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

6968

2009-2010 Regular Sessions

I N A S S E M B L Y

March 18, 2009

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

AN ACT to amend the tax law, in relation to expedited disbursement procedure of erroneously collected taxes

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

Section 1. Subsection (a) of section 686 of the tax law, as amended by section 10 of part R of chapter 60 of the laws of 2004, is amended to read as follows:

(a) General.-- The commissioner [of taxation and finance], within the applicable period of limitations, may credit an overpayment of income tax and interest on such overpayment against any liability in respect of any tax imposed by this chapter on the person who made the overpayment, against any liability in respect of any tax imposed pursuant to the authority of this chapter or any other law on such person if such tax is administered by the commissioner [of taxation and finance] and, as provided in sections one hundred seventy-one-c, one hundred seventy-one-d, one hundred seventy-one-e, one hundred seventy-one-f and one hundred seventy-one-l of this chapter, against past-due support, a past-due legally enforceable debt, a city of New York tax warrant judgment debt, and against the amount of a default in repayment of a guaranteed student, state university or city university loan. The balance shall be refunded by the comptroller out of the proceeds of the tax retained by him for such general purpose. [Any] WITH THE EXCEPTION OF ERRONEOUSLY COLLECTED TAXES, AS PROVIDED IN SECTION SIX HUNDRED EIGHTY-SIX-A OF THIS PART, ANY refund under this section shall be made only upon the filing of a return and upon a certificate of the commissioner [of taxation and finance] approved by the comptroller. The comptroller, as a condition precedent to the approval of such a certificate, may examine into the facts as disclosed by the return of the person who made

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

LBD02454-01-9

the overpayment and other information and data available in the files of the commissioner [of taxation and finance].

S 2. The tax law is amended by adding a new section 686-a to read as follows:

S 686-A. EXPEDITED DISBURSEMENT OF ERRONEOUSLY COLLECTED TAXES. 1. FOR PURPOSES OF THIS PART, "ERRONEOUSLY COLLECTED TAXES" MEANS ANY FORM OF PERSONAL INCOME TAX PAYMENT, INCLUDING AN AUTOMATIC WITHDRAWAL VIA ELECTRONIC MEANS, LEVIED UNDER THIS ARTICLE THAT IS SUBSEQUENTLY DEEMED TO HAVE BEEN PAID OR WITHDRAWN IN ERROR BY THE DEPARTMENT.

2. UPON DETERMINATION BY THE COMPTROLLER OR THE COMMISSIONER, OR HIS OR HER DESIGNEES, THAT THE DEPARTMENT HAS ERRONEOUSLY COLLECTED TAXES FROM A TAXPAYER UNDER THIS ARTICLE, THE DEPARTMENT SHALL IMMEDIATELY IMPLEMENT AN EXPEDITED DISBURSEMENT PROCEDURE TO BE DEVELOPED AND ADOPTED BY THE COMMISSIONER, IN CONSULTATION WITH THE COMPTROLLER. SUCH PROCEDURE SHALL ENSURE THAT THE ERRONEOUSLY COLLECTED TAXES ARE DISBURSED TO THE TAXPAYER WITHIN TEN DAYS OF SUCH DETERMINATION.

S 3. This act shall take effect on the one hundred twentieth day after it shall have become a law and shall apply to tax returns received and certificates of the commissioner of taxation and finance issued on and after such effective date. Effective immediately, the commissioner of taxation and finance shall adopt any rule or regulation necessary for the implementation of this act on its effective date on or before such effective date.