S T A T E   O F   N E W   Y O R K

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2009-2010 Regular Sessions

I N A S S E M B L Y

May 1, 2009

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

AN ACT to amend the tax law, in relation to certain motor fuel and sales and compensating use taxes and a solid waste management authority

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

Section 1. Paragraph 1 of subdivision (a) of section 1102 of the tax law, as amended by section 8 of part W-1 of chapter 109 of the laws of 2006, is amended to read as follows:

(1) Every distributor of motor fuel shall pay, as a prepayment on account of the taxes imposed by this article and pursuant to the authority of article twenty-nine of this chapter, a tax on each gallon of motor fuel (i) which he OR SHE imports or causes to be imported into this state for use, distribution, storage or sale in the state or produces, refines, manufactures or compounds in this state or (ii) if the tax has not been imposed prior to its sale in this state, which he OR SHE sells (which acts shall in regard to motor fuel hereinafter in this article be encompassed by the phrase "imported, manufactured or sold"), except when imported, manufactured or sold under circumstances which preclude the collection of such tax by reason of the United States constitution and of the laws of the United States enacted pursuant thereto or when imported or manufactured by an organization described in paragraph one or two of subdivision (a) of section eleven hundred sixteen of this article or A SOLID WASTE MANAGEMENT AUTHORITY OR a hospital included in the organizations described in paragraph four of such subdivision for its own use and consumption and except kero-jet fuel when imported by an airline for use in its airplanes, and except CNG, and except hydrogen, and except E85 when delivered to a filling station and placed in a storage tank of such filling station for such E85 to be dispensed directly into a motor vehicle for use in the operation of such vehicle.

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

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S 2. Paragraph 1 of subdivision (a) and paragraph 5 of subdivision (b) of section 1116 of the tax law, paragraph 1 of subdivision (a) as amended by chapter 530 of the laws of 1976, paragraph 5 of subdivision (b) as amended by chapter 619 of the laws of 1995, are amended to read as follows:

(1) The state of New York, or any of its agencies, instrumentalities, public corporations (including a public corporation created pursuant to agreement or compact with another state or Canada), SOLID WASTE MANAGEMENT AUTHORITY OR ITS DESIGNEE FOR THE SOLE PURPOSE OF HAULING MUNICIPAL SOLID WASTE FROM ITS FACILITY TO A DESIGNATED LAND FILL SITE SO LONG AS THE DESIGNEE UTILIZES FUEL FROM THE SOLID WASTE MANAGEMENT AUTHORITY'S FACILITY, or political subdivisions where it is the purchaser, user or consumer, or where it is a vendor of services or property of a kind not ordinarily sold by private persons;

(5) purchases of motor fuel or diesel motor fuel from the tax required to be prepaid pursuant to section eleven hundred two of this article and retail sales of motor fuel or diesel motor fuel subject to the tax imposed by sections eleven hundred five and eleven hundred ten of this article, except that purchases of such fuel by an organization described in paragraph one or two of subdivision (a) of this section for its own use or consumption, purchases of motor fuel by a hospital included in the organizations described in paragraph four of such subdivision for its own use and consumption, SOLID WASTE MANAGEMENT AUTHORITY OR ITS DESIGNEE FOR THE SOLE PURPOSE OF HAULING MUNICIPAL SOLID WASTE FROM ITS FACILITY TO A DESIGNATED LAND FILL SITE SO LONG AS THE DESIGNEE UTILIZES FUEL FROM THE SOLID WASTE MANAGEMENT AUTHORITY'S FACILITY, purchases of motor fuel and diesel motor fuel by a fire company or fire department, as defined in section three of the volunteer firefighters' benefit law or a voluntary ambulance service, as defined in section three thousand one of the public health law, for such department, company or service's own use and consumption for use in firefighting vehicles, apparatus or equipment, or emergency rescue or first aid response vehicles, apparatus or equipment, owned and operated by such department, company or service if such company, department or service qualifies as an exempt organization pursuant to the provisions of paragraph four of subdivision (a) of this section and purchases of diesel motor fuel by an organization described in paragraph four of such subdivision for its own heating use and consumption shall be exempt from such tax required to be prepaid and from retail sales and use taxes on such fuel.

S 3. This act shall take effect on the sixtieth day after it shall have become a law; provided, however, that the amendments to paragraph 1 of subdivision (a) of section 1102 of the tax law made by section one of this act shall not affect the expiration of such paragraph and shall be deemed to expire therewith.