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

8763

2009-2010 Regular Sessions

I N A S S E M B L Y

June 5, 2009

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

AN ACT to amend the state finance law, in relation to state aid to counties, cities, and school districts for tax receipts foregone as a result of the exemption of clothing and footwear from sales and compensating use taxes

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

Section 1. The state finance law is amended by adding a new section 54-m to read as follows:

S 54-M. STATE TAX RELIEF FOR COUNTIES, CITIES, AND SCHOOL DISTRICTS FOR TAX RECEIPTS FOREGONE DUE TO THE EXEMPTION OF CLOTHING AND FOOTWEAR FROM SALES AND COMPENSATING USE TAXES. 1. (A) EXCEPT AS OTHERWISE PROVIDED BY LAW, THE PROVISIONS OF THIS SECTION SHALL BE UTILIZED BY THE STATE TO CALCULATE THE ANNUAL AMOUNT DUE TO BE PAID TO COUNTIES, CITIES, AND SCHOOL DISTRICTS BY THE STATE TO HOLD HARMLESS SUCH COUNTIES, CITIES, AND SCHOOL DISTRICTS FOR TAX RECEIPTS FOREGONE AS A RESULT OF PROVISIONS OF ARTICLES TWENTY-EIGHT AND TWENTY-NINE OF THE TAX LAW AND ANY OTHER GENERAL, SPECIAL, OR LOCAL LAWS EXEMPTING THE PURCHASE OF CLOTHING AND FOOTWEAR FOR WHICH THE RECEIPT OR CONSIDERATION GIVEN OR CONTRACTED TO BE GIVEN IS LESS THAN ONE HUNDRED TEN DOLLARS PER ARTICLE OF CLOTHING, PER PAIR OF SHOES OR OTHER ARTICLES OF FOOTWEAR OR PER ITEM USED OR CONSUMED TO MAKE OR REPAIR SUCH CLOTHING AND WHICH BECOMES A PHYSICAL COMPONENT PART OF SUCH CLOTHING FROM SALES OR COMPENSATING USE TAXES.

(B) THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO ANY JURISDICTION TO WHICH THE PROVISIONS OF SUBDIVISION (G) OF SECTION ELEVEN HUNDRED NINE OF THE TAX LAW APPLY.

2. THE AMOUNT OF SUCH REIMBURSEMENT SHALL BE EQUAL TO THE TAX RECEIPTS FOREGONE BY COUNTIES, CITIES, AND SCHOOL DISTRICTS PURSUANT TO THE PROVISIONS OF THE TAX REDUCTIONS DESCRIBED IN SUBDIVISION ONE OF THIS

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

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SECTION FOR THE CALENDAR YEAR ENDING IN EACH SUCH STATE FISCAL YEAR AND SHALL BE DETERMINED ANNUALLY BEGINNING WITH THE FIRST STATE FISCAL YEAR AFTER THE EFFECTIVE DATE OF THIS SECTION AND EACH YEAR THEREAFTER. SUCH AMOUNT, AS FINALLY DETERMINED PURSUANT TO THIS SECTION, SHALL REPRESENT A STATE CHARGE AND SHALL BE PAID TO COUNTIES, CITIES, AND SCHOOL DISTRICTS AS PROVIDED IN SUBDIVISION FIVE OF THIS SECTION.

3. (A) THE AMOUNT OF SUCH REIMBURSEMENT SHALL BE ESTIMATED BY THE COMMISSIONER OF TAXATION AND FINANCE ON OR BEFORE DECEMBER FIRST OF THE YEAR PRECEDING THE STATE FISCAL YEAR DURING WHICH SUCH AMOUNT IS TO BE PAID BEGINS. SUCH COMMISSIONER SHALL USE THE BEST AVAILABLE INFORMATION AT HIS OR HER DISPOSAL TO ESTIMATE SUCH AMOUNT. IN ADDITION TO SUCH METHODS AND INFORMATION SUCH COMMISSIONER MAY USE IN MAKING SUCH ESTIMATE, HE OR SHE SHALL CONSULT WITH COUNTIES, CITIES, AND SCHOOL DISTRICTS DURING THE PREPARATION OF THE DETERMINATION OF SUCH AMOUNT.

(B) THE ESTIMATE SHALL BE PROVIDED TO THE DIRECTOR OF THE BUDGET FOR USE IN PREPARING THE BUDGET FOR THE NEXT SUBSEQUENT STATE FISCAL YEAR ON OR BEFORE THE TENTH DAY OF DECEMBER IN EACH SUCH YEAR, AND COPIES OF SUCH ESTIMATE SHALL ALSO BE SUPPLIED TO THE CHAIRMAN OF THE SENATE FINANCE COMMITTEE AND TO THE CHAIRMAN OF THE ASSEMBLY WAYS AND MEANS COMMITTEE.

(C) IN EACH YEAR FOLLOWING THE PREPARATION OF THE INITIAL DETERMINATION OF SUCH AMOUNT THE COMMISSIONER OF TAXATION AND FINANCE SHALL REVISE SUCH ESTIMATE AND SHALL PROVIDE SUCH REVISION TO THE DIRECTOR OF THE BUDGET AND SHALL ALSO SUPPLY COPIES OF SUCH REVISION TO THE CHAIRMAN OF THE SENATE FINANCE COMMITTEE AND TO THE CHAIRMAN OF THE ASSEMBLY WAYS AND MEANS COMMITTEE.

