

7271

2011-2012 Regular Sessions

I N A S S E M B L Y

April 27, 2011

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

AN ACT to amend the tax law, in relation to providing an exemption from the payment of the motor fuels tax and the sales tax on motor fuels used in the operation of commercial fishing vessels; and to amend the tax law, in relation to exempting fuel used in vessels used directly and predominantly in a business providing sport fishing opportunities for hire to the general public from the tax on petroleum businesses and from sales and compensating use taxes

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

1 Section 1. Paragraph (b) of subdivision 3 of section 282-a of the tax  
2 law, as amended by section 5 of part K of chapter 61 of the laws of  
3 2011, is amended to read as follows:  
4 (b) The tax on the incidence of sale or use imposed by subdivision one  
5 of this section shall not apply to: (i) the sale or use of non-highway  
6 Diesel motor fuel, but only if all of such fuel is consumed other than  
7 on the public highways of this state (except for the use of the public  
8 highway by farmers to reach adjacent farmlands); provided, however, this  
9 exemption shall in no event apply to a sale of non-highway Diesel motor  
10 fuel which involves a delivery at a filling station or into a repository  
11 which is equipped with a hose or other apparatus by which such fuel can  
12 be dispensed into the fuel tank of a motor vehicle (except for delivery  
13 at a farm site which qualifies for the exemption under subdivision (g)  
14 of section three hundred one-b of this chapter); or (ii) a sale to the  
15 consumer consisting of not more than twenty gallons of water-white kero-  
16 sene to be used and consumed exclusively for heating purposes; or (iii)  
17 the sale to or delivery at a filling station or other retail vendor of  
18 water-white kerosene provided such filling station or other retail  
19 vendor only sells such water-white kerosene exclusively for heating  
20 purposes in containers of no more than twenty gallons; or (iv) a sale of

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

LBD10686-02-1

1 kero-jet fuel to an airline for use in its airplanes or a use of kero-  
2 jet fuel by an airline in its airplanes; or (v) a sale of kero-jet fuel  
3 by a registered distributor of Diesel motor fuel to a fixed base opera-  
4 tor registered under this article as a distributor of kero-jet fuel only  
5 where such fixed base operator is engaged solely in making or offering  
6 to make retail sales not in bulk of kero-jet fuel directly into the fuel  
7 tank of an airplane for the purpose of operating such airplane; or (vi)  
8 a retail sale not in bulk of kero-jet fuel by a fixed base operator  
9 registered under this article as a distributor of kero-jet fuel only  
10 where such fuel is delivered directly into the fuel tank of an airplane  
11 for use in the operation of such airplane; OR (VII) A SALE OF DIESEL  
12 MOTOR FUEL TO A "COMMERCIAL FISHERMAN", AS SUCH TERM IS DEFINED IN  
13 SUBDIVISION (I) OF SECTION THREE HUNDRED OF THIS CHAPTER, AT RETAIL  
14 UNDER THE CIRCUMSTANCES SET FORTH IN PARAGRAPH ONE OF SUBDIVISION (G) OF  
15 SECTION THREE HUNDRED ONE-C OF THIS CHAPTER, AND WHERE SUCH COMMERCIAL  
16 FISHING VESSEL IS OPERATED BY A COMMERCIAL FISHERMAN.

17 S 2. Subdivision 4 of section 282-a of the tax law, as amended by  
18 section 5 of part K of chapter 61 of the laws of 2011, is amended to  
19 read as follows:

20 4. The tax imposed by this section on Diesel motor fuel shall be  
21 passed through by the seller and included as part of the selling price  
22 to each purchaser of such fuel. Provided, however, the amount of the tax  
23 imposed by this section may be excluded from the selling price of Diesel  
24 motor fuel where (i) a sale of Diesel motor fuel is made to an organiza-  
25 tion described in paragraph (a) of subdivision three of this section  
26 solely for the purpose stated therein; (ii) a sale of non-highway Diesel  
27 motor fuel is made to a consumer but only if such non-highway Diesel  
28 motor fuel is not delivered to a filling station, nor delivered into a  
29 storage tank which is equipped with a hose or other apparatus by which  
30 such fuel can be dispensed into the fuel tank of a motor vehicle; or  
31 (iii) the sale to or delivery at a filling station or other retail  
32 vendor of water-white kerosene provided such filling station or other  
33 retail vendor only sells such water-white kerosene exclusively for heat-  
34 ing purposes in containers of no more than twenty gallons; or (iv) a  
35 sale of kero-jet fuel is made to an airline for use in its airplanes; OR  
36 (V) A SALE OF DIESEL MOTOR FUEL IS MADE TO A "COMMERCIAL FISHERMAN", AS  
37 SUCH TERM IS DEFINED IN SUBDIVISION (I) OF SECTION THREE HUNDRED OF THIS  
38 CHAPTER, AT RETAIL UNDER THE CIRCUMSTANCES SET FORTH IN PARAGRAPH ONE OF  
39 SUBDIVISION (G) OF SECTION THREE HUNDRED ONE-C OF THIS CHAPTER, AND  
40 WHERE SUCH COMMERCIAL FISHING VESSEL IS OPERATED BY A COMMERCIAL FISHER-  
41 MAN.

42 S 3. Section 301-b of the tax law is amended by adding a new subdivi-  
43 sion (k) to read as follows:

44 (K) SALES OR USES OF DIESEL MOTOR FUEL AND RESIDUAL PETROLEUM PRODUCT  
45 FOR COMMERCIAL FISHING. DIESEL MOTOR FUEL OR RESIDUAL PETROLEUM PRODUCT  
46 SOLD TO OR USED BY A "COMMERCIAL FISHERMAN", AS SUCH TERM IS DEFINED IN  
47 SUBDIVISION (I) OF SECTION THREE HUNDRED OF THIS ARTICLE, AT RETAIL  
48 UNDER THE CIRCUMSTANCES SET FORTH IN PARAGRAPH ONE OF SUBDIVISION (G) OF  
49 SECTION THREE HUNDRED ONE-C OF THIS ARTICLE, AND WHERE SUCH COMMERCIAL  
50 FISHING VESSEL IS OPERATED BY A COMMERCIAL FISHERMAN.

