

4386

2009-2010 Regular Sessions

I N S E N A T E

April 22, 2009

Introduced by Sen. KLEIN -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the tax law, in relation to requiring the commissioner of taxation and finance to publish on the department of taxation and finance website lists of taxpayers with tax delinquencies

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

1 Section 1. Section 171 of the tax law is amended by adding a new
2 subdivision twenty-ninth to read as follows:
3 TWENTY-NINTH. SHALL PREPARE, MAINTAIN, AND PUBLISH ON THE DEPARTMENT
4 WEBSITE TWO LISTS CONTAINING THE NAMES OF TAXPAYERS THAT OWE DELINQUENT
5 TAX AND ADDITIONS TO TAX FINALLY DETERMINED TO BE DUE FOR PERSONAL
6 INCOME TAXES AND FOR BUSINESS TAXES. (A) EACH LIST SHALL:
7 (1) CONTAIN THE NAMES OF TWO HUNDRED FIFTY TAXPAYERS OWING TO THIS
8 STATE THE GREATEST AMOUNT OF DELINQUENT TAX AND ADDITIONS TO TAX, THE
9 ADDRESS OF SUCH TAXPAYER, THE TYPE AND AMOUNT OF TAX AND ADDITIONS TO
10 TAX DUE, AND THE DATE THE AMOUNT WAS FINALLY DETERMINED TO BE DUE;
11 (2) IN THE CASE OF ENTITIES OTHER THAN NATURAL PERSONS, NAME ANY
12 PERSONS WHO WERE AT LEAST TWENTY-FIVE PERCENT OWNERS OR BENEFICIAL
13 OWNERS OR WHO WERE RESPONSIBLE OFFICERS OF SUCH ENTITY AT OR AFTER THE
14 TIME THE LIABILITY WAS CREATED;
15 (3) BE UPDATED ON A QUARTERLY BASIS; AND
16 (4) BE PUBLISHED NO SOONER THAN SIX MONTHS AFTER THE PROVISIONS OF
17 THIS SUBDIVISION SHALL BECOME LAW.
18 (B) NOTWITHSTANDING SUBPARAGRAPH ONE OF PARAGRAPH (E) OF THIS SUBDIVI-
19 SION, EACH NEWLY UPDATED LIST SHALL NOT INCLUDE THE NAMES OF TAXPAYERS
20 THAT HAVE APPEARED ON PREVIOUS VERSIONS OF THE SAME LIST, UNLESS: (1) A
21 SEPARATE INSTANCE OF UNPAID TAX OR ADDITIONS TO TAX, WHICH RANKS THE
22 TAXPAYER'S NEW LIABILITY AMONG THE TOP TWO HUNDRED FIFTY, SUBSEQUENT TO
23 THE PUBLISHING OF THE PRIOR QUARTER'S LIST OCCURS, OR (2) AT LEAST ONE

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

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1 YEAR HAS ELAPSED SINCE THE TAXPAYER APPEARED ON THE LIST, AND IN THE
2 COMMISSIONER'S JUDGMENT, PLACING THE TAXPAYER ON THE LIST MAY SIGNIF-
3 ICANTLY INCREASE THE LIKELIHOOD OF PAYMENT.

4 (C) NO TAXPAYER SHALL BE PLACED ON THE LIST, UNTIL: (1) A TAX WARRANT
5 IS FILED AGAINST SUCH TAXPAYER FOR A DELINQUENT LIABILITY, AND (2) SIXTY
6 DAYS HAVE ELAPSED FOLLOWING THE DATE OF MAILING A NOTICE BY CERTIFIED
7 MAIL TO SUCH TAXPAYER, AND WHEN IT IS THE CASE, TO SUCH TAXPAYER'S
8 OWNERS, BENEFICIAL OWNERS OR OFFICERS, OF THE COMMISSIONER'S INTENT TO
9 INCLUDE SUCH TAXPAYER'S NAME AND OTHER REQUIRED INFORMATION ON THE LIST
10 TO BE PUBLISHED.

11 (D) NO TAXPAYER SHALL BE INCLUDED ON THE LIST IF SUCH TAXPAYER HAS:
12 (1) SINCE THE MAILING OF NOTICE OF THE COMMISSIONER'S INTENT, PAID THE
13 LIABILITY IN FULL OR ENTERED INTO A WRITTEN AGREEMENT WITH THE DEPART-
14 MENT FOR PAYMENT OF THE DELINQUENCY, OR (2) THE TOTAL LIABILITY FOR ALL
15 TAX AND ADDITIONS TO TAX IS LESS THAN FIVE THOUSAND DOLLARS.

