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

4856

2009-2010 Regular Sessions

I N A S S E M B L Y

February 6, 2009

Introduced by M. of A. ALESSI -- 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 to farmers who purchase biodiesel fuel for the operation of their farm equipment

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

Section 1. Section 210 of the tax law is amended by adding a new subdivision 41 to read as follows:

41. CREDIT FOR BIODIESEL FUEL USED IN FARMING EQUIPMENT. (A) ALLOWANCE OF CREDIT. A TAXPAYER THAT IS A BUSINESS PRINCIPALLY ENGAGED IN FARMING, AS SUCH TERM IS DEFINED IN PARAGRAPH NINETEEN OF SUBDIVISION (B) OF SECTION ELEVEN HUNDRED ONE OF THIS CHAPTER SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE FOR THE PURCHASE OF BIODIESEL FUEL TO BE USED IN FARMING EQUIPMENT. SUCH CREDIT SHALL BE $0.01 PER PERCENT OF BIODIESEL PER GALLON OF BIOHEAT, NOT TO EXCEED TWENTY CENTS PER GALLON, PURCHASED BY SUCH TAXPAYER.

(B) FOR PURPOSES OF THIS SUBDIVISION, THE TERM "BIODIESEL" SHALL MEAN A FUEL COMPRISED EXCLUSIVELY OF MONOALKYL ESTERS OF LONG CHAIN FATTY ACIDS DERIVED FROM VEGETABLE OILS OR ANIMAL FATS, DESIGNATED B100, WHICH MEETS THE SPECIFICATIONS OF AMERICAN SOCIETY OF TESTING AND MATERIALS DESIGNATION D 6751.

(C) APPLICATION OF CREDIT. IF THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, THE EXCESS SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER, PROVIDED, HOWEVER, THAT NO INTEREST SHALL BE PAID ON SUCH REFUND, NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER.

S 2. Section 606 of the tax law is amended by adding a new subsection (qq) to read as follows:

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

LBD08086-01-9

(QQ) CREDIT FOR BIODIESEL FUEL USED IN FARMING EQUIPMENT. (1) ALLOWANCE OF CREDIT. A TAXPAYER WHOSE FEDERAL GROSS INCOME FROM FARMING FOR THE TAXABLE YEAR IS AT LEAST TWO-THIRDS OF EXCESS FEDERAL GROSS INCOME SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE FOR THE PURCHASE OF BIODIESEL FUEL TO BE USED IN FARMING EQUIPMENT. SUCH CREDIT SHALL BE $0.01 PER PERCENT OF BIODIESEL PER GALLON OF BIOHEAT, NOT TO EXCEED TWENTY CENTS PER GALLON, PURCHASED BY SUCH TAXPAYER.

(2) APPLICATION OF CREDIT. IF THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, THE EXCESS SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION SIX HUNDRED EIGHTY-SIX OF THIS ARTICLE, PROVIDED, HOWEVER, THAT NO INTEREST SHALL BE PAID THEREON.

S 3. This act shall take effect immediately.