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January 31, 2011

The Honorable Thomas H. Mattox,
Acting Commissioner
New York State Department of Taxation and Finance
W.A. Harriman Campus, Building 9
Albany, NY 12227

Re: Report on Nonresident Audit Guidelines of the State of New York

Dear Acting Commissioner Mattox:

I am pleased to submit New York State Bar Association Tax Section Report No. 1233, which discusses Nonresident Audit Guidelines of the State of New York issued by the Department of Taxation and Finance on March 31, 2009. The Guidelines are intended to aid auditors and their supervisors in the audits of nonresident tax returns. While the Guidelines are not law, they can exert a powerful effect on the fairness and effectiveness of the manner in which an audit is conducted.

We believe that the Department should promote an audit process that discourages auditors from simply "building a case for residency," but rather, encourages a more dispassionate search for a correct answer to what is often a very complex and subtle set of issues. While we believe that the Guidelines go a long way in the right direction, we also believe that in certain respects they could be improved. Accordingly, our report recommends a number of specific changes to the Guidelines. The report also recommends continued training of audit staff and Field Audit Management to permit the flexibility built into the Guidelines to serve its purpose and to promote the Guidelines' spirit of fair inquiry into the facts of a case.

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The Honorable Thomas H. Mattox
January 31, 2011
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We appreciate your consideration of our recommendations. If it would be helpful, we would be happy to discuss our recommendations in greater detail with you and your staff.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Peter H. Blessing', with a long, sweeping horizontal line extending to the right.

Peter H. Blessing
Chair

cc: Robert Plattner
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