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

911--A

2011-2012 Regular Sessions

I N S E N A T E

(PREFILED)

January 5, 2011

Introduced by Sen. KRUEGER -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- recommitted to the Committee on Investigations and Government Operations in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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

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

Section 1. Paragraph 1 of subsection (m) of section 1452 of the tax law, as amended by section 4 of part J of chapter 61 of the laws of 2011, is amended to read as follows:

(1) Notwithstanding anything to the contrary contained in this section other than subsection (n) of this section, a corporation that was in existence before January first, two thousand eleven and was subject to tax under article nine-A of this chapter for its last taxable year beginning before January first, two thousand eleven, shall continue to be taxable under such article for all taxable years beginning on or after January first, two thousand eleven and before January first, two thousand thirteen. The preceding sentence shall not apply to any taxable year during which such corporation is a banking corporation described in paragraphs one through eight of subsection (a) of this section. Notwithstanding anything to the contrary contained in this section other than subsection (n) of this section, a banking corporation or corporation that was in existence before January first, two thousand eleven and was subject to tax under this article for its last taxable year beginning before January first, two thousand eleven, shall continue to be taxable under this article for all taxable years beginning on or after January first, two thousand eleven and before January first, two

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

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thousand thirteen [or in which] ONLY IF THE CORPORATION IS A BANKING CORPORATION AS DEFINED IN SUBSECTION (A) OF THIS SECTION OR the corporation satisfies the requirements for a corporation to elect to be taxable under this article. Provided further, that nothing in this subsection shall prohibit a corporation that elected pursuant to subsection (d) of this section to be taxable under article nine-A of this chapter from revoking that election in accordance with such subsection (d).

For purposes of this paragraph, a corporation shall be considered to be subject to tax under article nine-A of this chapter for a taxable year if such corporation was not a taxpayer but was properly included in a combined report filed pursuant to section two hundred eleven of this chapter for such taxable year and a corporation shall be considered to be subject to tax under this article for a taxable year if such corporation was not a taxpayer but was properly included in a combined return filed pursuant to subsection (f) or (g) of section fourteen hundred sixty-two of this article for such taxable year. A corporation that was in existence before January first, two thousand eleven but first becomes a taxpayer in a taxable year beginning on or after January first, two thousand eleven and before January first, two thousand thirteen, shall be considered for purposes of this paragraph to have been subject to tax under article nine-A of this chapter for its last taxable year beginning before January first, two thousand eleven if such corporation would have been subject to tax under such article for such taxable year if it had been a taxpayer during such taxable year. A corporation that was in existence before January first, two thousand eleven but first becomes a taxpayer in a taxable year beginning on or after January first, two thousand eleven and before January first, two thousand thirteen, shall be considered for purposes of this paragraph to have been subject to tax under this article for its last taxable year beginning before January first, two thousand eleven if such corporation would have been subject to tax under this article for such taxable year if it had been a taxpayer during such taxable year.

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

(1) Notwithstanding anything to the contrary contained in this section other than subdivision (m) of this section, a corporation that was in existence before January first, two thousand eleven and was subject to tax under subchapter two of this chapter for its last taxable year beginning before January first, two thousand eleven, shall continue to be taxable under such subchapter for all taxable years beginning on or after January first, two thousand eleven and before January first, two thousand thirteen. The preceding sentence shall not apply to any taxable year during which such corporation is a banking corporation described in paragraphs one through eight of subdivision (a) of this section. Notwithstanding anything to the contrary contained in this section other than subdivision (m) of this section, a banking corporation or corporation that was in existence before January first, two thousand eleven and was subject to tax under this subchapter for its last taxable year beginning before January first, two thousand eleven, shall continue to be taxable under this subchapter for all taxable years beginning on or after January first, two thousand eleven and before January first, two thousand thirteen [or in which] ONLY IF THE CORPORATION IS A BANKING CORPORATION AS DEFINED IN SUBDIVISION (A) OF THIS SECTION OR the corporation satisfies the requirements for a corporation to elect to be taxa-

ble under this subchapter. Provided further, that nothing in this subdivision shall prohibit a corporation that elected pursuant to subdivision (d) of this section to be taxable under subchapter two of this chapter from revoking that election in accordance with subdivision (d) of this section. For purposes of this paragraph, a corporation shall be considered to be subject to tax under subchapter two of this chapter for a taxable year if such corporation was not a taxpayer but was properly included in a combined report filed pursuant to subdivision four of section 11-605 of this chapter for such taxable year and a corporation shall be considered to be subject to tax under this subchapter for a taxable year if such corporation was not a taxpayer but was properly included in a combined report filed pursuant to subdivision (f) or (g) of section 11-646 of this part for such taxable year. A corporation that was in existence before January first, two thousand eleven but first becomes a taxpayer in a taxable year beginning on or after January first, two thousand eleven and before January first, two thousand thirteen, shall be considered for purposes of this paragraph to have been subject to tax under subchapter two of this chapter for its last taxable year beginning before January first, two thousand eleven if such corporation would have been subject to tax under such subchapter for such taxable year if it had been a taxpayer during such taxable year. A corporation that was in existence before January first, two thousand eleven but first becomes a taxpayer in a taxable year beginning on or after January first, two thousand eleven and before January first, two thousand thirteen, shall be considered for purposes of this paragraph to have been subject to tax under this subchapter for its last taxable year beginning before January first, two thousand eleven if such corporation would have been subject to tax under this subchapter for such taxable year if it had been a taxpayer during such taxable year.

S 3. This act shall take effect immediately.