16 (E) FOR THE EXCLUSIVE PURPOSE OF ASCERTAINING A TAXPAYER'S INCLUSION
17 ON THE PUBLISHED LIST, IN CALCULATING THE AMOUNT OF TAX AND ADDITIONS TO
18 TAX, THERE SHALL BE EXCLUDED ANY AMOUNT OF TAX OR ADDITION TO TAX WHICH:

19 (1) HAS BEEN DETERMINED TO BE UNCOLLECTIBLE BECAUSE: (I) THE TAXPAYER
20 HAS RECEIVED A DISCHARGE IN BANKRUPTCY WITH RESPECT TO THE TAXABLE PERI-
21 ODS IN QUESTION; OR (II) THE TAXPAYER IS DECEASED AND REASONABLE
22 COLLECTION MEASURES WILL NOT CAUSE THE DEBT TO BE COLLECTED FROM THE
23 ASSETS OF THE TAXPAYER'S ESTATE; OR (III) THE TAXES ARE DEBTS BELONGING
24 TO A BUSINESS AND THE DEPARTMENT IS UNABLE TO FIND THAT SUCH BUSINESS OR
25 OTHER PERSONS RESPONSIBLE FOR THE DEBTS HAVE ASSETS FROM WHICH THE DEBTS
26 MAY BE PAID; OR (IV) THE DEBT HAS BEEN OUTSTANDING ON THE RECORDS OF THE
27 DEPARTMENT FOR MORE THAN SIX YEARS; OR

28 (2) IS THE SUBJECT OF AN AGREEMENT BETWEEN THE COMMISSIONER AND THE
29 TAXPAYER FOR AN INSTALLMENT PAYMENT PLAN OF THE AMOUNT DUE AND WHICH IS
30 NOT IN DEFAULT BY A PERIOD OF THIRTY-ONE DAYS; OR

31 (3) IS SUBJECT TO A STAY OF COLLECTION PURSUANT TO THE BANKRUPTCY CODE
32 OF THE UNITED STATES; OR

33 (4) IN THE DISCRETION OF THE COMMISSIONER AND IN THE INTERESTS OF
34 JUSTICE, HAS BEEN DEFERRED FROM COLLECTION FOR NO MORE THAN NINETY DAYS
35 FOR THE PURPOSE OF RESEARCHING WHETHER OR NOT AN ERROR HAS OCCURRED IN
36 CALCULATING THE AMOUNT DUE; OR

37 (5) THE COMMISSIONER, IN HIS OR HER DISCRETION, UPON RECEIPT OF A
38 TAXPAYER'S WRITTEN REQUEST AND STATEMENT OF REASONABLE CAUSE, HAS DEEMED
39 THE RESULT TO BE FROM EXTRAORDINARY CIRCUMSTANCES.

40 (F) THE NAMES AND INFORMATION OF TAXPAYERS APPEARING ON THE PUBLISHED
41 LIST SHALL BE REMOVED WITHIN THIRTY DAYS OF THE RECEIPT OF FULL PAYMENT
42 OF THE DELINQUENT LIABILITY OR RECEIPT OF THE TAXPAYER'S WRITTEN AGREE-
43 MENT WITH THE DEPARTMENT FOR PAYMENT OF THE DELINQUENCY. ANY ISSUANCE OF
44 A BAD CHECK OR BREACH OF SUCH AGREEMENT MAY RESULT IN THE TAXPAYER'S
45 NAME BEING IMMEDIATELY RETURNED TO THE PUBLISHED LIST.

46 (G) THE DEPARTMENT MAY PROMULGATE SUCH RULES AND REGULATIONS AS MAY BE
47 NECESSARY AND PROPER TO IMPLEMENT THE PROVISIONS OF THIS SUBDIVISION.

48 (H) ANY DISCLOSURES MADE BY THE COMMISSIONER, IN A GOOD FAITH EFFORT
49 TO COMPLY WITH THE PROVISIONS OF THIS SUBDIVISION, SHALL NOT BE CONSID-
50 ERED A VIOLATION OF ANY LAW PROHIBITING DISCLOSURE OF TAXPAYER INFORMA-
51 TION.

52 S 2. This act shall take effect immediately.