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

3205

2009-2010 Regular Sessions

I N A S S E M B L Y

January 23, 2009

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

AN ACT to amend the tax law, in relation to certain overpayments credited against outstanding municipal housing debt

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

Section 1. The tax law is amended by adding a new section 171-t to read as follows:

S 171-T. CERTAIN OVERPAYMENTS CREDITED AGAINST OUTSTANDING MUNICIPAL HOUSING DEBT. (1) FOR THE PURPOSES OF THIS SECTION:

(A) "MUNICIPAL HOUSING AUTHORITY" SHALL MEAN A MUNICIPAL HOUSING AUTHORITY CREATED BY A SPECIAL ACT OF THE STATE LEGISLATURE ORGANIZED PURSUANT TO ARTICLE THREE OF THE PUBLIC HOUSING LAW;

(B) "TAXPAYER" SHALL MEAN A CORPORATION, ASSOCIATION, COMPANY, PARTNERSHIP, ESTATE, TRUST, LIQUIDATOR, FIDUCIARY OR OTHER ENTITY OR INDIVIDUAL WHO OR WHICH IS LIABLE FOR ANY TAX OR OTHER IMPOSITION IMPOSED BY OR PURSUANT TO ARTICLE NINE, NINE-A, TWENTY-TWO, THIRTY, THIRTY-A, THIRTY-B, THIRTY-TWO, OR THIRTY-THREE OF THIS CHAPTER, WHICH TAX OR OTHER IMPOSITION IS ADMINISTERED BY THE COMMISSIONER, OR WHO OR WHICH IS UNDER A DUTY TO PERFORM AN ACT UNDER OR PURSUANT TO SUCH TAX OR IMPOSITION, EXCLUDING A STATE AGENCY, A MUNICIPAL CORPORATION OR A DISTRICT CORPORATION;

(C) "OVERPAYMENT" SHALL MEAN AN OVERPAYMENT WHICH HAS BEEN REQUESTED OR DETERMINED TO BE REFUNDED, A REFUND OR A REIMBURSEMENT, OF A TAX OR OTHER IMPOSITION IMPOSED BY OR PURSUANT TO ARTICLE NINE, NINE-A, TWENTY-TWO, THIRTY, THIRTY-A, THIRTY-B, THIRTY-TWO, OR THIRTY-THREE OF THIS CHAPTER, WHICH IS ADMINISTERED BY THE COMMISSIONER; AND

(D) "MUNICIPAL HOUSING DEBT" SHALL MEAN A JUDGMENT OBTAINED FROM A COURT OF LAW OR A DULY AUTHORIZED ADMINISTRATIVE AUTHORITY IN FAVOR OF A MUNICIPAL HOUSING AUTHORITY AGAINST A TAXPAYER FOR NON-PAYMENT OF RENT

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

LBD05539-01-9

AND LOSS OR DAMAGE CAUSED TO RENTAL PROPERTY THAT HAS BEEN DOCKETED PURSUANT TO LAW AND REMAINS OUTSTANDING.

(2) THE COMMISSIONER SHALL ENTER INTO A WRITTEN AGREEMENT WITH A MUNICIPAL HOUSING AUTHORITY, WHICH SHALL SET FORTH THE PROCEDURES FOR CREDITING ANY OVERPAYMENT BY A TAXPAYER AND THE INTEREST THEREON AGAINST MUNICIPAL HOUSING DEBT OWED BY SUCH TAXPAYER OF WHICH THE COMMISSIONER HAS BEEN NOTIFIED BY A MUNICIPAL HOUSING AUTHORITY PURSUANT TO THE PROVISIONS OF SUCH AGREEMENT.

