

## Tennessee Add-Back Notices - Immediate Attention May Be Required

In late 2009, the Tennessee Department of Revenue (TDOR) issued notices to numerous taxpayers assessing additional Tennessee excise tax from the 2005 tax year. The assessment of tax is related to the disallowance of an intangible expense deduction on the 2005 return for failure to properly disclose the recipient of the payment (Tennessee has required this disclosure since 2004). It is no coincidence that these notices were issued prior to the end of 2009, since Tennessee's statute of limitations to assess tax on 2005 excise tax returns expired December 31, 2009.

Most notices received are dated December 18, 2009 and are accompanied by a letter from the TDOR Audit Division indicating that the deductions "do not represent bona fide transactions with a valid business purpose other than the creation of a tax benefit and therefore are properly disallowed."

Tennessee law, under Code Section 67-1-1801, provides specific procedures regarding the enumeration of remedies for the assessment of taxes. In particular, the law provides that taxpayers have 90 days to challenge an assessment without having to pay the assessed tax beforehand. Furthermore, the same statute also provides that taxpayers may request an informal conference within 30 days of the notice of assessment. Requesting such a conference within 30 days will stop the 90 days from running until the conference is held which preserves the taxpayers right to challenge the assessment in court, temporarily stops the accrual of interest on the assessment and gives the taxpayer time to resolve the issue with the Audit Division of the TDOR. As most of these notices are dated December 18, 2009, taxpayers need to request an informal conference NO LATER THAN January 17, 2009.

For more information, contact Joyce Waterbury at 919.301.6715.

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