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

1355

2009-2010 Regular Sessions

I N S E N A T E

January 28, 2009

Introduced by Sen. LANZA -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the tax law and the general business law, in relation to suspending taxes on gasoline and similar motor fuels between the Friday preceding Memorial day and the day following Labor day 2009; and to amend the state finance law, in relation to dedicated highway and bridge trust fund set asides

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

Section 1. The tax law is amended by adding a new section 289-g to read as follows:

S 289-G. EXEMPTION PERIOD FOR TAX ON GASOLINE AND SIMILAR MOTOR FUELS. NOTWITHSTANDING ANY OTHER LAW, RULE OR REGULATION TO THE CONTRARY, TAXES PURSUANT TO THE PROVISIONS OF THIS ARTICLE SHALL NOT BE IMPOSED ON SALES MADE DURING THE PERIOD COMMENCING THE FRIDAY PRECEDING MEMORIAL DAY TWO THOUSAND NINE AND ENDING THE DAY FOLLOWING LABOR DAY TWO THOUSAND NINE.

S 2. Subdivision (a) of section 1115 of the tax law is amended by adding a new paragraph 44 to read as follows:

(44) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, MOTOR FUEL AND DIESEL MOTOR FUEL SUITABLE FOR USE IN OPERATION OF A MOTOR VEHICLE ENGINE, ON SALES MADE DURING THE PERIOD COMMENCING THE FRIDAY PRECEDING MEMORIAL DAY TWO THOUSAND NINE AND ENDING THE DAY FOLLOWING LABOR DAY TWO THOUSAND NINE. THIS PARAGRAPH ONLY PERTAINS TO TAXES IMPOSED BY SECTIONS ELEVEN HUNDRED FIVE AND ELEVEN HUNDRED TEN OF THIS ARTICLE.

S 3. Section 301-b of the tax law is amended by adding a new subdivision (k) to read as follows:

(K) ANY GALLONAGE SOLD BY A PETROLEUM BUSINESS DURING THE PERIOD COMMENCING THE FRIDAY PRECEDING MEMORIAL DAY TWO THOUSAND NINE AND ENDING THE DAY FOLLOWING LABOR DAY TWO THOUSAND NINE.

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

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S 4. Section 392-i of the general business law, as amended by section 5 of part M1 of chapter 109 of the laws of 2006, is amended to read as follows:

S 392-i. Prices reduced to reflect change in sales tax computation. Every person engaged in the retail sale of motor fuel and/or diesel motor fuel or a distributor of such fuels, as defined in article twelve-A of the tax law, shall reduce the price such person charges for motor fuel and/or diesel motor fuel in an amount equal to any reduction in taxes prepaid by the distributor or paid by retail customers resulting from computing sales and compensating use AND OTHER taxes at a cents per gallon rate pursuant to the provisions of paragraph two of subdivision (e) and subdivision (m) of section eleven hundred eleven of the tax law, SECTION TWO HUNDRED EIGHTY-NINE-G OF THE TAX LAW, PARAGRAPH FORTY-FOUR OF SUBDIVISION (A) OF SECTION ELEVEN HUNDRED FIFTEEN OF THE TAX LAW, AND SECTION THREE HUNDRED ONE-B OF THE TAX LAW.

S 5. Paragraph 1 of subdivision (t) of section 1817 of the tax law, as added by section 3 of part A of chapter 35 of the laws of 2006, is amended to read as follows:

(1) Every person engaged in the retail sale of motor fuel and/or diesel motor fuel or a distributor of such fuels, as defined in article twelve-A of this chapter, shall comply with the provisions of section three hundred ninety-two-i of the general business law by reducing the prices charged for motor fuel and diesel motor fuel in an amount equal to any reduction in taxes prepaid by the distributor or imposed on retail customers resulting from computing sales and compensating use AND OTHER taxes at a cents per gallon rate pursuant to the provisions of paragraph two of subdivision (e) and subdivision (m) of section one thousand one hundred eleven of this chapter, SECTION TWO HUNDRED EIGHTY-NINE-G OF THIS CHAPTER, PARAGRAPH FORTY-FOUR OF SUBDIVISION (A) OF SECTION ELEVEN HUNDRED FIFTEEN OF THIS CHAPTER, AND SECTION THREE HUNDRED ONE-B OF THIS CHAPTER.

S 6. Paragraph (f) of subdivision 3 of section 89-b of the state finance law, as amended by chapter 56 of the laws of 1993, is amended to read as follows:

(f) In the event that the amount set aside by the comptroller pursuant to paragraph (e) of this subdivision is not sufficient to meet the dedicated highway and bridge trust fund cooperative agreement payments required pursuant to a certificate or certificates submitted by the chairperson pursuant to subdivision two of section three hundred eighty-five of the public authorities law, the comptroller shall immediately transfer first from the highway and bridge capital account, and then, if necessary, from the general fund to the special obligation reserve and payment account, an amount which, when combined with the amount set aside pursuant to paragraph (e) of this subdivision, shall be sufficient to make the dedicated highway and bridge trust fund cooperative agreement payments required pursuant to such certificate or certificates. Following such an event, the comptroller shall, immediately set aside the amounts required pursuant to paragraph (e) of this subdivision, set aside and pay the next moneys received by the special obligation reserve and payment account to reimburse the general fund for moneys which were transferred to the special obligation reserve and payment account pursuant to this paragraph. Such amounts shall be set aside until the full amount of moneys transferred from the general fund shall have been set aside and any such moneys set aside shall be transferred to the general fund no later than the last day of each month, PROVIDED, HOWEVER, FOLLOWING SUCH AN EVENT OCCURRING BETWEEN MAY TWENTY-THIRD, TWO THOUSAND

NINE, AND SEPTEMBER THIRTIETH, TWO THOUSAND NINE THE SPECIAL OBLIGATION RESERVE AND PAYMENT ACCOUNT SHALL NOT REIMBURSE THE GENERAL FUND FOR MONEYS, WHICH WERE TRANSFERRED TO THE SPECIAL OBLIGATION RESERVE AND PAYMENT ACCOUNT.

S 7. Notwithstanding any law to the contrary, a municipality may make the election to eliminate all taxes on gasoline and diesel motor fuel pursuant to sections 1107 and 1108 of the tax law or article 29 of the tax law beginning May 23, 2009 and ending after September 1, 2009, by local law, ordinance or resolution, if such municipality mails, by certified or registered mail, a certified copy of such local law, ordinance or resolution to the commissioner of taxation and finance at his or her office in Albany on or before May 18, 2009.

S 8. Notwithstanding any other provision of law to the contrary, the commissioner of taxation and finance shall promulgate and/or amend rules and regulations necessary to allow for a refund of taxes which were prepaid on any product exempted by this act.

S 9. This act shall take effect immediately.