

# Client Newsletter

Dibble & Miller, P.C.

November 1, 2013 – No 075

www.dibblelaw.com



**D&M<sup>P.C.</sup>**

From the  
Law Offices of

**Dibble & Miller, P.C.**

55 Canterbury Road  
Rochester, NY 14607

Tel: (585) 271-1500  
Fax: (585) 271-0118

## **Not Paying NYS Taxes, Lose Your License!** (Update to Client Newsletter No 74)

Under a recently enacted law that has just begun to be implemented, the New York State Department of Taxation and Finance (DTF) can direct the Department of Motor Vehicles (DMV) to suspend driver's licenses of delinquent taxpayers. The DTF touts the program as an effective collection tool, but it is likely to cause havoc for affected taxpayers.

### **How The Suspension Program Works**

The targets of the program are taxpayers with past due taxes of any tax type in the amount of \$10,000 or more, who do not have an approved resolution in place with the DTF for payment of those tax liabilities.

The DTF will send letters to targeted taxpayers stating that their driver's licenses can and will be suspended by the DMV. The letter will advise the taxpayer how the taxes claimed to be due can be paid and what other actions may be taken to avoid the referral for license suspension. The deadline to respond to the DTF letter is 60 days. If the taxpayer does not respond, or fails to adequately respond as required by the DTF, the DMV will be notified to begin the process of driver's license suspension.

Only one 60 day letter will be sent, and the 60 day response period will be treated like a "clock," and there will be no extensions. For example, if a resolution to avoid driver's license suspension is put into place with the DTF on day 50 of the 60 days and that resolution subsequently defaults for any reason, the taxpayer will only have 10 days to obtain another satisfactory resolution from the DTF before their license is referred for suspension.

The 60 day letter itself can be appealed, however, the new legislation limits the grounds for challenging the suspension of the license to those referenced in the 60 day letter.

After the 60 day "clock" expires, the DMV will issue a 15 day letter to the taxpayer giving them a final warning to make satisfactory arrangements with the DTF or else their license will be suspended. After the DMV suspends a taxpayer's driver's license, he or she will **NOT** have any right to challenge the suspension in court or to appeal the suspension with the DMV. The suspension will remain in effect until the DMV receives notice from the DTF that the taxpayer has paid the taxes due or has made satisfactory payment arrangements with the DTF.

If a taxpayer targeted by the program is not currently licensed, any suspension will prevent that taxpayer from obtaining a driver's license. In addition to driver's license suspension, the DTF is also free to employ any

other collection and enforcement measures, which would normally be available to it, to seek to collect the taxes due from the taxpayer.

### **Your Options To Prevent Suspension Are Limited**

Because of the strict application of the 60 day response period, if you receive a letter from the DTF threatening to refer your driver's license for suspension, you should act immediately. Time extensions are not available; therefore, if you are out of town, in the hospital, or lose the letter and fail to act within the 60 day timeframe, you could lose your license.

There are only certain exemptions that shield a targeted taxpayer from having their license referred for suspension, which include the following: (1) drivers holding a commercial driver's license, (2) persons making certain child or combined child and spousal support payments, (3) you are not the taxpayer named in the notice, (4) the tax debts have been paid, (5) the DTF is already garnishing your wages to pay the tax debts, (6) your license was previously selected for suspension and you set up a payment plan with the DTF but the DTF then asserts that you failed to make 2 payments pursuant to that payment plan in a 12 month period, when in fact you did not fail to make those payments, (7) you are eligible for innocent spouse relief, (8) enforcement of the underlying tax debts has been stayed by the filing of a bankruptcy petition.

**If none of the above exemptions applies to you, your options to prevent the suspension of your driver's license are limited.**

**Except, under certain circumstances, filing Bankruptcy for protection from collection of the tax, the traditional hardship defenses such as unemployment, seasonal employment, minimal, fixed or no income, existing wage garnishment (except for child and spousal support), disability, illness, etc., that were previously often used as grounds to obtain favorable outcomes to collection matters will not work.**

Additionally, if you have any unfiled tax returns with the DTF, you will need to file those returns before you are able to prevent your license from being referred for suspension. Also, even though an Offer In Compromise (OIC) is a mechanism that can be used to settle the amount owed to the DTF for less than the full amount, the filing of an OIC will not prevent your license from being referred for suspension, until the OIC is accepted by the DTF, which could take more than a year from the date of filing the OIC.

