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

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I N A S S E M B L Y

May 10, 2012

Introduced by M. of A. LENTOL, BRINDISI, MORELLE -- Multi-Sponsored by -- M. of A. LIFTON -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to a beer production tax credit

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 37 to read as follows:

S 37. BEER PRODUCTION CREDIT. (A) GENERAL. A TAXPAYER SUBJECT TO TAX UNDER ARTICLE NINE-A OR TWENTY-TWO OF THIS CHAPTER SHALL BE ALLOWED A CREDIT AGAINST SUCH TAX PURSUANT TO THE PROVISIONS REFERENCED IN SUBDIVISION (B) OF THIS SECTION. THE CREDIT (OR PRO RATA SHARE OF EARNED CREDIT IN THE CASE OF A PARTNERSHIP) FOR EACH GALLON OF BEER PRODUCED IN NEW YORK STATE BY A LICENSED BREWERY OR A LICENSED TENANT BREWER ON OR AFTER APRIL FIRST, TWO THOUSAND TWELVE SHALL BE EQUAL TO FOURTEEN CENTS MULTIPLIED BY THE NUMBER OF GALLONS PRODUCED NOT TO EXCEED SIX MILLION TWO HUNDRED THOUSAND GALLONS. IF THE TAXPAYER IS PARTNER IN A PARTNERSHIP OR SHAREHOLDER OF A NEW YORK S CORPORATION, THEN THE CAP IMPOSED BY THE PRECEDING SENTENCE SHALL BE APPLIED AT THE ENTITY LEVEL, SO THAT THE AGGREGATE CREDIT ALLOWED TO ALL THE PARTNERS OR SHAREHOLDERS OF EACH SUCH ENTITY IN THE TAXABLE YEAR DOES NOT EXCEED SIX MILLION TWO HUNDRED THOUSAND GALLONS TIMES FOURTEEN CENTS.

(B) CROSS-REFERENCES. FOR APPLICATION OF THE CREDIT PROVIDED FOR IN THIS SECTION, SEE THE FOLLOWING PROVISIONS OF THIS CHAPTER:

(1) ARTICLE 9-A: SECTION 210, SUBDIVISION 45.

(2) ARTICLE 22: SECTION 606, SUBSECTIONS (I) AND (UU).

S 2. Section 210 of the tax law is amended by adding a new subdivision 45 to read as follows:

45. BEER PRODUCTION CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION THIRTY-SEVEN OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE. 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

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

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

S 3. Subparagraph (B) of paragraph 1 of subsection (i) of section 606 of the tax law is amended by adding a new clause (xxxiv) to read as follows:

(XXXIV) BEER PRODUCTION TAX CREDIT UNDER SUBSECTION (UU)	AMOUNT OF CREDIT UNDER SUBDIVISION FORTY-FIVE OF SECTION TWO HUNDRED TEN

S 4. Section 606 of the tax law is amended by adding a new subsection (uu) to read as follows:

(UU) BEER PRODUCTION CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT TO BE COMPUTED AS PROVIDED IN SECTION THIRTY-SEVEN OF THIS CHAPTER AGAINST THE TAX IMPOSED BY THIS ARTICLE. IF THE AMOUNT OF THE 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 5. This act shall take effect immediately.