withholding policies.

Recent revisions to the guidelines include the following:

- . Employers are not required to include a reasonable number of training days/professional development days spent in New York State by an employee as days worked in New York State for purposes of determining whether the employee has exceeded the withholding threshold under the 14-day rule.
- .. Examples of training days/professional development days include attendance at in-house training courses, trade association conferences or symposia, professional development workshops or seminars and conventions.
- . No tax, penalty or interest will be imposed on underwithholding for a reasonable number of training days/professional development days spent in New York State

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by nonresident employees assigned to a primary work location outside of New York State.

- . Employers are not required to report wages on Form NYS-45 Part C (columns d and e), or report federal wages in the New York box on Form W-2, for employees who are not subject to withholding based on the 14-day rule.
- . The transitional period for modification of payroll systems to comply with the nonresident withholding policy changes extends through the 2005 payroll cycle (for purposes of considering whether penalties should be imposed for noncompliance).
- . In addition, clarification is provided on withholding with respect to supplemental wages (i.e., bonuses, commissions, overtime pay, sales awards, etc.).

If you have any questions regarding the revisions or any other provisions of New York State's withholding tax policy or would like to obtain a copy of the revised guidelines, please do not hesitate to contact me.

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