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TO: OUR CLIENTS AND THEIR ADVISORS

**RE: FEDERAL AND NYS TAX COLLECTION DEVELOPMENTS:
MORE CONSEQUENCES BUT MORE OPTIONS**

• New York announced on August 5, 2013 that it will be sending “suspension notices” to taxpayers owing \$10,000 or more in back taxes. If the taxpayer does not make payment or set up an installment payment plan or other arrangement with the New York State Department of Taxation and Finance (“NYS”) within 75 days of the notice date, the state will suspend the taxpayer’s driver’s license until the tax is paid or a payment arrangement is made.

• Over the past few years, the Internal Revenue Service (“IRS”) and NYS have liberalized their collection standards in response to the economic downturn and being more sensitive to taxpayers’ circumstances.

- The criteria in which the IRS will consider not filing a federal tax lien has expanded to facilitate payment of past due taxes without adversely affecting the credit or livelihood of the taxpayer.

- NYS has historically accepted “Offer in Compromise” applications to resolve an outstanding balance for less than the full amount due only in very narrow circumstances. More recently, it adopted a new “economic hardship” basis for acceptance of an Offer in Compromise. The new rules remove the previous requirement that the offered amount be at least the amount recoverable through legal proceedings. The new standard is that the amount must “reasonably reflect collection potential” or be otherwise justified by proof submitted by the taxpayer. This allows for some flexibility on a case by case basis and also allows a much larger pool of taxpayers to be able to resolve their balances with NYS in a prompt and realistic manner. The best opportunities to use this solution will involve the ability of the taxpayer to offer amounts gifted or loaned by third parties, since those amounts could not otherwise be reached by collection proceedings against the taxpayer.

• The IRS Offshore Voluntary Disclosure Initiative (“OVDI”) and the NYS tax amnesty programs are still available to taxpayers.

- The OVDI program allows for reduction or elimination of certain penalties and criminal responsibility relating to previously undisclosed foreign assets and income of U.S. taxpayers.

- The NYS program eliminates penalties and criminal responsibility if a taxpayer voluntarily files an unfiled return or corrects a previously filed return and makes payment within an agreed time frame.

- Both programs are subject to certain exceptions, such as when the taxing authorities already know about the delinquency from another source or their own investigation. It is unclear when either program will terminate so it is best to decide whether to participate as soon as possible.

Our office is available to assist you or your clients in exploring these and other domestic and foreign tax dispute resolution and tax planning matters, as well sophisticated income, gift and estate tax planning opportunities. Our other areas of specialization include elder law and Medicaid planning, tax aspects of divorce, non-profit organization formation and general counsel services, real estate and business law representation.