IVEN R. TAUB

ATTORNEY AT LAW

Timothy P. Fisher
Of Counsel
Schwartzman Garelik
Walker & Troy, P.C.[Δ]
Of Counsel

[Δ]Members Admitted in
New York and New Jersey

355 LEXINGTON AVENUE
20TH FLOOR
NEW YORK, NEW YORK 10017

TEL: (212) 286-7700
TEL: (212) 686-6866

FAX: (212) 481-2488
E-mail: Ivenesq@aol.com

WESTCHESTER OFFICE
550 MAMARONECK AVENUE
SUITE 510
HARRISON, NEW YORK 10528

TEL: (914) 381-7400
FAX: (914) 381-7406
BY APPOINTMENT ONLY

TO: **OUR CLIENTS AND THEIR ADVISORS**

RE: **2003 TAX LEGISLATION**

DATE: **July, 2003**

Summarized below are many of the key features of the tax legislation enacted during 2003 at the Federal, New York State and New York City levels. Interestingly there have been no estate or gift tax provisions included in the new legislation.

A. Federal:

1. Rate changes:

- The top marginal income tax rate for non corporate taxpayers has been reduced to 35%. The other income tax rate brackets have also been reduced including some relief for married taxpayers filing jointly. The standard deduction permitted for married couples filing jointly has increased from $7,950 to $9,500 which is two times the amount allowed for an individual filer. The alternative minimum tax exemption amount for individuals and married couples has increased by $4,500 per person.

- The tax rate for dividend income and most long term capital gains (for sales and exchanges after May 5, 2003) has been reduced to 15%. The reduced tax rate for dividends and long term capital gains will expire at the end of 2008.

- The 25% capital gains tax rate remains applicable to the "unrecaptured Section 1250 gain" on the sale of depreciable real property.

- Investors should review their investment decisions and strategies to determine which assets should be held in tax deferred retirement accounts and whether investments generating capital gains should be liquidated to take advantage of the lower tax rates.

- The child tax credit benefit has increased for taxpayers that qualify.

2. Businesses:

- Annual Expensing: The purchase of machinery and equipment that can be expensed annually has been increased from $25,000 to $100,000. There is a dollar for dollar phase out once a business makes purchases in excess of $400,000 during the tax year. These expense limitations will be indexed for inflation for tax years 2004 and 2005 but this provision expires after 2005.

- Bonus Depreciation: Businesses are permitted a 50% bonus first year depreciation deduction (for which there was not an expense election) for capital assets acquired after May 5, 2003 and before January 1, 2005, which have a recovery period of 20 years or less including certain computer software and qualified leasehold improvement property.

- The Accumulated Earnings Tax and Personal Holding Company Tax rates have been reduced from 38.6% to 15%, effective for tax years beginning after December 31, 2002.

- The September 15, 2003 quarterly estimate will not be due until October 1, 2003.

- New withholding tables have been released to reflect the lower income tax rates, which should be applied no later than July 1, 2003;

B. New York:

1. Rate Changes:

- New York State. The personal income tax rate has increased to a maximum of 7.7% for 2003 through 2005. The sales tax rate has increased from 4% to 4.25% for transactions through May 31, 2005.
- New York City. The personal income tax rate has increased to a maximum of 4.45% for 2003 through 2005. The sales tax rate has increased from 4% to 4.125% for transactions through May 31, 2005.

2. Estimated Payments Required by Pass Through Entities: Partnerships, Limited Liability Corporations and S Corporations are required to make quarterly estimated tax payments at the highest income tax rate based on the portion of entity income that is allocable to owners who are either non-residents of New York or C Corporations. The entity's obligation must be satisfied quarterly regardless of whether funds are available to pay the tax or whether these payments violate any obligations or agreements. These rules are effective for all entity tax years beginning after December 31, 2002. There is a grace period ending September 15, 2003 in which to comply with the estimated payments.

3. Sale of New York Real Property By Non-Resident: Effective September 1, 2003 non-residents must pay an estimated income tax on the gain of the sale of real property, using the highest income tax rate. A form must be filed and taxes paid to New York State. Deeds will not be recorded without certification of the filing and payment from the New York State Department of Taxation and Finance or certification by the transferor that the estimated tax rules are inapplicable. This provision is **not** applicable to the sale of a principal residence.

4. Bonus Depreciation: New York State has decoupled its tax laws from all federal bonus depreciation. For tax years beginning after December 31, 2002 no bonus depreciation will be permitted for property placed in service on or after June 1, 2003. A fiscal year taxpayer who places property into service after May 5, 2003 but before its 2002 fiscal year ends may still qualify for the 50% bonus depreciation in New York.

Our office is available to assist you or your clients in exploring these and other tax planning issues as well as our other areas of specialization including real estate, tax dispute resolution, business and employment law representation, retirement planning issues and sophisticated gift and estate tax planning opportunities including family limited partnerships, qualified personal residence trusts and charitable scenarios which will assist in the preservation of wealth for future generations.