

4310--A

2013-2014 Regular Sessions

I N   S E N A T E

March 20, 2013

---

Introduced by Sen. MARCELLINO -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law, in relation to making a reduced rate of interest applicable to certain additions to tax resulting from an executor's discovery after the date for filing an estate tax return of certain assets belonging to the decedent held by the state comptroller as abandoned property; and to amend chapter 389 of the laws of 1997 amending the tax law and other laws relating to the estate and gift tax, and chapter 190 of the laws of 1990 amending the tax law relating to certain taxes, fees, and other impositions, in relation to rates of interest for certain estates

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

1     Section 1. The tax law is amended by adding a new section 991 to read  
2     as follows:  
3     S 991. INTEREST ACCRUAL RELIEF FOR ADDITIONAL TAX ATTRIBUTABLE TO  
4     NEWLY-DISCOVERED ABANDONED PROPERTY. NOTWITHSTANDING ANY OTHER PROVISION  
5     OF LAW, IN COMPUTING THE INTEREST DUE ON AN ADDITION TO TAX OWED BY AN  
6     ESTATE ATTRIBUTABLE TO THE INCLUSION IN THE ESTATE'S FEDERAL GROSS  
7     ESTATE OF AN ASSET HELD BY THE COMPTROLLER AS ABANDONED PROPERTY, THE  
8     COMMISSIONER SHALL APPLY THE INTEREST RATE USED BY THE COMPTROLLER,  
9     PURSUANT TO SECTION FOURTEEN HUNDRED FIVE OF THE ABANDONED PROPERTY LAW,  
10    IN COMPUTING THE INTEREST DUE ON SUCH ABANDONED PROPERTY WHILE IN THE  
11    COMPTROLLER'S POSSESSION (INCLUDING A ZERO RATE IF THE COMPTROLLER DID  
12    NOT PAY INTEREST ON SUCH PROPERTY) IF, AS OF THE DATE PRESCRIBED FOR THE  
13    FILING OF A RETURN REQUIRED BY THIS ARTICLE, INCLUDING ANY EXTENSIONS  
14    GRANTED FOR FILING, INFORMATION PERTAINING TO THE ASSET HAD NOT YET  
15    APPEARED IN THE PUBLIC RECORDS OF ABANDONED PROPERTY REQUIRED TO BE  
16    MAINTAINED BY THE COMPTROLLER PURSUANT TO SECTION FOURTEEN HUNDRED ONE  
17    OF THE ABANDONED PROPERTY LAW.

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

LBD09097-03-3

1 S 2. Section 35 of part A of chapter 389 of the laws of 1997 amending  
2 the tax law and other laws relating to the estate and gift tax, is  
3 amended to read as follows:

4 S 35. All provisions of law repealed or deleted by sections one  
5 through thirty-four of this act, and of the regulations adopted there-  
6 under, in respect to the assessment, payment, determination, collection  
7 and refund of taxes or other impositions imposed thereunder, the filing  
8 of returns and preservation of records for the purposes of such taxes or  
9 impositions, the secrecy of returns, and the disposition of revenues  
10 shall continue in effect with respect to all such taxes or impositions  
11 accrued up to the effective date of this section[.]; PROVIDED, HOWEVER,  
12 THAT, IN COMPUTING THE INTEREST DUE ON AN ADDITION TO TAX OWED BY AN  
13 ESTATE ATTRIBUTABLE TO THE INCLUSION IN THE ESTATE'S GROSS ESTATE OF AN  
14 ASSET HELD BY THE STATE COMPTROLLER AS ABANDONED PROPERTY, THE COMMIS-  
15 SIONER OF TAXATION AND FINANCE SHALL APPLY THE INTEREST RATE USED BY THE  
16 COMPTROLLER, PURSUANT TO SECTION 1405 OF THE ABANDONED PROPERTY LAW, IN  
17 COMPUTING THE INTEREST DUE ON SUCH ABANDONED PROPERTY WHILE IN THE COMP-  
18 TROLLER'S POSSESSION (INCLUDING A ZERO RATE IF THE COMPTROLLER DID NOT  
19 PAY INTEREST ON SUCH PROPERTY) IF, AS OF THE DATE PRESCRIBED FOR THE  
20 FILING OF A RETURN, INCLUDING ANY EXTENSIONS GRANTED FOR FILING, INFOR-  
21 MATION PERTAINING TO THE ASSET HAD NOT YET APPEARED IN THE PUBLIC  
22 RECORDS OF ABANDONED PROPERTY REQUIRED TO BE MAINTAINED BY THE STATE  
23 COMPTROLLER PURSUANT TO SECTION 1401 OF THE ABANDONED PROPERTY LAW.

24 S 3. Paragraph 1 of subdivision (i) of section 385 of chapter 190 of  
25 the laws of 1990 amending the tax law relating to certain taxes, fees,  
26 and other impositions, as amended by section 71 of part A of chapter 56  
27 of the laws of 1998, is amended to read as follows:

28 (1) All provisions of articles 10-A, 10-B, 10-C and section 962 of the  
29 tax law (as repealed by section one hundred eight of this act) in  
30 respect to the imposition, rates, appraisal and valuation of estates,  
31 filing of tax, assessment, determination, payment, collection and refund  
32 of the taxes imposed or administered thereunder, the filing of reports  
33 and returns, the final federal determinations, imposition of interest  
34 and penalties, the jurisdiction of surrogates' courts, provisions relat-  
35 ing to appeals and the disposition of revenues and fees shall continue  
36 in effect with respect to all such taxes accrued on or before the effec-  
37 tive date of this act, except that (A) section 249-u of the tax law  
38 shall not be applicable after the effective date of this act, (B) with  
39 respect to any of the provisions of article 10-C thereof relating to an  
40 appraiser, the appraiser shall be the commissioner of taxation and  
41 finance or his designee on and after such date, and (C) the fee for a  
42 release of lien imposed by subdivision c of section 249-bb, which was  
43 applicable to estates of decedents subject to tax under article 26 of  
44 the tax law by reason of section 962 thereof, shall not be applicable;  
45 PROVIDED THAT, WITH REGARD TO AN ADDITION TO TAX OWED BY AN ESTATE  
46 ATTRIBUTABLE TO THE INCLUSION IN THE ESTATE'S FEDERAL GROSS ESTATE OF AN  
47 ASSET HELD BY THE STATE COMPTROLLER AS ABANDONED PROPERTY, NO INTEREST  
48 SHALL ACCRUE FOR ANY PERIOD OF TIME IN WHICH THE STATE COMPTROLLER DID  
49 NOT PAY INTEREST ON THE ASSET IF, AS OF THE DATE PRESCRIBED FOR THE  
50 FILING OF A RETURN, INCLUDING ANY EXTENSIONS GRANTED FOR FILING, INFOR-  
51 MATION PERTAINING TO THE ASSET HAD NOT YET APPEARED IN THE PUBLIC  
52 RECORDS OF ABANDONED PROPERTY REQUIRED TO BE MAINTAINED BY THE STATE  
53 COMPTROLLER PURSUANT TO SECTION 1401 OF THE ABANDONED PROPERTY LAW;

54 S 4. This act shall take effect immediately and shall apply to estates  
55 of decedents dying on or after June 1, 1944, provided that no refunds or  
56 credit shall be granted as a result of any provision of this act.