

1355

2009-2010 Regular Sessions

I N S E N A T E

January 28, 2009

Introduced by Sen. LANZA -- 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 and the general business law, in relation to suspending taxes on gasoline and similar motor fuels between the Friday preceding Memorial day and the day following Labor day 2009; and to amend the state finance law, in relation to dedicated highway and bridge trust fund set asides

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 289-g to
2 read as follows:
3 S 289-G. EXEMPTION PERIOD FOR TAX ON GASOLINE AND SIMILAR MOTOR FUELS.
4 NOTWITHSTANDING ANY OTHER LAW, RULE OR REGULATION TO THE CONTRARY, TAXES
5 PURSUANT TO THE PROVISIONS OF THIS ARTICLE SHALL NOT BE IMPOSED ON SALES
6 MADE DURING THE PERIOD COMMENCING THE FRIDAY PRECEDING MEMORIAL DAY TWO
7 THOUSAND NINE AND ENDING THE DAY FOLLOWING LABOR DAY TWO THOUSAND NINE.
8 S 2. Subdivision (a) of section 1115 of the tax law is amended by
9 adding a new paragraph 44 to read as follows:
10 (44) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, MOTOR
11 FUEL AND DIESEL MOTOR FUEL SUITABLE FOR USE IN OPERATION OF A MOTOR
12 VEHICLE ENGINE, ON SALES MADE DURING THE PERIOD COMMENCING THE FRIDAY
13 PRECEDING MEMORIAL DAY TWO THOUSAND NINE AND ENDING THE DAY FOLLOWING
14 LABOR DAY TWO THOUSAND NINE. THIS PARAGRAPH ONLY PERTAINS TO TAXES
15 IMPOSED BY SECTIONS ELEVEN HUNDRED FIVE AND ELEVEN HUNDRED TEN OF THIS
16 ARTICLE.
17 S 3. Section 301-b of the tax law is amended by adding a new subdivi-
18 sion (k) to read as follows:
19 (K) ANY GALLONAGE SOLD BY A PETROLEUM BUSINESS DURING THE PERIOD
20 COMMENCING THE FRIDAY PRECEDING MEMORIAL DAY TWO THOUSAND NINE AND
21 ENDING THE DAY FOLLOWING LABOR DAY TWO THOUSAND NINE.

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

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1 S 4. Section 392-i of the general business law, as amended by section
2 5 of part M1 of chapter 109 of the laws of 2006, is amended to read as
3 follows:

4 S 392-i. Prices reduced to reflect change in sales tax computation.
5 Every person engaged in the retail sale of motor fuel and/or diesel
6 motor fuel or a distributor of such fuels, as defined in article
7 twelve-A of the tax law, shall reduce the price such person charges for
8 motor fuel and/or diesel motor fuel in an amount equal to any reduction
9 in taxes prepaid by the distributor or paid by retail customers result-
10 ing from computing sales and compensating use AND OTHER taxes at a cents
11 per gallon rate pursuant to the provisions of paragraph two of subdivi-
12 sion (e) and subdivision (m) of section eleven hundred eleven of the tax
13 law, SECTION TWO HUNDRED EIGHTY-NINE-G OF THE TAX LAW, PARAGRAPH FORTY-
14 FOUR OF SUBDIVISION (A) OF SECTION ELEVEN HUNDRED FIFTEEN OF THE TAX
15 LAW, AND SECTION THREE HUNDRED ONE-B OF THE TAX LAW.

16 S 5. Paragraph 1 of subdivision (t) of section 1817 of the tax law, as
17 added by section 3 of part A of chapter 35 of the laws of 2006, is
18 amended to read as follows:

19 (1) Every person engaged in the retail sale of motor fuel and/or
20 diesel motor fuel or a distributor of such fuels, as defined in article
21 twelve-A of this chapter, shall comply with the provisions of section
22 three hundred ninety-two-i of the general business law by reducing the
23 prices charged for motor fuel and diesel motor fuel in an amount equal
24 to any reduction in taxes prepaid by the distributor or imposed on
25 retail customers resulting from computing sales and compensating use AND
26 OTHER taxes at a cents per gallon rate pursuant to the provisions of
27 paragraph two of subdivision (e) and subdivision (m) of section one
28 thousand one hundred eleven of this chapter, SECTION TWO HUNDRED EIGHT-
29 Y-NINE-G OF THIS CHAPTER, PARAGRAPH FORTY-FOUR OF SUBDIVISION (A) OF
30 SECTION ELEVEN HUNDRED FIFTEEN OF THIS CHAPTER, AND SECTION THREE
31 HUNDRED ONE-B OF THIS CHAPTER.

32 S 6. Paragraph (f) of subdivision 3 of section 89-b of the state
33 finance law, as amended by chapter 56 of the laws of 1993, is amended to
34 read as follows:

35 (f) In the event that the amount set aside by the comptroller pursuant
36 to paragraph (e) of this subdivision is not sufficient to meet the dedi-
37 cated highway and bridge trust fund cooperative agreement payments
38 required pursuant to a certificate or certificates submitted by the
39 chairperson pursuant to subdivision two of section three hundred eight-
40 y-five of the public authorities law, the comptroller shall immediately
41 transfer first from the highway and bridge capital account, and then, if
42 necessary, from the general fund to the special obligation reserve and
43 payment account, an amount which, when combined with the amount set
44 aside pursuant to paragraph (e) of this subdivision, shall be sufficient
45 to make the dedicated highway and bridge trust fund cooperative agree-
46 ment payments required pursuant to such certificate or certificates.
47 Following such an event, the comptroller shall, immediately set aside
48 the amounts required pursuant to paragraph (e) of this subdivision, set
49 aside and pay the next moneys received by the special obligation reserve
50 and payment account to reimburse the general fund for moneys which were
51 transferred to the special obligation reserve and payment account pursu-
52 ant to this paragraph. Such amounts shall be set aside until the full
53 amount of moneys transferred from the general fund shall have been set
54 aside and any such moneys set aside shall be transferred to the general
55 fund no later than the last day of each month, PROVIDED, HOWEVER,
56 FOLLOWING SUCH AN EVENT OCCURRING BETWEEN MAY TWENTY-THIRD, TWO THOUSAND

1 NINE, AND SEPTEMBER THIRTIETH, TWO THOUSAND NINE THE SPECIAL OBLIGATION
2 RESERVE AND PAYMENT ACCOUNT SHALL NOT REIMBURSE THE GENERAL FUND FOR
3 MONEYS, WHICH WERE TRANSFERRED TO THE SPECIAL OBLIGATION RESERVE AND
4 PAYMENT ACCOUNT.

5 S 7. Notwithstanding any law to the contrary, a municipality may make
6 the election to eliminate all taxes on gasoline and diesel motor fuel
7 pursuant to sections 1107 and 1108 of the tax law or article 29 of the
8 tax law beginning May 23, 2009 and ending after September 1, 2009, by
9 local law, ordinance or resolution, if such municipality mails, by
10 certified or registered mail, a certified copy of such local law, ordi-
11 nance or resolution to the commissioner of taxation and finance at his
12 or her office in Albany on or before May 18, 2009.

13 S 8. Notwithstanding any other provision of law to the contrary, the
14 commissioner of taxation and finance shall promulgate and/or amend rules
15 and regulations necessary to allow for a refund of taxes which were
16 prepaid on any product exempted by this act.

17 S 9. This act shall take effect immediately.