

10535

I N A S S E M B L Y

April 2, 2010

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

AN ACT to amend the tax law, in relation to providing a tax credit for dyed diesel fuel storage facilities

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 187-o to  
2 read as follows:

3 S 187-O. DYED DIESEL MOTOR FUEL STORAGE PROPERTY CREDIT. 1. GENERAL.  
4 A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE CREDITED AGAINST THE TAX  
5 IMPOSED UNDER SECTIONS ONE HUNDRED EIGHTY-THREE, ONE HUNDRED EIGHTY-FOUR  
6 AND ONE HUNDRED EIGHTY-FIVE, OF THIS ARTICLE. SUCH CREDIT, TO BE  
7 COMPUTED AS PROVIDED IN THIS SECTION, SHALL BE ALLOWED FOR QUALIFIED  
8 DYED DIESEL MOTOR FUEL STORAGE PROPERTY PLACED IN SERVICE DURING THE  
9 TAXABLE YEAR.

10 2. APPLICATION OF CREDIT. THE CREDIT UNDER THIS SECTION FOR QUALIFIED  
11 DYED DIESEL MOTOR FUEL STORAGE PROPERTY SHALL EQUAL FIFTEEN PERCENT OF  
12 THE COST OF ANY SUCH PROPERTY WHICH IS LOCATED IN THIS STATE. THE TOTAL  
13 AMOUNT OF CREDIT FOR QUALIFIED DYED DIESEL MOTOR FUEL STORAGE PROPERTY  
14 ALLOWABLE TO A TAXPAYER UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR  
15 SHALL NOT EXCEED TWENTY-FIVE HUNDRED DOLLARS.

16 3. DEFINITIONS. (A) THE TERM "DYED DIESEL MOTOR FUEL" MEANS DIESEL  
17 MOTOR FUEL WHICH IS ENHANCED DIESEL MOTOR FUEL AND WHICH HAS BEEN DYED  
18 IN ACCORDANCE WITH AND FOR THE PURPOSE OF COMPLYING WITH THE PROVISIONS  
19 OF 26 USC S4082(A) AND THE REGULATIONS THEREUNDER, AS MAY BE AMENDED  
20 FROM TIME TO TIME.

21 (B) THE TERM "QUALIFIED DYED DIESEL MOTOR FUEL STORAGE PROPERTY" MEANS  
22 TANKAGE AND ASSOCIATED PIPING DESIGNATED EXCLUSIVELY FOR STORAGE OF DYED  
23 DIESEL MOTOR FUEL. A QUALIFIED DYED DIESEL MOTOR FUEL STORAGE PROPERTY  
24 SHALL NOT INCLUDE ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY WITHIN THE  
25 MEANING OF SECTION ONE HUNDRED EIGHTY-SEVEN-B OF THIS ARTICLE.

26 (C) THE TERM "TANKAGE AND ASSOCIATED PIPING DESIGNATED EXCLUSIVELY FOR  
27 THE STORAGE OF DYED DIESEL MOTOR FUEL" SHALL INCLUDE PURCHASE OR  
28 CONSTRUCTION OF TANKAGE AND ASSOCIATED PIPING (INCLUDING EQUIPMENT AND  
29 LABOR ASSOCIATED WITH INSTALLATION OF TANKAGE), TANK NOZZLES, IMMERSION  
30 HEATERS, INSULATION, STEAM GENERATORS OR TANK HEATING EQUIPMENT, TANK  
31 STOCK MIXING EQUIPMENT, ELECTRICAL PANELS AND CONTROLS AND OTHER SUCH

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

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1 EQUIPMENT ONLY SERVING THE DYED DIESEL MOTOR FUEL STORAGE TANK, PIPING  
2 DIRECTLY CONNECTED TO THE STORAGE TANK EXCLUSIVELY FOR DYED DIESEL MOTOR  
3 FUEL, FIRE SUPPRESSION OR OTHER CODE REQUIRED SAFETY EQUIPMENT, AND  
4 TEMPERATURE CONTROL EQUIPMENT USED EXCLUSIVELY FOR THE DYED DIESEL MOTOR  
5 FUEL STORAGE TANK.

6 4. APPLICATION OF CREDIT. IN NO EVENT SHALL THE CREDIT UNDER THIS  
7 SECTION BE ALLOWED IN AN AMOUNT WHICH WILL REDUCE THE TAX PAYABLE TO  
8 LESS THAN THE APPLICABLE MINIMUM TAX FIXED BY SECTION ONE HUNDRED EIGHT-  
9 Y-THREE OR ONE HUNDRED EIGHTY-FIVE OF THIS ARTICLE. IF, HOWEVER, THE  
10 AMOUNT OF CREDIT ALLOWABLE UNDER THIS SECTION FOR ANY TAXABLE YEAR  
11 REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN  
12 SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE  
13 REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND  
14 EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF  
15 SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER  
16 NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREIN.

