

5852

2009-2010 Regular Sessions

I N S E N A T E

June 11, 2009

Introduced by Sen. STAVISKY -- (at request of the State Comptroller) --
read twice and ordered printed, and when printed to be committed to
the Committee on Rules

AN ACT to amend the tax law, in relation to removing college textbooks
from the tax on certain internet providers that use websites for the
sale of tangible personal property

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

1 Section 1. Subparagraph (vi) of paragraph 8 of subdivision (b) of
2 section 1101 of the tax law, as added by section 1 of part 00-1 of chap-
3 ter 57 of the laws of 2008, is amended to read as follows:
4 (vi) For purposes of subclause (I) of clause (C) of subparagraph (i)
5 of this paragraph, a person making sales of tangible personal property
6 or services taxable under this article ("seller") shall be presumed to
7 be soliciting business through an independent contractor or other repre-
8 sentative if the seller enters into an agreement with a resident of this
9 state under which the resident, for a commission or other consideration,
10 directly or indirectly refers potential customers, whether by a link on
11 an internet website or otherwise, to the seller, if the cumulative gross
12 receipts from sales by the seller to customers in the state who are
13 referred to the seller by all residents with this type of an agreement
14 with the seller is in excess of ten thousand dollars during the preced-
15 ing four quarterly periods ending on the last day of February, May,
16 August, and November. This presumption may be rebutted by proof that the
17 resident with whom the seller has an agreement did not engage in any
18 solicitation in the state on behalf of the seller that would satisfy the
19 nexus requirement of the United States constitution during the four
20 quarterly periods in question. Nothing in this subparagraph shall be
21 construed to narrow the scope of the terms independent contractor or
22 other representative for purposes of subclause (I) of clause (C) of
23 subparagraph (i) of this paragraph. FOR THE PURPOSES OF THIS SUBPARA-

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

LBD11234-01-9

1 GRAPH, THE TERM "TANGIBLE PERSONAL PROPERTY" SHALL NOT INCLUDE TEXTBOOKS
2 PURCHASED BY FULL AND PART TIME COLLEGE STUDENTS FOR THEIR COURSES. FOR
3 THE PURPOSES OF THIS SUBPARAGRAPH, THE TERM "TEXTBOOKS" INCLUDES ONLY
4 THOSE BOOKS SPECIFICALLY WRITTEN, DESIGNED OR PRODUCED FOR EDUCATIONAL,
5 INSTRUCTIONAL OR PEDAGOGICAL PURPOSES.

6 S 2. The opening paragraph of paragraph 34 of subdivision (a) of
7 section 1115 of the tax law, as added by section 96 of part A of chapter
8 56 of the laws of 1998, is amended to read as follows:

9 Textbooks purchased by full and part time college students for their
10 courses; provided, however, that upon purchase such a student shall
11 present a valid student identification card, and such a textbook shall
12 be required for a course being taken by such student at an institution
13 of higher education. A FULL OR PART TIME COLLEGE STUDENT SHALL HAVE TO
14 PROVIDE SUFFICIENT PROOF OF A VALID STUDENT IDENTIFICATION CARD TO ANY
15 INTERNET WEBSITE THAT SELLS TEXTBOOKS TO RECEIVE THE EXEMPTION AUTHOR-
16 IZED PURSUANT TO THIS PARAGRAPH. For purposes of this subdivision, the
17 term:

18 S 3. This act shall take effect immediately.