(3) SUCH AGREEMENT SHALL INCLUDE:

(A) THE PROCEDURE UNDER WHICH THE MUNICIPAL HOUSING AUTHORITY SHALL NOTIFY THE COMMISSIONER OF LIABILITY FOR MUNICIPAL HOUSING DEBT, SPECIFYING WHEN THE COMMISSIONER WILL BE NOTIFIED, THE INFORMATION TO BE CONTAINED IN SUCH NOTIFICATION AND THE FORM AND FORMAT TO BE USED FOR SUCH NOTIFICATION;

(B) THE FEE, IF NOT WAIVED, FOR REIMBURSEMENT OF THE COMMISSIONER BY THE MUNICIPAL HOUSING AUTHORITY FOR THE FULL COST OF CARRYING OUT THE PROCEDURES AUTHORIZED BY THIS SECTION;

(C) THE MINIMUM PERIOD OF DELINQUENCY OF THE MUNICIPAL HOUSING DEBT, AND THE MINIMUM AMOUNT OF THE PAST DUE MUNICIPAL HOUSING DEBT AGAINST WHICH THE COMMISSIONER SHALL, PURSUANT TO THIS SECTION, CREDIT AN OVERPAYMENT;

(D) THE PROCEDURE FOR TRANSFERRING THE OVERPAYMENTS TO THE MUNICIPAL HOUSING AUTHORITY SO THE OVERPAYMENTS CAN BE APPLIED TO CREDIT THE PAST DUE MUNICIPAL HOUSING DEBT;

(E) THE PROCEDURE FOR REIMBURSEMENT OF THE COMPTROLLER BY THE MUNICIPAL HOUSING AUTHORITY FOR ANY OVERPAYMENT AND INTEREST THEREON WHICH HAS BEEN CREDITED AGAINST MUNICIPAL HOUSING DEBT OWED BY A TAXPAYER, BUT WHICH WAS PAID BY THE TAXPAYER PRIOR TO THE OVERPAYMENT BEING APPLIED;

(F) THE PROCEDURE FOR REIMBURSEMENT OF THE COMPTROLLER BY THE MUNICIPAL HOUSING AUTHORITY FOR ANY OVERPAYMENT AND INTEREST THEREON WHICH HAS BEEN CREDITED AGAINST MUNICIPAL HOUSING DEBT OWED BY A TAXPAYER FILING A JOINT RETURN, BUT WHICH HAS BEEN REFUNDED BY THE COMPTROLLER, PURSUANT TO PARAGRAPH SIX OF SUBSECTION (B) OF SECTION SIX HUNDRED FIFTY-ONE OF THIS CHAPTER, TO A SPOUSE NOT LIABLE FOR THE MUNICIPAL HOUSING DEBT OWED BY SUCH TAXPAYER;

(G) A PROVISION TO THE EFFECT THAT IF A TAXPAYER OWES PAST-DUE LEGALLY ENFORCEABLE DEBT THAT HAS BEEN CERTIFIED TO THE COMMISSIONER FOR COLLECTION PURSUANT TO SECTION ONE HUNDRED SEVENTY-ONE-F OF THIS ARTICLE AND MUNICIPAL HOUSING DEBT THAT HAS BEEN CERTIFIED TO THE COMMISSIONER FOR COLLECTION PURSUANT TO THIS SECTION, THEN THE OVERPAYMENT AND INTEREST THEREON SHALL BE CREDITED AGAINST THE DEBTS IN THE ORDER IN WHICH THE DEBTS ACCRUED. THE MUNICIPAL HOUSING DEBT SHALL BE DEEMED FOR PURPOSES OF THIS SECTION TO HAVE ACCRUED AT THE TIME OF DOCKETING OF THE JUDGMENT; AND

(H) SUCH OTHER MATTERS AS THE PARTIES TO SUCH AGREEMENT SHALL DEEM NECESSARY TO CARRY OUT THE PROVISIONS OF THIS SECTION, INCLUDING PROVISIONS RELATING TO THE NOTICE TO BE GIVEN TO THE TAXPAYER.

