

# Long Island Business NEWS

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## LONG ISLAND IDAs: MYSTERIES UNRAVELED

MEET THE PLAYERS MAKING THE BIG DEALS HAPPEN ON LONG ISLAND

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*Photo by Bob Gigliane*

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## FINANCE

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# The taxman taketh

## State ramps up collections by suspending licenses

By CLAUDE SOLNIK

Don't pay your taxes? You'll lose your license.

Got your attention?

Have a problem paying your taxes due to economic hardship – such as medical bills or loss of job? Tough luck. Got your attention now?

After years of struggling to get taxpayers to pay delinquent tax bills, New York State has found the closest thing to a panacea for the state's problem: It's able to get people's attention and money by threatening and then taking away their driver's license.

Three years ago, on the heels of taking away licenses for failure to pay child support for many years, New York State began doing the same for those who owe at

least \$10,000 in taxes. The result has been a flood, if not an outright tidal wave, of payments as well as lawsuits and protests by those who claim hardship.

The state has since recovered more than \$420 million in taxes by sending letters threatening to revoke licenses in 60 days or actually revoking licenses, far outstripping estimates.

If the bill isn't paid, the Department of Motor Vehicles informs the taxpayer of the suspension, unless there are exceptions related to child support or commercial driver's licenses. There is no hardship exception.

"It's very effective," said Karen Tenenbaum, president of Tenenbaum Law, in Melville, which handles many of these cases. "We have helped taxpayers get some arrangement."

The New York State Bar Association's Tax Section, in a report on the state's driver license suspension program released in May, called license suspension a "potent tool to force taxpayers into payment arrangements to pay their tax debts."

It's also the latest way that revocation

of licenses is being used to get people to pay their bills, including threats of suspension for tickets and child support.

"Initially, it was used for child support. Now they're using it for other things," said Jennifer Ann Wynne, senior attorney at Tenenbaum. "Some people come in with a

powerful incentive to pay, taxpayers typically can get the suspension stopped when they pay or reach a payment plan.

Those typically include full payment; income executions in which taxpayers fork over up to 10 percent of their salary; or a lump sum settlement known as an "offer in compromise."

"If you can't get into some sort of collection alternative, if you're doing nothing, you won't get your license back," Wynne said. "They want the taxpayer to make some sort of effort."

The New York State Bar, however, in its study of the program, argues that there should be hardship exemptions for people facing financial problems who may see their life thrust into even greater chaos.

The bar argues that widows, the ill, elderly and others unable to pay may face consequences, since there is no exemption for hardship.

And it points to the state's hardship exemptions in the license suspension program for failure to pay child support.

"Some states, including New York,

**'THE CHILD SUPPORT LAWS HAVE PROVIDED A MODEL IN DETERMINING THE EFFECTIVENESS OF LICENSE SUSPENSION PROGRAMS TO COMPEL PAYMENT OF DEBTS.'**

notice, saying they have 60 days to take care of tax debt or be suspended. Others wait until after the fact."

While the threat of loss of license is a



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have determined that there should be a hardship exemption from the child-support license suspension laws if a debtor is unemployed or is a low-wage worker and is financially unable to pay the debt," according to the bar study.

The bar argues that the state should use child support, including hardship exemptions, as a basis for the tax collection policy.

"The child support laws have provided a model in determining the effectiveness of license suspension programs to compel payment of debts," according to the bar study. "The child-support laws include a hardship exemption for low-income individuals."

Even if people lose their license, they may apply for a restricted license, to travel only to and from work, school, medical appointments, the DMV and childcare related to employment or education.

The bar association study, however, indicates any taxpayer who drives while his or her license is suspended may face arrest and penalties, further compounding problems for those with hardships.

Some taxpayers are going to court, arguing hardship should provide an exception. A taxpayer last year who was notified he would lose his license due to \$70,000 in taxes owed challenged the rules in court on the grounds of hardship.

He in court documents said, "Medical bills and limited current income provide the basis to request a waiver of the suspension referral."

The taxpayer was denied his request for a nine-month extension to avoid the suspension, so he could find a job and make payment arrangements with the state.

The court said challenges to the suspension "do not include an extension of time, medical or financial hardship or limited current income."

New York isn't the only state to find it can collect taxes by threatening and taking away driver's (and other) licenses, although it has been among the most aggressive.

California's Franchise Tax Board at least twice annually publishes a list of the 500 biggest tax debtors owing more than \$100,000, far higher than New York's threshold.

The California Department of Motor Vehicles then suspends the driver's license of anyone on this list and may suspend business licenses, such as pharmacists'. These can be challenged, however, based on financial hardship.

In Louisiana, the Department of Motor Vehicles as of 2004 can suspend the driver's license of anyone owing at least \$1,000 excluding interest and penalties.

In Massachusetts, the Commissioner of Revenue may request that the Department of Motor Vehicles suspend a driver's license due to the delinquent taxes.

While the bar association worries the program may be too draconian, Gov. Andrew Cuomo has proposed expanding it to cover anyone who owes \$5,000 in back taxes and apply it to professional licenses, as well.

The bar said Cuomo is calling for "applicants for a professional or business license" to pay taxes or reach a deal to do so before the professional license is issued or renewed. These proposals haven't been signed into law.

While the states are going after licenses, the federal government now has the power to take passports if you don't pay taxes.

President Barack Obama last December

signed a law allowing the Department of State to revoke or deny the passport of anyone who has been certified by the Internal Revenue Service as owing at least \$50,000 in taxes when a federal tax lien or notice of levy has been issued.

Exceptions include taxpayers who reach installment plans or offers in compromise, with ongoing due process hearings or applications indicating that a person is an innocent spouse.

There is no hardship exception to passport revocation for those unable to make any form of payment.

Tenenbaum said the state isn't the only one benefiting from increased collections, resulting from the license suspensions. This more aggressive program is leading to more work for attorneys.

"There's a steady flow. The government helps do the marketing for me," she said. "When they do a driver's license suspension program, my phone rings. Everybody has to resolve their tax problems."

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Photo by Rick Wenner

**KAREN TENENBAUM** : New York State is going after driver's licenses to accelerate tax collections.

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