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I N S E N A T E

May 24, 2010

Introduced by Sen. ALESÌ -- 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:

1 Section 1. Subdivision 1 of section 1131 of the tax law, as amended by
2 chapter 576 of the laws of 1994, is amended to read as follows:
3 (1) "Persons required to collect tax" or "person required to collect
4 any tax imposed by this article" shall include: every vendor of tangible
5 personal property or services; every recipient of amusement charges; and
6 every operator of a hotel. Said terms shall also include any officer,
7 director or employee of a corporation or of a dissolved corporation, any
8 employee of a partnership, any employee or manager of a limited liability
9 company, or any employee of an individual proprietorship who as such
10 officer, director, employee or manager is under a duty to act for such
11 corporation, partnership, limited liability company or individual
12 proprietorship in complying with any requirement of this article; and
13 any member of a partnership or limited liability company EXCEPT, THOSE
14 PASSIVE INVESTORS, AS DEFINED, ARE EXEMPT. FOR THE PURPOSES OF THIS
15 SUBDIVISION, THE TERM "PASSIVE INVESTOR" SHALL MEAN AN INVESTOR WHO DOES
16 NOT PLAY AN ACTIVE ROLE IN THE BUSINESS. Provided, however, that any
17 person who is a vendor solely by reason of clause (D) or (E) of subparagraph
18 (i) of paragraph (8) of subdivision (b) of section eleven hundred
19 one shall not be a "person required to collect any tax imposed by this
20 article" until twenty days after the date by which such person is
21 required to file a certificate of registration pursuant to section eleven
22 hundred thirty-four OF THIS PART.
23 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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