STATE OF NEW YORK

556

2023-2024 Regular Sessions

IN SENATE

January 5, 2023

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

AN ACT to amend the state finance law, in relation to the liability of a person who makes or uses a false record or statement material to an obligation to pay money to the state or a local government under the tax law, or who conceals or improperly avoids or decreases an obligation to pay money to the state or a local government under the tax law

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

Section 1. Section 189 of the state finance law is amended by adding a new subdivision 1-a to read as follows:

1-a. Any person who, in accordance with the criteria set forth in subdivision four of this section:

(a) makes, uses, or causes to be made or used, a false record or statement material to their own obligation to pay money to the state or a local government under the tax law, or an obligation of a subsidiary, partnership, corporation or entity that they control; or

(b) conceals or improperly avoids or decreases their own obligation to pay money to the state or a local government under the tax law, or an obligation of a subsidiary, partnership, corporation or entity that they control; shall be liable for damages, including consequential damages, which the state or local government sustains because of the act of that person. For purposes of this section, consequential damages includes interest owed pursuant to the tax law.

§ 2. Paragraph (b) of subdivision 3 of section 188 of the state finance law, as amended by chapter 379 of the laws of 2010, is amended to read as follows:

(b) require no proof of specific intent to defraud, provided, however that acts occurring by mistake or as a result of mere negligence are not covered by this [~~article~~] **definition**.

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

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§ 3. Paragraph (a) of subdivision 4 of section 189 of the state finance law, as amended by section 8 of part A of chapter 56 of the laws of 2013, is amended to read as follows:

(a) This section shall apply to claims, records, [~~or~~] statements **or obligations** made under the tax law only if (i) the net income or sales of the person against whom the action is brought equals or exceeds one million dollars for any taxable year subject to any action brought pursuant to this article; (ii) the damages pleaded in such action exceed three hundred and fifty thousand dollars; and (iii) the person is alleged to have violated paragraph (a), (b), (c), (d), (e), (f) or (g) of subdivision one of this section; provided, however, that nothing in this subparagraph shall be deemed to modify or restrict the application of such paragraphs to any act alleged that relates to a violation of the tax law.

§ 4. This act shall take effect immediately and shall apply to all false claims, records, statements and obligations concealed, avoided or decreased on, prior to, or after such effective date.