

2989

2011-2012 Regular Sessions

I N   S E N A T E

February 4, 2011

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Introduced by Sen. MAZIARZ -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the tax law, in relation to providing a tax credit to farmers who purchase biodiesel fuel for the operation of their farm equipment

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Section 210 of the tax law is amended by adding a new  
2     subdivision 43 to read as follows:  
3     43. CREDIT FOR BIODIESEL FUEL USED IN FARMING EQUIPMENT. (A) ALLOW-  
4     ANCE OF CREDIT. A TAXPAYER THAT IS A BUSINESS PRINCIPALLY ENGAGED IN  
5     FARMING, AS SUCH TERM IS DEFINED IN PARAGRAPH NINETEEN OF SUBDIVISION  
6     (B) OF SECTION ELEVEN HUNDRED ONE OF THIS CHAPTER SHALL BE ALLOWED A  
7     CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE FOR THE PURCHASE OF  
8     BIODIESEL FUEL TO BE USED IN FARMING EQUIPMENT. SUCH CREDIT SHALL BE  
9     \$0.01 PER PERCENT OF BIODIESEL PER GALLON OF BIOHEAT, NOT TO EXCEED  
10    TWENTY CENTS PER GALLON, PURCHASED BY SUCH TAXPAYER.  
11    (B) FOR PURPOSES OF THIS SUBDIVISION, THE TERM "BIODIESEL" SHALL MEAN  
12    A FUEL COMPRISED EXCLUSIVELY OF MONOALKYL ESTERS OF LONG CHAIN FATTY  
13    ACIDS DERIVED FROM VEGETABLE OILS OR ANIMAL FATS, DESIGNATED B100, WHICH  
14    MEETS THE SPECIFICATIONS OF AMERICAN SOCIETY OF TESTING AND MATERIALS  
15    DESIGNATION D 6751.  
16    (C) APPLICATION OF CREDIT. IF THE AMOUNT OF THE CREDIT ALLOWED UNDER  
17    THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX  
18    FOR SUCH YEAR, THE EXCESS SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO  
19    BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE  
20    THOUSAND EIGHTY-SIX OF THIS CHAPTER, PROVIDED, HOWEVER, THAT NO INTEREST  
21    SHALL BE PAID ON SUCH REFUND, NOTWITHSTANDING THE PROVISIONS OF  
22    SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER.

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD08610-01-1

1 S 2. Section 606 of the tax law is amended by adding a new subsection  
2 (ss) to read as follows:

3 (SS) CREDIT FOR BIODIESEL FUEL USED IN FARMING EQUIPMENT. (1) ALLOW-  
4 ANCE OF CREDIT. A TAXPAYER WHOSE FEDERAL GROSS INCOME FROM FARMING FOR  
5 THE TAXABLE YEAR IS AT LEAST TWO-THIRDS OF EXCESS FEDERAL GROSS INCOME  
6 SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE FOR  
7 THE PURCHASE OF BIODIESEL FUEL TO BE USED IN FARMING EQUIPMENT. SUCH  
8 CREDIT SHALL BE \$0.01 PER PERCENT OF BIODIESEL PER GALLON OF BIOHEAT,  
9 NOT TO EXCEED TWENTY CENTS PER GALLON, PURCHASED BY SUCH TAXPAYER.

10 (2) APPLICATION OF CREDIT. IF THE AMOUNT OF THE CREDIT ALLOWED UNDER  
11 THIS SUBSECTION FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR  
12 SUCH YEAR, THE EXCESS SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE  
13 CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION SIX  
14 HUNDRED EIGHTY-SIX OF THIS ARTICLE, PROVIDED, HOWEVER, THAT NO INTEREST  
15 SHALL BE PAID THEREON.

16 S 3. This act shall take effect immediately.