Understanding New York State Income Execution Rules for Delinquent Taxpayers

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If a person owes back taxes, the New York State Department of Taxation and Finance (NYSDTF) has several methods to collect the money. One of these options is a New York State Income Execution (IE), which is a type of levy that is issued against a taxpayer's gross income. Income execution is subject to unique rules and procedures that tax professionals must understand to appropriately represent clients. These include the following:

• **There is a cap on the amount that can be garnished from the taxpayer's wages.** An IE is limited to 10 percent of the taxpayer's gross earnings, including salary and commission.

• **The IE continues until the debt is satisfied.** An IE is effective until the underlying tax liability is paid, including interest and penalties.

• **No tax warrant is necessary.** Unlike with a bank levy, the State is not required to file a tax warrant before obtaining an IE. However, this provision is currently set to expire on March 31, 2025.

• **The State will first request voluntary compliance.** Under IE procedures, the taxpayer will receive a notice asking him/her to voluntarily submit up to 10 percent of his/her gross earnings to New York State. To comply, the taxpayer must make a first payment within 20 days and continue to remit 10 percent of gross wages every pay period.

• **Employers are only notified of the IE after the expiration of the 20 days.** If the taxpayer does not voluntarily comply, the State can order the taxpayer's employer to take up to 10 percent out of the taxpayer's gross wages directly from the paycheck and pay it to the State on the taxpayer's behalf.

• **An existing IRS wage garnishment takes precedence.** If the IRS is already garnishing the taxpayer's wages for up to 10 percent of his/her salary, that garnishment is satisfied first, and New York State must wait. The State will ask for verification from the employer of the amount of the garnishment and when it is expected to be satisfied.

• **The State will not pursue other collection actions.** As long as the IE is in place, the State will not seek a lien or levy to collect the tax liability.

• **Taxpayers will lose their tax refunds.** New York will keep and apply tax refunds to the outstanding debt until it is satisfied.

• **IEs can be avoided by entering into a collection alternative.** An Installment Payment Agreement, which allows payment of taxes over time, or an Offer-in-Compromise, which permits taxpayers who cannot afford to pay to settle their debt for less than they owe, may be an option for qualified taxpayers to keep the State from pursuing an IE.

Income executions are harsh. Not only are the taxpayer's wages automatically garnished but the taxpayer's employer is notified of the employee's tax warrants, which can be a source of embarrassment or detrimental to career advancement.

Since a taxpayer's voluntary compliance can prevent a notice from being mailed to the employer, taxpayers should respond promptly to address their tax problems to avoid that result.

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