

8553

2011-2012 Regular Sessions

I N   A S S E M B L Y

July 22, 2011

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

AN ACT to amend the tax law and the administrative code of the city of  
New York, in relation to transitional provisions relating to the  
Gramm-Leach-Bliley act

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

1     Section 1. Paragraph 1 of subsection (m) of section 1452 of the tax  
2 law, as amended by section 4 of part J of chapter 61 of the laws of  
3 2011, is amended to read as follows:  
4     (1) Notwithstanding anything to the contrary contained in this section  
5 other than subsection (n) of this section, a corporation that was in  
6 existence before January first, two thousand eleven and was subject to  
7 tax under article nine-A of this chapter for its last taxable year  
8 beginning before January first, two thousand eleven, shall continue to  
9 be taxable under such article for all taxable years beginning on or  
10 after January first, two thousand eleven and before January first, two  
11 thousand thirteen. The preceding sentence shall not apply to any taxable  
12 year during which such corporation is a banking corporation described in  
13 paragraphs one through eight of subsection (a) of this section.  
14 Notwithstanding anything to the contrary contained in this section other  
15 than subsection (n) of this section, a banking corporation or corpo-  
16 ration that was in existence before January first, two thousand eleven  
17 and was subject to tax under this article for its last taxable year  
18 beginning before January first, two thousand eleven, shall continue to  
19 be taxable under this article for all taxable years beginning on or  
20 after January first, two thousand eleven and before January first, two  
21 thousand thirteen [or in which] ONLY IF THE CORPORATION IS A BANKING  
22 CORPORATION AS DEFINED IN SUBSECTION (A) OF THIS SECTION OR the corpo-  
23 ration satisfies the requirements for a corporation to elect to be taxa-  
24 ble under this article. Provided further, that nothing in this

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

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1 subsection shall prohibit a corporation that elected pursuant to  
2 subsection (d) of this section to be taxable under article nine-A of  
3 this chapter from revoking that election in accordance with such  
4 subsection (d).

5 For purposes of this paragraph, a corporation shall be considered to  
6 be subject to tax under article nine-A of this chapter for a taxable  
7 year if such corporation was not a taxpayer but was properly included in  
8 a combined report filed pursuant to section two hundred eleven of this  
9 chapter for such taxable year and a corporation shall be considered to  
10 be subject to tax under this article for a taxable year if such corpo-  
11 ration was not a taxpayer but was properly included in a combined return  
12 filed pursuant to subsection (f) or (g) of section fourteen hundred  
13 sixty-two of this article for such taxable year. A corporation that was  
14 in existence before January first, two thousand eleven but first becomes  
15 a taxpayer in a taxable year beginning on or after January first, two  
16 thousand eleven and before January first, two thousand thirteen, shall  
17 be considered for purposes of this paragraph to have been subject to tax  
18 under article nine-A of this chapter for its last taxable year beginning  
19 before January first, two thousand eleven if such corporation would have  
20 been subject to tax under such article for such taxable year if it had  
21 been a taxpayer during such taxable year. A corporation that was in  
22 existence before January first, two thousand eleven but first becomes a  
23 taxpayer in a taxable year beginning on or after January first, two  
24 thousand eleven and before January first, two thousand thirteen, shall  
25 be considered for purposes of this paragraph to have been subject to tax  
26 under this article for its last taxable year beginning before January  
27 first, two thousand eleven if such corporation would have been subject  
28 to tax under this article for such taxable year if it had been a taxpay-  
29 er during such taxable year.

30 S 2. Paragraph 1 of subdivision (l) of section 11-640 of the adminis-  
31 trative code of the city of New York, as amended by section 5 of part J  
32 of chapter 61 of the laws of 2011, is amended to read as follows:

33 (1) Notwithstanding anything to the contrary contained in this section  
34 other than subdivision (m) of this section, a corporation that was in  
35 existence before January first, two thousand eleven and was subject to  
36 tax under subchapter two of this chapter for its last taxable year  
37 beginning before January first, two thousand eleven, shall continue to  
38 be taxable under such subchapter for all taxable years beginning on or  
39 after January first, two thousand eleven and before January first, two  
40 thousand thirteen. The preceding sentence shall not apply to any taxable  
41 year during which such corporation is a banking corporation described in  
42 paragraphs one through eight of subdivision (a) of this section.  
43 Notwithstanding anything to the contrary contained in this section other  
44 than subdivision (m) of this section, a banking corporation or corpo-  
45 ration that was in existence before January first, two thousand eleven  
46 and was subject to tax under this subchapter for its last taxable year  
47 beginning before January first, two thousand eleven, shall continue to  
48 be taxable under this subchapter for all taxable years beginning on or  
49 after January first, two thousand eleven and before January first, two  
50 thousand thirteen [or in which] ONLY IF THE CORPORATION IS A BANKING  
51 CORPORATION AS DEFINED IN SUBDIVISION (A) OF THIS SECTION OR the corpo-  
52 ration satisfies the requirements for a corporation to elect to be taxa-  
53 ble under this subchapter. Provided further, that nothing in this subdivi-  
54 sion shall prohibit a corporation that elected pursuant to subdivision  
55 (d) of this section to be taxable under subchapter two of this chapter  
56 from revoking that election in accordance with subdivision (d) of this

1 section. For purposes of this paragraph, a corporation shall be consid-  
2 ered to be subject to tax under subchapter two of this chapter for a  
3 taxable year if such corporation was not a taxpayer but was properly  
4 included in a combined report filed pursuant to subdivision four of  
5 section 11-605 of this chapter for such taxable year and a corporation  
6 shall be considered to be subject to tax under this subchapter for a  
7 taxable year if such corporation was not a taxpayer but was properly  
8 included in a combined report filed pursuant to subdivision (f) or (g)  
9 of section 11-646 of this part for such taxable year. A corporation that  
10 was in existence before January first, two thousand eleven but first  
11 becomes a taxpayer in a taxable year beginning on or after January  
12 first, two thousand eleven and before January first, two thousand thir-  
13 teen, shall be considered for purposes of this paragraph to have been  
14 subject to tax under subchapter two of this chapter for its last taxable  
15 year beginning before January first, two thousand eleven if such corpo-  
16 ration would have been subject to tax under such subchapter for such  
17 taxable year if it had been a taxpayer during such taxable year. A  
18 corporation that was in existence before January first, two thousand  
19 eleven but first becomes a taxpayer in a taxable year beginning on or  
20 after January first, two thousand eleven and before January first, two  
21 thousand thirteen, shall be considered for purposes of this paragraph to  
22 have been subject to tax under this subchapter for its last taxable year  
23 beginning before January first, two thousand eleven if such corporation  
24 would have been subject to tax under this subchapter for such taxable  
25 year if it had been a taxpayer during such taxable year.

26 S 3. This act shall take effect immediately.