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

S. 21 A. 21

Twentieth Extraordinary Session

S E N A T E - A S S E M B L Y

December 2, 2009

IN SENATE -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

IN ASSEMBLY -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read once and referred to the Committee on Ways and Means

AN ACT authorizing the commissioner of taxation and finance to administer an accounts receivable discount program with respect to certain overdue tax liabilities

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

Section 1. (a) Notwithstanding the provisions of any other law to the contrary, there is hereby established an accounts receivable discount program as described in this section, to be administered by the commissioner of taxation and finance, and to be effective for the period prescribed by such commissioner, for all eligible taxpayers as described in this section owing any tax, fee, or surcharge imposed or formerly imposed by, or authorized under, the tax law, and administered by the commissioner of taxation and finance.

(b) For purposes of the accounts receivable discount program, an eligible taxpayer is an individual, partnership, estate, trust, corporation, limited liability company, joint stock company, or any other company, trustee, receiver, assignee, referee, society, association, business or any other person as described in the tax law, who or which has a tax liability with regard to one or more taxes, fees or surcharges that meet the conditions described in this section. However, a taxpayer who or that has been convicted of crime under the tax law or the penal law, and who or that is subject to a court order to pay a tax liability as a result of that conviction, is not eligible to participate in this program.

(c) For purposes of the accounts receivable discount program, an eligible tax liability is one that has become fixed and final, and for which an assessment or final determination was issued on or before

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

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December 31, 2006. An eligible tax liability shall not include an assessment or final determination that includes any of the following: (1) any fraud penalty imposed under the tax law; (2) a penalty imposed under section 11 of part N of chapter 61 of the laws of 2005; (3) a penalty imposed under subsection (e), (g), (p), (p-1), (r), (x), (y), (z), (aa) or (bb) of section 685 of the tax law; or (4) a penalty imposed under subsection (f), (k), (k-1), (l), (p), (q), (r), (s) or (t) of section 1085 of the tax law.

(d) The amount due under the accounts receivable discount program for an eligible tax liability for which an assessment or final determination was issued after December 31, 2003 and on or before December 31, 2006 must include the underlying tax liability and fifty percent of the accrued interest and penalty (including the additional rate of interest prescribed under section 1145 of the tax law, referred to in this section as "interest penalty"). The amount due under this program for an eligible tax liability for which an assessment or final determination was issued on or before December 31, 2003 must include the underlying tax liability and twenty percent of the accrued interest and penalty (including interest penalty).

(e) The commissioner of taxation and finance shall identify the assessments and final determinations with tax liabilities eligible for the accounts receivable discount program described in this section, compute the total amount of tax, interest, and penalty due under the accounts receivable discount program on each such assessment or final determination, and notify eligible taxpayers of the amount due under this program for each such assessment or final determination. The discount of a percentage of interest and penalty described in this section will not be granted to any taxpayer for any such assessment or final determination unless the taxpayer pays in full the amount due under this program for that assessment or final determination on or before the date prescribed by the commissioner.

(f) Under the accounts receivable discount program, payment will be made by eligible taxpayers with eligible tax liabilities in the form and manner prescribed by the commissioner of taxation and finance. Upon payment in full by the date prescribed by the commissioner of taxation and finance of the amount due under the accounts receivable discount program for an eligible tax liability, the taxpayer's liability for that assessment or final determination will be deemed to be paid in full. Failure to pay the full amount due under this program by the date prescribed by the commissioner of taxation and finance will disqualify an eligible tax liability from receiving the discount of interest and penalty described in this section.

(g) No refund will be granted or credit allowed with respect to any penalty or interest paid prior to the time the taxpayer participates in the accounts receivable discount program.

(h) No refund will be granted or credit allowed with respect to any tax liability, including any applicable interest or penalty, paid under the accounts receivable discount program.

(i) If an eligible taxpayer has entered into an installment payment agreement that applies to an eligible tax liability, the taxpayer may participate in the accounts receivable discount program with respect to that liability, if the taxpayer pays the amount due under the accounts receivable discount program in full by the date prescribed by the commissioner of taxation and finance.

S 2. This act shall take effect immediately.