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

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2011-2012 Regular Sessions

I N A S S E M B L Y

April 19, 2011

Introduced by M. of A. FARRELL -- (at request of the Department of Taxation and Finance) -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to providing a limit on the time to collect tax liabilities

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 174-b to read as follows:

S 174-B. LIMITATION ON THE TIME TO COLLECT TAX LIABILITIES. 1. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY AND EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, A TAX LIABILITY SHALL NOT BE ENFORCEABLE AND EVERY TAX LIABILITY SHALL BE EXTINGUISHED AFTER TWENTY YEARS FROM THE FIRST DATE A WARRANT COULD BE FILED BY THE COMMISSIONER, WITHOUT REGARD TO WHETHER THE WARRANT IS FILED. THE FIRST DATE A WARRANT COULD BE FILED MEANS THE DAY AFTER THE LAST DAY SPECIFIED FOR PAYMENT BY THE NOTICE AND DEMAND ISSUED FOR THE TAX LIABILITY WHERE THERE IS NO RIGHT TO A HEARING WITH RESPECT TO SUCH NOTICE AND DEMAND. THE FIRST DAY A WARRANT COULD BE FILED SHALL BE DETERMINED WITHOUT REGARD TO SUBSECTION (C) OF SECTION SIX HUNDRED NINETY OR SUBSECTION (C) OF SECTION ONE THOUSAND NINETY OF THIS CHAPTER, UNLESS THE COMMISSIONER ASSESSES THE LIABILITY UNDER EITHER SUCH SUBSECTION (C). WHEN THERE IS A RIGHT TO A HEARING WITH RESPECT TO A NOTICE AND DEMAND FOR A TAX LIABILITY, THE FIRST DATE A WARRANT COULD BE FILED MEANS THE DAY THAT OPPORTUNITY FOR A HEARING OR REVIEW HAS BEEN EXHAUSTED.

2. THIS SECTION SHALL APPLY TO ANY TAX THAT IS ADMINISTERED BY THE COMMISSIONER. ANY REFERENCE TO "TAX" IN THIS SECTION SHALL BE DEEMED ALSO TO REFER TO SPECIAL ASSESSMENTS, FEES, INTEREST, ADDITIONS TO TAX, PENALTIES AND OTHER IMPOSITIONS THAT ARE ADMINISTERED BY THE COMMISSIONER.

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

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3. WHEN, BEFORE THE EXPIRATION OF THE TIME PRESCRIBED IN THIS SECTION TO ENFORCE THE COLLECTION OF TAX, BOTH THE COMMISSIONER AND THE TAXPAYER HAVE CONSENTED IN WRITING TO ITS COLLECTION AFTER SUCH TIME, THE TAX LIABILITY SHALL NOT BE EXTINGUISHED AND THE TAX MAY BE COLLECTED AT ANY TIME PRIOR TO THE EXPIRATION OF THE PERIOD AGREED UPON. THE PERIOD SO AGREED UPON MAY BE EXTENDED BY ANY SUBSEQUENT AGREEMENT IN WRITING MADE BEFORE THE EXPIRATION OF THE PERIOD PREVIOUSLY AGREED UPON.

4. THE PROVISIONS OF THIS SECTION SHALL SUPPLEMENT OR BE IN ADDITION TO THE PROCEDURES RELATING TO COLLECTION OR ADMINISTRATION PROVIDED WITH RESPECT TO ANY TAX COVERED BY THIS SECTION. WHERE A PROVISION OF THIS SECTION IS INCONSISTENT WITH ANY SUCH PROVISION WITH RESPECT TO SUCH TAX, THE PROVISIONS OF THIS SECTION SHALL APPLY. FOR PURPOSES OF SUBSECTION (C) OF SECTION SIX HUNDRED NINETY-TWO AND SUBSECTION (C) OF SECTION ONE THOUSAND NINETY-TWO OF THIS CHAPTER, IF THE COMMISSIONER DOES NOT FILE A WARRANT WITHIN SIX YEARS OF ASSESSMENT, THE TIME LIMITATIONS IN THIS SECTION SHALL NOT APPLY AND THE TAX LIABILITY IS EXTINGUISHED. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PREVENT THE COMMISSIONER FROM ACCEPTING ANY PAYMENT FOR A TAX LIABILITY MADE VOLUNTARILY BY A TAXPAYER AFTER THE TIME TO COLLECT SUCH LIABILITY HAS EXPIRED AND THE LIABILITY IS EXTINGUISHED. WHEN A WARRANT IS FILED, THE COMMISSIONER MAY INCLUDE A DATE ON THAT WARRANT INDICATING WHEN SUCH WARRANT EXPIRES AND TAX LIABILITY IS EXTINGUISHED.

5. IF A TAX LIABILITY COULD HAVE BEEN FIRST WARRANTED BEFORE THE EFFECTIVE DATE OF THIS SECTION, SUCH LIABILITY SHALL NOT BE ENFORCEABLE AND SHALL BE EXTINGUISHED AFTER TWENTY YEARS FROM THE FIRST DATE THE WARRANT COULD HAVE BEEN FILED BY THE COMMISSIONER.

S 2. This act shall take effect immediately.