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

1523

2011-2012 Regular Sessions

I N A S S E M B L Y

January 10, 2011

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

AN ACT to amend the tax law, in relation to providing a tax credit for dyed diesel fuel storage facilities

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 187-q to read as follows:

S 187-Q. DYED DIESEL MOTOR FUEL STORAGE PROPERTY CREDIT. 1. GENERAL. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE CREDITED AGAINST THE TAX IMPOSED UNDER SECTIONS ONE HUNDRED EIGHTY-THREE, ONE HUNDRED EIGHTY-FOUR AND ONE HUNDRED EIGHTY-FIVE, OF THIS ARTICLE. SUCH CREDIT, TO BE COMPUTED AS PROVIDED IN THIS SECTION, SHALL BE ALLOWED FOR QUALIFIED DYED DIESEL MOTOR FUEL STORAGE PROPERTY PLACED IN SERVICE DURING THE TAXABLE YEAR.

2. APPLICATION OF CREDIT. THE CREDIT UNDER THIS SECTION FOR QUALIFIED DYED DIESEL MOTOR FUEL STORAGE PROPERTY SHALL EQUAL FIFTEEN PERCENT OF THE COST OF ANY SUCH PROPERTY WHICH IS LOCATED IN THIS STATE. THE TOTAL AMOUNT OF CREDIT FOR QUALIFIED DYED DIESEL MOTOR FUEL STORAGE PROPERTY ALLOWABLE TO A TAXPAYER UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT EXCEED TWENTY-FIVE HUNDRED DOLLARS.

3. DEFINITIONS. (A) THE TERM "DYED DIESEL MOTOR FUEL" MEANS DIESEL MOTOR FUEL WHICH IS ENHANCED DIESEL MOTOR FUEL AND WHICH HAS BEEN DYED IN ACCORDANCE WITH AND FOR THE PURPOSE OF COMPLYING WITH THE PROVISIONS OF 26 USC S4082(A) AND THE REGULATIONS THEREUNDER, AS MAY BE AMENDED FROM TIME TO TIME.

(B) THE TERM "QUALIFIED DYED DIESEL MOTOR FUEL STORAGE PROPERTY" MEANS TANKAGE AND ASSOCIATED PIPING DESIGNATED EXCLUSIVELY FOR STORAGE OF DYED DIESEL MOTOR FUEL. A QUALIFIED DYED DIESEL MOTOR FUEL STORAGE PROPERTY SHALL NOT INCLUDE ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY WITHIN THE MEANING OF SECTION ONE HUNDRED EIGHTY-SEVEN-B OF THIS ARTICLE.

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

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(C) THE TERM "TANKAGE AND ASSOCIATED PIPING DESIGNATED EXCLUSIVELY FOR THE STORAGE OF DYED DIESEL MOTOR FUEL" SHALL INCLUDE PURCHASE OR CONSTRUCTION OF TANKAGE AND ASSOCIATED PIPING (INCLUDING EQUIPMENT AND LABOR ASSOCIATED WITH INSTALLATION OF TANKAGE), TANK NOZZLES, IMMERSION HEATERS, INSULATION, STEAM GENERATORS OR TANK HEATING EQUIPMENT, TANK STOCK MIXING EQUIPMENT, ELECTRICAL PANELS AND CONTROLS AND OTHER SUCH EQUIPMENT ONLY SERVING THE DYED DIESEL MOTOR FUEL STORAGE TANK, PIPING DIRECTLY CONNECTED TO THE STORAGE TANK EXCLUSIVELY FOR DYED DIESEL MOTOR FUEL, FIRE SUPPRESSION OR OTHER CODE REQUIRED SAFETY EQUIPMENT, AND TEMPERATURE CONTROL EQUIPMENT USED EXCLUSIVELY FOR THE DYED DIESEL MOTOR FUEL STORAGE TANK.