4. THE GOVERNOR SHALL INCLUDE THE AMOUNTS DETERMINED IN PARAGRAPHS (A) AND (C) OF SUBDIVISION THREE OF THIS SECTION AS AN IDENTIFIABLE ITEM OF APPROPRIATION IN EACH ANNUAL EXECUTIVE BUDGET SUBMISSION REQUIRED BY THIS CHAPTER FOR FIRST FISCAL YEARS FOLLOWING THE EFFECTIVE DATE OF THIS SECTION AND THEREAFTER.

5. AMOUNTS DETERMINED TO BE DUE COUNTIES, CITIES, AND SCHOOL DISTRICTS PURSUANT TO THIS SECTION SHALL BE PAID OUT PURSUANT TO THE FOLLOWING SCHEDULE: FOR THE FIRST STATE FISCAL YEAR FOLLOWING THE EFFECTIVE DATE OF THIS SECTION, ONE HUNDRED PERCENT OF ANY REQUIRED AMOUNT SHALL BE MADE BY MARCH FIFTEENTH IN SUCH FISCAL YEAR; FOR THE SECOND STATE FISCAL YEAR FOLLOWING THE EFFECTIVE DATE OF THIS SECTION, FIFTY PERCENT SHALL BE PAID OUT ON MARCH FIFTEENTH AND FIFTY PERCENT ON DECEMBER FIFTEENTH OF SUCH YEAR; AND FOR THE THIRD STATE FISCAL YEAR FOLLOWING THE EFFECTIVE DATE OF THIS SECTION AND THEREAFTER, THIRTY-THREE AND ONE-THIRD PERCENT SHALL BE PAID OUT ON THE FIFTEENTH DAY OF SEPTEMBER, DECEMBER AND MARCH OF SUCH YEAR.

6. THE CALCULATION OF THE AMOUNT OF TAX RECEIPTS FOREGONE BY ANY COUNTY, CITY, OR SCHOOL DISTRICT SHALL BE BASED ON THE AMOUNT OF SALES AND COMPENSATING USE TAXES ACCRUING TO EACH SUCH COUNTY, CITY, OR SCHOOL DISTRICT FOR THE PERIOD DECEMBER FIRST, TWO THOUSAND SEVEN THROUGH NOVEMBER THIRTIETH, TWO THOUSAND EIGHT ON THE BASIS OF TAX LIABILITY INCURRED DURING SUCH PERIOD AND A COMPARISON OF SUCH AMOUNT WITH THE SAME AMOUNT ACCRUING DURING THE PERIOD OF DECEMBER FIRST, TWO THOUSAND EIGHT THROUGH NOVEMBER THIRTIETH, TWO THOUSAND NINE. ANY EXCESS OF THE FORMER OVER THE LATTER SHALL BE TERMED THE DIFFERENTIAL. THE STATE SHALL HOLD EACH COUNTY, CITY, AND SCHOOL DISTRICT HARMLESS FOR THE DIFFERENTIAL, IF ANY. IN THE EVENT THAT SALES AND COMPENSATING USE TAXES RECEIPTS FOR ANY ANNUAL PERIOD EXCEED RECEIPTS FOR THE LATTER PERIOD, THE DIFFERENTIAL, FOR THAT YEAR, SHALL BE ACCORDINGLY ADJUSTED OR ELIMINATED.

7. PAYMENT OF HOLD HARMLESS REIMBURSEMENT PURSUANT TO THIS SECTION SHALL BE OFFSET BY PROPERTY TAX RECEIPTS AS FOLLOWS: ANY ADDITIONAL PROPERTY TAX RECEIPTS, RESULTING NOT FROM INCREASES IN TAX RATES BUT FROM ADDITIONAL ASSESSED VALUATION ATTRIBUTABLE TO BUSINESS ESTABLISHMENTS SELLING EXEMPTED CLOTHING AND FOOTWEAR, SUCH ADDITIONAL ASSESSED VALUATION BEING ADDED TO THE ASSESSMENT ROLLS AFTER THE EFFECTIVE DATE OF THIS SECTION SHALL, TO THE EXTENT OF FIFTY PERCENT THEREOF, BE OFFSET AGAINST ANY PAYMENT OTHERWISE DUE PURSUANT TO THIS SECTION. THE OFFICE OF REAL PROPERTY SERVICES, IN CONSULTATION WITH COUNTY, CITY, AND SCHOOL DISTRICT REAL PROPERTY TAX OFFICIALS, SHALL ASSIST THE DEPARTMENT OF TAXATION AND FINANCE IN MAKING THE CALCULATIONS AND DETERMINATIONS NECESSITATED BY THIS SUBDIVISION.

S 2. This act shall take effect on the first of December next succeeding the date on which it shall have become a law. State agencies and municipal corporations are authorized to promulgate any and all rules and regulations and take any other measures necessary to implement this act on its effective date on or before such date.