### **Dibble & Miller May Be Able To Help**

If you are targeted by this new law, and do not qualify for any of the exemptions set forth in this letter, we may be able to help you. A substantial part of our general law practice is dedicated to tax defense and we have a successful history of resolving collection matters with the DTF. If you receive a 60 day letter proposing to suspend your driver's license, please call Dibble & Miller for a free consultation.

*The foregoing information reflects our current understanding of the law based upon the information available to us as of the date of this newsletter. In order to provide the highest quality representation to our clients, we will continue to gather information about the law. It has been reported to us that its implementation is going through a review process at the DTF. If you contact us, we will update you about any further information.*

*If you have any questions about an individual's rights or responsibilities under the tax or other laws governing the driver's license suspension program, or other tax collection or enforcement laws, or for additional information about other programs to protect taxpayers in New York State, please contact Dibble & Miller, P.C. for assistance.*

# DIBBLE & MILLER, P. C.

ATTORNEYS AT LAW

55 CANTERBURY ROAD, ROCHESTER, NEW YORK 14607

PHONE: 585-271-1500 FAX: 585-271-0118

WEB SITE: [www.dibblelaw.com](http://www.dibblelaw.com)

WE THANK YOU FOR USING OUR FIRM.

PLEASE REMEMBER THAT WE HAVE AN EXTENSIVE PRACTICE TO SERVE YOU:

- **Business Agreements** — *All Types, including Non-Compete, Buy-Sell, Non-Disclosure, Employment, Shareholder and Partnership Agreements*
- **Business Formations** — *Start-Up Businesses and Partnerships, Business Purchase and Sale Agreements, and Formation of Corporations and LLC*
- **Criminal Law** — *Arrests, Felonies, Misdemeanors, Traffic Tickets, White Collar Crimes, DWIs, Plea Bargains, Trials, and Appeals (State and Federal)*
- **Debtor Rights** — *Debt Resolution and Bankruptcy — We Are A Debt Relief Agency — We Help People File for Bankruptcy Under the Bankruptcy Code*
- **Estate Planning** — *Preparation of Wills, Trusts, Health Care Proxies, and Powers of Attorney and Estate Planning and Administration*
- **Family Law** — *Divorce, Custody, Visitation, Child Support, Paternity, Pre-Nuptial Agreements, Separation Agreements, and Family Mediation*
- **Litigation** — *Civil, Business, Contract, Commercial, Corporate, Real Estate and Stockholder and Partner Disputes*
- **Personal Injury** — *All Types, including Car Accidents, Slip and Fall, Physical and Sexual Abuse, Assaults and Work Accidents*
- **Real Estate** — *Residential and Commercial Purchases, Sales, Closings, Mortgages, Land Contracts, Foreclosures and Real Estate Leases*
- **Tax Defense** — *Defense of IRS & NYS Tax Compliance Enforcement:*
  - *Defense against Civil and Criminal Tax, Workers Compensation and Unemployment Audits, Investigations, Protests and Litigation*
  - *Defense against Collection of Income, Payroll, Sales and Corporate Taxes*
  - *Resolution of Tax Levies, Liens and Income Executions*
  - *Responsible Person and TFRP Defense for Trust Funds, Sales, Use and Withholding Taxes Assessments and Collections*
  - *Preparation, Filing and Negotiation of Offers in Compromise*
  - *Negotiation of Tax Installment Agreements and Tax Payment Plans*
  - *Innocent & Injured Spouse Defense*

**\*\*\* IF YOU NEED LEGAL ADVICE, PLEASE CONTACT US FOR A FREE CONSULTATION \*\*\***

We Are A Full Service Law Firm – Free Initial Consultation – Attorney Advertising