(4)(A) IN CALCULATING THE AMOUNT OF AN OVERPAYMENT AND INTEREST THEREON THAT SHALL BE CREDITED AGAINST THE MUNICIPAL HOUSING DEBT OWED BY A TAXPAYER THAT HAS BEEN CERTIFIED TO THE COMMISSIONER FOR COLLECTION PURSUANT TO THIS SECTION, THE COMMISSIONER SHALL FIRST CREDIT THE OVERPAYMENT AND INTEREST THEREON AGAINST ANY:

(I) LIABILITY OF SUCH TAXPAYER IN RESPECT OF ANY TAX OR OTHER IMPOSITION IMPOSED BY THIS CHAPTER AND ADMINISTERED BY THE COMMISSIONER;

(II) LIABILITY OF SUCH TAXPAYER FOR ANY TAX IMPOSED PURSUANT TO THE AUTHORITY OF THIS CHAPTER OR ANY OTHER LAW IF SUCH TAX IS ADMINISTERED BY THE COMMISSIONER;

(III) ESTIMATED TAX FOR THE SUCCEEDING TAXABLE YEAR IF THE TAXPAYER CLAIMS SUCH OVERPAYMENT OR A PORTION THEREOF AS A CREDIT AGAINST ESTIMATED TAX FOR SUCH SUCCEEDING TAXABLE YEAR PURSUANT TO SUBSECTION (E) OF SECTION SIX HUNDRED EIGHTY-SIX OR SUBSECTION (B) OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER OR SUBDIVISION (E) OF SECTION 11-1786 OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK OR FOR ANY TAX IMPOSED PURSUANT TO THE AUTHORITY OF THIS CHAPTER OR ANY OTHER LAW IF SUCH TAX IS ADMINISTERED BY THE COMMISSIONER;

(IV) PAST-DUE SUPPORT OWED BY THE TAXPAYER PURSUANT TO SECTION ONE HUNDRED SEVENTY-ONE-C OF THIS ARTICLE;

(V) UNREIMBURSED MEDICAL ASSISTANCE PAID ON BEHALF OF A CHILD PAYABLE PURSUANT TO SECTION THREE HUNDRED SIXTY-SEVEN-A OF THE SOCIAL SERVICES LAW;

(VI) THE AMOUNT OF A DEFAULT IN REPAYMENT OF A STATE UNIVERSITY OR CITY UNIVERSITY LOAN PURSUANT TO SECTION ONE HUNDRED SEVENTY-ONE-E OF THIS ARTICLE; AND

(VII) CITY OF NEW YORK TAX WARRANT DEBT OWED BY THE TAXPAYER PURSUANT TO SECTION ONE HUNDRED SEVENTY-ONE-L OF THIS ARTICLE.

(B) ONLY THE BALANCE REMAINING, AFTER THE OVERPAYMENT AND THE INTEREST THEREON HAS BEEN CREDITED AS DESCRIBED IN PARAGRAPH (A) OF THIS SUBDIVISION, SHALL BE CERTIFIED TO THE COMPTROLLER AS AN OVERPAYMENT PLUS ANY INTEREST TO BE CREDITED, IN ACCORDANCE WITH PARAGRAPH (G) OF SUBDIVISION THREE OF THIS SECTION, AGAINST MUNICIPAL HOUSING DEBT THAT HAS BEEN CERTIFIED TO THE COMMISSIONER FOR COLLECTION PURSUANT TO THIS SECTION, AND/OR PAST-DUE LEGALLY ENFORCEABLE DEBT THAT HAS BEEN CERTIFIED TO THE COMMISSIONER FOR COLLECTION PURSUANT TO SECTION ONE HUNDRED SEVENTY-ONE-F OF THIS ARTICLE, WITH THE REMAINDER TO BE REFUNDED TO THE TAXPAYER IF SUCH REMAINDER IS NOT REQUIRED TO SATISFY THE AMOUNT OF A DEFAULT IN REPAYMENT OF A GUARANTEED STUDENT LOAN PURSUANT TO SECTION ONE HUNDRED SEVENTY-ONE-D OF THIS ARTICLE. IF A TAXPAYER OWES MUNICIPAL HOUSING DEBT THAT HAS BEEN CERTIFIED TO THE COMMISSIONER FOR COLLECTION PURSUANT TO THIS SECTION AND PAST-DUE LEGALLY ENFORCEABLE DEBT THAT HAS BEEN CERTIFIED TO THE COMMISSIONER FOR COLLECTION PURSUANT TO SECTION ONE HUNDRED SEVENTY-ONE-F OF THIS ARTICLE, THEN THE OVERPAYMENT AND INTEREST THEREON SHALL BE CREDITED AGAINST THE DEBTS IN THE ORDER IN WHICH THE DEBTS ACCRUED.

