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

7266

2013-2014 Regular Sessions

I N A S S E M B L Y

May 8, 2013

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

AN ACT to amend the tax law, in relation to establishing the capital gains modification

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

Section 1. Section 612 of the tax law is amended by adding a new subsection (w) to read as follows:

(W) CAPITAL GAINS MODIFICATION. (1) FOR THE PURPOSES OF THIS SUBSECTION, THE FOLLOWING DEFINITIONS SHALL APPLY:

(A) "CAPITAL GAIN" MEANS THE GAIN OR PROFITS REALIZED FROM THE SALE OF ANY NEW COMPANY, AS THAT TERM IS DEFINED BY SUBPARAGRAPH (C) OF THIS PARAGRAPH, OR THE GAIN FROM THE INITIAL PUBLIC OFFERING OF STOCK BY EARLY-STAGE INVESTORS OR COMPANY FOUNDERS OF ANY NEW COMPANY.

(B) "LIQUIDITY EVENT" MEANS THE SALE OF A NEW COMPANY OR THE INITIAL PUBLIC OFFERING OF STOCK OF ANY NEW COMPANY.

(C) "NEW COMPANY" MEANS ANY BUSINESS ENTITY THAT SHALL NOT HAVE OPERATED OR SHALL NOT HAVE HAD NEXUS IN NEW YORK STATE PRIOR TO JANUARY FIRST, TWO THOUSAND THIRTEEN AND ANY OTHER CRITERIA ESTABLISHED BY THE COMMISSIONER IN REGULATIONS PROMULGATED PURSUANT TO THIS ARTICLE. ANY BUSINESS ENTITY SHALL CEASE TO QUALIFY FOR THE EXEMPTION PROVIDED FOR IN THIS SUBSECTION IF, BEFORE THE LIQUIDITY EVENT, AS THAT TERM IS DEFINED BY SUBPARAGRAPH (B) OF THIS PARAGRAPH, THE PRINCIPAL PLACE OF BUSINESS OF SUCH BUSINESS ENTITY MOVES OUT OF NEW YORK STATE.

(2) THE TAXPAYER MAY SUBTRACT FROM HIS OR HER FEDERAL ADJUSTED GROSS INCOME ANY CAPITAL GAINS AS DEFINED BY SUBPARAGRAPH (A) OF PARAGRAPH ONE OF THIS SUBSECTION (BUT NOT AN AMOUNT THAT WILL REDUCE THE PORTION OF SUCH GAIN INCLUDED IN HIS OR HER NEW YORK INCOME BELOW ZERO).

S 2. This act shall take effect January 1, 2014, provided, however that effective immediately, the department of taxation and finance may prescribe such rules and regulations as may be necessary to carry out the purposes of this act.

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

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