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

6951

I N S E N A T E

March 1, 2010

Introduced by Sen. ALESI -- 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 the failure of a responsible person to collect and pay over withholding tax

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

Section 1. Section 1133 of the tax law is amended by adding a new subdivision (f) to read as follows:

(F) ANY PERSON REQUIRED TO COLLECT, TRUTHFULLY ACCOUNT FOR, AND PAY OVER THE TAX IMPOSED BY THIS ARTICLE WHO WILLFULLY FAILS TO COLLECT SUCH TAX OR TRUTHFULLY ACCOUNT FOR AND PAY OVER SUCH TAX OR WILLFULLY ATTEMPTS IN ANY MANNER TO EVADE OR DEFEAT THE TAX OR THE PAYMENT THEREOF, SHALL, IN ADDITION TO OTHER PENALTIES PROVIDED BY LAW, BE LIABLE TO A PENALTY EQUAL TO THE SUM OF (I) THE TOTAL AMOUNT OF THE TAX EVADED, OR NOT COLLECTED, OR NOT ACCOUNTED FOR AND PAID OVER, AND (II) THE INTEREST THAT HAS ACCRUED ON THE TOTAL AMOUNT OF TAX EVADED ON THE DATE THIS PENALTY IS FIRST IMPOSED UNTIL THIS PENALTY IS PAID WITH INTEREST THEREON. NO ADDITION TO TAX WHICH MAY BE ADDED WHEN THERE IS A DEFICIENCY DUE TO NEGLIGENCE OR FRAUD SHALL BE IMPOSED FOR ANY OFFENSE TO WHICH THIS SUBDIVISION APPLIES. THE TAX COMMISSION SHALL HAVE THE POWER, IN ITS DISCRETION, TO WAIVE, REDUCE OR COMPROMISE ANY PENALTY UNDER THIS SUBDIVISION.

S 2. This act shall take effect immediately.

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

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