

2809

2009-2010 Regular Sessions

I N S E N A T E

March 3, 2009

Introduced by Sen. MORAHAN -- 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 certain motor fuel and sales and compensating use taxes and the Rockland county solid waste management authority

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

1 Section 1. Paragraph 1 of subdivision (a) of section 1102 of the tax
2 law, as amended by section 8 of part W-1 of chapter 109 of the laws of
3 2006, is amended to read as follows:
4 (1) Every distributor of motor fuel shall pay, as a prepayment on
5 account of the taxes imposed by this article and pursuant to the author-
6 ity of article twenty-nine of this chapter, a tax on each gallon of
7 motor fuel (i) which he OR SHE imports or causes to be imported into
8 this state for use, distribution, storage or sale in the state or
9 produces, refines, manufactures or compounds in this state or (ii) if
10 the tax has not been imposed prior to its sale in this state, which he
11 OR SHE sells (which acts shall in regard to motor fuel hereinafter in
12 this article be encompassed by the phrase "imported, manufactured or
13 sold"), except when imported, manufactured or sold under circumstances
14 which preclude the collection of such tax by reason of the United States
15 constitution and of the laws of the United States enacted pursuant ther-
16 eto or when imported or manufactured by an organization described in
17 paragraph one or two of subdivision (a) of section eleven hundred
18 sixteen of this article or THE ROCKLAND COUNTY SOLID WASTE MANAGEMENT
19 AUTHORITY OR a hospital included in the organizations described in para-
20 graph four of such subdivision for its own use and consumption and
21 except kero-jet fuel when imported by an airline for use in its
22 airplanes, and except CNG, and except hydrogen, and except E85 when
23 delivered to a filling station and placed in a storage tank of such

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

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1 filling station for such E85 to be dispensed directly into a motor vehi-
2 cle for use in the operation of such vehicle.

3 S 2. Paragraph 1 of subdivision (a) and paragraph 5 of subdivision (b)
4 of section 1116 of the tax law, paragraph 1 of subdivision (a) as
5 amended by chapter 530 of the laws of 1976 and paragraph 5 of subdivi-
6 sion (b) as amended by chapter 619 of the laws of 1995, are amended to
7 read as follows:

8 (1) The state of New York, or any of its agencies, instrumentalities,
9 public corporations (including a public corporation created pursuant to
10 agreement or compact with another state or Canada, THE ROCKLAND COUNTY
11 SOLID WASTE MANAGEMENT AUTHORITY'S DESIGNEE FOR THE SOLE PROPOSE OF
12 HAULING MUNICIPAL SOLID WASTE FROM ITS FACILITY TO A DESIGNATED LANDFILL
13 SITE SO LONG AS THE DESIGNEE UTILIZES FUEL FROM THE ROCKLAND COUNTY
14 SOLID WASTE MANAGEMENT AUTHORITY'S FACILITY) or political subdivisions
15 where it is the purchaser, user or consumer, or where it is a vendor of
16 services or property of a kind not ordinarily sold by private persons;

17 (5) purchases of motor fuel or diesel motor fuel from the tax required
18 to be prepaid pursuant to section eleven hundred two of this article and
19 retail sales of motor fuel or diesel motor fuel subject to the tax
20 imposed by sections eleven hundred five and eleven hundred ten of this
21 article, except that purchases of such fuel by an organization described
22 in paragraph one or two of subdivision (a) of this section for its own
23 use or consumption, THE ROCKLAND COUNTY SOLID WASTE MANAGEMENT AUTHORI-
24 TY'S DESIGNEE FOR THE SOLE PURPOSE OF HAULING MUNICIPAL SOLID WASTE FROM
25 ITS FACILITY TO A DESIGNATED LANDFILL SITE SO LONG AS THE DESIGNEE
26 UTILIZES FUEL FROM THE ROCKLAND COUNTY SOLID WASTE MANAGEMENT AUTHORI-
27 TY'S FACILITY, purchases of motor fuel by a hospital included in the
28 organizations described in paragraph four of such subdivision for its
29 own use and consumption, purchases of motor fuel and diesel motor fuel
30 by a fire company or fire department, as defined in section three of the
31 volunteer firefighters' benefit law or a voluntary ambulance service, as
32 defined in section three thousand one of the public health law, for such
33 department, company or service's own use and consumption for use in
34 firefighting vehicles, apparatus or equipment, or emergency rescue or
35 first aid response vehicles, apparatus or equipment, owned and operated
36 by such department, company or service if such company, department or
37 service qualifies as an exempt organization pursuant to the provisions
38 of paragraph four of subdivision (a) of this section and purchases of
39 diesel motor fuel by an organization described in paragraph four of such
40 subdivision for its own heating use and consumption shall be exempt from
41 such tax required to be prepaid and from retail sales and use taxes on
42 such fuel.

43 S 3. This act shall take effect on the sixtieth day after it shall
44 have become a law; provided, however, that the amendments to paragraph 1
45 of subdivision (a) of section 1102 of the tax law made by section one of
46 this act shall not affect the expiration of such paragraph and shall be
47 deemed to expire therewith.