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2009-2010 Regular Sessions

I N S E N A T E

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Introduced by Sens. MORAHAN, DIAZ, FUSCHILLO, VOLKER -- 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, in relation to providing certain school bus operators with a refund or credit of sales and compensating use taxes on the purchase of school buses and equipment and fuel used in the operation of a school bus

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

1 Section 1. Section 1119 of the tax law is amended by adding a new
2 subdivision (d) to read as follows:
3 (D) SUBJECT TO THE CONDITIONS AND LIMITATIONS PROVIDED IN THIS SUBDI-
4 VISION, A REFUND OR CREDIT SHALL BE ALLOWED FOR TAX PAID PURSUANT TO
5 SUBDIVISION (A) OF SECTION ELEVEN HUNDRED FIVE, PARAGRAPH THREE OF
6 SUBDIVISION (C) OF SECTION ELEVEN HUNDRED FIVE, OR SECTION ELEVEN
7 HUNDRED TEN OF THIS ARTICLE AND ANY TAX IMPOSED PURSUANT TO THE AUTHORI-
8 TY OF ARTICLE TWENTY-NINE OF THIS CHAPTER, ON THE SALE TO OR PURCHASE BY
9 A SCHOOL BUS OPERATOR OF (I) A SCHOOL BUS, AS DEFINED IN SECTION ONE
10 HUNDRED FORTY-TWO OF THE VEHICLE AND TRAFFIC LAW, AT LEAST SEVENTY
11 PERCENT OF THE USE OF WHICH IS FOR THE TRANSPORTATION, BY SUCH OPERATOR,
12 OF SCHOOL STUDENTS TO OR FROM SCHOOL OR SCHOOL RELATED EVENTS, PURSUANT
13 TO A CONTRACT MADE UNDER THE PROVISIONS OF THE EDUCATION LAW, (II)
14 PARTS, EQUIPMENT AND LUBRICANTS WHEN SUCH PARTS, EQUIPMENT AND LUBRI-
15 CANTS ARE INSTALLED IN OR ON SUCH A SCHOOL BUS, AT LEAST SEVENTY PERCENT
16 OF THE USE OF WHICH IS FOR SUCH TRANSPORTATION, BY SUCH OPERATOR, PURSU-
17 ANT TO SUCH CONTRACT, (III) THE SERVICES DESCRIBED IN PARAGRAPH THREE OF
18 SUBDIVISION (C) OF SECTION ELEVEN HUNDRED FIVE OF THIS ARTICLE WHEN
19 RENDERED WITH RESPECT TO SUCH A SCHOOL BUS SO USED OR WITH RESPECT TO
20 PARTS, EQUIPMENT AND LUBRICANTS INSTALLED IN OR ON SUCH A SCHOOL BUS SO
21 USED, AND (IV) MOTOR FUEL OR DIESEL MOTOR FUEL USED EXCLUSIVELY BY SUCH
22 OPERATOR IN SUCH A SCHOOL BUS FOR SUCH TRANSPORTATION PURSUANT TO SUCH

