

STATE OF NEW YORK

5633

2019-2020 Regular Sessions

IN ASSEMBLY

February 14, 2019

Introduced by M. of A. WEINSTEIN, TAYLOR -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to the enforcement of delinquent tax liabilities by means of the suspension of licenses to operate a motor vehicle

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

1 Section 1. Subdivisions 1, 3 and 5 of section 171-v of the tax law, as
2 added by section 1 of part P of chapter 59 of the laws of 2013, are
3 amended to read as follows:

4 (1) The commissioner shall enter into a written agreement with the
5 commissioner of motor vehicles, which shall set forth the procedures for
6 the two departments to cooperate in a program to improve tax collection
7 through the suspension of drivers' licenses of taxpayers with past-due
8 tax liabilities equal to or in excess of ~~[ten]~~ twenty thousand dollars
9 multiplied by the applicable inflation adjustment. For the purposes of
10 this section, the term "tax liabilities" shall mean any tax, surcharge,
11 or fee administered by the commissioner, or any penalty or interest due
12 on these amounts owed by an individual with a New York driver's license,
13 the term "driver's license" means any license issued by the department
14 of motor vehicles, except for a commercial driver's license as defined
15 in section five hundred one-a of the vehicle and traffic law, and the
16 term "past-due tax liabilities" means any tax liability or liabilities
17 which have become fixed and final such that the taxpayer no longer has
18 any right to administrative or judicial review, and the "applicable
19 inflation adjustment" for a calendar year shall be determined under the
20 principles of section 7345(f) of the Internal Revenue Code of 1986,
21 using the calendar year of the effective date of the chapter of the laws
22 of two thousand nineteen which amended this subdivision as the base
23 period. The twenty thousand dollar limitation in this subdivision shall
24 not apply to a taxpayer that the commissioner determines has taken

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

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1 affirmative steps to evade or avoid the collection of tax, such as by
2 hiding assets.

3 (3) The department shall provide notice to the taxpayer of his or her
4 inclusion in the license suspension program no later than sixty days
5 prior to the date the department intends to inform the commissioner of
6 motor vehicles of the taxpayer's inclusion. However, no such notice
7 shall be issued to a taxpayer: (i) whose wages are being garnished by
8 the department for the payment of past-due tax liabilities or past-due
9 child support or combined child and spousal support arrears; (ii) who
10 receives public assistance or supplemental security income; or (iii)
11 whose income does not exceed two hundred fifty percent of the poverty
12 level as reported by the federal Department of Health and Human Services
13 or any successor agency. Notice shall be provided by first class mail to
14 the taxpayer's last known address as such address appears in the elec-
15 tronic systems or records of the department. Such notice shall include:

16 (a) a clear statement of the past-due tax liabilities along with a
17 statement that the department shall provide to the department of motor
18 vehicles the taxpayer's name, social security number and any other iden-
19 tifying information necessary for the purpose of suspending his or her
20 driver's license pursuant to this section and subdivision four-f of
21 section five hundred ten of the vehicle and traffic law sixty days after
22 the mailing or sending of such notice to the taxpayer;

23 (b) a statement that the taxpayer may avoid suspension of his or her
24 license by fully satisfying the past-due tax liabilities ~~[or]~~ by making
25 payment arrangements satisfactory to the commissioner, ~~[and information~~
26 ~~as to how]~~ by demonstrating any of the grounds for challenge set forth
27 in subdivision five of this section, or by presenting facts to the
28 commissioner resulting in the commissioner waiving suspension of his or
29 her license based on the equities of the case. Such statement shall
30 include information regarding all of the agency's programs through which
31 the taxpayer can pay the past-due tax liabilities to the department,
32 enter into a payment arrangement or request additional information need-
33 ed to challenge the suspension under subdivision five of this section or
34 demonstrate the equities of the case;

35 (c) a statement that the taxpayer's right to protest the notice is
36 limited to raising issues set forth in subdivision five of this section;

37 (d) a statement that the suspension of the taxpayer's driver's license
38 shall continue until the past-due tax liabilities are fully paid or the
39 taxpayer makes payment arrangements satisfactory to the commissioner;
40 and

41 (e) any other information that the commissioner deems necessary.

42 (5) Notwithstanding any other provision of law, and except as specif-
43 ically provided herein, the taxpayer shall have no right to commence a
44 court action or proceeding or to any other legal recourse against the
45 department or the department of motor vehicles regarding a notice issued
46 by the department pursuant to this section and the referral by the
47 department of any taxpayer with past-due tax liabilities to the depart-
48 ment of motor vehicles pursuant to this section for the purpose of
49 suspending the taxpayer's driver's license. A taxpayer may only chal-
50 lenge such suspension or referral on the grounds that (i) the individual
51 to whom the notice was provided is not the taxpayer at issue; (ii) the
52 past-due tax liabilities were satisfied; (iii) the taxpayer's wages are
53 being garnished by the department for the payment of the past-due tax
54 liabilities at issue or for past-due child support or combined child and
55 spousal support arrears; (iv) the taxpayer's wages are being garnished
56 for the payment of past-due child support or combined child and spousal

1 support arrears pursuant to an income execution issued pursuant to
2 section five thousand two hundred forty-one of the civil practice law
3 and rules; (v) the taxpayer's driver's license is a commercial driver's
4 license as defined in section five hundred one-a of the vehicle and
5 traffic law; ~~or~~ (vi) the department incorrectly found that the taxpayer
6 has failed to comply with the terms of a payment arrangement made
7 with the commissioner more than once within a twelve month period for
8 the purposes of subdivision three of this section; (vii) the taxpayer
9 receives public assistance or supplemental security income; (viii) the
10 taxpayer's income does not exceed two hundred fifty percent of the
11 poverty level as reported by the federal Department of Health and Human
12 Services or any successor agency; or (ix) payment of the past due tax
13 liabilities will create a hardship for the taxpayer in meeting necessary
14 living expenses.

15 However, nothing in this subdivision is intended to limit a taxpayer
16 from seeking relief pursuant to an offer in compromise pursuant to
17 subdivision fifteenth of section one hundred seventy-one of this article
18 or from joint and several liability pursuant to section six hundred
19 fifty-four of this chapter, to the extent that he or she is eligible
20 pursuant to ~~[that subdivision]~~ such section, or establishing to the
21 department that the enforcement of the underlying tax liabilities has
22 been stayed by the filing of a petition pursuant to the Bankruptcy Code
23 of 1978 (Title Eleven of the United States Code).

24 § 2. The commissioner of taxation and finance is authorized and
25 directed to promulgate any rules and regulations necessary to implement
26 the provisions of this act in accordance with the provisions of the
27 state administrative procedure act.

28 § 3. This act shall take effect on the first of April next succeeding
29 the date on which it shall have become a law.