

NEW YORK TAX APPEALS TRIBUNAL ISSUES STOCK-OPTION DECISION

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For years, taxpayers and practitioners have contended that New York's taxation of stock-option income was problematic, in large part because the position was spelled out in a Technical Services Bureau memorandum, not in a statute or regulation. On May 12, the New York State Tax Appeals Tribunal rendered its decision in *Matter of Stuckless*. In that decision, the tribunal rejected New York's long-standing policy on the treatment of a nonresident's stock-option income.

The decision calls into question New York's grant-to-exercise methodology for the taxation of option income, thereby providing a basis for alternative allocation methodologies in current audits. The decision may also provide a basis for taxpayers to file claims for a refund of taxes, interest, and penalties that were paid based on the grant-to-exercise method.

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