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

7382

I N S E N A T E

May 14, 2014

Introduced by Sen. VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT in relation to the meaning of the term "equipment" for purposes of department of taxation and finance audit or enforcement proceedings

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

Section 1. For the purposes of this act, the term "equipment" shall mean a machine or system, and any part or subassembly thereof.

S 2. Equipment shall be considered to be "directly and predominantly" used, as such term is used in clause (i) of paragraph 1 of subdivision (z) of section 1115 of the tax law, as repealed by section 30 of part S-1 of chapter 57 of the laws of 2009 and last amended by section 17 of part CC of chapter 85 of the laws of 2002, for the purposes of any department of taxation and finance audit or enforcement proceeding, or any other administrative matter or proceeding of such department, involving the interpretation, enforcement, or administration of such provision of the tax law, when such equipment was received, inventoried or organized, and then prepared for distribution at an empire zone location by the qualified empire zone enterprise operating at such location, provided that such equipment, upon distribution, is stocked, repaired, cleaned or otherwise handled for the purpose of maintenance or upkeep by employees of such qualified empire zone enterprise whose duties related to such service work originate from, and terminate at, the same empire zone location.

S 3. Notwithstanding sections 2006, 2012, 2014, 2016 and 2018 of the tax law, part 3000 of the tax appeals tribunal rules of practice and procedure, or any determination of the division of tax appeals, the division of tax appeals shall accept a petition from any person or entity that contests a determination or decision of the division of tax appeals related to the interpretation of the term "directly and predominantly", as such term is used in the section of the tax law referenced in section two of this act, provided that such original determination or decision of the division of tax appeals was contrary to the definition

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

LBD15187-01-4

of such term as established by section two of this act. The division of tax appeals shall process and review, provide for a hearing of, and render a determination and decision in response to any such petition in accordance with the process set forth in part 3000 of the tax appeals tribunal rules of practice and procedure. Any determination or decision issued by the division of tax appeals pursuant to this act shall supersede any inconsistent determination or decision, be deemed conclusive upon all parties and shall not be subject to review by any other unit in the division of tax appeals, by the tax appeals tribunal or by any court of the state.

S 4. This act shall take effect immediately, shall be deemed to have been in full force and effect on and after March 1, 2001, and shall apply to any audit or enforcement proceeding of the department of taxation and finance, or any other administrative matter or proceeding of such department, commencing on or after March 1, 2001.