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

5253--B

2009-2010 Regular Sessions

I N A S S E M B L Y

February 11, 2009

Introduced by M. of A. FARRELL, MORELLE, REILLY -- read once and referred to the Committee on Ways and Means -- recommitted to the Committee on Ways and Means in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law, in relation to the definition of "persons required to collect tax" and "person required to collect any tax imposed by this article" for the purposes of the collection of sales and compensating use taxes

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

Section 1. Subdivision 1 of section 1131 of the tax law, as amended by chapter 576 of the laws of 1994, is amended to read as follows:

(1) "Persons required to collect tax" or "person required to collect any tax imposed by this article" shall include: every vendor of tangible personal property or services; every recipient of amusement charges; and every operator of a hotel. Said terms shall also include any [officer, director or employee of a corporation or of a dissolved corporation, any employee of a partnership, any employee or manager of a limited liability company, or any employee of an individual proprietorship who as such officer, director, employee or manager is under a duty to act for such corporation, partnership, limited liability company or individual proprietorship in complying with any requirement of this article[; and any member of a partnership or limited liability company] *PERSON REQUIRED TO COLLECT, TRUTHFULLY ACCOUNT FOR, AND PAY OVER THE TAX IMPOSED BY THIS ARTICLE WHO WILLFULLY FAILS TO COLLECT SUCH TAX OR TRUTHFULLY ACCOUNT FOR AND PAY OVER SUCH TAX OR WILLFULLY ATTEMPTS IN ANY MANNER TO EVADE OR DEFEAT THE TAX OR THE PAYMENT THEREOF.* Provided, however, that any person who is a vendor solely by reason of clause (D)

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

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or (E) of subparagraph (i) of paragraph [(8)] EIGHT of subdivision (b) of section eleven hundred one OF THIS ARTICLE shall not be a "person required to collect any tax imposed by this article" until twenty days after the date by which such person is required to file a certificate of registration pursuant to section eleven hundred thirty-four OF THIS PART.

S 2. This act shall take effect immediately and apply to any taxable sales occupancy or admission to, or the use of facilities of, a place of amusement occurring in any sales tax period that is still open for assessment or refund under the tax law.