

The Effects of Article 27 of the Tax Law on the Centralized Procurement Contract Fee
Frequently Asked Questions (FAQs)
February 2009

1 What is Article 27 of the Tax Law and how does it relate to the centralized procurement contract fee?

Article 27 governs Corporate Tax Procedure and Administration. It contains the rules for interest, penalties, assessments, protest rights, collection practices, mailing rules, refunds, and the general powers of the New York State Department of Taxation and Finance with regard to corporate taxes. The provisions of Article 27 apply to the centralized procurement contract fee program.

2 When would I be subject to penalties and interest with regard to the centralized procurement contract fee?

If you do not pay the entire amount of the centralized procurement contract fee due on or before the due date, you must pay interest from the due date of the return to the date you made full payment.

You may also be charged the following penalties if you fail to file a return or pay the fee when due:

- If you fail to file a procurement fee return when due, you may owe a penalty of 5% of the fee for each month that you do not pay, with a maximum of 25% of the fee. However, if you do not file a return within 60 days of the due date, the penalty cannot be less than the smaller of \$100 or 100% of the amount of the fee, unless it is shown that your failure to file is due to reasonable cause and not willful neglect.
- If you fail to pay the fee required to be shown on a return when due, you may owe a penalty of ½% of the fee per month for each month that you do not pay, up to a total of 25% of the fee, unless it is shown that your failure to pay is due to reasonable cause and not willful neglect. In the case of imposition of both the failure to file a return and failure to pay the tax due penalties, there is an offset against the failure to file penalty.
- Other penalties may apply in certain instances, such as, for deficiencies due to negligence or fraud.

3 What happens if I receive an assessment on a Notice and Demand for the centralized procurement contract fee, but do not pay it?

If you do not pay the full amount requested on a Notice and Demand within 21 days, you are subject to collection and the Commissioner of the New York State Department of Taxation and Finance may issue a warrant for the amount due. Once the warrant is filed at the county clerk's office, a judgment is entered for the amount due. The State of New York then becomes a lien holder on the vendor's real, personal and other property. The lien will not apply to personal property unless the warrant is filed in the Department of State. The State can use various means to collect the amount due, including income executions, levies of accounts, and seizure and sale of property.

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4 If I electronically file, how does the Tax Department determine if my centralized procurement contract fee return is filed timely? How about if I file by mail?

If you electronically file on the Tax Department's Online Tax Center, the postmark is the date and time that the Tax Department receives the transmission for your electronically filed document. If you are in a different time zone than the Tax Department, it is the date and time in your time zone that determines the timeliness of your filing.

If you mail a paper return using the United States Post Office, the date of delivery is the date of the postmark stamped on the envelope by the United States Postal Service, if the taxpayer timely mailed the return. You may choose to use a private delivery service, instead of the U.S. Postal Service, to mail the return and fee. However, if, at a later date, you need to establish the date a return was filed or the fee was paid you can only use the date recorded by the private delivery service if the delivery service used has been designated by the United States Secretary of the Treasury or the Commissioner of the New York State Department of Taxation and Finance.

5 When is my centralized procurement fee return due if the filing date is on a Saturday, Sunday, or legal holiday?

If the last day prescribed for filing the return or performing any other required act falls on a Saturday, Sunday or legal holiday in New York State, then the filing or performance of the act is considered timely if it is performed on the next day which is not a Saturday, Sunday or legal holiday in New York State.

6 If I overpay my centralized procurement contract fee, how long do I have to request a refund?

You must file a claim for credit or refund of an overpayment of the centralized procurement contract fee within three years from the time the return was filed or two years from the time the centralized procurement contract fee was paid, whichever period is later. If no return was filed, the claim for credit or refund must be filed within two years from the time the fee was paid.

7 Can the New York State Tax Department audit my centralized procurement contract fee return?

Yes, the Tax Department has the authority to examine your books and take other actions to determine the correctness of your centralized procurement contract fee return.