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I N A S S E M B L Y

April 2, 2010

Introduced by M. of A. TEDISCO -- Multi-Sponsored by -- M. of A. ALFANO, BACALLES, BALL, BARCLAY, BARRA, BOYLE, BURLING, BUTLER, CALHOUN, CONTE, CROUCH, DUPREY, FINCH, FITZPATRICK, GIGLIO, HAWLEY, HAYES, KOLB, P. LOPEZ, McDONOUGH, McKEVITT, MOLINARO, OAKS, O'MARA, QUINN, RABBITT, RAIA, REILICH, SALADINO, SAYWARD, SCOZZAFAVA, SPANO, THIELE, TOBACCO, TOWNSEND -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to reducing the tax on petroleum businesses and the sales and compensating use taxes on the retail sales of motor fuel and diesel motor fuel

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

1 Section 1. Subdivision (a) of section 301 of the tax law, as amended  
2 by chapter 190 of the laws of 1990, is amended to read as follows:  
3 (a)(1) General.--Notwithstanding any other provision of this chapter,  
4 or of any other law, for taxable years commencing on or after the first  
5 day of April, nineteen hundred eighty-four, but including that portion  
6 of any taxable year commencing prior thereto to the extent of that  
7 portion of such year which includes the period which commences with the  
8 first day of April, nineteen hundred eighty-four, and ending with (but  
9 not including) taxable years commencing on and after the first day of  
10 September, nineteen hundred ninety, but including that portion of any  
11 taxable year commencing prior thereto to the extent of that portion of  
12 such year which includes the period which terminates with the thirty-  
13 first day of August, nineteen hundred ninety, there is hereby imposed  
14 upon every petroleum business, for the privilege of engaging in busi-  
15 ness, doing business, employing capital, owning or leasing property, or  
16 maintaining an office in this state, for all or any part of each of its  
17 taxable years, an annual tax equal to two and three-quarters per centum,  
18 provided that for taxable years commencing on or after the first day of  
19 June, nineteen hundred ninety, but including that portion of any taxable  
20 year commencing prior thereto to the extent of that portion of such year  
21 which includes the period which commences with the first day of June,  
22 nineteen hundred ninety, the annual tax shall be equal to [seven and

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

LBD09706-02-9

1 two-tenths] THREE AND THREE-FIFTHS per centum, of (i) its gross receipts  
2 from sales of petroleum where shipments are made to points within the  
3 state, (ii) the consideration given or contracted to be given by it for  
4 petroleum (other than aviation fuel) which it imported or caused to be  
5 imported (by a person other than one which is subject to tax under this  
6 article) into this state for consumption by it in this state, and (iii)  
7 the consideration given or contracted to be given by it for aviation  
8 fuel consumed by it in this state. In no event shall the tax imposed by  
9 this article be less than [two hundred fifty] ONE HUNDRED TWENTY-FIVE  
10 dollars. For the purpose of the tax imposed by this section, any taxable  
11 year commencing prior to the first day of September, nineteen hundred  
12 ninety but ending after the thirty-first day of August, nineteen hundred  
13 ninety shall be deemed terminated as of such thirty-first day of August  
14 and such year shall be brought to a close as of such thirty-first day of  
15 August.

16 (2) Credit, refund or reimbursement. (A) An electric corporation, as  
17 defined in subdivision thirteen of section two of the public service  
18 [service] law, subject to the supervision of the department of public  
19 service shall be allowed a credit against the tax imposed by this  
20 section, or a refund or reimbursement, with respect to residual petrole-  
21 um product or diesel motor fuel (which is not enhanced diesel motor  
22 fuel) used by such electric corporation to fuel generators for the  
23 purpose of manufacturing or producing electricity. Such credit or refund  
24 shall be applicable only to gallonage which is included in the return of  
25 such electric corporation and the consideration for which has been  
26 subjected to tax under this section on and after June first, nineteen  
27 hundred ninety at the rate of [seven and two-tenths] THREE AND  
28 THREE-FIFTHS per centum; such reimbursement shall apply only to gallo-  
29 nage purchased in this state by such electric corporation on and after  
30 June first, nineteen hundred ninety wherein (i) with respect to such  
31 gallonage so purchased a tax under this section has been imposed at the  
32 rate of [seven and two-tenths] THREE AND THREE-FIFTHS per centum and  
33 (ii) such electric corporation absorbed the entire amount of such tax in  
34 the purchase price of such fuel. The amount of such credit or refund  
35 shall be determined by multiplying the consideration given with respect  
36 to such eligible gallons of residual petroleum product and diesel prod-  
37 uct times four and forty-five hundredths percent. The amount of such  
38 reimbursement shall be equal to the result obtained by subtracting from  
39 the entire amount of the tax absorbed by such electric corporation the  
40 product of such entire amount of tax absorbed times two and seventy-five  
41 hundredths divided by [seven and two-tenths] THREE AND THREE-FIFTHS.  
42 (B) An aviation fuel business shall be allowed a credit against the tax  
43 imposed by clause (iii) of paragraph (1) of this subdivision on and  
44 after June first, nineteen hundred ninety with respect to kero-jet fuel  
45 with respect to which a tax has been imposed at the rate of [seven and  
46 two-tenths] THREE AND THREE-FIFTHS per centum and which was consumed in  
47 this state by such business in the operation of its aircraft. The amount  
48 of such credit shall be four and forty-five hundredths percent of the  
49 consideration given or contracted to be given by such business for such  
50 kero-jet fuel consumed by it in this state.

