

STATE OF NEW YORK

3836

2019-2020 Regular Sessions

IN SENATE

February 19, 2019

Introduced by Sen. KRUEGER -- 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 the enforcement of delinquent tax liabilities by means of the suspension of licenses to operate a motor vehicle

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivisions 1, 3 and 5 of section 171-v of the tax law, as
2 added by section 1 of part P of chapter 59 of the laws of 2013, are
3 amended to read as follows:

4 (1) The commissioner shall enter into a written agreement with the
5 commissioner of motor vehicles, which shall set forth the procedures for
6 the two departments to cooperate in a program to improve tax collection
7 through the suspension of drivers' licenses of taxpayers with past-due
8 tax liabilities equal to or in excess of ten thousand dollars multiplied
9 by the applicable inflation adjustment. For the purposes of this
10 section, the term "tax liabilities" shall mean any tax, surcharge, or
11 fee administered by the commissioner, or any penalty or interest due on
12 these amounts owed by an individual with a New York driver's license,
13 the term "driver's license" means any license issued by the department
14 of motor vehicles, except for a commercial driver's license as defined
15 in section five hundred one-a of the vehicle and traffic law, and the
16 term "past-due tax liabilities" means any tax liability or liabilities
17 which have become fixed and final such that the taxpayer no longer has
18 any right to administrative or judicial review, and the "applicable
19 inflation adjustment" for a calendar year shall be determined under the
20 principles of section 7345(f) of the Internal Revenue Code of 1986,
21 using the calendar year of the effective date of the chapter of the laws
22 of two thousand nineteen which amended this subdivision as the base
23 period. The ten thousand dollar limitation in this subdivision shall not

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

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1 apply to a taxpayer that the commissioner determines has taken affirma-
2 tive steps to evade or avoid the collection of tax, such as by hiding
3 assets.

4 (3) The department shall provide notice to the taxpayer of his or her
5 inclusion in the license suspension program no later than sixty days
6 prior to the date the department intends to inform the commissioner of
7 motor vehicles of the taxpayer's inclusion. However, no such notice
8 shall be issued to a taxpayer: (i) whose wages are being garnished by
9 the department for the payment of past-due tax liabilities or past-due
10 child support or combined child and spousal support arrears; (ii) who
11 receives public assistance or supplemental security income; or (iii)
12 whose income does not exceed two hundred fifty percent of the poverty
13 level as reported by the federal Department of Health and Human Services
14 or any successor agency. Notice shall be provided by first class mail to
15 the taxpayer's last known address as such address appears in the elec-
16 tronic systems or records of the department. Such notice shall include:

17 (a) a clear statement of the past-due tax liabilities along with a
18 statement that the department shall provide to the department of motor
19 vehicles the taxpayer's name, social security number and any other iden-
20 tifying information necessary for the purpose of suspending his or her
21 driver's license pursuant to this section and subdivision four-f of
22 section five hundred ten of the vehicle and traffic law sixty days after
23 the mailing or sending of such notice to the taxpayer;

24 (b) a statement that the taxpayer may avoid suspension of his or her
25 license by fully satisfying the past-due tax liabilities ~~[or]~~ by making
26 payment arrangements satisfactory to the commissioner, ~~[and information~~
27 ~~as to how]~~ by demonstrating any of the grounds for challenge set forth
28 in subdivision five of this section, or by presenting facts to the
29 commissioner resulting in the commissioner waiving suspension of his or
30 her license based on the equities of the case. Such statement shall
31 include information regarding all of the agency's programs through which
32 the taxpayer can pay the past-due tax liabilities to the department,
33 enter into a payment arrangement or request additional information need-
34 ed to challenge the suspension under subdivision five of this section or
35 demonstrate the equities of the case;

36 (c) a statement that the taxpayer's right to protest the notice is
37 limited to raising issues set forth in subdivision five of this section;

38 (d) a statement that the suspension of the taxpayer's driver's license
39 shall continue until the past-due tax liabilities are fully paid or the
40 taxpayer makes payment arrangements satisfactory to the commissioner;
41 and

42 (e) any other information that the commissioner deems necessary.

43 (5) Notwithstanding any other provision of law, and except as specif-
44 ically provided herein, the taxpayer shall have no right to commence a
45 court action or proceeding or to any other legal recourse against the
46 department or the department of motor vehicles regarding a notice issued
47 by the department pursuant to this section and the referral by the
48 department of any taxpayer with past-due tax liabilities to the depart-
49 ment of motor vehicles pursuant to this section for the purpose of
50 suspending the taxpayer's driver's license. A taxpayer may only chal-
51 lenge such suspension or referral on the grounds that (i) the individual
52 to whom the notice was provided is not the taxpayer at issue; (ii) the
53 past-due tax liabilities were satisfied; (iii) the taxpayer's wages are
54 being garnished by the department for the payment of the past-due tax
55 liabilities at issue or for past-due child support or combined child and
56 spousal support arrears; (iv) the taxpayer's wages are being garnished

1 for the payment of past-due child support or combined child and spousal
2 support arrears pursuant to an income execution issued pursuant to
3 section five thousand two hundred forty-one of the civil practice law
4 and rules; (v) the taxpayer's driver's license is a commercial driver's
5 license as defined in section five hundred one-a of the vehicle and
6 traffic law; ~~or~~ (vi) the department incorrectly found that the taxpayer
7 has failed to comply with the terms of a payment arrangement made
8 with the commissioner more than once within a twelve month period for
9 the purposes of subdivision three of this section; (vii) the taxpayer
10 receives public assistance or supplemental security income; (viii) the
11 taxpayer's income does not exceed two hundred fifty percent of the
12 poverty level as reported by the federal Department of Health and Human
13 Services or any successor agency; or (ix) payment of the past due tax
14 liabilities will create a hardship for the taxpayer in meeting necessary
15 living expenses.

16 However, nothing in this subdivision is intended to limit a taxpayer
17 from seeking relief pursuant to an offer in compromise pursuant to
18 subdivision fifteenth of section one hundred seventy-one of this article
19 or from joint and several liability pursuant to section six hundred
20 fifty-four of this chapter, to the extent that he or she is eligible
21 pursuant to ~~[that subdivision]~~ such section, or establishing to the
22 department that the enforcement of the underlying tax liabilities has
23 been stayed by the filing of a petition pursuant to the Bankruptcy Code
24 of 1978 (Title Eleven of the United States Code).

25 § 2. The commissioner of taxation and finance is authorized and
26 directed to promulgate any rules and regulations necessary to implement
27 the provisions of this act in accordance with the provisions of the
28 state administrative procedure act.

29 § 3. This act shall take effect on the first of April next succeeding
30 the date on which it shall have become a law.