

3946

2011-2012 Regular Sessions

I N S E N A T E

March 10, 2011

Introduced by Sen. DeFRANCISCO -- (at request of the Department of Taxation and Finance) -- 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 providing a limit on the time to collect tax liabilities

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 174-b to
2 read as follows:
3 S 174-B. LIMITATION ON THE TIME TO COLLECT TAX LIABILITIES. 1.
4 NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY AND EXCEPT AS
5 OTHERWISE PROVIDED IN THIS SECTION, A TAX LIABILITY SHALL NOT BE
6 ENFORCEABLE AND EVERY TAX LIABILITY SHALL BE EXTINGUISHED AFTER TWENTY
7 YEARS FROM THE FIRST DATE A WARRANT COULD BE FILED BY THE COMMISSIONER,
8 WITHOUT REGARD TO WHETHER THE WARRANT IS FILED. THE FIRST DATE A WARRANT
9 COULD BE FILED MEANS THE DAY AFTER THE LAST DAY SPECIFIED FOR PAYMENT BY
10 THE NOTICE AND DEMAND ISSUED FOR THE TAX LIABILITY WHERE THERE IS NO
11 RIGHT TO A HEARING WITH RESPECT TO SUCH NOTICE AND DEMAND. THE FIRST DAY
12 A WARRANT COULD BE FILED SHALL BE DETERMINED WITHOUT REGARD TO
13 SUBSECTION (C) OF SECTION SIX HUNDRED NINETY OR SUBSECTION (C) OF
14 SECTION ONE THOUSAND NINETY OF THIS CHAPTER, UNLESS THE COMMISSIONER
15 ASSESSES THE LIABILITY UNDER EITHER SUCH SUBSECTION (C). WHEN THERE IS A
16 RIGHT TO A HEARING WITH RESPECT TO A NOTICE AND DEMAND FOR A TAX LIABIL-
17 ITY, THE FIRST DATE A WARRANT COULD BE FILED MEANS THE DAY THAT OPPORTU-
18 NITY FOR A HEARING OR REVIEW HAS BEEN EXHAUSTED.
19 2. THIS SECTION SHALL APPLY TO ANY TAX THAT IS ADMINISTERED BY THE
20 COMMISSIONER. ANY REFERENCE TO "TAX" IN THIS SECTION SHALL BE DEEMED
21 ALSO TO REFER TO SPECIAL ASSESSMENTS, FEES, INTEREST, ADDITIONS TO TAX,
22 PENALTIES AND OTHER IMPOSITIONS THAT ARE ADMINISTERED BY THE COMMISSION-
23 ER.

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

LBD09470-01-1

1 3. WHEN, BEFORE THE EXPIRATION OF THE TIME PRESCRIBED IN THIS SECTION
2 TO ENFORCE THE COLLECTION OF TAX, BOTH THE COMMISSIONER AND THE TAXPAYER
3 HAVE CONSENTED IN WRITING TO ITS COLLECTION AFTER SUCH TIME, THE TAX
4 LIABILITY SHALL NOT BE EXTINGUISHED AND THE TAX MAY BE COLLECTED AT ANY
5 TIME PRIOR TO THE EXPIRATION OF THE PERIOD AGREED UPON. THE PERIOD SO
6 AGREED UPON MAY BE EXTENDED BY ANY SUBSEQUENT AGREEMENT IN WRITING MADE
7 BEFORE THE EXPIRATION OF THE PERIOD PREVIOUSLY AGREED UPON.

8 4. THE PROVISIONS OF THIS SECTION SHALL SUPPLEMENT OR BE IN ADDITION
9 TO THE PROCEDURES RELATING TO COLLECTION OR ADMINISTRATION PROVIDED WITH
10 RESPECT TO ANY TAX COVERED BY THIS SECTION. WHERE A PROVISION OF THIS
11 SECTION IS INCONSISTENT WITH ANY SUCH PROVISION WITH RESPECT TO SUCH
12 TAX, THE PROVISIONS OF THIS SECTION SHALL APPLY. FOR PURPOSES OF
13 SUBSECTION (C) OF SECTION SIX HUNDRED NINETY-TWO AND SUBSECTION (C) OF
14 SECTION ONE THOUSAND NINETY-TWO OF THIS CHAPTER, IF THE COMMISSIONER
15 DOES NOT FILE A WARRANT WITHIN SIX YEARS OF ASSESSMENT, THE TIME LIMITA-
16 TIONS IN THIS SECTION SHALL NOT APPLY AND THE TAX LIABILITY IS EXTIN-
17 GUISHED. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PREVENT THE
18 COMMISSIONER FROM ACCEPTING ANY PAYMENT FOR A TAX LIABILITY MADE VOLUN-
19 TARILY BY A TAXPAYER AFTER THE TIME TO COLLECT SUCH LIABILITY HAS
20 EXPIRED AND THE LIABILITY IS EXTINGUISHED. WHEN A WARRANT IS FILED, THE
21 COMMISSIONER MAY INCLUDE A DATE ON THAT WARRANT INDICATING WHEN SUCH
22 WARRANT EXPIRES AND TAX LIABILITY IS EXTINGUISHED.

23 5. IF A TAX LIABILITY COULD HAVE BEEN FIRST WARRANTED BEFORE THE
24 EFFECTIVE DATE OF THIS SECTION, SUCH LIABILITY SHALL NOT BE ENFORCEABLE
25 AND SHALL BE EXTINGUISHED AFTER TWENTY YEARS FROM THE FIRST DATE THE
26 WARRANT COULD HAVE BEEN FILED BY THE COMMISSIONER.

27 S 2. This act shall take effect immediately.