4. APPLICATION OF CREDIT. IN NO EVENT SHALL THE CREDIT UNDER THIS SECTION BE ALLOWED IN AN AMOUNT WHICH WILL REDUCE THE TAX PAYABLE TO LESS THAN THE APPLICABLE MINIMUM TAX FIXED BY SECTION ONE HUNDRED EIGHTY-THREE OR ONE HUNDRED EIGHTY-FIVE OF THIS ARTICLE. IF, HOWEVER, THE AMOUNT OF CREDIT ALLOWABLE UNDER THIS SECTION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE 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 THEREIN.

S 2. Section 210 of the tax law is amended by adding a new subdivision 43 to read as follows:

43. QUALIFIED DYED DIESEL MOTOR FUEL STORAGE PROPERTY CREDIT. (A) GENERAL. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN THIS SECTION, AGAINST THE TAX IMPOSED BY THIS ARTICLE FOR A QUALIFIED DYED DIESEL MOTOR FUEL STORAGE PROPERTY PLACED IN SERVICE DURING THE TAXABLE YEAR. THIS CREDIT SHALL EQUAL FIFTEEN PERCENT OF THE COST OF ANY SUCH PROPERTY WHICH IS LOCATED IN THIS STATE. THE TOTAL AMOUNT OF CREDIT FOR QUALIFIED DYED DIESEL MOTOR FUEL STORAGE PROPERTY ALLOWABLE TO A TAXPAYER UNDER THIS PARAGRAPH FOR ANY TAXABLE YEAR SHALL NOT EXCEED TWENTY-FIVE HUNDRED DOLLARS.

(B) DEFINITIONS. (I) THE TERM "DYED DIESEL MOTOR FUEL" MEANS DIESEL MOTOR FUEL WHICH IS ENHANCED DIESEL MOTOR FUEL AND WHICH HAS BEEN DYED IN ACCORDANCE WITH AND FOR THE PURPOSE OF COMPLYING WITH THE PROVISIONS OF 26 USC S 4082(A) AND THE REGULATIONS THEREUNDER, AS MAY BE AMENDED FROM TIME TO TIME.

(II) THE TERM "QUALIFIED DYED DIESEL MOTOR FUEL STORAGE PROPERTY" MEANS TANKAGE AND ASSOCIATED PIPING DESIGNATED EXCLUSIVELY FOR STORAGE OF DYED DIESEL MOTOR FUEL. A QUALIFIED DYED DIESEL MOTOR FUEL STORAGE PROPERTY SHALL NOT INCLUDE ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY WITHIN THE MEANING OF SUBDIVISION TWENTY-FOUR OF THIS SECTION.

(III) THE TERM TANKAGE AND ASSOCIATED PIPING DESIGNATED EXCLUSIVELY FOR THE STORAGE OF DYED DIESEL MOTOR FUEL SHALL INCLUDE PURCHASE OR CONSTRUCTION OF TANKAGE AND ASSOCIATED PIPING (INCLUDING EQUIPMENT AND LABOR ASSOCIATED WITH INSTALLATION OF TANKAGE), TANK NOZZLES, IMMERSION HEATERS, INSULATION, STEAM GENERATORS OR TANK HEATING EQUIPMENT, TANK STOCK MIXING EQUIPMENT, ELECTRICAL PANELS AND CONTROLS AND OTHER SUCH EQUIPMENT ONLY SERVICING THE DYED DIESEL MOTOR FUEL STORAGE TANK, PIPING DIRECTLY CONNECTED TO THE STORAGE TANK EXCLUSIVELY FOR DYED DIESEL MOTOR FUEL, FIRE SUPPRESSION OR OTHER CODE REQUIRED SAFETY EQUIPMENT, AND TEMPERATURE CONTROL EQUIPMENT USED EXCLUSIVELY FOR THE DYED DIESEL MOTOR FUEL STORAGE TANK FOR FIRE SUPPRESSION OR OTHER CODE REQUIRED SAFETY EQUIPMENT AND TEMPERATURE CONTROL EQUIPMENT USED EXCLUSIVELY FOR THE DYED DIESEL MOTOR FUEL STORAGE TANK.

