



LAWSUIT REFORM ALLIANCE OF NEW YORK

OPPOSE

BILL NUMBER:	A.2506 (Weinstein)
SUBJECT:	Expansion of the False Claims Act related to Tax Issues
DATE:	February 9, 2021
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Summary:

This legislation expands the state's False Claims Act by eliminating the requirement that the false claim is done "knowingly," and creates a mechanism for Attorney General and third party lawsuits.

Why we oppose this legislation:

The Legislation Is Unnecessary

- The state's Department of Taxation and Finance already has a range of statutory remedies, including criminal fraud enforcement statutes, that allow the Department to both recover lost revenues and penalize fraudulent filings.

Creates Incentives for Abuse

- By opening up non-fraudulent tax filings to third party litigation, this bill would create a predatory cottage-industry of filing claims against large tax filers in order to fish for errors and/or coerce a settlement. Since the law requires no knowledge of wrongdoing, defending a case would be costly and difficult, thereby incentivizing opportunistic trial lawyers to file claims looking for a payout.

Violates other Provisions and Protections of Tax Law

- Taxpayers would lose the protections of the Taxpayer Bill of Rights and would be unable to fully utilize protections designed to put tax disputes before tax experts.
- Third party suits can be brought for ten years, while the Tax Department is required to assess underpayments within three years, raising serious constitutional concerns about due process.
- Due to this misalignment of statutory timelines, third party lawsuits could presumably be brought against taxpayers who have settled their audits with the Department of Taxation and Finance.

There is a Better Way

- Rather than open up our taxation system to the profit-seeking motives of third party attorneys, a far more straightforward approach would be something similar to the "whistleblower" statute employed by the Internal Revenue Service (IRC § 7623).

The Lawsuit Reform Alliance of New York is a not-for-profit association of businesses, healthcare professionals, membership organizations, and concerned citizens dedicated to reform of the legal system in order to foster a better business climate, promote job growth and address the growing cost of lawsuit abuse.