

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:

1 Section 1. The tax law is amended by adding a new section 187-q to
2 read as follows:

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

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

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

21 (B) THE TERM "QUALIFIED DYED DIESEL MOTOR FUEL STORAGE PROPERTY" MEANS
22 TANKAGE AND ASSOCIATED PIPING DESIGNATED EXCLUSIVELY FOR STORAGE OF DYED
23 DIESEL MOTOR FUEL. A QUALIFIED DYED DIESEL MOTOR FUEL STORAGE PROPERTY
24 SHALL NOT INCLUDE ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY WITHIN THE
25 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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1 (C) THE TERM "TANKAGE AND ASSOCIATED PIPING DESIGNATED EXCLUSIVELY FOR
2 THE STORAGE OF DYED DIESEL MOTOR FUEL" SHALL INCLUDE PURCHASE OR
3 CONSTRUCTION OF TANKAGE AND ASSOCIATED PIPING (INCLUDING EQUIPMENT AND
4 LABOR ASSOCIATED WITH INSTALLATION OF TANKAGE), TANK NOZZLES, IMMERSION
5 HEATERS, INSULATION, STEAM GENERATORS OR TANK HEATING EQUIPMENT, TANK
6 STOCK MIXING EQUIPMENT, ELECTRICAL PANELS AND CONTROLS AND OTHER SUCH
7 EQUIPMENT ONLY SERVING THE DYED DIESEL MOTOR FUEL STORAGE TANK, PIPING
8 DIRECTLY CONNECTED TO THE STORAGE TANK EXCLUSIVELY FOR DYED DIESEL MOTOR
9 FUEL, FIRE SUPPRESSION OR OTHER CODE REQUIRED SAFETY EQUIPMENT, AND
10 TEMPERATURE CONTROL EQUIPMENT USED EXCLUSIVELY FOR THE DYED DIESEL MOTOR
11 FUEL STORAGE TANK.

12 4. APPLICATION OF CREDIT. IN NO EVENT SHALL THE CREDIT UNDER THIS
13 SECTION BE ALLOWED IN AN AMOUNT WHICH WILL REDUCE THE TAX PAYABLE TO
14 LESS THAN THE APPLICABLE MINIMUM TAX FIXED BY SECTION ONE HUNDRED EIGHT-
15 Y-THREE OR ONE HUNDRED EIGHTY-FIVE OF THIS ARTICLE. IF, HOWEVER, THE
16 AMOUNT OF CREDIT ALLOWABLE UNDER THIS SECTION FOR ANY TAXABLE YEAR
17 REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN
18 SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE
19 REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND
20 EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF
21 SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER
22 NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREIN.

23 S 2. Section 210 of the tax law is amended by adding a new subdivision
24 43 to read as follows:

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

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

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

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

1 (C) APPLICATION OF CREDIT. IN NO EVENT SHALL THE CREDIT UNDER THIS
 2 SUBDIVISION BE ALLOWED IN AN AMOUNT WHICH WILL REDUCE THE TAX PAYABLE TO
 3 LESS THAN THE HIGHER OF THE AMOUNTS PRESCRIBED IN PARAGRAPHS (C) AND (D)
 4 OF SUBDIVISION ONE OF THIS SECTION. HOWEVER, IF THE AMOUNT OF CREDIT
 5 ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO
 6 SUCH AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH TAXABLE YEAR
 7 SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN
 8 ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF
 9 THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF
 10 SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO
 11 INTEREST SHALL BE PAID THEREON.

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

| | |
|----------------------------------|--------------------------|
| 15 (XXXII) QUALIFIED DYED DIESEL | CREDIT UNDER SUBDIVISION |
| 16 MOTOR FUEL STORAGE | FORTY-THREE OF SECTION |
| 17 PROPERTY CREDIT UNDER | TWO HUNDRED TEN |
| 18 SUBSECTION (SS) | |

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

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

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

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

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

53 (3) APPLICATION OF CREDIT. IF THE AMOUNT OF CREDIT ALLOWABLE UNDER
 54 THIS SUBSECTION SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, THE
 55 EXCESS SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR

1 REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION SIX HUNDRED EIGHT-
2 Y-SIX OF THIS CHAPTER, PROVIDED, HOWEVER, THAT NO INTEREST SHALL BE PAID
3 THEREON.
4 S 5. This act shall take effect immediately.