

# DISTRICT ATTORNEYS ASSOCIATION OF THE STATE OF NEW YORK



PRESIDENT  
DEREK P. CHAMPAGNE  
FRANKLIN COUNTY

June 20, 2011

PRESIDENT-ELECT  
JANET DIFIORE  
WESTCHESTER COUNTY

1st VICE PRESIDENT  
MICHAEL C. GREEN  
MONROE COUNTY

2nd VICE PRESIDENT  
KATHLEEN RICE  
NASSAU COUNTY

3rd VICE PRESIDENT  
THOMAS E. MORAN  
LIVINGSTON COUNTY

SECRETARY  
ADA EDWARD D. SASLAW  
QUEENS COUNTY

TREASURER  
ADA REBECCA WINER  
NASSAU COUNTY

BOARD OF DIRECTORS

CHAIRPERSON  
\*KATHLEEN HOGAN  
WARREN COUNTY

\*ROBERT T. JOHNSON  
BRONX COUNTY

GERALD F. MOLLEN  
BROOME COUNTY

JON E. BUDELMANN  
CAYUGA COUNTY

ANDREW J. WYLIE  
CLINTON COUNTY

FRANK A. SEDITA, III  
ERIE COUNTY

LARENCE FRIEDMAN  
GENESEE COUNTY

CINDY F. INTSCHERT  
JEFFERSON COUNTY

CHARLES J. HYNES\*  
KINGS COUNTY

CYRUS R. VANCE  
NEW YORK COUNTY

SCOTT MCNAMARA  
ONEIDA COUNTY

WILLIAM FITZPATRICK\*  
ONONDAGA COUNTY

R. MICHAEL TANTILLO  
ONTARIO COUNTY

ADAM B. LEVY  
PUTNAM COUNTY

FRANCIS D. PHILLIPS, II\*  
ORANGE COUNTY

RICHARD A. BROWN\*  
QUEENS COUNTY

RICHARD J. MCNALLY, JR.  
RENSSELAER COUNTY

DANIEL M. DONOVAN, JR.\*  
RICHMOND COUNTY

THOMAS P. ZUGIBE  
ROCKLAND COUNTY

NICOLE DUVE  
ST. LAWRENCE COUNTY

JAMES A. MURPHY, III\*  
SARATOGA COUNTY

ROBERT CARNEY\*  
SCHENECTADY COUNTY

BRIDGET G. BRENNAN  
SPECIAL NARCOTICS

JOHN TUNNEY\*  
STEBHEN COUNTY

THOMAS J. SPOTA, III  
SUFFOLK COUNTY

RICHARD M. HEALY  
WAYNE COUNTY

\* PAST PRESIDENT DAASNY

Honorable Dean G. Skelos  
Temporary President and Majority Leader  
Legislative Office Building, Room 909  
Albany, NY 12247

Honorable John L. Sampson  
Minority Leader  
188 State Street Room 907, Legislative Office Building  
Albany, NY 12247

Honorable Stephen M. Saland  
Chair of the Senate Codes Committee  
State Street Room 504 - Capitol  
Albany, NY 12247

Dear Senators Skelos, Sampson, and Saland:

I write as the President of the District Attorneys Association of the State of New York in support of S5776, A8247A (Golden, Lentol), an act to amend the criminal procedure law in relation to the prosecution of separate offenses based upon the same criminal act.

This bill represents a fiscally responsible, common sense solution in cases where independent and distinct federal and state charges are being brought against a single defendant who has committed tax crimes against New York in addition to the federal government.

The issue at hand emerged during the investigation into alleged tax crimes on the part of Leona Helmsley. Federal and state prosecutors realized that the defendant in that case had separately violated the laws of both jurisdictions by evading federal *and* state taxes. After the federal case went to court, state prosecutors presented their case, but the Appellate Division rejected the state prosecution on a narrow reading of our former jeopardy statute.

It goes against our system to allow an individual to evade responsibility for crimes committed against the people of the state of New York. After all, defendants are committing separate and distinct acts of evasion against two separate jurisdictions. The public fisc of New York should not suffer simply because the federal criminal justice system at times moves more quickly. This proposal, which is wholeheartedly endorsed by the District Attorneys Association of the State of New York, seeks to close the loophole created by case law.

Sincerely,

Derek P. Champagne  
President, District Attorneys Association of the State of New York  
District Attorney of Franklin County

cc: Honorable Martin J. Golden  
188 State Street Room 409, Legislative Office Building  
Albany, NY 12247

Honorable Joseph R. Lentol  
Legislative Office Building - 632  
Albany, NY 12248

Honorable Tom Libous  
429 Capitol  
Albany, NY 12247

Honorable John A. DeFrancisco  
416 Capitol  
Albany, NY 12247

Honorable John J. Flanagan  
Room 805 Legislative Office Building  
Albany, NY 12247

Honorable Michael F. Nozzolio  
188 State Street Room 412, Legislative Office Building  
Albany, NY 12247

Honorable George D. Maziarz  
Room 708, Legislative Office Building  
Albany, NY 12247

Honorable Patrick M. Gallivan  
947 Legislative Office Building  
Albany, NY 12247