

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

4102--A

Cal. No. 1076

2009-2010 Regular Sessions

I N S E N A T E

April 9, 2009

Introduced by Sen. AUBERTINE -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- recommitted to the Committee on Governmental Operations in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee and committed to the Committee on Rules -- ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the tax law, in relation to phasing out the franchise tax on business corporations that are manufacturers

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

- 1 Section 1. Section 208 of the tax law is amended by adding two new
2 subdivisions 20 and 21 to read as follows:
3 20. THE TERM "MANUFACTURER" SHALL MEAN A TAXPAYER WHICH DURING THE
4 TAXABLE YEAR IS PRINCIPALLY ENGAGED IN THE PRODUCTION OF GOODS BY MANU-
5 FACTURING, PROCESSING, ASSEMBLING, REFINING, MINING, EXTRACTING, FARM-
6 ING, AGRICULTURE, HORTICULTURE, FLORICULTURE, VITICULTURE OR COMMERCIAL
7 FISHING. MOREOVER, FOR PURPOSES OF COMPUTING THE CAPITAL BASE IN A
8 COMBINED REPORT, THE GROUP SHALL BE CONSIDERED A "MANUFACTURER" FOR
9 PURPOSES OF THIS ARTICLE ONLY IF THE COMBINED GROUP DURING THE TAXABLE
10 YEAR IS PRINCIPALLY ENGAGED IN THE ACTIVITIES SET FORTH IN THIS SUBDI-
11 VISION, OR ANY COMBINATION THEREOF.
12 21. THE TERM "PRINCIPALLY ENGAGED" SHALL INCLUDE A TAXPAYER OR A
13 COMBINED GROUP IF, DURING THE TAXABLE YEAR, MORE THAN FIFTY PERCENT OF
14 THE GROSS RECEIPTS OF THE TAXPAYER OR COMBINED GROUP, RESPECTIVELY, ARE
15 DERIVED FROM RECEIPTS FROM THE SALE OF GOODS PRODUCED BY MANUFACTURING.
16 IN COMPUTING A COMBINED GROUP'S GROSS RECEIPTS, INTERCORPORATE RECEIPTS
17 SHALL BE ELIMINATED.
18 S 2. Section 209 of the tax law is amended by adding a new subdivision
19 11 to read as follows:

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

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1 11. (A) FOR ANY TAXABLE YEAR BEGINNING ON OR AFTER JANUARY FIRST, TWO
2 THOUSAND ELEVEN, A TAXPAYER WHO IS A MANUFACTURER SHALL BE EXEMPT FROM
3 FIFTY PERCENT OF ALL TAXES IMPOSED BY THIS ARTICLE.

4 (B) FOR ANY TAXABLE YEAR BEGINNING ON OR AFTER JANUARY FIRST, TWO
5 THOUSAND TWELVE, A TAXPAYER WHO IS A MANUFACTURER SHALL BE EXEMPT FROM
6 ALL TAXES IMPOSED BY THIS ARTICLE.

7 S 3. This act shall take effect immediately and shall apply to taxable
8 years commencing on or after January 1, 2010; provided, however, that
9 the commissioner of taxation and finance is authorized to promulgate any
10 and all rules and regulations and take any other measures necessary for
11 the timely implementation of this act on its effective date on or before
12 such date.