

4944

2011-2012 Regular Sessions

I N   S E N A T E

May 2, 2011

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Introduced by Sen. YOUNG -- 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, in relation to establishing the recordkeeping voluntary compliance program for purposes of sales tax liability

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

1     Section 1. The tax law is amended by adding a new section 1135-a to  
2     read as follows:

3     S 1135-A. RECORDKEEPING VOLUNTARY COMPLIANCE PROGRAM. 1.     NOTWITH-  
4     STANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THERE SHALL BE  
5     ESTABLISHED A RECORDKEEPING VOLUNTARY COMPLIANCE PROGRAM TO BE ADMINIS-  
6     TERED BY THE COMMISSIONER, FOR ALL ELIGIBLE TAXPAYERS.

7     2. FOR PURPOSES OF THIS SECTION, AN "ELIGIBLE TAXPAYER" IS AN INDIVID-  
8     UAL, PARTNERSHIP, ESTATE, TRUST, CORPORATION, LIMITED LIABILITY COMPANY,  
9     JOINT STOCK COMPANY, OR ANY OTHER COMPANY, TRUSTEE, RECEIVER, ASSIGNEE,  
10    REFEREE, SOCIETY, ASSOCIATION, BUSINESS OR ANY OTHER PERSON SUBJECT TO  
11    SALES TAX IMPOSED BY OR PURSUANT TO THE AUTHORITY OF THIS CHAPTER.

12    3. THE COMMISSIONER IS AUTHORIZED TO ENTER INTO A RECORDKEEPING VOLUN-  
13    TARY COMPLIANCE AGREEMENT WITH AN ELIGIBLE TAXPAYER. A RECORDKEEPING  
14    VOLUNTARY COMPLIANCE AGREEMENT SHALL BE IN A FORM TO BE ESTABLISHED BY  
15    THE COMMISSIONER AND INCLUDE SUCH TERMS AS THE COMMISSIONER MAY REASON-  
16    ABLY REQUIRE TO REQUIRE THE ELIGIBLE TAXPAYER TO MAINTAIN BOOKS AND  
17    RECORDS IN A FORM PURSUANT TO SECTION ELEVEN HUNDRED THIRTY-FIVE OF THIS  
18    PART AND TO COMPLY WITH THIS CHAPTER IN THE FUTURE INCLUDING, BUT NOT  
19    LIMITED TO REQUIRING THE USE OF CERTIFIED POINT OF SALES SYSTEMS.

20    S 2. Section 1138 of the tax law is amended by adding a new subdivi-  
21    sion (e) to read as follows:

22    (E) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, A  
23    TAXPAYER THAT IS A PARTY TO A RECORDKEEPING VOLUNTARY COMPLIANCE AGREE-  
24    MENT PURSUANT TO SECTION ELEVEN HUNDRED THIRTY-FIVE-A OF THIS PART SHALL

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

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1 NOT BE SUBJECT TO THE PROVISIONS OF PARAGRAPH ONE OF SUBDIVISION (A) OF  
2 THIS SECTION AND NO TAX SHALL BE ESTIMATED ON THE BASIS OF EXTERNAL  
3 INDICES UNLESS THE COMMISSIONER FINDS THAT THE TAXPAYER IS IN SUBSTAN-  
4 TIAL NON-COMPLIANCE WITH ITS RECORDKEEPING VOLUNTARY COMPLIANCE AGREE-  
5 MENT.  
6 S 3. This act shall take effect immediately.