

8069

2011-2012 Regular Sessions

I N A S S E M B L Y

May 27, 2011

Introduced by M. of A. SCHIMMINGER -- read once and referred to the
Committee on Ways and Means

AN ACT to amend the tax law, in relation to establishing the recordkeep-
ing voluntary compliance program for purposes of sales tax liability

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

1 Section 1. The tax law is amended by adding a new section 1135-a to
2 read as follows:

3 S 1135-A. RECORDKEEPING VOLUNTARY COMPLIANCE PROGRAM. 1. NOTWITH-
4 STANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THERE SHALL BE
5 ESTABLISHED A RECORDKEEPING VOLUNTARY COMPLIANCE PROGRAM TO BE ADMINIS-
6 TERED BY THE COMMISSIONER, FOR ALL ELIGIBLE TAXPAYERS.

7 2. FOR PURPOSES OF THIS SECTION, AN "ELIGIBLE TAXPAYER" IS AN INDIVID-
8 UAL, PARTNERSHIP, ESTATE, TRUST, CORPORATION, LIMITED LIABILITY COMPANY,
9 JOINT STOCK COMPANY, OR ANY OTHER COMPANY, TRUSTEE, RECEIVER, ASSIGNEE,
10 REFEREE, SOCIETY, ASSOCIATION, BUSINESS OR ANY OTHER PERSON SUBJECT TO
11 SALES TAX IMPOSED BY OR PURSUANT TO THE AUTHORITY OF THIS CHAPTER.

12 3. THE COMMISSIONER IS AUTHORIZED TO ENTER INTO A RECORDKEEPING VOLUN-
13 TARY COMPLIANCE AGREEMENT WITH AN ELIGIBLE TAXPAYER. A RECORDKEEPING
14 VOLUNTARY COMPLIANCE AGREEMENT SHALL BE IN A FORM TO BE ESTABLISHED BY
15 THE COMMISSIONER AND INCLUDE SUCH TERMS AS THE COMMISSIONER MAY REASON-
16 ABLY REQUIRE TO REQUIRE THE ELIGIBLE TAXPAYER TO MAINTAIN BOOKS AND
17 RECORDS IN A FORM PURSUANT TO SECTION ELEVEN HUNDRED THIRTY-FIVE OF THIS
18 PART AND TO COMPLY WITH THIS CHAPTER IN THE FUTURE INCLUDING, BUT NOT
19 LIMITED TO REQUIRING THE USE OF CERTIFIED POINT OF SALES SYSTEMS.

20 S 2. Section 1138 of the tax law is amended by adding a new subdivi-
21 sion (e) to read as follows:

22 (E) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, A
23 TAXPAYER THAT IS A PARTY TO A RECORDKEEPING VOLUNTARY COMPLIANCE AGREE-
24 MENT PURSUANT TO SECTION ELEVEN HUNDRED THIRTY-FIVE-A OF THIS PART SHALL
25 NOT BE SUBJECT TO THE PROVISIONS OF PARAGRAPH ONE OF SUBDIVISION (A) OF

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

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1 THIS SECTION AND NO TAX SHALL BE ESTIMATED ON THE BASIS OF EXTERNAL
2 INDICES UNLESS THE COMMISSIONER FINDS THAT THE TAXPAYER IS IN SUBSTAN-
3 TIAL NON-COMPLIANCE WITH ITS RECORDKEEPING VOLUNTARY COMPLIANCE AGREE-
4 MENT.

5 S 3. This act shall take effect immediately.