S T A T E O F N E W Y O R K

5959

2013-2014 Regular Sessions

I N A S S E M B L Y

March 11, 2013

Introduced by M. of A. FARRELL -- (at request of the Department of Taxation and Finance) -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law and the administrative code of the city of New York, in relation to suspending the income tax refund statute of limitations for individuals due to financial disability

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

Section 1. Subsection (k) of section 687 of the tax law is relettered subsection (l) and a new subsection (k) is added to read as follows:

(K) RUNNING OF PERIODS OF LIMITATION SUSPENDED WHILE TAXPAYER IS UNABLE TO MANAGE FINANCIAL AFFAIRS DUE TO DISABILITY. -- (1) IN THE CASE OF AN INDIVIDUAL TAXPAYER, THE RUNNING OF THE PERIODS SPECIFIED IN SUBSECTIONS (A), (B), AND (C) OF THIS SECTION SHALL BE SUSPENDED DURING ANY PERIOD OF SUCH INDIVIDUAL'S LIFE THAT SUCH INDIVIDUAL IS FINANCIALLY DISABLED. FOR PURPOSES OF THIS SUBSECTION, AN INDIVIDUAL TAXPAYER IS AN INDIVIDUAL WHO IS SUBJECT TO ANY STATE OR LOCAL PERSONAL INCOME TAX OR SURCHARGE ADMINISTERED BY THE COMMISSIONER.

(2) FOR PURPOSES OF PARAGRAPH ONE OF THIS SUBSECTION, AN INDIVIDUAL TAXPAYER IS FINANCIALLY DISABLED IF SUCH INDIVIDUAL IS UNABLE TO MANAGE HIS OR HER FINANCIAL AFFAIRS BY REASON OF A MEDICALLY DETERMINABLE PHYSICAL OR MENTAL IMPAIRMENT OF THAT INDIVIDUAL WHICH CAN BE EXPECTED TO RESULT IN DEATH OR WHICH HAS LASTED OR CAN BE EXPECTED TO LAST FOR A CONTINUOUS PERIOD OF NOT LESS THAN TWELVE MONTHS. AN INDIVIDUAL SHALL NOT BE CONSIDERED TO HAVE SUCH AN IMPAIRMENT UNLESS PROOF OF THE EXISTENCE THEREOF IS FURNISHED IN SUCH FORM AND MANNER AS THE COMMISSIONER MAY REQUIRE.

(3) AN INDIVIDUAL TAXPAYER SHALL NOT BE TREATED AS FINANCIALLY DISABLED DURING ANY PERIOD THAT SUCH INDIVIDUAL'S SPOUSE OR ANY OTHER PERSON IS AUTHORIZED TO ACT ON BEHALF OF SUCH INDIVIDUAL IN FINANCIAL MATTERS.

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

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S 2. Subdivision (k) of section 11-1787 of the administrative code of the city of New York is relettered subdivision (l) and a new subdivision (k) is added to read as follows:

(K) RUNNING OF PERIODS OF LIMITATION SUSPENDED WHILE TAXPAYER IS UNABLE TO MANAGE FINANCIAL AFFAIRS DUE TO DISABILITY. (1) IN THE CASE OF AN INDIVIDUAL TAXPAYER, THE RUNNING OF THE PERIODS SPECIFIED IN SUBDIVISIONS (A), (B), AND (C) OF THIS SECTION SHALL BE SUSPENDED DURING ANY PERIOD OF SUCH INDIVIDUAL'S LIFE THAT SUCH INDIVIDUAL IS FINANCIALLY DISABLED. FOR PURPOSES OF THIS SUBDIVISION, AN INDIVIDUAL TAXPAYER IS AN INDIVIDUAL WHO IS SUBJECT TO THE TAX IMPOSED UNDER THIS CHAPTER.

(2) FOR PURPOSES OF PARAGRAPH ONE OF THIS SUBDIVISION, AN INDIVIDUAL TAXPAYER IS FINANCIALLY DISABLED IF SUCH INDIVIDUAL IS UNABLE TO MANAGE HIS OR HER FINANCIAL AFFAIRS BY REASON OF A MEDICALLY DETERMINABLE PHYSICAL OR MENTAL IMPAIRMENT OF THAT INDIVIDUAL WHICH CAN BE EXPECTED TO RESULT IN DEATH OR WHICH HAS LASTED OR CAN BE EXPECTED TO LAST FOR A CONTINUOUS PERIOD OF NOT LESS THAN TWELVE MONTHS. AN INDIVIDUAL SHALL NOT BE CONSIDERED TO HAVE SUCH IMPAIRMENT UNLESS PROOF OF THE EXISTENCE THEREOF IS FURNISHED IN SUCH FORM AND MANNER AS THE COMMISSIONER OF TAXATION AND FINANCE MAY REQUIRE.

(3) AN INDIVIDUAL TAXPAYER SHALL NOT BE TREATED AS FINANCIALLY DISABLED DURING ANY PERIOD THAT SUCH INDIVIDUAL'S SPOUSE OR ANY OTHER PERSON IS AUTHORIZED TO ACT ON BEHALF OF SUCH INDIVIDUAL IN FINANCIAL MATTERS.

S 3. This act shall take effect immediately and shall apply to periods of financial disability commencing before, on, or after the date this act shall have become a law, but shall not apply to any claim for credit or refund that (without regard to this act) is barred by the operation of any law or rule of law (including res judicata) as of the date this act shall have become a law.