51 S 2. Subdivision (a) of section 301-f of the tax law, as added by  
52 chapter 190 of the laws of 1990, is amended to read as follows:

53 (a) Imposition of tax surcharge. In addition to the tax imposed by  
54 section three hundred one of this article, for taxable years commencing  
55 on or after June first, nineteen hundred ninety, but including that  
56 portion of any taxable year commencing prior thereto to the extent of

1 that portion of such year which includes the period which commences with  
2 June first, nineteen hundred ninety, and ending with (but not including)  
3 taxable years commencing on and after September first, nineteen hundred  
4 ninety, but including that portion of any taxable year commencing prior  
5 thereto to the extent of that portion of such year which included the  
6 period which terminates with August thirty-first, nineteen hundred nine-  
7 ty, there is hereby imposed upon every petroleum business, for all or  
8 any part of each of its taxable years, a tax surcharge equal to  
9 [fifteen] SEVEN AND ONE-HALF percent of the rate of tax imposed by  
10 section three hundred one of this article on (i) its gross receipts from  
11 sales of petroleum where shipments are made to points within the state,  
12 (ii) the consideration given or contracted to be given by it for petro-  
13 leum (other than aviation fuel) which it imported or caused to be  
14 imported (by a person other than one which is subject to tax under this  
15 article) into this state for consumption by it in this state, and (iii)  
16 the consideration given or contracted to be given by it for aviation  
17 fuel consumed by it in this state. The tax surcharge shall be applicable  
18 to receipts from or consideration given with respect to all deliveries  
19 on and after June first, nineteen hundred ninety. For purposes of the  
20 tax surcharge imposed by this section, any taxable year commencing prior  
21 to September first, nineteen hundred ninety but ending after August  
22 thirty-first, nineteen hundred ninety shall be deemed terminated as of  
23 such August thirty-first and such year shall be brought to a close as of  
24 such August thirty-first. Except as provided in subdivision (c) of this  
25 section, all of the provisions of this article applicable to the tax  
26 imposed by section three hundred one of this article shall apply with  
27 respect to the tax surcharge imposed by this section to the same extent  
28 as if it were imposed by such section three hundred one, insofar as such  
29 provisions can be made applicable to the tax surcharge imposed by this  
30 section, with such modification as may be necessary to adapt such  
31 provisions to the tax surcharge imposed by this section.

32 S 3. Paragraph 1 of subdivision (a) of section 301-j of the tax law,  
33 as amended by chapter 309 of the laws of 1996, is amended to read as  
34 follows:

35 (1) In addition to the taxes imposed by sections three hundred one-a  
36 and three hundred one-e of this article, for taxable months commencing  
37 on or after July first, nineteen hundred ninety-one there is hereby  
38 imposed upon every petroleum business subject to tax imposed under  
39 section three hundred one-a of this article and every aviation fuel  
40 business subject to the aviation gasoline component of the tax imposed  
41 under section three hundred one-e of this article, a supplemental month-  
42 ly tax for each or any part of a taxable month at a rate of [four and  
43 one-half] TWO AND ONE-QUARTER cents per gallon with respect to the  
44 products included in each component of the taxes imposed by such  
45 [sections] SECTION three hundred one-a and the aviation gasoline compo-  
46 nent of the tax imposed by such section three hundred one-e of this  
47 article.

48 S 4. Paragraph 1 of subdivision (m) of section 1111 of the tax law, as  
49 amended by section 1 of part M1 of chapter 109 of the laws of 2006, is  
50 amended to read as follows:

51 (1) The sales tax imposed by subdivision (a) of section eleven hundred  
52 five of this article and the compensating use tax imposed by section  
53 eleven hundred ten of this article, in regard to retail sales of motor  
54 fuel and diesel motor fuel, shall be [eight] FOUR cents per gallon.

55 S 5. This act shall take effect immediately.