STATE OF NEW YORK

7695

IN SENATE

February 7, 2020

Introduced by Sen. KRUEGER -- read twice and ordered printed, and when printed to be committed to the Committee on Cities

AN ACT to amend the administrative code of the city of New York, in relation to authorizing the independent budget office of the city of New York to obtain certain tax data for purposes of evaluation

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

Section 1. Subdivision 1 of section 11-538 of the administrative code of the city of New York, as amended by chapter 808 of the laws of 1992, is amended to read as follows:

1. Except in accordance with proper judicial order or as otherwise provided by law, it shall be unlawful for the commissioner of finance, the department of finance of the city, any officer or employee of the department of finance of the city, any person engaged or retained by such department on an independent contract basis, any depository to which any return may be delivered as provided in subdivision four of this section, any officer or employee of such depository, the tax appeals tribunal, any commissioner or employee of such tribunal, or any person who, pursuant to this section, is permitted to inspect any report or return or to whom a copy, an abstract or a portion of any report or return is furnished, or to whom any information contained in any report or return is furnished, to divulge or make known in any manner the amount of income or any particulars set forth or disclosed in any report or return required under this chapter. The officers charged with the custody of such reports and returns shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the city in an action or proceeding under the provisions of this chapter or in any other action or proceeding involving the collection of a tax due under this chapter to which the city is a party or a claimant, or on behalf of any party to any action or proceeding under the provisions of this chapter when the reports, returns or facts shown thereby are directly involved in such action or proceeding, in any of which events the court may require the production of, and may admit in evidence, so much of said reports,

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

LBD15118-01-0

returns or of the facts shown thereby, as are pertinent to the action or proceeding and no more. Nothing herein shall be construed to prohibit the delivery to a taxpayer or to the taxpayer's duly authorized representative of a certified copy of any return or report filed in connection with his or her tax or to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof, or the inspection by the corporation counsel or other legal representatives of the city of the report or return of any taxpayer who shall bring action to set aside or review the tax based thereon, or against whom an action or proceeding under this chapter has been recommended by the commissioner of finance or the corporation counsel or has been instituted, or the inspection of the reports or returns required under this chapter by the duly designated officers or employees of the city for purposes of an audit under this chapter or an audit authorized by the enacting of this chapter**, or the inspection of the reports or returns of any taxpayer by the independent budget office of the city of New York, or the entity designated to be the evaluator pursuant to section 11-2901 of this title, for purposes of a tax expenditure evaluation authorized by such section**. Reports and returns shall be preserved for three years and thereafter until the commissioner of finance orders them to be destroyed.

§ 2. Subdivision 1 of section 11-688 of the administrative code of the city of New York, as amended by chapter 808 of the laws of 1992, is amended to read as follows:

1. Except in accordance with proper judicial order or as otherwise provided by law, it shall be unlawful for the commissioner of finance, the department of finance of the city, any officer or employee of the department of finance of the city, the tax appeals tribunal, any commissioner or employee of such tribunal, any person who, pursuant to this section, is permitted to inspect any report or return, or to whom any information contained in any report or return is furnished, any person engaged or retained by such department on an independent contract basis, or any person who in any manner may acquire knowledge of the contents of a report filed pursuant to this chapter, to divulge or make known in any manner the amount of income or any particulars set forth or disclosed in any report or return, under this chapter. The officers charged with the custody of such reports and returns shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the city in an action or proceeding involving the collection of a tax due under this chapter to which the city is a party or a claimant, or on behalf of any party to any action or proceeding under the provisions of this chapter when the reports, returns or facts shown thereby are directly involved in such action or proceeding, in any of which events the court may require the production of, and may admit in evidence, so much of said reports or returns or of facts shown thereby as are pertinent to the action or proceeding, and no more. Nothing herein shall be construed to prohibit the delivery to a taxpayer or its duly authorized representative of a copy of any report filed by it, nor to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof, or the inspection by the corporation counsel or other legal representatives of the city of the report or return of any taxpayer which shall bring action to set aside or review the tax based thereon, or against which an action or proceeding under this chapter or under any local law of the city imposed as authorized by the act authorizing the adoption of this chapter has been

recommended by the commissioner of finance or the corporation counsel or has been instituted, or the inspection of the reports or returns of any taxpayer by the duly designated officers or employees of the city for purposes of an audit under this chapter or an audit authorized by the act authorizing the adoption of this chapter**, or the inspection of the reports or returns of any taxpayer by the independent budget office of the city of New York, or the entity designated to be the evaluator pursuant to section 11-2901 of this title, for purposes of a tax expenditure evaluation authorized by such section**; and nothing in this subchapter or chapter eleven of this title shall be construed to prohibit the publication of the issuer's allocation percentage, as defined in subparagraph one of paragraph (b) of subdivision three of section 11-604 of this chapter, of any corporation which may be required to be allocated within the city for purposes of the tax imposed by any of the named subchapters or chapter eleven of this title.

§ 3. Subdivision a of section 11-1116 of the administrative code of the city of New York, as amended by chapter 808 of the laws of 1992, is amended to read as follows:

a. Except in accordance with proper judicial order or as otherwise provided by law, it shall be unlawful for the commissioner of finance, the tax appeals tribunal, or any officer or employee of the department of finance or the tax appeals tribunal to divulge or make known in any manner, the receipts or any other information relating to the business of a taxpayer contained in any return required under this chapter. The officers charged with the custody of such returns shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the city or the commissioner of finance, or on behalf of any party to any action or proceeding under the provisions of this chapter when the returns or facts shown thereby are directly involved in such action or proceeding, in either of which events, the court may require the production of, and may admit in evidence, so much of said returns or of the facts shown thereby, as are pertinent to the action or proceeding and no more. Nothing herein shall be construed to prohibit the delivery to a taxpayer or his or her duly authorized representative of a certified copy of any return filed in connection with his or her tax, nor to prohibit the publication of statistics so classified as to prevent the identification of particular returns and the items thereof, or the inspection by the corporation counsel of the city or other legal representatives of such city of the return of any taxpayer who shall bring action or proceeding to set aside or review the tax based thereon, or against whom an action or proceeding has been instituted or is contemplated for the collection of a tax, penalty or interest**, or the inspection of the reports or returns of any taxpayer by the independent budget office of the city of New York, or the entity designated to be the evaluator pursuant to section 11-2901 of this title, for purposes of a tax expenditure evaluation authorized by such section**. Returns shall be preserved for three years and thereafter until the commissioner of finance permits them to be destroyed.

§ 4. This act shall take effect immediately.