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

5659

2011-2012 Regular Sessions

I N A S S E M B L Y

February 24, 2011

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

AN ACT to amend the tax law, in relation to banking corporations and credit card receivables

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

Section 1. Subparagraph (v) of paragraph 2 of subsection (f) of section 1462 of the tax law, as added by section 3 of part EE-1 of chapter 57 of the laws of 2008, is amended to read as follows:

(v) A banking corporation [doing business in this state solely because it] THAT meets one or more of the tests in subparagraphs (i) through (v) of paragraph one of subsection (c) of section fourteen hundred fifty-one of this article [(] AND WHICH ORIGINATES CREDIT CARD RECEIVABLES AND DERIVES ITS RECEIPTS IN NEW YORK PRINCIPALLY FROM THE COLLECTION OR SALE OF THOSE CREDIT CARD RECEIVABLES, INCLUDED BUT NOT LIMITED TO INTEREST, FEES AND PENALTIES IN THE NATURE OF INTEREST, SERVICE CHARGES AND FEES FROM CREDIT CARD RECEIVABLES AND RECEIPTS FROM MERCHANT DISCOUNTS (ANY SUCH ENTITY BEING HEREAFTER referred to in this subparagraph as the "credit card bank") will not be included in a combined return pursuant to subparagraph (i) of this paragraph with another banking corporation or bank holding company which is exercising its corporate franchise or doing business in this state unless the credit card bank or the commissioner shows that the inclusion of the credit card bank in the combined return is necessary to properly reflect the tax liability of the credit card bank, the banking corporation or bank holding company under this article. However, any banking corporation that meets one or more of the tests in subparagraphs (i) through (v) of paragraph one of subsection (c) of section fourteen hundred fifty-one OF THIS ARTICLE and was included in a combined return for its last taxable year beginning before January first, two thousand eight may continue to be included in a combined return for future taxable years, provided that once that bank-

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

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ing corporation has been included in a combined return for any taxable year beginning on or after January first, two thousand eight, it must continue to be included in a combined return until it obtains the consent of the commissioner to cease being included in a combined return because the combined return no longer properly reflects the tax liability under this article of any of the corporations included in the combined return. Further, the credit card bank will be included in a combined return with (i) any banking corporation not subject to tax under this article sixty-five percent or more of whose voting stock is owned or controlled, directly or indirectly, by the credit card bank, or (ii) any banking corporation or bank holding company not subject to tax under this article which owns or controls, directly or indirectly, sixty-five percent or more of the voting stock of the credit card bank, or (iii) any banking corporation not subject to tax under this article sixty-five percent or more of the voting stock of which is owned or controlled, directly or indirectly, by the same corporation or corporations that own or control, directly or indirectly, sixty-five percent or more of the voting stock of the credit card bank, if the corporation or corporations described in clauses (i), (ii) and (iii) of this subparagraph provide services for or support to the credit card bank's operations, unless the credit card bank or the commissioner shows that the inclusion of any of those corporations in the combined return fails to properly reflect the tax liability of the credit card bank. For purposes of this subparagraph, services for or support to the credit card bank's operations include such activities as billing, credit investigation and reporting, marketing, research, advertising, mailing, customer service, information technology, lending and financing services, and communications services, but will not include accounting, legal or personnel services.

S 2. This act shall take effect immediately.