17 S 2. Section 210 of the tax law is amended by adding a new subdivision  
18 41 to read as follows:

19 41. QUALIFIED DYED DIESEL MOTOR FUEL STORAGE PROPERTY CREDIT. (A)  
20 GENERAL. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS  
21 PROVIDED IN THIS SECTION, AGAINST THE TAX IMPOSED BY THIS ARTICLE FOR A  
22 QUALIFIED DYED DIESEL MOTOR FUEL STORAGE PROPERTY PLACED IN SERVICE  
23 DURING THE TAXABLE YEAR. THIS CREDIT SHALL EQUAL FIFTEEN PERCENT OF THE  
24 COST OF ANY SUCH PROPERTY WHICH IS LOCATED IN THIS STATE. THE TOTAL  
25 AMOUNT OF CREDIT FOR QUALIFIED DYED DIESEL MOTOR FUEL STORAGE PROPERTY  
26 ALLOWABLE TO A TAXPAYER UNDER THIS PARAGRAPH FOR ANY TAXABLE YEAR SHALL  
27 NOT EXCEED TWENTY-FIVE HUNDRED DOLLARS.

28 (B) DEFINITIONS. (I) THE TERM "DYED DIESEL MOTOR FUEL" MEANS DIESEL  
29 MOTOR FUEL WHICH IS ENHANCED DIESEL MOTOR FUEL AND WHICH HAS BEEN DYED  
30 IN ACCORDANCE WITH AND FOR THE PURPOSE OF COMPLYING WITH THE PROVISIONS  
31 OF 26 USC S 4082(A) AND THE REGULATIONS THEREUNDER, AS MAY BE AMENDED  
32 FROM TIME TO TIME.

33 (II) THE TERM "QUALIFIED DYED DIESEL MOTOR FUEL STORAGE PROPERTY"  
34 MEANS TANKAGE AND ASSOCIATED PIPING DESIGNATED EXCLUSIVELY FOR STORAGE  
35 OF DYED DIESEL MOTOR FUEL. A QUALIFIED DYED DIESEL MOTOR FUEL STORAGE  
36 PROPERTY SHALL NOT INCLUDE ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY  
37 WITHIN THE MEANING OF SUBDIVISION TWENTY-FOUR OF THIS SECTION.

38 (III) THE TERM TANKAGE AND ASSOCIATED PIPING DESIGNATED EXCLUSIVELY  
39 FOR THE STORAGE OF DYED DIESEL MOTOR FUEL SHALL INCLUDE PURCHASE OR  
40 CONSTRUCTION OF TANKAGE AND ASSOCIATED PIPING (INCLUDING EQUIPMENT AND  
41 LABOR ASSOCIATED WITH INSTALLATION OF TANKAGE), TANK NOZZLES, IMMERSION  
42 HEATERS, INSULATION, STEAM GENERATORS OR TANK HEATING EQUIPMENT, TANK  
43 STOCK MIXING EQUIPMENT, ELECTRICAL PANELS AND CONTROLS AND OTHER SUCH  
44 EQUIPMENT ONLY SERVICING THE DYED DIESEL MOTOR FUEL STORAGE TANK, PIPING  
45 DIRECTLY CONNECTED TO THE STORAGE TANK EXCLUSIVELY FOR DYED DIESEL MOTOR  
46 FUEL, FIRE SUPPRESSION OR OTHER CODE REQUIRED SAFETY EQUIPMENT, AND  
47 TEMPERATURE CONTROL EQUIPMENT USED EXCLUSIVELY FOR THE DYED DIESEL MOTOR  
48 FUEL STORAGE TANK FOR FIRE SUPPRESSION OR OTHER CODE REQUIRED SAFETY  
49 EQUIPMENT AND TEMPERATURE CONTROL EQUIPMENT USED EXCLUSIVELY FOR THE  
50 DYED DIESEL MOTOR FUEL STORAGE TANK.

51 (C) APPLICATION OF CREDIT. IN NO EVENT SHALL THE CREDIT UNDER THIS  
52 SUBDIVISION BE ALLOWED IN AN AMOUNT WHICH WILL REDUCE THE TAX PAYABLE TO  
53 LESS THAN THE HIGHER OF THE AMOUNTS PRESCRIBED IN PARAGRAPHS (C) AND (D)  
54 OF SUBDIVISION ONE OF THIS SECTION. HOWEVER, IF THE AMOUNT OF CREDIT  
55 ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO  
56 SUCH AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH TAXABLE YEAR

1 SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN  
 2 ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF  
 3 THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF  
 4 SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO  
 5 INTEREST SHALL BE PAID THEREON.