(C) APPLICATION OF CREDIT. IN NO EVENT SHALL THE CREDIT UNDER THIS SUBDIVISION BE ALLOWED IN AN AMOUNT WHICH WILL REDUCE THE TAX PAYABLE 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 ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT 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 (xxxii) to read as follows:

(XXXII) QUALIFIED DYED DIESEL MOTOR FUEL STORAGE PROPERTY CREDIT UNDER SUBSECTION (SS)	CREDIT UNDER SUBDIVISION FORTY-THREE OF SECTION TWO HUNDRED TEN

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

(SS) QUALIFIED DYED DIESEL MOTOR FUEL STORAGE PROPERTY CREDIT. (1) A TAXPAYER SHALL BE ALLOWED A CREDIT, OR A PRO RATA SHARE IN THE CASE OF A PARTNERSHIP, TO BE COMPUTED AS HEREINAFTER PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTICLE FOR A QUALIFIED DYED DIESEL MOTOR FUEL STORAGE PROPERTY PLACED IN SERVICE DURING THE TAXABLE YEAR. THE CREDIT UNDER THIS SUBSECTION FOR QUALIFIED DYED DIESEL MOTOR FUEL STORAGE PROPERTY SHALL EQUAL TWENTY-FIVE PERCENT OF THE COST OF ANY SUCH PROPERTY WHICH IS LOCATED IN THIS STATE. THE TOTAL AMOUNT OF CREDIT FOR QUALIFIED DYED DIESEL MOTOR FUEL STORAGE PROPERTY ALLOWABLE TO A TAXPAYER, INCLUDING THE TOTAL AMOUNT OF QUALIFYING CREDIT FOR ANY ENTITY WITH WHICH THE TAXPAYER MAY BE AFFILIATED, UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT EXCEED FIVE HUNDRED THOUSAND DOLLARS.

(2) DEFINITIONS. (A) THE TERM "DYED DIESEL MOTOR FUEL" MEANS DIESEL MOTOR FUEL WHICH IS ENHANCED DIESEL MOTOR FUEL AND WHICH HAS BEEN DYED IN ACCORDANCE WITH AND FOR THE PURPOSE OF COMPLYING WITH THE PROVISIONS OF 26 USC S 4082(A) AND THE REGULATIONS THEREUNDER, AS MAY BE AMENDED FROM TIME TO TIME.

(B) THE TERM "QUALIFIED DYED DIESEL MOTOR FUEL STORAGE PROPERTY" MEANS TANKAGE AND ASSOCIATED PIPING DESIGNATED EXCLUSIVELY FOR STORAGE OF DYED DIESEL MOTOR FUEL. A QUALIFIED DYED DIESEL MOTOR FUEL STORAGE PROPERTY SHALL NOT INCLUDE ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY WITHIN THE MEANING OF SUBSECTION (P) OF THIS SECTION.

(C) THE TERM TANKAGE AND ASSOCIATED PIPING DESIGNATED EXCLUSIVELY FOR THE STORAGE OF DYED DIESEL MOTOR FUEL SHALL INCLUDE CONSTRUCTION OF TANKAGE AND ASSOCIATED PIPING (INCLUDING EQUIPMENT AND LABOR ASSOCIATED WITH INSTALLATION OF TANKAGE), TANK NOZZLES, IMMERSION HEATERS, INSULATION, STEAM GENERATORS OR TANK HEATING EQUIPMENT, TANK STOCK MIXING EQUIPMENT, ELECTRICAL PANELS AND CONTROLS AND OTHER SUCH EQUIPMENT ONLY SERVICING THE STORAGE TANK, PIPING DIRECTLY CONNECTED TO THE STORAGE TANK EXCLUSIVELY FOR DYED DIESEL MOTOR FUEL, FIRE SUPPRESSION OR OTHER CODE REQUIRED SAFETY EQUIPMENT AND TEMPERATURE CONTROL EQUIPMENT USED EXCLUSIVELY FOR SUCH STORAGE TANK.

(3) APPLICATION OF CREDIT. IF THE AMOUNT OF CREDIT ALLOWABLE UNDER THIS SUBSECTION 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 CHAPTER, PROVIDED, HOWEVER, THAT NO INTEREST SHALL BE PAID THEREON.

S 5. This act shall take effect immediately.