

STATE OF NEW YORK

5822

2017-2018 Regular Sessions

IN SENATE

May 2, 2017

Introduced by Sen. LATIMER -- 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 notices to taxpayers regarding the right to a hearing sent by the division of taxation or the division of appeals

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 3005 of the tax law, as added by chapter 369 of the
2 laws of 1995, is amended to read as follows:

3 § 3005. Requirements of certain department letters, notices and docu-
4 ments. (a) The division of taxation or the division of tax appeals, as
5 the case may be, shall include a return address in every ~~[(a)]~~ (1)
6 letter to a taxpayer regarding the taxpayer's liability for tax, ~~[(b)]~~
7 (2) notice which gives a person the right to a hearing under any tax,
8 ~~[(c)]~~ (3) billing or collection document and ~~[(d)]~~ (4) administrative
9 law judge determination and tribunal decision, to which the taxpayer may
10 write with questions regarding the letter, notice, document, determi-
11 nation or decision. Such notices and documents described in ~~[subdivi-~~
12 ~~sions-(b)]~~ paragraphs two and ~~[(c)]~~ three of this ~~[section]~~ subdivision
13 shall also include a telephone number which the taxpayer may call with
14 questions regarding the notice or document. Such address or telephone
15 number may be within the division of taxation or the division of tax
16 appeals, or within another appropriate state or other agency, and may be
17 included in the letter, notice, document, determination or decision, or
18 on a separate, accompanying document. Nothing in this section shall be
19 construed to prevent either such division from including an address or
20 telephone number in other letters, notices or documents sent to taxpay-
21 ers or other persons.

22 (b) Any notice to a taxpayer regarding the right to a hearing shall
23 require the taxpayer to confirm receipt of such notice. In the event

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

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1 that the taxpayer does not confirm receipt of such notice, then the
2 division of taxation or the division of tax appeals, as the case may be,
3 shall send such notice at least once a month for three consecutive
4 months prior to adjudicating the issue. No taxpayer shall be denied the
5 right to a hearing when the tax payer can demonstrate that the address
6 used for mailings by the department is an incorrect address and the mail
7 sent from the department was unable to be delivered or when the taxpayer
8 can provide other sufficient evidence demonstrating that the failure to
9 respond to such notice was due to no fault of the taxpayer. No tax issue
10 shall be finally adjudicated by the division of taxation or the division
11 of tax appeals prior to a hearing when a taxpayer who provides suffi-
12 cient evidence demonstrating that the failure to respond to a notice of
13 a right to a hearing was due to no fault of the taxpayer requests a
14 hearing.

15 § 2. This act shall take effect immediately and shall apply to any
16 taxpayer who provides sufficient evidence demonstrating that the failure
17 to respond to a notice of a right to a hearing was due to no fault of
18 the taxpayer and who was denied the right to a hearing on or after Janu-
19 ary 1, 2009.