

8958

2009-2010 Regular Sessions

I N A S S E M B L Y

June 17, 2009

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

AN ACT to amend the tax law, in relation to banking corporations and
credit card receivables

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

1 Section 1. Subparagraph (v) of paragraph 2 of subsection (f) of
2 section 1462 of the tax law, as added by section 3 of part EE-1 of chap-
3 ter 57 of the laws of 2008, is amended to read as follows:
4 (v) A banking corporation [doing business in this state solely because
5 it] THAT meets one or more of the tests in subparagraphs (i) through (v)
6 of paragraph one of subsection (c) of section fourteen hundred fifty-one
7 of this article [] AND WHICH ORIGINATES CREDIT CARD RECEIVABLES AND
8 DERIVES ITS RECEIPTS IN NEW YORK PRINCIPALLY FROM THE COLLECTION OR SALE
9 OF THOSE CREDIT CARD RECEIVABLES, INCLUDED BUT NOT LIMITED TO INTEREST,
10 FEES AND PENALTIES IN THE NATURE OF INTEREST, SERVICE CHARGES AND FEES
11 FROM CREDIT CARD RECEIVABLES AND RECEIPTS FROM MERCHANT DISCOUNTS (ANY
12 SUCH ENTITY BEING HEREAFTER referred to in this subparagraph as the
13 "credit card bank") will not be included in a combined return pursuant
14 to subparagraph (i) of this paragraph with another banking corporation
15 or bank holding company which is exercising its corporate franchise or
16 doing business in this state unless the credit card bank or the commis-
17 sioner shows that the inclusion of the credit card bank in the combined
18 return is necessary to properly reflect the tax liability of the credit
19 card bank, the banking corporation or bank holding company under this
20 article. However, any banking corporation that meets one or more of the
21 tests in subparagraphs (i) through (v) of paragraph one of subsection
22 (c) of section fourteen hundred fifty-one OF THIS ARTICLE and was
23 included in a combined return for its last taxable year beginning before
24 January first, two thousand eight may continue to be included in a
25 combined return for future taxable years, provided that once that bank-

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

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1 ing corporation has been included in a combined return for any taxable
2 year beginning on or after January first, two thousand eight, it must
3 continue to be included in a combined return until it obtains the
4 consent of the commissioner to cease being included in a combined return
5 because the combined return no longer properly reflects the tax liabil-
6 ity under this article of any of the corporations included in the
7 combined return. Further, the credit card bank will be included in a
8 combined return with (i) any banking corporation not subject to tax
9 under this article sixty-five percent or more of whose voting stock is
10 owned or controlled, directly or indirectly, by the credit card bank, or
11 (ii) any banking corporation or bank holding company not subject to tax
12 under this article which owns or controls, directly or indirectly,
13 sixty-five percent or more of the voting stock of the credit card bank,
14 or (iii) any banking corporation not subject to tax under this article
15 sixty-five percent or more of the voting stock of which is owned or
16 controlled, directly or indirectly, by the same corporation or corpo-
17 rations that own or control, directly or indirectly, sixty-five percent
18 or more of the voting stock of the credit card bank, if the corporation
19 or corporations described in clauses (i), (ii) and (iii) of this subpar-
20 agraph provide services for or support to the credit card bank's oper-
21 ations, unless the credit card bank or the commissioner shows that the
22 inclusion of any of those corporations in the combined return fails to
23 properly reflect the tax liability of the credit card bank. For purposes
24 of this subparagraph, services for or support to the credit card bank's
25 operations include such activities as billing, credit investigation and
26 reporting, marketing, research, advertising, mailing, customer service,
27 information technology, lending and financing services, and communi-
28 cations services, but will not include accounting, legal or personnel
29 services.

30 S 2. This act shall take effect immediately.