

PART X

15 Section 1. Subdivision 1 of section 1131 of the tax law, as amended by  
16 chapter 576 of the laws of 1994, is amended to read as follows:

17 (1) "Persons required to collect tax" or "person required to collect  
18 any tax imposed by this article" shall include: every vendor of tangible  
19 personal property or services; every recipient of amusement charges; and  
20 every operator of a hotel. Said terms shall also include any officer,  
21 director or employee of a corporation or of a dissolved corporation, any  
22 employee of a partnership, any employee or manager of a limited liabil-  
23 ity company, or any employee of an individual proprietorship who as such  
24 officer, director, employee or manager is under a duty to act for such  
25 corporation, partnership, limited liability company or individual  
26 proprietorship in complying with any requirement of this article, or has  
27 so acted; and any member of a partnership or limited liability company.  
28 Provided, however, that any person who is a vendor solely by reason of  
29 clause (D) or (E) of subparagraph (i) of paragraph (8) of subdivision  
30 (b) of section eleven hundred one of this article shall not be a "person  
31 required to collect any tax imposed by this article" until twenty days  
32 after the date by which such person is required to file a certificate of  
33 registration pursuant to section eleven hundred thirty-four of this  
34 part.

35 § 2. Subdivision (a) of section 1133 of the tax law, as amended by  
36 chapter 621 of the laws of 1967, is amended to read as follows:

37 (a) (1). Except as otherwise provided in paragraph two of this subdivi-  
38 sion and in section eleven hundred thirty-seven of this part, every  
39 person required to collect any tax imposed by this article shall be  
40 personally liable for the tax imposed, collected or required to be  
41 collected under this article. Any such person shall have the same right  
42 in respect to collecting the tax from his customer or in respect to  
43 nonpayment of the tax by the customer as if the tax were a part of the  
44 purchase price of the property or service, amusement charge or rent, as  
45 the case may be, and payable at the same time; provided, however, that  
46 the tax commission shall be joined as a party in any action or proceed-  
47 ing brought to collect the tax.

48 (2) Notwithstanding any other provision of this article: (i) The  
49 commissioner shall grant the relief described in subparagraph (iii) of  
50 this paragraph to a limited partner of a limited partnership (but not a  
51 partner of a limited liability partnership) or a member of a limited  
52 liability company if such limited partner or member demonstrates to the  
53 satisfaction of the commissioner that such limited partner's or member's  
54 ownership interest and the percentage of the distributive share of the

Page 1/2

1 profits and losses of such limited partnership or limited liability  
 2 company are each less than fifty percent, and such limited partner or  
 3 member was not under a duty to act for such limited partnership or  
 4 limited liability company in complying with any requirement of this  
 5 article. Provided, however, the commissioner may deny an application for  
 6 relief to any such limited partner or member who the commissioner finds  
 7 has acted on behalf of such limited partnership or limited liability  
 8 company in complying with any requirement of this article or has been  
 9 convicted of a crime provided in this chapter or who has a past-due  
 10 liability, as such term is defined in section one hundred seventy-one-v  
 11 of this chapter.

12 (ii) Such limited partner or member must submit an application for  
 13 relief, on a form prescribed by the commissioner, and the information  
 14 provided in such application must be true and complete in all material  
 15 respects. Providing materially false or fraudulent information on such  
 16 application shall disqualify such limited partner or member for the  
 17 relief described in subparagraph (iii) of this paragraph, shall void any  
 18 agreement with the commissioner with respect to such relief, and shall  
 19 result in such limited partner or member bearing strict liability for  
 20 the total amount of tax, interest and penalty owed by their respective  
 21 limited partnership or limited liability company pursuant to this subdi-  
 22 vision.

23 (iii) A limited partner of a limited partnership or member of a limit-  
 24 ed liability company, who meets the requirements set forth in this para-  
 25 graph and whose application for relief is approved by the commissioner,  
 26 shall be liable for the percentage of the original sales and use tax  
 27 liability of their respective limited partnership or limited liability  
 28 company that reflects such limited partner's or member's ownership  
 29 interest of distributive share of the profits and losses of such limited  
 30 partnership or limited liability company, whichever is higher. Such  
 31 original liability shall include any interest accrued thereon up to and  
 32 including the date of payment by such limited partner or member at the  
 33 underpayment rate set by the commissioner pursuant to section eleven  
 34 hundred forty-two of this part, and shall be reduced by the sum of any  
 35 payments made by (A) the limited partnership or limited liability compa-  
 36 ny; (B) any person required to collect tax not eligible for relief; and  
 37 (C) any person required to collect tax who was eligible for relief but  
 38 had not been approved for relief by the commissioner at the time such  
 39 payment was made. Provided, however, such limited partner or member  
 40 shall not be liable for any penalty owed by such limited partnership or  
 41 limited liability company or any other partner or member of such limited  
 42 partnership or limited liability company. Any payment made by a limited  
 43 partner or member pursuant to the provisions of this paragraph shall not  
 44 be credited against the liability of other limited partners or members  
 45 of their respective limited partnership or limited liability company who  
 46 are eligible for the same relief; provided, however that the sum of the  
 47 amounts owed by all of the persons required to collect tax of a limited  
 48 partnership or limited liability company shall not exceed the total  
 49 liability of such limited partnership or limited liability company.

50 § 3. This act shall take effect immediately.

- Application

Page 2/2

\* "Past Due Liability" - Section 171-V

any tax liability which have become  
 fixed & final such that the taxpayer  
 no longer has any rights to administrative  
 or judicial review.