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DEPARTMENT OF TAXATION ANNOUNCEMENT NO. 2009-01

February 24, 2009

RE: Administration of TIR No. 2008-03, Deposits in the Nature of Cash Bond Made to Suspend the Running of Interest on Potential Underpayments

On October 15, 2008, the Department of Taxation (Department) issued Tax Information Release (TIR) No. 2008-03, which allows for taxpayers to make a deposit of cash in the nature of a cash bond with the Department in order to toll the running of interest on potential underpayments.

The Department announces two points of clarification in administering TIR 2008-03—

DEPOSITS ARE NOT PAYMENTS OF TAX

Deposits made pursuant to TIR 2008-03 are not considered payments of tax. Any deposit received under an agreement between the Department and a taxpayer shall be characterized in the nature of a cash bond made via the transfer of cash to the Department to be held by the Department for the taxpayer's benefit. Under no circumstances shall the amount paid be considered a payment of tax.

DEPOSITS MAY ONLY BE MADE PRIOR TO FINAL ASSESSMENT

The Department will only accept offers to make deposits in the nature of a cash bond to toll the running of interest on potential underpayments prior to the issuance of final assessment to the taxpayer. After the notice of final assessment has been issued, the payment will be considered a payment of the tax owed on the assessment. Taxpayers are free to make a deposit in the nature of a cash bond pursuant to TIR 2008-03 at any time prior to the notice of final assessment, including after issuance of proposed assessments during an audit controversy.

KURT KAWAFUCHI
Director of Taxation

Tax Guidance Explained: TIR 2008-03