

Insights: Alerts

New York's "Pause" Order: Tax Aspects

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Written by **Jeffrey S. Reed**

Please note: The below information may require updating, including additional clarification, as the COVID-19 pandemic continues to develop. Please monitor our main [COVID-19 Task Force page](#) and/or your email for updates.

On March 20th, Governor Cuomo issued Executive Order No. 202.8 (the "Pause Order"). Under the Pause Order, non-essential businesses and non-profits must "pause" in-person work and shift to telecommuting effective at 8 PM on March 22, 2020 and continuing until April 19, 2020. The Pause Order contains 10 points, two of which have relevance to New York taxpayers and tax professionals.

First, the Pause Order expands the authority of the New York State Department of Taxation and Finance to abate up to 60 days of interest for late filed sales and use tax returns, and associated remitted tax, for the quarterly period ending February 29, 2020. It appears that this directive was included in the Pause Order in response to industry trade groups who were calling for the postponement of sales tax payments for businesses impacted by COVID-19. Given that quarterly sales tax returns were due on March 20th, the same day the Pause Order was issued, it is unclear how many businesses will be able to take advantage of this relief. It is likely that many businesses had already filed quarterly sales tax returns and remitted the associated tax before reviewing the Pause Order. However, for businesses that delayed filing quarterly sales and use tax returns or making payment, there is now the potential for interest abatement, along with penalty abatement.

Second, the Pause Order tolls the statute of limitations for New York legal actions, motions, and proceedings between March 20, 2020 and April 19, 2020. Are New York tax controversies covered by the tolling? Clearly, deadlines associated with tax appeals before the Appellate Division and the Court of Appeals qualify for statute of limitations tolling, because any actions before those bodies are "legal actions." It is less clear that the same statute of limitations tolling is available for administrative deadlines before BCMS, the New York Division of Tax Appeals, and the New York Tax Appeals Tribunal. As of this writing, the Tax Appeals Tribunal's website states that deadlines provided for by statute cannot be extended. As things currently stand, taxpayers are advised to heed all administrative deadlines including BCMS, New York Division of Tax Appeals, and New York Tax Appeals Tribunal deadlines and the deadlines contained in all New York tax notices unless and until guidance is issued stating that tolling or a specific extension applies.

Related People



Jeffrey S. Reed

Partner

New York, NY

t 212.775.8792

jsreed@kilpatricktownsend.com