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Subject: Lanco Decision Affirmed by New Jersey Supreme Court
Date: October 15, 2006

To Our Clients and Friends:

The New Jersey Supreme Court has affirmed the decision of the New Jersey Superior Court, Appellate Division, in Lanco, Inc. v. Director, Division of Taxation. Based on Lanco, the corporation business tax may be imposed on a corporation with no physical presence in New Jersey that derives income from a New Jersey source pursuant to a license agreement. The physical presence requirement set forth in Quill Corp v. North Dakota, 504 U.S. 298 (1992) was deemed inapplicable to the corporation business tax.

Lanco has 90 days to file a petition for certiorari with the United States Supreme Court. The Court has denied certiorari in the past for petitions based on similar fact patterns.

Prior to the New Jersey Supreme Court decision, the New Jersey Division of Taxation was entertaining settlement proposals from taxpayers impacted by the ongoing Lanco litigation that included limited years, a modified tax calculation, and the waiver of certain penalties. In light of the New Jersey Supreme Court decision, taxpayers pursuing settlements may be subject to less favorable terms than were previously available.

If you have any questions regarding the within, or any other state and local tax matters, please do not hesitate to contact me.

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