

STATE OF NEW YORK

5885

2023-2024 Regular Sessions

IN ASSEMBLY

March 23, 2023

Introduced by M. of A. WEINSTEIN, TAYLOR, EPSTEIN -- read once and referred to the Committee on Ways and Means

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,
2 subdivision 1 as added by section 1 of part P of chapter 59 of the laws
3 of 2013, and subdivisions 3 and 5 as amended by section 1 of part EEE of
4 chapter 59 of the laws of 2019, are amended to read as follows:

5 (1) The commissioner shall enter into a written agreement with the
6 commissioner of motor vehicles, which shall set forth the procedures for
7 the two departments to cooperate in a program to improve tax collection
8 through the suspension of drivers' licenses of taxpayers with past-due
9 tax liabilities equal to or in excess of ten thousand dollars multiplied
10 by the applicable inflation adjustment. For the purposes of this
11 section, the term "tax liabilities" shall mean any tax, surcharge, or
12 fee administered by the commissioner, or any penalty or interest due on
13 these amounts owed by an individual with a New York driver's license,
14 the term "driver's license" means any license issued by the department
15 of motor vehicles, except for a commercial driver's license as defined
16 in section five hundred one-a of the vehicle and traffic law, and the
17 term "past-due tax liabilities" means any tax liability or liabilities
18 which have become fixed and final such that the taxpayer no longer has
19 any right to administrative or judicial review, and the "applicable
20 inflation adjustment" for a calendar year shall be determined under the
21 principles of section 7345(f) of the Internal Revenue Code of 1986,
22 using the calendar year of the effective date of the chapter of the laws
23 of two thousand twenty-three which amended this subdivision as the base
24 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
15 to the taxpayer's last known address as such address appears in the
16 electronic systems or records of the department. Such notice shall
17 include:

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

25 (b) a statement that the taxpayer may avoid suspension of his or her
26 license by fully satisfying the past-due tax liabilities, by making
27 payment arrangements satisfactory to the commissioner, or by demonstrat-
28 ing any of the grounds for challenge set forth in subdivision five of
29 this section, or by presenting facts to the commissioner resulting in
30 the commissioner waiving suspension of his or her license based on the
31 equities of the case. Such statement shall include information regarding
32 programs through which the taxpayer can pay the past-due tax liabilities
33 to the department, enter into a payment arrangement or request addi-
34 tional information needed to challenge the suspension under subdivision
35 five of this section or 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; (vi) the department incorrectly found that the taxpayer has
7 failed to comply with the terms of a payment arrangement made with the
8 commissioner more than once within a twelve month period for the
9 purposes of subdivision three of this section; (vii) the taxpayer
10 receives public assistance or supplemental security income; ~~or~~ (viii)
11 ~~[the taxpayer demonstrates that suspension of the taxpayer's driver's~~
12 ~~license will cause the taxpayer undue economic hardship]~~ the taxpayer's
13 income does not exceed two hundred fifty percent of the poverty level as
14 reported by the federal Department of Health and Human Services or any
15 successor agency; or (ix) payment of the past-due tax liabilities will
16 create a hardship for the taxpayer in meeting necessary living expenses.

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

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

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