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

10439

I N  A S S E M B L Y

May 27, 2016

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

AN ACT to amend the New York city charter, in relation to the power of the department of finance of the city of New York to compromise taxes that are administered by such department except for property taxes

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

Section 1. Paragraphs c and d of subdivision 2 of section 1504 of the New York city charter, as added by chapter 513 of the laws of 2002, are amended to read as follows:

c. Notwithstanding the provisions of any general, special or local law to the contrary, the commissioner shall have the exclusive authority to compromise any [excise or nonproperty] taxes [or annual vault charges] EXCEPT FOR PROPERTY TAXES or any warrant or judgment for [excise or nonproperty] taxes [or annual vault charges] EXCEPT FOR PROPERTY TAXES administered by the commissioner, and the civil penalties, interest and additions to tax [or charge] in connection therewith, if the tax debtor has been discharged in bankruptcy[,] or is shown by proofs submitted to be insolvent, [but] OR THE TAX DEBTOR SHOWS BY PROOFS SUBMITTED THAT COLLECTION IN FULL WOULD CAUSE SUCH DEBTOR UNDUE ECONOMIC HARDSHIP, PROVIDED THAT the amount payable in compromise [shall in no event be less than the amount, if any, recoverable through legal proceedings, and provided that where] REASONABLY REFLECTS COLLECTION POTENTIAL OR IS OTHERWISE JUSTIFIED BY THE PROOFS OFFERED BY THE TAX DEBTOR. PROVIDED, FURTHER, THE COMMISSIONER SHALL NOT ACCEPT ANY AMOUNT PAYABLE IN COMPROMISE THAT WOULD UNDERMINE COMPLIANCE WITH THE TAXES ADMINISTERED BY THE COMMISSIONER, NOR SHALL THE COMMISSIONER ENTER INTO ANY OFFER IN COMPROMISE THAT WOULD BE ADVERSE TO THE BEST INTERESTS OF THE CITY. WHERE the amount owing for [excise or nonproperty] taxes [or annual vault charges] EXCEPT FOR PROPERTY TAXES, exclusive of any civil penalties, interest and additions to tax [or charge], or the warrant or judgment, exclusive of any civil penalties, interest and additions to tax [or charge], is more than one hundred thousand dollars, such compromise shall be effective only when approved by a justice of the supreme court. THE COMMIS-

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

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SIONER SHALL PROMULGATE RULES DEFINING WHAT CONSTITUTES UNDUE ECONOMIC HARDSHIP. THE INABILITY TO MAINTAIN AN AFFLUENT OR LUXURIOUS LIFESTYLE SHALL NOT CONSTITUTE UNDUE ECONOMIC HARDSHIP.

d. Notwithstanding the provisions of any general, special or local law to the contrary, the commissioner shall have the exclusive authority to compromise civil liability, with such qualifications and limitations as may be established pursuant to such rules as the commissioner may prescribe, where such liability arises in connection with [an excise or nonproperty tax or annual vault charge] A TAX EXCEPT FOR A PROPERTY TAX administered by the commissioner, at any time prior to the time the tax or administrative action becomes finally and irrevocably fixed and no longer subject to administrative review. Upon acceptance of an offer in compromise by the commissioner, the matter may not be reopened except upon a showing of fraud, malfeasance or misrepresentation of a material fact. The corporation counsel may compromise any such liability after reference to the law department for prosecution or defense at any time prior to the time the tax or administrative action taken by the [department] COMMISSIONER is no longer subject to administrative or judicial review. Whenever a compromise is made by the [department] COMMISSIONER of any such liability, there shall be placed on file in the office of the commissioner the opinion of the commissioner or a deputy commissioner, with reasons therefor, with a statement of: (i) the amount of [excise or nonproperty] tax [or annual vault charge] and any other issues that may be the subject of such compromise, (ii) the amount of interest, additions to the tax or penalty imposed by law on the taxpayer or other persons against whom the administrative action was taken by the [department] COMMISSIONER, and (iii) the amount actually paid in accordance with the terms of the compromise. Notwithstanding the preceding sentence, no such opinion shall be required with respect to the compromise of any civil liability in which the unpaid amount of the [excise or nonproperty] tax [or annual vault charge] that was the subject of the administrative action (including any interest, additions to tax, or penalty) is less than [twenty-five] FIFTY thousand dollars.

S 2. This act shall take effect immediately.