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

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:

Section 1. The tax law is amended by adding a new section 991 to read as follows:

S 991. INTEREST ACCRUAL RELIEF FOR ADDITIONAL TAX ATTRIBUTABLE TO NEWLY-DISCOVERED ABANDONED PROPERTY. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IN COMPUTING THE INTEREST DUE ON AN ADDITION TO TAX OWED BY AN ESTATE ATTRIBUTABLE TO THE INCLUSION IN THE ESTATE'S FEDERAL GROSS ESTATE OF AN ASSET HELD BY THE COMPTROLLER AS ABANDONED PROPERTY, THE COMMISSIONER SHALL APPLY THE INTEREST RATE USED BY THE COMPTROLLER, PURSUANT TO SECTION FOURTEEN HUNDRED FIVE OF THE ABANDONED PROPERTY LAW, IN COMPUTING THE INTEREST DUE ON SUCH ABANDONED PROPERTY WHILE IN THE COMPTROLLER'S POSSESSION (INCLUDING A ZERO RATE IF THE COMPTROLLER DID NOT PAY INTEREST ON SUCH PROPERTY) IF, AS OF THE DATE PRESCRIBED FOR THE FILING OF A RETURN REQUIRED BY THIS ARTICLE, INCLUDING ANY EXTENSIONS GRANTED FOR FILING, INFORMATION PERTAINING TO THE ASSET HAD NOT YET APPEARED IN THE PUBLIC RECORDS OF ABANDONED PROPERTY REQUIRED TO BE MAINTAINED BY THE COMPTROLLER PURSUANT TO SECTION FOURTEEN HUNDRED ONE OF THE ABANDONED PROPERTY LAW.

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

LBD09097-03-3

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

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 All provisions of law repealed or deleted by sections one through thirty-four of this act, and of the regulations adopted thereunder, in respect to the assessment, payment, determination,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

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

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

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