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## E-filing Update for New York, New Jersey, and Connecticut

By Mark H. Levin

**N**ew York, New Jersey, and Connecticut have all recently enacted changes that will soon require tax preparers to file certain income tax returns electronically.

### New York

The New York State Budget Act of 2005, Part Q, requires certain tax preparers to file all New York State income tax returns electronically. This provision covers all returns covered by the New York State Tax Law, Article 22. Included in Article 22 are personal income tax returns (Forms IT-201 and IT-203), fiduciary income tax returns (Form IT-205), and partnership returns (Form IT-204). Currently, the Department of Taxation and Finance is mandating that only personal income tax returns be filed electronically. In the future, the other types of returns covered by Article 22 may also be covered by the electronic filing mandate.

Tax return preparers who prepare more than 200 original New York personal income tax returns and prepare one or more original returns using tax software during calendar year 2005 must file all authorized returns electronically for 2006. The 200 return threshold will be reduced to 100 for calendar years beginning after 2005. The number of returns is calculated at the entity level. Thus, if an entity that is a preparer has multiple employees working on returns at several locations, the total number of returns prepared by all employees at all locations determines whether the entity is required to file electronically. Preparers that do not use tax software to prepare any New York personal income tax returns are not required to file electronically.

An original return is any personal income tax return that is filed, without regard to extensions, during the calendar year. An authorized return is any person-

al income tax return that the Commissioner of the Department of Taxation and Finance has authorized to be filed electronically.

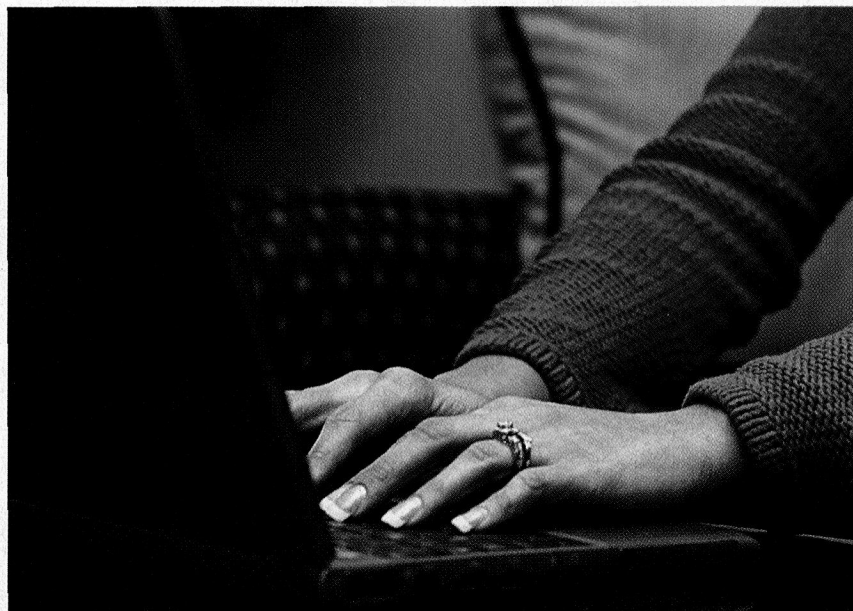
The Commissioner of the Department of Taxation and Finance may, in instructions, consider the use of 2D-barcode technology to satisfy the electronic filing requirements.

The Department of Taxation and Finance

tion form would constitute a digital signature and would be retained by the preparer.

Taxpayers will not necessarily have to file their return electronically. A new opt-out form is being developed that a taxpayer can sign and that would be retained by the preparer as proof of the opt-out election.

While the department requires the elec-



has indicated that the mandatory electronic filing requirement will apply to all personal income tax returns, both resident income tax returns (Form IT-201) and nonresident/part-year income tax returns (Form IT-203). In addition, for tax year 2005 only, any personal income tax return filed by mail that contains the 2D bar code cover sheet will be considered as being electronically filed.

Because an electronically filed return cannot contain a manual signature, the Department of Taxation and Finance is developing an authorization form that the taxpayer must sign before the electronic return may be transmitted. This authoriza-

tion filing of only resident and nonresident/part-year income tax returns, the 2005 Budget Act authorizes the department to ultimately require the electronic filing of all returns required under Tax Law Article 22. This includes returns for partnerships (Form IT-204) and for trusts and estates (Form IT-205), as well as the aforementioned Forms IT-201 and IT-203.

Preparers required to file electronically and that use a tax software package which does not support electronic filing must switch to a software package that does.

There are penalties for failing to file electronically if so required. The penalty is

\$50 for each failure to electronically file a return, unless it is proven that such failure was due to reasonable cause and not willful neglect. Reasonable cause includes, but is not limited to, a taxpayer's election to opt out.

#### New Jersey

New Jersey continues its trend toward complete electronic filing by requiring practitioners that filed 200 or more 2003 resident gross income tax returns (NJ-1040) to file all NJ-1040s electronically for tax year 2004. Practitioners that filed less than 200 2003 NJ-1040s are not required to file the 2004 NJ-1040s electronically but are strongly encouraged to do so.

Form NJ-1040 can be filed electronically through one of New Jersey's three electronic filing services: Fed/State E-File, NJ TeleFile, or NJ WebFile. Practitioners must register with the IRS as an Electronic Return Originator in order to file through the Fed/State E-File Program, but can use either NJ TeleFile or NJ WebFile without registering.

Even though electronic filing is mandatory for preparers, taxpayers may still opt out by completing Form NJ-1040-O, which must also be completed by the practitioner. The completed and signed forms are not to be filed but must be retained by the practitioner.

Any fee charged for the electronic filing is not subject to New Jersey's sales tax if it is included in the full invoice price for a tax filing by a tax practitioner. Practitioners may disclose on the invoice the amount included in the fee that is related to the electronic filing.

#### Connecticut

Connecticut will require tax preparers that filed 200 or more 2004 Connecticut income tax returns to file their 2005 Connecticut income tax returns using the Fed/State E-File Program. Preparers that file 100 or more 2005 returns must e-file for 2006; preparers that file 50 or more 2006 returns must e-file for 2007. Preparers must register with the IRS as an Electronic Return Originator in order to participate in the program.

There is no mandatory electronic filing requirement for practitioners that filed 200 or less 2004 Connecticut income tax returns. The Connecticut Department of

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## Tax return preparers who prepare more than 200 original New York personal income tax returns and prepare one or more original returns using tax software during calendar year 2005 must file all authorized returns electronically for 2006.

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Revenue Services is, however, encouraging practitioners to try electronic filing for 2004 income tax returns in order to prepare for the mandatory filing requirement covering 2005 income tax returns in calendar year 2006.

Tax preparers with questions regarding the electronic filing requirements may

call the Department of Revenue Services Help Desk at 860-297-4713 or the IRS e-file Help Desk at 866-255-0654. □

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