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

S. 347 A. 156

2011-2012 Regular Sessions

S E N A T E - A S S E M B L Y

(PREFILED)

January 5, 2011

IN SENATE -- Introduced by Sen. DIAZ -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

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

AN ACT to amend the tax law, in relation to requiring issuers of credit cards and debit cards to pay and collect sales and use taxes and pay such taxes to the commissioner of taxation and finance

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

Section 1. The tax law is amended by adding a new section 1168 to read as follows:

S 1168. COLLECTION AND PAYMENT OF TAXES BY PROCESSORS OF CREDIT CARDS AND DEBIT CARDS. (A) NOTWITHSTANDING ANY LAW, RULE OR REGULATION TO THE CONTRARY, AN ISSUER OF CREDIT CARDS OR DEBIT CARDS, AS DEFINED IN SECTION FIVE HUNDRED ELEVEN OF THE GENERAL BUSINESS LAW, SHALL COLLECT AND PAY TAXES IMPOSED BY ARTICLES TWENTY-EIGHT AND TWENTY-NINE OF THIS CHAPTER, AND SHALL BE SUBJECT TO ALL PROVISIONS OF SUCH ARTICLES AS A PERSON REQUIRED TO COLLECT TAX, AS DEFINED IN SUBDIVISION ONE OF SECTION ELEVEN HUNDRED THIRTY-ONE OF THIS CHAPTER ON ALL TRANSACTIONS CONDUCTED WITH A CREDIT OR DEBIT CARD OF THE ISSUER, PROVIDED, HOWEVER, NOTWITHSTANDING ANY LAW, RULE OR REGULATION TO THE CONTRARY, SUCH TAXES SHALL BE PAID DIRECTLY TO THE COMMISSIONER BY THE ISSUER.

(B) NOTWITHSTANDING ANY LAW, RULE OR REGULATION TO THE CONTRARY, ON ANY TRANSACTION CONDUCTED WITH A DEBIT OR CREDIT CARD OF THE ISSUER, WHEREIN THE ISSUER IS REQUIRED TO COLLECT AND PAY TAXES PURSUANT TO SUBDIVISION (A) OF THIS SECTION, THE VENDOR OF TANGIBLE PERSONAL PROPERTY OR SERVICES INVOLVED IN SAID TRANSACTION SHALL NOT BE REQUIRED TO PAY

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

LBD00836-01-1

AND COLLECT TAXES PURSUANT TO ARTICLES TWENTY-EIGHT AND TWENTY-NINE OF THIS CHAPTER, RATHER THIS DUTY SHALL BE IMPOSED UPON PROCESSORS.

(C) FOR PURPOSES OF THIS SECTION, PROCESSOR SHALL MEAN ANY ENTITY WHICH CONTRACTS WITH VENDORS TO PROCESS THEIR CREDIT CARD RECEIPTS AND WHO FOR A FEE, OBTAIN FUNDS FOR VENDORS FROM SUCH ISSUERS OF CREDIT OR DEBIT CARDS.

S 2. This act shall take effect on the first of October next succeeding the date on which it shall have become a law. Effective immediately, any rules and regulations necessary for the timely implementation of this act on its effective date may be promulgated on or before such date.