

# STATE OF NEW YORK

8355

## IN SENATE

January 22, 2024

Introduced by Sen. SEPULVEDA -- read twice and ordered printed, and when printed to be committed to the Committee on Budget and Revenue

AN ACT to amend the tax law, in relation to making technical changes relating to the rescindment of certificates of authority

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

1 Section 1. Subparagraph (A) of paragraph 4 of subdivision (a) of  
2 section 1134 of the tax law, as amended by section 2 of part P of chap-  
3 ter 59 of the laws of 2021, is amended to read as follows:

4 (A) Where a person who holds a certificate of authority, and with  
5 respect to only the person's obligation to pay taxes, (i) willfully  
6 fails to file a report or return required by this article, (ii) willful-  
7 ly files, causes to be filed, gives or causes to be given a report,  
8 return, certificate or affidavit required under this article which is  
9 false, (iii) willfully fails to comply with the provisions of paragraph  
10 two or three of subdivision (e) of section eleven hundred thirty-seven  
11 of this article, (iv) willfully fails to prepay, collect, truthfully  
12 account for or pay over any tax imposed under this article or pursuant  
13 to the authority of article twenty-nine of this chapter, (v) fails to  
14 obtain a bond pursuant to paragraph two of subdivision (e) of section  
15 eleven hundred thirty-seven of this part, or fails to comply with a  
16 notice issued by the commissioner pursuant to paragraph three of such  
17 subdivision, (vi) has been convicted of a crime provided for in this  
18 chapter, (vii) where such person, or any person affiliated with such  
19 person as such term is defined in subdivision twenty-one of section four  
20 hundred seventy of this chapter, has had a retail dealer registration  
21 issued pursuant to section four hundred eighty-a of this chapter revoked  
22 pursuant to subparagraph (iii) of paragraph (a) of subdivision four of  
23 such section four hundred eighty-a, or (viii) has not obtained a valid  
24 retail dealer registration under section four hundred eighty-a of this  
25 chapter and such person possesses or sells unstamped or unlawfully  
26 stamped packages of cigarettes three or more times within a period of  
27 five years, the commissioner may revoke or suspend such certificate of  
28 authority and all duplicates thereof. Provided, however, that the

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

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1 commissioner may revoke or suspend a certificate of authority based on  
2 (a) the grounds set forth in clause (vi) of this subparagraph only where  
3 the conviction referred to occurred not more than one year prior to the  
4 date of revocation or suspension; and provided further that where the  
5 commissioner revokes or suspends a certificate of authority based on the  
6 grounds set forth in clause (vii) of this subparagraph, such suspension  
7 or revocation shall continue for as long as the revocation of the retail  
8 dealer registration pursuant to section four hundred eighty-a of this  
9 chapter remains in effect, or (b) the grounds set forth in clause (viii)  
10 of this subparagraph, such suspension or revocation shall be for a peri-  
11 od of five years.

12 § 2. Subparagraph (A) of paragraph 4 of subdivision (a) of section  
13 1134 of the tax law, as amended by section 2-a of part P of chapter 59  
14 of the laws of 2021, is amended to read as follows:

15 (A) Where a person who holds a certificate of authority, and with  
16 respect to only the person's obligation to pay taxes, (i) willfully  
17 fails to file a report or return required by this article, (ii) willful-  
18 ly files, causes to be filed, gives or causes to be given a report,  
19 return, certificate or affidavit required under this article which is  
20 false, (iii) willfully fails to comply with the provisions of paragraph  
21 two or three of subdivision (e) of section eleven hundred thirty-seven  
22 of this article, (iv) willfully fails to prepay, collect, truthfully  
23 account for or pay over any tax imposed under this article or pursuant  
24 to the authority of article twenty-nine of this chapter, (v) has been  
25 convicted of a crime provided for in this chapter, (vi) where such  
26 person, or any person affiliated with such person as such term is  
27 defined in subdivision twenty-one of section four hundred seventy of  
28 this chapter, has had a retail dealer registration issued pursuant to  
29 section four hundred eighty-a of this chapter suspended or revoked  
30 pursuant to subparagraph (iii) of paragraph (a) of subdivision four of  
31 such section four hundred eighty-a, or (vii) has not obtained a valid  
32 retail dealer registration under section four hundred eighty-a of this  
33 chapter and such person possesses or sells unstamped or unlawfully  
34 stamped packages of cigarettes three or more times within a period of  
35 five years, the commissioner may revoke or suspend such certificate of  
36 authority and all duplicates thereof. Provided, however, that the  
37 commissioner may revoke or suspend a certificate of authority based on  
38 (a) the grounds set forth in clause (v) of this subparagraph only where  
39 the conviction referred to occurred not more than one year prior to the  
40 date of revocation or suspension; and provided further that where the  
41 commissioner revokes or suspends a certificate of authority based on the  
42 grounds set forth in clause (vi) of this subparagraph, such suspension  
43 or revocation shall continue for as long as the revocation of the retail  
44 dealer registration pursuant to section four hundred eighty-a of this  
45 chapter remains in effect, or (b) the grounds set forth in clause (vii)  
46 of this subparagraph, such suspension or revocation shall be for a peri-  
47 od of five years.

48 § 3. This act shall take effect immediately and shall apply to any and  
49 all notices for rescindment issued on and after January 1, 2015;  
50 provided that the amendments to subparagraph (A) of paragraph 4 of  
51 subdivision (a) of section 1134 of the tax law made by section one of  
52 this act shall be subject to the expiration and reversion of such  
53 subparagraph pursuant to subdivision (e) of section 23 of part U of  
54 chapter 61 of the laws of 2011, as amended, when upon such date the  
55 provisions of section two of this act shall take effect.