

10177

I N A S S E M B L Y

March 9, 2010

Introduced by M. of A. MAGEE -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to issuing coupons for tax exempt fuel sales on Indian reservations

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

1 Section 1. Paragraph (b) of subdivision 1 and paragraph (d) of subdi-
2 vision 3 of section 284-e of the tax law, as added by section 4 of part
3 K of chapter 61 of the laws of 2005, are amended and a new subdivision 6
4 is added to read as follows:

5 (b) In order to ensure an adequate quantity of motor fuel and Diesel
6 motor fuel on Indian reservations which may be purchased by qualified
7 Indians exempt from the motor fuel tax and Diesel motor fuel tax, the
8 department shall provide Indian nations and tribes within this state
9 with Indian tax exemption coupons as set forth in this section, AND
10 SHALL PROVIDE SUCH COUPONS NO LATER THAN SIXTY DAYS AFTER THIS ACT SHALL
11 HAVE BECOME A LAW. A reservation motor fuel seller shall be able to
12 present such Indian tax exemption coupons to a distributor licensed
13 pursuant to this article in order to purchase motor fuel or Diesel motor
14 fuel exempt from the imposition of the motor fuel tax or Diesel motor
15 fuel tax. Qualified Indians may purchase motor fuel or Diesel motor fuel
16 from a reservation motor fuel seller exempt from the motor fuel tax or
17 Diesel motor fuel tax even though the motor fuel tax or Diesel motor
18 fuel tax on such motor fuel or Diesel motor fuel will have been previ-
19 ously paid or assumed by, or passed through to such distributor.

20 (d) [A] UPON ISSUANCE OF THE COUPONS, BUT NO LATER THAN SIXTY DAYS
21 AFTER THIS ACT SHALL HAVE BECOME A LAW, A DISTRIBUTOR SHALL SELL ONLY
22 MOTOR FUEL OR DIESEL MOTOR FUEL UPON WHICH THE MOTOR FUEL TAX OR DIESEL
23 MOTOR FUEL TAX HAS BEEN PREVIOUSLY PAID OR ASSUMED BY SUCH DISTRIBUTOR
24 TO INDIAN NATIONS OR TRIBES OR TO RESERVATION MOTOR FUEL SELLERS AND
25 OTHER PURCHASERS, BUT A distributor shall not collect or pass through,
26 as the case may be, the motor fuel tax or Diesel motor fuel tax from any
27 purchaser to the extent the purchaser gives such distributor Indian tax
28 exemption coupons entitling the purchaser to purchase such quantities of

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

LBD16335-01-0

1 motor fuel or Diesel motor fuel as allowed for on each such Indian tax
2 exemption coupon without paying the motor fuel tax or Diesel motor fuel
3 tax.

4 6. FAILURE TO ISSUE COUPONS OR DELAY. (A) THE FAILURE OF THE DEPART-
5 MENT TO ISSUE COUPONS AS PRESCRIBED BY THIS SECTION OR TO ISSUE ANY
6 OTHER IMPLEMENTING REGULATIONS OR GUIDANCE SHALL NOT RELIEVE DISTRIBU-
7 TORS OF THE OBLIGATION TO SELL ONLY MOTOR FUEL OR DIESEL MOTOR FUEL ON
8 WHICH THE MOTOR FUEL TAX OR DIESEL MOTOR FUEL TAX HAS BEEN PREVIOUSLY
9 PAID OR ASSUMED BY SUCH DISTRIBUTORS TO INDIAN NATIONS OR TRIBES OR TO
10 RESERVATION MOTOR FUEL SELLERS AS OF THE SIXTIETH DAY AFTER THE EFFEC-
11 TIVE DATE OF THIS SUBDIVISION. IN THE EVENT THAT THE DEPARTMENT FAILS TO
12 ISSUE COUPONS AS PRESCRIBED BY THIS SECTION, AN INDIAN NATION OR TRIBE,
13 A DISTRIBUTOR REGISTERED PURSUANT TO THIS ARTICLE, OR OTHER INTERESTED
14 PARTY MAY BRING AN ACTION FOR INJUNCTIVE RELIEF DIRECTING THE DEPARTMENT
15 TO ISSUE THE PRESCRIBED COUPONS.

16 (B) FOR MOTOR FUEL AND DIESEL MOTOR FUEL SOLD TO INDIAN NATIONS,
17 TRIBES OR TO RESERVATION MOTOR FUEL SELLERS BETWEEN SIXTY DAYS AFTER THE
18 EFFECTIVE DATE OF THIS SUBDIVISION AND SUCH DATE THAT THE DEPARTMENT
19 ISSUES THE PRESCRIBED COUPONS, A NATION, TRIBE OR RESERVATION MOTOR FUEL
20 SELLER SHALL BE ENTITLED TO A REFUND FROM THE DEPARTMENT FOR TAXES PAID
21 UNDER THIS ARTICLE ON THE QUANTITIES OF MOTOR FUEL OR DIESEL MOTOR FUEL
22 SOLD OR DISTRIBUTED TO QUALIFIED INDIANS OF THE SELLER'S OWN TRIBE FOR
23 TRIBAL PURPOSES OR FOR PERSONAL CONSUMPTION. SUCH REFUND SHALL BE PAID
24 THIRTY DAYS FOLLOWING SUBMISSION OF AN APPLICATION FOR A REFUND. THE
25 FAILURE OF THE DEPARTMENT TO ISSUE REFUNDS OR TAKE OTHER ADMINISTRATIVE
26 ACTIONS FOR THE ISSUANCE OF REFUNDS SHALL NOT RELIEVE DISTRIBUTORS OF
27 THE OBLIGATION TO COMPLY WITH THIS SECTION, BUT SHALL ENTITLE A PERSON
28 WITH A CLAIM FOR A REFUND TO FILE AN ACTION FOR INJUNCTIVE RELIEF
29 DIRECTING THE DEPARTMENT TO ISSUE REFUNDS AS REQUIRED HEREIN.

30 S 2. This act shall take effect on the sixtieth day after it shall
31 have become a law.