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

5385--A

2009-2010 Regular Sessions

I N A S S E M B L Y

February 13, 2009

Introduced by M. of A. MAISEL, BROOK-KRASNY, CLARK, ROSENTHAL, GIANARIS, JOHN -- Multi-Sponsored by -- M. of A. GABRYSZAK, LAVINE, PHEFFER, J. RIVERA, WEISENBERG -- read once and referred to the Committee on Ways and Means -- recommitted to the Committee on Ways and Means in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law, in relation to providing a tax credit to businesses for the purchase of emergency electrical generators

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 THE PURCHASE OF EMERGENCY ELECTRICAL GENERATORS. (A) ALLOWANCE AND AMOUNT OF CREDIT. A TAXPAYER ENGAGED IN THE BUSINESS OF OFFERING FOR SALE PERISHABLE FOOD ITEMS SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN THIS SUBDIVISION, AGAINST THE TAX IMPOSED BY THIS ARTICLE. THE AMOUNT OF THE CREDIT SHALL BE EQUAL TO THE AMOUNT EXPENDED IN THE PREVIOUS TAX YEAR FOR THE PURCHASE OF ONE OR MORE EMERGENCY ELECTRICAL GENERATORS IMPLEMENTED TO PREVENT SPOILAGE OF FOOD ITEMS.

(B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE HIGHER OF THE AMOUNTS PRESCRIBED IN PARAGRAPHS (C) AND (D) OF SUBDIVISION ONE OF THIS SECTION. HOWEVER, IF THE AMOUNT OF CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR 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, THE PROVISIONS OF

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

LBD07224-03-0

SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

S 2. Subparagraph (B) of paragraph 1 of subsection (i) of section 606 of the tax law is amended by adding a new clause (xxxi) to read as follows:

(XXXI) CREDIT FOR THE PURCHASE OF EMERGENCY ELECTRICAL GENERATORS UNDER SUBSECTION (QQ)	AMOUNT OF CREDIT UNDER SUBDIVISION FORTY-ONE OF SECTION TWO HUNDRED TEN

S 3. Section 606 of the tax law is amended by adding a new subsection (qq) to read as follows:

(QQ) CREDIT FOR THE PURCHASE OF EMERGENCY ELECTRICAL GENERATORS. (1) ALLOWANCE AND AMOUNT OF CREDIT. A TAXPAYER ENGAGED IN THE BUSINESS OF OFFERING FOR SALE PERISHABLE FOOD ITEMS SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN THIS SUBSECTION, AGAINST THE TAX IMPOSED BY THIS ARTICLE. THE AMOUNT OF THE CREDIT SHALL BE EQUAL TO THE AMOUNT EXPENDED IN THE PREVIOUS TAX YEAR FOR THE PURCHASE OF ONE OR MORE EMERGENCY ELECTRICAL GENERATORS IMPLEMENTED TO PREVENT SPOILAGE OF FOOD ITEMS.

(2) APPLICATION OF CREDIT. IF THE AMOUNT OF 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 4. This act shall take effect immediately.