

Before the Joint Legislative Budget Hearing on Tax

**Senate Finance Committee
Liz Krueger, Chair**

**Assembly Ways and Means Committee
Helene E. Weinstein, Chair**

February 12, 2019

Testimony in Support of Amending New York Tax Law § 171-v

**Presented By Daria Schieferstein, Legal Intern
Lincoln Square Legal Services, Inc.
Poverty, Tax, and Justice Clinic
Low-Income Taxpayer Clinic**

Good afternoon Senator Krueger, Assemblywoman Weinstein, and distinguished members of the Senate Finance Committee and the Assembly Ways and Means Committee. My name is Daria Schieferstein and I am a law student with the Poverty, Tax, and Justice Clinic at Fordham Law School. It is my privilege to testify before you and to urge you to amend New York Tax Law § 171-v in the Legislature's Joint Budget.

Tax Law § 171-v is causing undue harm to our clients. For example, Sarah, a grandmother living on a fixed income, had her driver's license suspended by the New York State Department of Taxation and Finance ("Tax Department") because she owed more than \$10,000 in back taxes.¹ Before the suspension, Sarah cared for her grandchildren while her daughter worked—picking them up from school, taking them to the doctor, and after-school activities. Once her license was suspended, she was not able to care for her grandchildren in the same capacity, forcing her daughter to reduce her work schedule. This left an already struggling family with less money to live on.

¹ Names have been changed to preserve anonymity.

Tax Law § 171-v allows the Tax Department to suspend the driver's license of any person who owes \$10,000 or more in back taxes. We support adding a poverty exemption that will eliminate the hardships suffered by Sarah and others like her. Specifically, the amendments will exempt from driver's license suspension those New Yorkers who live at or below 250% of the federal poverty line, or who receive public assistance or supplemental security income. These amendments are supported by the Internal Revenue Code as the individuals it protects are generally exempt from federal tax collection under the Internal Revenue Service hardship guidelines.

Enacted in 2013, Tax Law § 171-v has helped the Tax Department to collect over \$750 million in past due taxes. We recognize the important state interest in tax collection and support fair and equitable consequences for deliberate failure to pay. Indeed, the amendments will enable the Tax Department to focus their resources on collecting from people who have the ability to pay.

In fact, the amendments strengthen the existing law by allowing the Tax Department to suspend the driver's licenses of any individual who has taken affirmative steps to evade or avoid the collection of tax, such as by hiding assets. Further, the exemptions do not forgive the tax debt of low-income individuals. They simply allow them to keep their driver's license, making it more likely that they will one day have the resources to pay their tax debt.

The lack of a poverty exemption in Tax Law § 171-v unfairly punishes low-income New Yorkers, who are willing, but unable, to pay their past due tax debt. Suspending the driver's licenses of low-income New Yorkers does not improve their ability to pay. Not only does it cause severe hardship, but it also prevents them from performing essential daily activities.

Without a driver's license, it is close to impossible to commute to work, bring your children to school, attend religious services, shop for groceries, or care for your loved ones.²

Like Sarah, low-income individuals throughout the state have had their lives turned upside-down as a result of Tax Law § 171-v. Consider the experiences of Michelle and Stan:

Michelle was a highly accomplished technology executive whose mental health deteriorated after witnessing the events of 9/11 at Ground Zero. Due to her condition, she lost the ability to maintain a sufficient income to meet her most basic living expenses. When the Tax Department threatened to suspend her license, Michelle had no choice but to use her social security income to enter into a monthly payment plan. While this income is statutorily exempt from collection,³ using it to pay her tax debt was the only way she could keep her license.

Stan is a low-income New Yorker whose livelihood has been threatened by license suspension. Stan worked as a taxi driver until his Class E driver's license was suspended.⁴ A restricted license only permits individuals to drive to work on pre-approved routes. Therefore, it is not a viable solution for taxi drivers and individuals working for companies such as Uber or Lyft, whose routes are determined by their customers' needs. Many of our clients who hold Class E licenses have lost their jobs because of Tax Law § 171-v.

While a restricted license may be available, its \$75 fee is cost prohibitive for many of our clients. A restricted license rarely provides an appropriate safety net for elderly, sick, and low-income New Yorkers who require frequent or unexpected visits to medical professionals or who need to drive to take care of their most basic needs. Further, it does not allow you to search for a

² Those caught driving on a suspended license in New York City are subject to custodial arrest. *See* New York Police Dep't, NYPD Patrol Guide § P.G. 208-53 (July 2013).

³ N.Y. CPLR § 5205(1)(2) (exempting from collection certain personal property, including supplemental security income and public assistance).

⁴ Commercial Driver's Licenses, which are exempt from suspension under Tax Law § 171-v, are required to drive vehicles weighing over 26,000 pounds or that carry more than fourteen passengers. Class E licenses are required to drive vehicles that carry up to fourteen people, including taxis, ride-sharing vehicles, and limousines.

job⁵ or drive anyone who does not live in your household anywhere.⁶ The restricted license was created to allow Driving While Intoxicated offenders to go to work while maintaining safety on public roadways. Clearly, this policy is inapplicable to tax debtors like Sarah, Michelle, and Stan.

The Tax Department does have one alternative collection program, an Offer in Compromise, whereby tax debtors can pay less than their total debt. However, information about the program is not readily available and the documentation required to qualify is burdensome and highly complicated. In our experience, low-income individuals are unable to navigate the Offer in Compromise program without representation.

As the amendments only protect low-income New Yorkers who are unable to pay their tax debt, they will have little or no effect on the state budget. It will, however, make a huge difference to the thousands of New Yorkers who are currently struggling to live without a driver's license, a necessity of modern life.⁷

⁵ Unemployed persons may not obtain a restricted license to search for a job. *See* N.Y. VEH. & TRAF. LAW § 530(3).

⁶ If you live in a separate household from your elderly parents a restricted license does not permit you to drive them to medical appointments, religious services, or the grocery store.

⁷ *See* Bell v. Burson, 402 U.S. 513 (1971).

We thank you for your time and hope that you will amend New York Tax Law § 171-v to include a poverty exemption for low-income New Yorkers.

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Submitted By:

Daria Schieferstein
Legal Intern
dschieferstein@lsls.fordham.edu

Elaina Aquila
Legal Intern
eaquila@lsls.fordham.edu

Gaby Kornblau
Legal Intern
gkornblau@lsls.fordham.edu

Rachel C. Smith
Legal Intern
rsmith134@lsls.fordham.edu

Sam Zuckerman
Legal Intern
szuckerman4@lsls.fordham.edu

Elizabeth B. Cooper
Supervising Attorney
ecooper@lsls.fordham.edu

Elizabeth Maresca
Supervising Attorney
emaresca@lsls.fordham.edu

Lincoln Square Legal Services, Inc.
Fordham Law School
150 West 62nd Street, Ninth Floor
New York, NY 10023
212-636-7353