6 S 3. Subparagraph (B) of paragraph 1 of subsection (i) of section 606  
 7 of the tax law is amended by adding a new clause (xxxi) to read as  
 8 follows:

9 (XXXI) QUALIFIED DYED DIESEL	CREDIT UNDER SUBDIVISION
10 MOTOR FUEL STORAGE	FORTY-ONE OF SECTION
11 PROPERTY CREDIT UNDER	TWO HUNDRED TEN
12 SUBSECTION (QQ)	

13 S 4. Section 606 of the tax law is amended by adding a new subsection  
 14 (qq) to read as follows:

15 (QQ) QUALIFIED DYED DIESEL MOTOR FUEL STORAGE PROPERTY CREDIT. (1) A  
 16 TAXPAYER SHALL BE ALLOWED A CREDIT, OR A PRO RATA SHARE IN THE CASE OF A  
 17 PARTNERSHIP, TO BE COMPUTED AS HEREINAFTER PROVIDED, AGAINST THE TAX  
 18 IMPOSED BY THIS ARTICLE FOR A QUALIFIED DYED DIESEL MOTOR FUEL STORAGE  
 19 PROPERTY PLACED IN SERVICE DURING THE TAXABLE YEAR. THE CREDIT UNDER  
 20 THIS SUBSECTION FOR QUALIFIED DYED DIESEL MOTOR FUEL STORAGE PROPERTY  
 21 SHALL EQUAL TWENTY-FIVE PERCENT OF THE COST OF ANY SUCH PROPERTY WHICH  
 22 IS LOCATED IN THIS STATE. THE TOTAL AMOUNT OF CREDIT FOR QUALIFIED DYED  
 23 DIESEL MOTOR FUEL STORAGE PROPERTY ALLOWABLE TO A TAXPAYER, INCLUDING  
 24 THE TOTAL AMOUNT OF QUALIFYING CREDIT FOR ANY ENTITY WITH WHICH THE  
 25 TAXPAYER MAY BE AFFILIATED, UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR  
 26 SHALL NOT EXCEED FIVE HUNDRED THOUSAND DOLLARS.

27 (2) DEFINITIONS. (A) THE TERM "DYED DIESEL MOTOR FUEL" MEANS DIESEL  
 28 MOTOR FUEL WHICH IS ENHANCED DIESEL MOTOR FUEL AND WHICH HAS BEEN DYED  
 29 IN ACCORDANCE WITH AND FOR THE PURPOSE OF COMPLYING WITH THE PROVISIONS  
 30 OF 26 USC S 4082(A) AND THE REGULATIONS THEREUNDER, AS MAY BE AMENDED  
 31 FROM TIME TO TIME.

32 (B) THE TERM "QUALIFIED DYED DIESEL MOTOR FUEL STORAGE PROPERTY" MEANS  
 33 TANKAGE AND ASSOCIATED PIPING DESIGNATED EXCLUSIVELY FOR STORAGE OF DYED  
 34 DIESEL MOTOR FUEL. A QUALIFIED DYED DIESEL MOTOR FUEL STORAGE PROPERTY  
 35 SHALL NOT INCLUDE ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY WITHIN THE  
 36 MEANING OF SUBSECTION (P) OF THIS SECTION.

37 (C) THE TERM TANKAGE AND ASSOCIATED PIPING DESIGNATED EXCLUSIVELY FOR  
 38 THE STORAGE OF DYED DIESEL MOTOR FUEL SHALL INCLUDE CONSTRUCTION OF  
 39 TANKAGE AND ASSOCIATED PIPING (INCLUDING EQUIPMENT AND LABOR ASSOCIATED  
 40 WITH INSTALLATION OF TANKAGE), TANK NOZZLES, IMMERSION HEATERS, INSU-  
 41 LATION, STEAM GENERATORS OR TANK HEATING EQUIPMENT, TANK STOCK MIXING  
 42 EQUIPMENT, ELECTRICAL PANELS AND CONTROLS AND OTHER SUCH EQUIPMENT ONLY  
 43 SERVICING THE STORAGE TANK, PIPING DIRECTLY CONNECTED TO THE STORAGE  
 44 TANK EXCLUSIVELY FOR DYED DIESEL MOTOR FUEL, FIRE SUPPRESSION OR OTHER  
 45 CODE REQUIRED SAFETY EQUIPMENT AND TEMPERATURE CONTROL EQUIPMENT USED  
 46 EXCLUSIVELY FOR SUCH STORAGE TANK.

47 (3) APPLICATION OF CREDIT. IF THE AMOUNT OF CREDIT ALLOWABLE UNDER  
 48 THIS SUBSECTION SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, THE  
 49 EXCESS SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR  
 50 REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION SIX HUNDRED EIGHT-  
 51 Y-SIX OF THIS CHAPTER, PROVIDED, HOWEVER, THAT NO INTEREST SHALL BE PAID  
 52 THEREON.

53 S 5. This act shall take effect immediately.