

4890

2011-2012 Regular Sessions

I N S E N A T E

April 28, 2011

Introduced by Sen. GOLDEN -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the tax law and the administrative code of the city of New York, in relation to the taxation of certain banking corporations

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Paragraph 1 of subsection (m) of section 1452 of the tax
2 law, as amended by section 4 of part J of chapter 61 of the laws of
3 2011, is amended to read as follows:
4 (1) Notwithstanding anything to the contrary contained in this section
5 other than subsection (n) of this section, a corporation that was in
6 existence before January first, two thousand eleven and was subject to
7 tax under article nine-A of this chapter for its last taxable year
8 beginning before January first, two thousand eleven, shall continue to
9 be taxable under such article for all taxable years beginning on or
10 after January first, two thousand eleven and before January first, two
11 thousand thirteen. The preceding sentence shall not apply to any taxable
12 year during which such corporation is a banking corporation described in
13 paragraphs one through eight of subsection (a) of this section.
14 Notwithstanding anything to the contrary contained in this section other
15 than subsection (n) of this section, a banking corporation or corpo-
16 ration that was in existence before January first, two thousand eleven
17 and was subject to tax under this article for its last taxable year
18 beginning before January first, two thousand eleven, shall continue to
19 be taxable under this article for all taxable years beginning on or
20 after January first, two thousand eleven and before January first, two
21 thousand thirteen [or in which] ONLY IF THE CORPORATION IS A BANKING
22 CORPORATION AS DEFINED IN SUBSECTION (A) OF THIS SECTION OR the corpo-
23 ration satisfies the requirements for a corporation to elect to be taxa-
24 ble under this article. Provided further, that nothing in this

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 subsection shall prohibit a corporation that elected pursuant to
2 subsection (d) of this section to be taxable under article nine-A of
3 this chapter from revoking that election in accordance with such
4 subsection (d).

5 For purposes of this paragraph, a corporation shall be considered to
6 be subject to tax under article nine-A of this chapter for a taxable
7 year if such corporation was not a taxpayer but was properly included in
8 a combined report filed pursuant to section two hundred eleven of this
9 chapter for such taxable year and a corporation shall be considered to
10 be subject to tax under this article for a taxable year if such corpo-
11 ration was not a taxpayer but was properly included in a combined return
12 filed pursuant to subsection (f) or (g) of section fourteen hundred
13 sixty-two of this article for such taxable year. A corporation that was
14 in existence before January first, two thousand eleven but first becomes
15 a taxpayer in a taxable year beginning on or after January first, two
16 thousand eleven and before January first, two thousand thirteen, shall
17 be considered for purposes of this paragraph to have been subject to tax
18 under article nine-A of this chapter for its last taxable year beginning
19 before January first, two thousand eleven if such corporation would have
20 been subject to tax under such article for such taxable year if it had
21 been a taxpayer during such taxable year. A corporation that was in
22 existence before January first, two thousand eleven but first becomes a
23 taxpayer in a taxable year beginning on or after January first, two
24 thousand eleven and before January first, two thousand thirteen, shall
25 be considered for purposes of this paragraph to have been subject to tax
26 under this article for its last taxable year beginning before January
27 first, two thousand eleven if such corporation would have been subject
28 to tax under this article for such taxable year if it had been a taxpay-
29 er during such taxable year.

30 S. 2. Paragraph 1 of subdivision (l) of section 11-640 of the adminis-
31 trative code of the city of New York, as amended by section 5 of part J
32 of chapter 61 of the laws of 2011, is amended to read as follows:

33 (1) Notwithstanding anything to the contrary contained in this section
34 other than subdivision (m) of this section, a corporation that was in
35 existence before January first, two thousand eleven and was subject to
36 tax under subchapter two of this chapter for its last taxable year
37 beginning before January first, two thousand eleven, shall continue to
38 be taxable under such subchapter for all taxable years beginning on or
39 after January first, two thousand eleven and before January first, two
40 thousand thirteen. The preceding sentence shall not apply to any taxable
41 year during which such corporation is a banking corporation described in
42 paragraphs one through eight of subdivision (a) of this section.
43 Notwithstanding anything to the contrary contained in this section other
44 than subdivision (m) of this section, a banking corporation or corpo-
45 ration that was in existence before January first, two thousand eleven
46 and was subject to tax under this subchapter for its last taxable year
47 beginning before January first, two thousand eleven, shall continue to
48 be taxable under this subchapter for all taxable years beginning on or
49 after January first, two thousand eleven and before January first, two
50 thousand thirteen [or in which] ONLY IF THE CORPORATION IS A BANKING
51 CORPORATION AS DEFINED IN SUBDIVISION (A) OF THIS SECTION OR the corpo-
52 ration satisfies the requirements for a corporation to elect to be taxa-
53 ble under this subchapter. Provided further, that nothing in this subdivi-
54 sion shall prohibit a corporation that elected pursuant to subdivision
55 (d) of this section to be taxable under subchapter two of this chapter
56 from revoking that election in accordance with subdivision (d) of this

1 section. For purposes of this paragraph, a corporation shall be consid-
2 ered to be subject to tax under subchapter two of this chapter for a
3 taxable year if such corporation was not a taxpayer but was properly
4 included in a combined report filed pursuant to subdivision four of
5 section 11-605 of this chapter for such taxable year and a corporation
6 shall be considered to be subject to tax under this subchapter for a
7 taxable year if such corporation was not a taxpayer but was properly
8 included in a combined report filed pursuant to subdivision (f) or (g)
9 of section 11-646 of this part for such taxable year. A corporation that
10 was in existence before January first, two thousand eleven but first
11 becomes a taxpayer in a taxable year beginning on or after January
12 first, two thousand eleven and before January first, two thousand thir-
13 teen, shall be considered for purposes of this paragraph to have been
14 subject to tax under subchapter two of this chapter for its last taxable
15 year beginning before January first, two thousand eleven if such corpo-
16 ration would have been subject to tax under such subchapter for such
17 taxable year if it had been a taxpayer during such taxable year. A
18 corporation that was in existence before January first, two thousand
19 eleven but first becomes a taxpayer in a taxable year beginning on or
20 after January first, two thousand eleven and before January first, two
21 thousand thirteen, shall be considered for purposes of this paragraph to
22 have been subject to tax under this subchapter for its last taxable year
23 beginning before January first, two thousand eleven if such corporation
24 would have been subject to tax under this subchapter for such taxable
25 year if it had been a taxpayer during such taxable year.

26 S 3. This act shall take effect immediately.