(5) THE COMMISSIONER SHALL CERTIFY TO THE MUNICIPAL HOUSING AUTHORITY THE AMOUNT OF EACH OVERPAYMENT AND THE INTEREST THEREON TO BE CREDITED AGAINST MUNICIPAL HOUSING DEBT, AND THE BALANCE, IF ANY, OF EACH SUCH OVERPAYMENT AND INTEREST TO BE REFUNDED TO THE TAXPAYER.

(6) THE COMMISSIONER SHALL NOTIFY EACH TAXPAYER WHO MAKES AN OVERPAYMENT, IN WRITING, OF THE AMOUNT OF SUCH OVERPAYMENT AND THE INTEREST THEREON CERTIFIED TO THE COMPTROLLER AS THE AMOUNT TO BE CREDITED AGAINST MUNICIPAL HOUSING DEBT. SUCH NOTICE SHALL INCLUDE NOTIFICATION TO ANY OTHER PERSON WHO MAY HAVE FILED A JOINT RETURN WITH THE TAXPAYER OF THE STEPS SUCH OTHER PERSON MAY TAKE IN ORDER TO SECURE HIS OR HER PROPER SHARE OF THE REFUND.

(7) FROM THE TIME THE COMMISSIONER IS NOTIFIED BY THE MUNICIPAL HOUSING AUTHORITY OF A TAXPAYER'S LIABILITY FOR MUNICIPAL HOUSING DEBT UNDER THE AGREEMENT PROVIDED FOR IN THIS SECTION, THE COMMISSIONER SHALL BE RELIEVED FROM ALL LIABILITY TO SUCH TAXPAYER, ITS ASSIGNS, SUCCESSORS, HEIRS OR REPRESENTATIVES FOR THE AMOUNT OF AN OVERPAYMENT AND INTEREST THEREON CERTIFIED TO THE MUNICIPAL HOUSING AUTHORITY TO BE CREDITED

AGAINST MUNICIPAL HOUSING DEBT AND THE TAXPAYER SHALL HAVE NO RIGHT TO COMMENCE A COURT ACTION OR PROCEEDING OR TO ANY OTHER LEGAL RECOURSE AGAINST THE COMMISSIONER TO RECOVER SUCH OVERPAYMENT OR INTEREST THEREON CERTIFIED TO THE COMPTROLLER TO BE CREDITED AGAINST MUNICIPAL HOUSING DEBT. PROVIDED, HOWEVER, NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT SUCH TAXPAYER FROM PROCEEDING AGAINST THE MUNICIPAL HOUSING AUTHORITY TO RECOVER THAT PART OF SUCH OVERPAYMENT OR INTEREST THEREON SO CERTIFIED TO THE MUNICIPAL HOUSING AUTHORITY TO BE CREDITED AGAINST MUNICIPAL HOUSING DEBT THAT IS GREATER THAN THE AMOUNT OF MUNICIPAL HOUSING DEBT OWED BY SUCH TAXPAYER ON THE DATE OF SUCH CERTIFICATION.

(8) THE COMMISSIONER AND THE MUNICIPAL HOUSING AUTHORITY MAY PROMULGATE SUCH RULES AND REGULATIONS AS THEY DEEM NECESSARY TO CARRY OUT THE PROVISIONS OF THIS SECTION.

S 2. This act shall take effect immediately.