

4310

2013-2014 Regular Sessions

I N S E N A T E

March 20, 2013

Introduced by Sen. MARCELLINO -- (at request of the Department of Taxation and Finance) -- 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 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 AND
8 ACCRUING INTEREST PURSUANT TO SECTION FOURTEEN HUNDRED FIVE OF THE ABAN-
9 DONED PROPERTY LAW, NO INTEREST SHALL ACCRUE FOR ANY PERIOD OF TIME IN
10 WHICH THE COMPTROLLER CEASED TO PAY INTEREST ON THE ASSET PURSUANT TO
11 THE FIVE-YEAR LIMITATION IN SUBDIVISION ONE OF SECTION FOURTEEN HUNDRED
12 FIVE OF THE ABANDONED PROPERTY LAW 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

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

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1 MAINTAINED BY THE COMPTROLLER PURSUANT TO SECTION FOURTEEN HUNDRED ONE
2 OF THE ABANDONED PROPERTY LAW.

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

6 S 35. All provisions of law repealed or deleted by sections one
7 through thirty-four of this act, and of the regulations adopted there-
8 under, in respect to the assessment, payment, determination, collection
9 and refund of taxes or other impositions imposed thereunder, the filing
10 of returns and preservation of records for the purposes of such taxes or
11 impositions, the secrecy of returns, and the disposition of revenues
12 shall continue in effect with respect to all such taxes or impositions
13 accrued up to the effective date of this section[.]; PROVIDED, HOWEVER,
14 THAT, WITH REGARD TO AN ADDITION TO TAX OWNED BY AN ESTATE ATTRIBUTABLE
15 TO THE INCLUSION IN THE ESTATE'S GROSS ESTATE OF AN ASSET HELD BY THE
16 STATE COMPTROLLER AS ABANDONED PROPERTY, NO INTEREST SHALL ACCRUE FOR
17 ANY PERIOD OF TIME IN WHICH THE STATE COMPTROLLER CEASED TO PAY INTEREST
18 ON THE ASSET PURSUANT TO THE FIVE-YEAR LIMITATION ON THE PAYMENT OF
19 INTEREST IN SUBDIVISION 1 OF SECTION 1405 OF THE ABANDONED PROPERTY LAW.
20 THIS CAP ON THE PERIOD OF TIME DURING WHICH INTEREST WILL ACCRUE SHALL
21 APPLY ONLY IF, AS OF THE DATE PRESCRIBED FOR THE FILING OF A RETURN,
22 INCLUDING ANY EXTENSIONS GRANTED FOR FILING, INFORMATION PERTAINING TO
23 THE ASSET HAD NOT YET APPEARED IN THE PUBLIC RECORDS OF ABANDONED PROP-
24 ERTY REQUIRED TO BE MAINTAINED BY THE STATE COMPTROLLER PURSUANT TO
25 SECTION 1401 OF THE ABANDONED PROPERTY LAW.

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

30 (1) All provisions of articles 10-A, 10-B, 10-C and section 962 of the
31 tax law (as repealed by section one hundred eight of this act) in
32 respect to the imposition, rates, appraisal and valuation of estates,
33 filing of tax, assessment, determination, payment, collection and refund
34 of the taxes imposed or administered thereunder, the filing of reports
35 and returns, the final federal determinations, imposition of interest
36 and penalties, the jurisdiction of surrogates' courts, provisions relat-
37 ing to appeals and the disposition of revenues and fees shall continue
38 in effect with respect to all such taxes accrued on or before the effec-
39 tive date of this act, except that (A) section 249-u of the tax law
40 shall not be applicable after the effective date of this act, (B) with
41 respect to any of the provisions of article 10-C thereof relating to an
42 appraiser, the appraiser shall be the commissioner of taxation and
43 finance or his designee on and after such date, and (C) the fee for a
44 release of lien imposed by subdivision c of section 249-bb, which was
45 applicable to estates of decedents subject to tax under article 26 of
46 the tax law by reason of section 962 thereof, shall not be applicable;
47 PROVIDED THAT, WITH REGARD TO AN ADDITION TO TAX OWED BY AN ESTATE
48 ATTRIBUTABLE TO THE INCLUSION IN THE ESTATE'S FEDERAL GROSS ESTATE OF AN
49 ASSET HELD BY THE STATE COMPTROLLER AS ABANDONED PROPERTY, NO INTEREST
50 SHALL ACCRUE FOR ANY PERIOD OF TIME IN WHICH THE STATE COMPTROLLER
51 CEASED TO PAY INTEREST ON THE ASSET PURSUANT TO THE FIVE-YEAR LIMITATION
52 ON THE PAYMENT OF INTEREST IN SUBDIVISION 1 OF SECTION 1405 OF THE ABAN-
53 DONED PROPERTY LAW. THIS CAP ON THE PERIOD OF TIME DURING WHICH INTEREST
54 WILL ACCRUE SHALL APPLY ONLY IF, AS OF THE DATE PRESCRIBED FOR THE
55 FILING OF A RETURN, INCLUDING ANY EXTENSIONS GRANTED FOR FILING, INFOR-
56 MATION PERTAINING TO THE ASSET HAD NOT YET APPEARED IN THE PUBLIC

1 RECORDS OF ABANDONED PROPERTY REQUIRED TO BE MAINTAINED BY THE STATE
2 COMPTROLLER PURSUANT TO SECTION 1401 OF THE ABANDONED PROPERTY LAW;
3 S 4. This act shall take effect immediately and shall apply to estates
4 of decedents dying on or after June 1, 1944, provided that no refunds or
5 credit shall be granted as a result of any provision of this act.