

Memorandum in Support

NYSBA #39

June 14, 2018

A. 9596-A

By: M. of A. Weinstein
Assembly Committee: Ways and Means
Effective Date: First day of April next succeeding
the date on which it shall have
become a law

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

The bill would amend Tax Law Section 171-v, which provides the New York State Department of Taxation and Finance (the “Department”) an enforcement tool for collection of delinquent New York State tax liabilities by authorizing the suspension of a tax debtor’s driver’s license if arrangements are not made by the tax debtor to pay the delinquent taxes. Under current law, any individual whose tax liability (inclusive of interest and penalties) is \$10,000 or greater is subject to revocation of his or her driver’s license, regardless of the financial condition of the taxpayer. There is no hardship exemption.

The New York State Bar Association’s Tax Section analyzed the law to determine whether it (a) satisfied federal or New York State constitutional provisions, (b) was in conflict with longstanding federal and New York State protections to debtors, and (c) should include a hardship exemption.

The Association’s Tax Section concluded that the driver’s license suspension law is in conflict with longstanding debtor protection laws when applied to taxpayers who will experience financial hardship if required to enter into a payment agreement with the Department for the payment of their tax debts. For example, some tax debtors may have so little income or assets that they are not financially able to enter into an installment payment agreement or an Offer in Compromise to pay their tax liabilities without compromising their ability to pay basic living expenses. Nonetheless, the program can be used to force payments of tax debt from an indigent individual under threat of loss of his or her driver’s license even though there are laws in place that would protect that individual from any direct tax levy on income and assets.

Based on the work of our Tax Section, the State Bar Association has recommended that the law be amended (1) to include a hardship exemption; (2) to increase the threshold amount of tax debt (plus interest and penalties) that triggers application of the law; (3) to apply the law to any tax debtor, regardless of the amount of tax debt owed, if the tax debtor has engaged in egregious conduct to avoid collection, such as by hiding assets; and (4) to give more discretion to the Department of Taxation and Finance to waive license suspension based on the equities of a particular case. This bill would accomplish those objectives.

Based on the foregoing analysis the New York State Bar Association **SUPPORTS** this legislation, which is based on a proposal by the Association’s Tax Section.