

Memorandum in Support

NYSBA #7

May 6, 2011

S. 3946
A. 7238

By: Senator DeFrancisco
By: M. of A. Farrell
Senate Committee: Investigations and
Government Operations
Assembly Committee: Ways and Means
Effective Date: Immediately

AN ACT to amend the tax law, in relation to providing a limit on the time to collect tax liabilities.

LAW AND SECTIONS REFERRED TO: New section 174-b of the tax law.

THE NEW YORK STATE BAR ASSOCIATION **SUPPORTS THIS LEGISLATION**

This legislation, introduced at the request of the New York State Department of Taxation and Finance (“Department”), would amend the Tax Law to impose an end-date on the Department’s authority to collect an unpaid New York State tax liability. The end-date would be 20 (twenty) years after the first date the Department could file a warrant for collection (which generally occurs after the taxpayer has received a notice and demand for payment and the time allotted for payment or pursuant of other remedies has passed).

Based on the recommendation of the NYSBA’s Tax Section, we strongly endorse S3946 for the following reasons:

- S3946 would replace the current *unlimited collections period* with a 20 (twenty) year period. Twenty years is, we believe, more than enough time for the Department to collect a tax debt.
- The current law essentially imposes no limitations period on the Department’s authority to collect an unpaid tax debt. (The Department generally has three years to *assess* a tax, but once the tax has been assessed, the collection period is essentially unlimited).

- A collections period of a set number of years will benefit the Department and the State.
- Unpaid tax debts are most likely to be collected if they are collected quickly.
- Stale tax debts are an administrative burden on the Department, which must continue to maintain and administer the files.
- Stale tax debts are unlikely to be collected, and they may waste valuable resources that could be focused on collecting fresh, collectable tax debts.
- Prompt collection is more fair to taxpayers, who may not realize a debt is owed and who may be faced decades later with a tax bill that has ballooned over the years with penalties and interest.
- Delayed collection may result in taxpayers having disposed of records and other evidence that the tax was in fact paid or was never due.
- Overwhelming and insoluble tax debts may drive taxpayers to take evasion steps, such as working “off the books”, failing to file current tax returns, using an alias, or moving out of State. The State would be better off if these taxpayers were brought back into the New York State tax system and were compliant going forward.
- Stale tax debts are still recorded as receivables in the Department’s financial account, even though they are of doubtful collectability, which distorts the State’s revenue picture.
- As a comparison, the Federal collections period is limited to 10 (ten) years.

Based on the forgoing, the New York State Bar Association SUPPORTS this legislation.