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

7542

I N S E N A T E

June 1, 2012

Introduced by Sen. O'MARA -- 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 imposition of the personal income tax upon foreign partnerships

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

Section 1. Subsection (f) of section 601 of the tax law, as amended by chapter 248 of the laws of 1997, is amended to read as follows:

(f) Partners and partnerships. (1) A partnership as such shall not be subject to tax under this article. Persons carrying on business as partners shall be liable for tax under this article only in their separate or individual capacities. As used in this article, the term "partnership" shall include, unless a different meaning is clearly required, a subchapter K limited liability company. The term "subchapter K limited liability company" shall mean a limited liability company classified as a partnership for federal income tax purposes. The term "limited liability company" means a domestic limited liability company or a foreign limited liability company, as defined in section one hundred two of the limited liability company law, a limited liability investment company formed pursuant to section five hundred seven of the banking law, or a limited liability trust company formed pursuant to section one hundred two-a of the banking law.

(2) A FOREIGN PARTNERSHIP SHALL NOT BE DEEMED TO HAVE NEXUS IN THIS STATE, AND THE NON-RESIDENT PARTNERS OF SUCH FOREIGN PARTNERSHIP SHALL NOT BE DEEMED TO HAVE NEW YORK-SOURCE INCOME, BY REASON OF SUCH FOREIGN PARTNERSHIP USING FULFILLMENT SERVICES OF A PERSON OR ENTITY AND OWNING PROPERTY STORED ON THE PREMISES OF SUCH PERSON OR ENTITY IN CONJUNCTION WITH SUCH SERVICES. THE TERM "FULFILLMENT SERVICES" SHALL MEAN ANY OF THE FOLLOWING SERVICES PERFORMED BY AN ENTITY ON ITS PREMISES ON BEHALF OF A PURCHASER: (I) THE ACCEPTANCE OF ORDERS ELECTRONICALLY OR BY MAIL, TELEPHONE, TELEFAX OR INTERNET; (II) RESPONSES TO CONSUMER CORRESPONDENCE OR INQUIRIES ELECTRONICALLY OR BY MAIL, TELEPHONE, TELEFAX OR INTERNET; (III) BILLING AND COLLECTION ACTIVITIES; OR (IV) THE SHIPMENT

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

LBD15966-03-2

OF ORDERS FROM AN INVENTORY OF PRODUCTS OFFERED FOR SALE BY THE PURCHASER.

S 2. This act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 2013.