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

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I N S E N A T E

February 24, 2015

Introduced by Sens. DeFRANCISCO, BOYLE, FARLEY, SAMPSON -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading -- again amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the tax law, in relation to procedures involving taxpayer interviews

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

Section 1. Paragraph 2 of subdivision (b) of section 3006 of the tax law, as added by chapter 770 of the laws of 1992, is amended to read as follows:

(2) Right of consultation. If the taxpayer clearly states to an officer or employee of the division of taxation at any time during the interview (other than an interview initiated by a subpoena to examine and inspect witnesses or books, records or other papers) that the taxpayer wishes to consult with an attorney, certified public accountant, ENROLLED AGENT, or any other person permitted to represent the taxpayer, such officer or employee shall suspend such interview regardless of whether the taxpayer may have answered one or more questions.

S 2. Subdivision (c) of section 3006 of the tax law, as added by chapter 770 of the laws of 1992, is amended to read as follows:

(c) Representatives holding power of attorney. (1) COMMUNICATION WITH THE TAXPAYER. IF A TAXPAYER HAS A POWER OF ATTORNEY FILED WITH THE DEPARTMENT, AN OFFICER OR EMPLOYEE OF THE DEPARTMENT MAY NOT COMMUNICATE WITH THE TAXPAYER IN CONNECTION WITH THE COLLECTION OF ANY UNPAID TAX, OTHER THAN IN WRITING WITH A COPY TO THE HOLDER OF THE POWER OF ATTORNEY OR AFTER THE EXPRESS PERMISSION OF A COURT OF COMPETENT JURISDICTION HAS BEEN GIVEN DIRECTLY TO THE DEPARTMENT. IF AN OFFICER OR AN EMPLOYEE

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

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KNOWS THE TAXPAYER IS REPRESENTED BY ANY PERSON AUTHORIZED TO PRACTICE BEFORE THE INTERNAL REVENUE SERVICE WITH RESPECT TO SUCH UNPAID TAX AND HAS KNOWLEDGE OF, OR CAN READILY ASCERTAIN, SUCH PERSON'S NAME AND ADDRESS, THAT OFFICER OR EMPLOYEE IS PROHIBITED FROM DIRECT COMMUNICATION WITH THE TAXPAYER UNLESS SUCH REPRESENTATIVE FAILS TO RESPOND TO COMMUNICATION FROM THE OFFICER OR EMPLOYEE WITHIN A REASONABLE PERIOD OF TIME OR UNLESS SUCH PERSON CONSENTS TO DIRECT COMMUNICATION WITH THE TAXPAYER.

(2) REPRESENTATION OF TAXPAYER. Any attorney, certified public accountant, an enrolled agent, or any other person permitted to represent the taxpayer who is not disbarred or suspended from practice and who has a written power of attorney executed by the taxpayer, may be authorized by such taxpayer to represent the taxpayer in any interview described in subdivision (a) of this section. An officer or employee of the division may not require a taxpayer to accompany the representative in the absence of a subpoena to examine and inspect the taxpayer or the taxpayer's books, records or other papers. [Such] IF THE REPRESENTATIVE FAILS TO RESPOND TO COMMUNICATIONS WITHIN A REASONABLE PERIOD OF TIME, SUCH an officer or employee, UPON NOTICE TO THE REPRESENTATIVE, AND with the consent of the immediate supervisor of such officer or employee, may notify the taxpayer directly that such officer or employee believes such representative is responsible for unreasonable delay or hindrance of a division of taxation examination or investigation of the taxpayer.

S 3. This act shall take effect immediately.