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

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1 CONTRACT. NO REFUND OR CREDIT SHALL BE ALLOWED UNDER THIS SUBDIVISION
2 UNLESS ALL OF THE REQUIREMENTS FOR SUCH REFUND OR CREDIT HAVE BEEN MET
3 FOR AT LEAST A TWELVE MONTH PERIOD AFTER THE SCHOOL BUS OPERATOR'S
4 PURCHASE OF SUCH SCHOOL BUS; HOWEVER, SUCH REFUND OR CREDIT SHALL BE
5 ALLOWED FOR A SCHOOL BUS THAT IS PAINTED "NATIONAL SCHOOL BUS CHROME"
6 PURSUANT TO SUBDIVISION TWENTY-ONE OF SECTION THREE HUNDRED SEVENTY-FIVE
7 OF THE VEHICLE AND TRAFFIC LAW AND LABELED AS A "SCHOOL BUS" PURSUANT TO
8 SUBPARAGRAPH ONE OF PARAGRAPH (B) OF SUBDIVISION TWENTY OF SUCH SECTION
9 THREE HUNDRED SEVENTY-FIVE IF ALL OF THE REQUIREMENTS FOR SUCH REFUND OR
10 CREDIT HAVE BEEN MET IN THE PREVIOUS QUARTERLY REPORTING PERIOD AS
11 DESCRIBED IN SUBDIVISION (B) OF SECTION ELEVEN HUNDRED THIRTY-SIX OF
12 THIS ARTICLE. AN APPLICATION FOR A REFUND OR CREDIT PURSUANT TO THIS
13 SUBDIVISION MUST BE FILED WITH THE COMMISSIONER WITHIN THE TIME PROVIDED
14 BY SUBDIVISION (A) OF SECTION ELEVEN HUNDRED THIRTY-NINE OF THIS ARTICLE
15 AND NO MORE FREQUENTLY THAN QUARTERLY. SUCH APPLICATION SHALL BE IN
16 SUCH FORM AS THE COMMISSIONER MAY PRESCRIBE. WHERE AN APPLICATION FOR
17 CREDIT HAS BEEN FILED, THE SCHOOL BUS OPERATOR MAY TAKE SUCH CREDIT ON
18 THE RETURN WHICH IS DUE COINCIDENT WITH OR IMMEDIATELY SUBSEQUENT TO THE
19 TIME THE SCHOOL BUS OPERATOR FILES SUCH APPLICATION FOR CREDIT. HOWEV-
20 ER, THE TAKING OF THE CREDIT ON THE RETURN SHALL BE DEEMED TO BE PART OF
21 THE APPLICATION FOR CREDIT AND SHALL BE SUBJECT TO THE PROVISIONS IN
22 RESPECT TO APPLICATIONS FOR CREDIT IN SUCH SECTION ELEVEN HUNDRED THIR-
23 TY-NINE AS PROVIDED IN SUBDIVISION (E) OF SUCH SECTION. THE ALLOWANCE
24 OF THE CREDIT OR REFUND SHALL ALSO BE SUBJECT TO THE SCHOOL BUS OPERATOR
25 MAINTAINING RECORDS SATISFACTORY TO THE COMMISSIONER DEMONSTRATING
26 COMPLIANCE WITH ALL THE REQUIREMENTS OF THIS SUBDIVISION. THE PERCENT-
27 AGE OF SUCH SCHOOL BUS USE MAY BE COMPUTED EITHER ON THE BASIS OF MILE-
28 AGE OR HOURS OF USE, AT THE DISCRETION OF THE PURCHASER OR USER. FOR THE
29 PURPOSES OF THIS SUBDIVISION, THE TERM "SCHOOL" SHALL MEAN A PRE-KINDER-
30 GARTEN OR KINDERGARTEN PROGRAM, A PRESCHOOL, NURSERY SCHOOL OR ELEMENTA-
31 RY, INTERMEDIATE OR SECONDARY SCHOOL. THE REFUND OR CREDIT SHALL BE
32 FIFTY PERCENT FOR THE PERIOD COMMENCING SEPTEMBER FIRST, TWO THOUSAND
33 TEN TO AUGUST THIRTY-FIRST, TWO THOUSAND ELEVEN. THE REFUND OR CREDIT
34 SHALL BE ONE HUNDRED PERCENT COMMENCING SEPTEMBER FIRST, TWO THOUSAND
35 ELEVEN.

36 S 2. This act shall take effect on the first day of the sales tax
37 quarterly period, as described in subdivision (b) of section 1136 of the
38 tax law, next commencing September 1, 2010 and shall apply in accordance
39 with the applicable transitional provisions in sections 1106 and 1217 of
40 the tax law; provided, further, that the commissioner of taxation and
41 finance shall be authorized on and after the date this act shall have
42 become a law to adopt and amend any rules or regulations and issue any
43 procedure, forms or instructions necessary to implement this act on its
44 effective date.