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

6922

I N S E N A T E

April 11, 2012

Introduced by Sen. DeFRANCISCO -- 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 filing fees for partnerships

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

Section 1. Subparagraphs (A) and (B) of paragraph 3 of subsection (c) of section 658 of the tax law, subparagraph (A) as amended by section 18 of part U of chapter 61 of the laws of 2011 and subparagraph (B) as amended by section 1 of part H-1 of chapter 57 of the laws of 2009, are amended to read as follows:

(A) Every subchapter K limited liability company, every limited liability company that is a disregarded entity for federal income tax purposes, and every LIMITED LIABILITY partnership UNDER ARTICLE EIGHT-B OF THE PARTNERSHIP LAW AND EVERY FOREIGN LIMITED LIABILITY PARTNERSHIP which has any income derived from New York sources, determined in accordance with the applicable rules of section six hundred thirty-one of this article as in the case of a nonresident individual, shall, within sixty days after the last day of the taxable year, make a payment of a filing fee. The amount of the filing fee is the amount set forth in subparagraph (B) of this paragraph. The minimum filing fee is twenty-five dollars for taxable years beginning in two thousand eight and thereafter. Limited liability companies that are disregarded entities for federal income tax purposes must pay a filing fee of twenty-five dollars for taxable years beginning on or after January first, two thousand eight.

(B) The filing fee will be based on the New York source gross income of the limited liability company or LIMITED LIABILITY partnership for the taxable year immediately preceding the taxable year for which the fee is due. If the limited liability company or LIMITED LIABILITY partnership does not have any New York source gross income for the taxable year immediately preceding the taxable year for which the fee is due, the limited liability company or LIMITED LIABILITY partnership shall pay the minimum filing fee. [Partnerships, other than limited liability partnerships under article eight-B of the partnership law and foreign limited liability partnerships, with less than one million dollars in New York source gross income are exempt from the filing fee.] New York

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

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source gross income is the sum of the partners' or members' shares of federal gross income from the LIMITED LIABILITY partnership or limited liability company derived from or connected with New York sources, determined in accordance with the provisions of section six hundred thirty-one of this article as if those provisions and any related provisions expressly referred to a computation of federal gross income from New York sources. For this purpose, federal gross income is computed without any allowance or deduction for cost of goods sold.

The amount of the filing fee for taxable years beginning on or after January first, two thousand eight will be determined in accordance with the following table:

If the New York source gross income is:	The fee is:
not more than $100,000	$25
more than $100,000 but not over $250,000	$50
more than $250,000 but not over $500,000	$175
more than $500,000 but not over $1,000,000	$500
more than $1,000,000 but not over $5,000,000	$1,500
more than $5,000,000 but not over $25,000,000	$3,000
Over $25,000,000	$4,500

S 2. Subsection (a) of section 1304-C of the tax law, as amended by section 2 of part H-1 of chapter 57 of the laws of 2009, is amended to read as follows:

(a) In addition to any other taxes or fees authorized by this article or any other law, any city imposing the taxes authorized by this article is hereby authorized and empowered to adopt and amend local laws providing that every subchapter K limited liability company (as such term is defined in subsection (b) of section thirteen hundred two of this article), every limited liability company that is a disregarded entity for federal income tax purposes and every LIMITED LIABILITY partnership UNDER ARTICLE EIGHT-B OF THE PARTNERSHIP LAW AND EVERY FOREIGN LIMITED LIABILITY PARTNERSHIP which has any income derived from sources within such city, determined in accordance with the applicable rules of section six hundred thirty-one of this chapter as in the case of a state nonresident individual (except that in making that determination any references in section six hundred thirty-one of this chapter to "New York source" or "New York sources" shall be read as references to "New York city source" or "New York city sources" and any references in that section to "this state" or "the state" shall be read as references to "this city" or "the city"), shall within thirty days after the last day of the taxable year make a payment of a filing fee. The amount of the filing fee shall be the amount determined under paragraph three of subsection (c) of section six hundred fifty-eight of this chapter, except that in making that determination any references in that section to "New York source gross income" must be read as reference to "New York city source gross income". Any local law imposing the filing fee authorized by this section shall provide that where the filing fee is not timely paid, it shall be paid upon notice and demand and shall be assessed, collected and paid in the same manner as the taxes imposed pursuant to the authority of this article, and for these purposes any reference in the local law imposing those taxes to the taxes imposed by that local law shall be deemed also to refer to the filing fee imposed pursuant to the authority of this section.

S 3. This act shall take effect immediately.