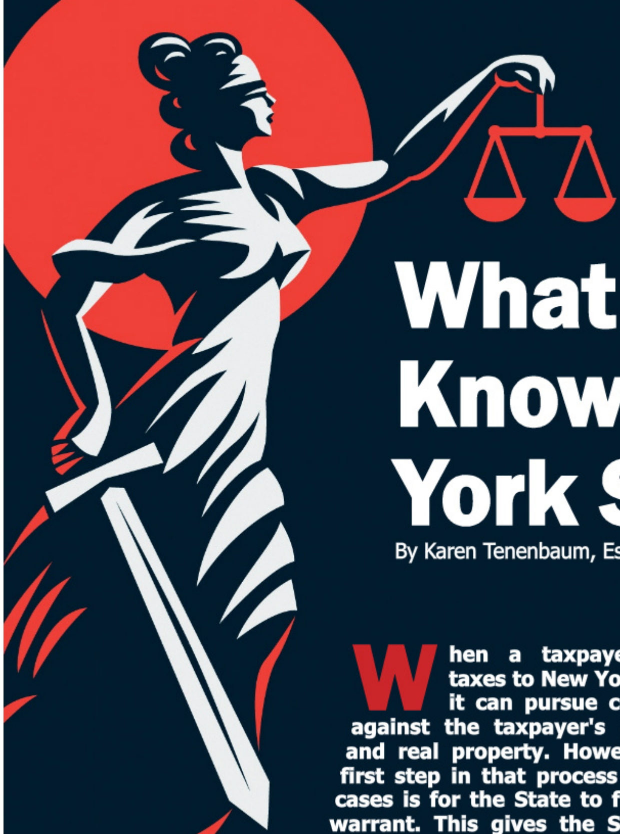

What You Need to Know About a New York State Tax Warrant

By Karen Tenenbaum, Esq.

When a taxpayer owes taxes to New York State, it can pursue collection against the taxpayer's personal and real property. However, the first step in that process in most cases is for the State to file a tax warrant. This gives the State the legal authority to seize the taxpayer's assets. In order to prevent, challenge or resolve a tax warrant, it is important to understand how it works.

1 A tax warrant is a public record. Tax warrants are legal judgments. They are on file at the county clerk's office and with the Secretary of State and can be found by anyone searching the database on the Department of State's website. The Tax Department also publishes a list of the Top 250 business and individual warrants, which is updated monthly.

2 Advance notice of the warrant is not required. The State does not give notice to taxpayers until after the warrant is filed. However, taxpayers will receive multiple notices regarding their tax deficiency before issuance of the warrant.

3 Income execution is permitted without a tax warrant. While the State must file a tax warrant before pursuing a lien or bank levy, a warrant is not required for an income execution at least through April 1, 2025. An income execution is a type of levy that is issued against a taxpayer's gross wages.

4 A tax warrant gives the State priority over other creditors. When filed, the warrant acts as a perfected lien upon the taxpayer's real and personal property and ensures that the State will get paid ahead of subsequent creditors.

5 There is a statute of limitations for filing a warrant. The statute of limitations is 20 years on collections and begins on the first day that a tax warrant could have been filed.

6 The warrant is valid until resolved or expired. To extinguish the tax warrant, the underlying tax liability must be completely satisfied, or the warrant must expire. Tax warrants are good for 10 years against real property, and 20 years against personal property.

7 A federal tax lien usually takes priority over a tax warrant. If taxes are not paid after a formal request, the IRS has an automatic lien against all of a taxpayer's property even without filing a lien. The IRS's silent lien begins on the date of assessment of the tax while a New York State warrant is based on the date docketed. Consequently, if the liabilities are for the same period and the same type of tax, the IRS lien usually takes priority over New York State.

8 Taxpayers cannot appeal. There are no collection appeal rights against a New York State tax warrant.

Tax warrants have severe consequences. As a result, it is crucial for taxpayers to respond to any notices of unpaid taxes promptly. There are several remedies available after the warrant is filed but acting beforehand will provide the best results.

Karen Tenenbaum, Esq.
LL.M (Tax), CPA
Founder and Managing Partner, Tenenbaum, P.C.

Tenenbaum Law, P.C. (www.litaxattorney.com), is a tax law firm in Melville, N.Y., which focuses its practice on the resolution of IRS and New York State tax controversies. Karen can be reached at ktenenbaum@litaxattorney.com and at 631-465-5000.