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

11375

I N A S S E M B L Y

June 7, 2010

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Farrell) -- read once and referred to the Committee on Ways and Means

AN ACT to amend the administrative code of the city of New York, in relation to the general corporation tax

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

Section 1. Section 11-604 of the administrative code of the city of New York is amended by adding a new subdivision 22 to read as follows:

22. RETAILER CREDIT. (A) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND TEN, IN ADDITION TO ANY OTHER CREDIT ALLOWED BY THIS SECTION, AN ELIGIBLE TAXPAYER THAT ENGAGES IN RETAIL ACTIVITY, AND WHICH IS SUBJECT TO TAX UNDER THIS SUBCHAPTER, SHALL BE ALLOWED A CREDIT AGAINST SUCH TAX, PURSUANT TO THIS PARAGRAPH, TO BE COMPUTED AS HEREINAFTER PROVIDED. IF THE TAX COMPUTED UNDER PARAGRAPH E OF SUBDIVISION ONE OF THIS SECTION:

(1) IS THREE THOUSAND FOUR HUNDRED DOLLARS OR LESS, A CREDIT SHALL BE ALLOWED FOR THE ENTIRE AMOUNT OF SUCH TAX;

(2) EXCEEDS THREE THOUSAND FOUR HUNDRED DOLLARS BUT IS LESS THAN FIVE THOUSAND FOUR HUNDRED DOLLARS, A CREDIT SHALL BE ALLOWED IN THE AMOUNT DETERMINED BY MULTIPLYING SUCH TAX BY A FRACTION THE NUMERATOR OF WHICH IS FIVE THOUSAND FOUR HUNDRED DOLLARS MINUS THE AMOUNT OF SUCH TAX AND THE DENOMINATOR OF WHICH IS TWO THOUSAND DOLLARS; OR

(3) IS FIVE THOUSAND FOUR HUNDRED DOLLARS OR MORE, NO CREDIT SHALL BE ALLOWED.

(B) AS USED IN THIS SUBDIVISION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(1) "ELIGIBLE TAXPAYER" MEANS, WITH RESPECT TO ANY TAXABLE YEAR, ANY TAXPAYER SUBJECT TO TAX UNDER THIS SUBCHAPTER AND FOR WHICH AN ELECTION IS IN EFFECT PURSUANT TO SUBSECTION (A) OF SECTION SIX HUNDRED SIXTY OF THE TAX LAW FOR SUCH YEAR.

(2) "RETAIL ACTIVITY" MEANS ANY ACTIVITY WHICH CONSISTS PREDOMINANTLY OF THE SALE, OTHER THAN THROUGH THE MAIL OR BY THE TELEPHONE, OR BY WIRELESS COMMUNICATION, OR BY MEANS OF THE INTERNET, OF TANGIBLE PERSONAL PROPERTY TO ANY PERSON FOR ANY PURPOSE UNRELATED TO THE TRADE

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

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OR BUSINESS OF SUCH PERSON, OR FOOD AND FOOD PRODUCTS OFFERED TO A CONSUMER IN AN ESTABLISHMENT OR SECTION OF AN ESTABLISHMENT THAT ARE INTENDED FOR OFF-PREMISES CONSUMPTION, OR THE PHYSICAL CARE OF THE PERSONAL PROPERTY OF ANY PERSON UNRELATED TO THE TRADE OR BUSINESS OF SUCH PERSON.

(C) IF SEPARATE CORPORATIONS SUBJECT TO TAX UNDER THIS SUBCHAPTER AND FOR WHICH AN ELECTION IS IN EFFECT PURSUANT TO SUBSECTION (A) OF SECTION SIX HUNDRED SIXTY OF THE TAX LAW HAVE SUBSTANTIALLY THE SAME SHAREHOLDERS, EACH OF SUCH SHAREHOLDERS HAS SUBSTANTIALLY THE SAME INTEREST IN EACH OF SUCH CORPORATIONS, AND SUCH CORPORATIONS ARE ENGAGED IN SUBSTANTIALLY THE SAME BUSINESS OR BUSINESSES OR IN SUBSTANTIALLY RELATED BUSINESSES, ALL OF SUCH CORPORATIONS SHALL BE TREATED AS ONE CORPORATION FOR PURPOSES OF THIS SUBDIVISION. THE PRECEDING SENTENCE SHALL NOT BE CONSTRUED TO LIMIT OR AFFECT THE MEANING OR APPLICATION OF ANY OTHER PROVISION OF THIS CHAPTER.

(D) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBCHAPTER, THE CREDIT ALLOWABLE UNDER THIS SUBDIVISION SHALL BE TAKEN PRIOR TO THE DEDUCTION OF ANY OTHER CREDIT ALLOWED BY THIS SECTION.

(E) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBCHAPTER, THE APPLICATION OF THIS SUBDIVISION SHALL NOT CHANGE THE BASIS ON WHICH THE ELIGIBLE TAXPAYER'S TAX IS COMPUTED UNDER PARAGRAPH E OF SUBDIVISION ONE OF THIS SECTION.

S 2. This act shall take effect immediately; provided, however, that the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date is authorized to be made and completed on or before such date.