

7344

I N S E N A T E

May 2, 2012

Introduced by Sen. ZELDIN -- 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 a beer production tax credit

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

1 Section 1. The tax law is amended by adding a new section 37 to read
2 as follows:

3 S 37. BEER PRODUCTION CREDIT. (A) GENERAL. A TAXPAYER SUBJECT TO TAX
4 UNDER ARTICLE NINE-A OR TWENTY-TWO OF THIS CHAPTER SHALL BE ALLOWED A
5 CREDIT AGAINST SUCH TAX PURSUANT TO THE PROVISIONS REFERENCED IN SUBDI-
6 VISION (B) OF THIS SECTION. THE CREDIT (OR PRO RATA SHARE OF EARNED
7 CREDIT IN THE CASE OF A PARTNERSHIP) FOR EACH GALLON OF BEER PRODUCED IN
8 NEW YORK STATE BY A LICENSED BREWERY OR A LICENSED TENANT BREWER ON OR
9 AFTER APRIL FIRST, TWO THOUSAND TWELVE SHALL BE EQUAL TO FOURTEEN CENTS
10 MULTIPLIED BY THE NUMBER OF GALLONS PRODUCED NOT TO EXCEED SIX MILLION
11 TWO HUNDRED THOUSAND GALLONS. IF THE TAXPAYER IS PARTNER IN A PARTNER-
12 SHIP OR SHAREHOLDER OF A NEW YORK S CORPORATION, THEN THE CAP IMPOSED BY
13 THE PRECEDING SENTENCE SHALL BE APPLIED AT THE ENTITY LEVEL, SO THAT THE
14 AGGREGATE CREDIT ALLOWED TO ALL THE PARTNERS OR SHAREHOLDERS OF EACH
15 SUCH ENTITY IN THE TAXABLE YEAR DOES NOT EXCEED SIX MILLION TWO HUNDRED
16 THOUSAND GALLONS TIMES FOURTEEN CENTS.

17 (B) CROSS-REFERENCES. FOR APPLICATION OF THE CREDIT PROVIDED FOR IN
18 THIS SECTION, SEE THE FOLLOWING PROVISIONS OF THIS CHAPTER:

19 (1) ARTICLE 9-A: SECTION 210, SUBDIVISION 45.

20 (2) ARTICLE 22: SECTION 606, SUBSECTIONS (I) AND (UU).

21 S 2. Section 210 of the tax law is amended by adding a new subdivision
22 45 to read as follows:

23 45. BEER PRODUCTION CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO
24 BE COMPUTED AS PROVIDED IN SECTION THIRTY-SEVEN OF THIS CHAPTER, AGAINST
25 THE TAX IMPOSED BY THIS ARTICLE. THE CREDIT ALLOWED UNDER THIS SUBDIVI-
26 SION FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO
27 LESS THAN THE HIGHER OF THE AMOUNTS PRESCRIBED IN PARAGRAPHS (C) AND (D)
28 OF SUBDIVISION ONE OF THIS SECTION. HOWEVER, IF THE AMOUNT OF CREDIT

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

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1 ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO
2 SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE
3 YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR
4 REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND
5 EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF
6 SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER
7 NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

8 S 3. Subparagraph (B) of paragraph 1 of subsection (i) of section 606
9 of the tax law is amended by adding a new clause (xxxiv) to read as
10 follows:

11 (XXXIV) BEER PRODUCTION TAX CREDIT	AMOUNT OF CREDIT UNDER
12 UNDER SUBSECTION (UU)	SUBDIVISION FORTY-FIVE OF SECTION
13	TWO HUNDRED TEN

14 S 4. Section 606 of the tax law is amended by adding a new subsection
15 (uu) to read as follows:

16 (UU) BEER PRODUCTION CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT TO
17 BE COMPUTED AS PROVIDED IN SECTION THIRTY-SEVEN OF THIS CHAPTER AGAINST
18 THE TAX IMPOSED BY THIS ARTICLE. IF THE AMOUNT OF THE CREDIT ALLOWED
19 UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S
20 TAX FOR SUCH YEAR, THE EXCESS SHALL BE TREATED AS AN OVERPAYMENT OF TAX
21 TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION
22 SIX HUNDRED EIGHTY-SIX OF THIS ARTICLE, PROVIDED, HOWEVER THAT NO INTER-
23 EST SHALL BE PAID THEREON.

24 S 5. This act shall take effect immediately.