51 S 4. Subdivision (j) of section 1115 of the tax law, as amended by  
52 section 41 of part K of chapter 61 of the laws of 2011, is amended to  
53 read as follows:

54 (j) The exemptions provided in this section shall not apply to the tax  
55 required to be prepaid pursuant to the provisions of section eleven  
56 hundred two of this article nor to the taxes imposed by sections eleven

1 hundred five and eleven hundred ten of this article with respect to  
2 receipts from sales and uses of motor fuel or diesel motor fuel, except  
3 that the exemptions provided in paragraphs nine and forty-two of subdivi-  
4 sion (a) of this section shall apply to the tax required to be prepaid  
5 pursuant to the provisions of section eleven hundred two of this article  
6 and to the taxes imposed by sections eleven hundred five and eleven  
7 hundred ten of this article with respect to sales and uses of kero-jet  
8 fuel, CNG, hydrogen and E85, provided, however, the exemption allowed  
9 for E85 shall be subject to the additional requirements provided in  
10 section eleven hundred two of this article with respect to E85 AND  
11 EXCEPT THAT THE EXEMPTION PROVIDED IN PARAGRAPH TWENTY-FOUR OF SUBDIVI-  
12 SION (A) OF THIS SECTION SHALL APPLY TO THE TAXES IMPOSED BY SECTIONS  
13 ELEVEN HUNDRED FIVE AND ELEVEN HUNDRED TEN OF THIS ARTICLE WITH RESPECT  
14 TO SALES AND USES OF DIESEL MOTOR FUEL USED IN THE OPERATION OF A FISH-  
15 ING VESSEL AS DESCRIBED IN PARAGRAPH TWENTY-FOUR OF SUBDIVISION (A) OF  
16 THIS SECTION. The exemption provided in subdivision (c) of this section  
17 shall apply to sales and uses of non-highway diesel motor fuel but only  
18 if all of such fuel is consumed other than on the public highways of  
19 this state. The exemption provided in subdivision (c) of this section  
20 shall apply to sales and uses of non-highway diesel motor fuel for use  
21 or consumption either in the production for sale of tangible personal  
22 property by farming or in a commercial horse boarding operation, or in  
23 both but only if all of such fuel is consumed other than on the public  
24 highways of this state (except for the use of the public highways to  
25 reach adjacent farmlands or adjacent lands used in a commercial horse  
26 boarding operation, or both).

27 S 5. Subdivision (j) of section 1115 of the tax law, as amended by  
28 section 41-a of part K of chapter 61 of the laws of 2011, is amended to  
29 read as follows:

30 (j) The exemptions provided in this section shall not apply to the tax  
31 required to be prepaid pursuant to the provisions of section eleven  
32 hundred two of this article nor to the taxes imposed by sections eleven  
33 hundred five and eleven hundred ten of this article with respect to  
34 receipts from sales and uses of motor fuel or diesel motor fuel, except  
35 that the exemption provided in paragraph nine of subdivision (a) of this  
36 section shall apply to the tax required to be prepaid pursuant to the  
37 provisions of section eleven hundred two of this article and to the  
38 taxes imposed by sections eleven hundred five and eleven hundred ten of  
39 this article with respect to sales and uses of kero-jet fuel AND EXCEPT  
40 THAT THE EXEMPTION PROVIDED IN PARAGRAPH TWENTY-FOUR OF SUBDIVISION (A)  
41 OF THIS SECTION SHALL APPLY TO THE TAXES IMPOSED BY SECTIONS ELEVEN  
42 HUNDRED FIVE AND ELEVEN HUNDRED TEN OF THIS ARTICLE WITH RESPECT TO  
43 SALES AND USES OF DIESEL MOTOR FUEL USED IN THE OPERATION OF A FISHING  
44 VESSEL AS DESCRIBED IN PARAGRAPH TWENTY-FOUR OF SUBDIVISION (A) OF THIS  
45 SECTION. The exemption provided in subdivision (c) of this section  
46 shall apply to sales and uses of non-highway diesel motor fuel but only  
47 if all of such fuel is consumed other than on the public highways of  
48 this state. The exemption provided in subdivision (c) of this section  
49 shall apply to sales and uses of non-highway diesel motor fuel for use  
50 or consumption either in the production for sale of tangible personal  
51 property by farming or in a commercial horse boarding operation, or in  
52 both but only if all of such fuel is consumed other than on the public  
53 highways of this state (except for the use of the public highways to  
54 reach adjacent farmlands or adjacent lands used in a commercial horse  
55 boarding operation, or both).

1 S 6. Section 300 of the tax law is amended by adding a new subdivision  
2 (j-1) to read as follows:

3 (J-1) "COMMERCIAL SPORT FISHING VESSEL" MEANS A VESSEL OWNED BY A  
4 PERSON DOMICILED IN THIS STATE, WHO HAS BEEN ISSUED AND HOLDS A MARINE  
5 AND COASTAL DISTRICT PARTY AND CHARTER BOAT LICENSE PURSUANT TO SECTION  
6 13-0336 OF THE ENVIRONMENTAL CONSERVATION LAW.

7 S 7. Paragraph 2 of subdivision (b) of section 301-a of the tax law,  
8 as added by section 154 of part A of chapter 389 of the laws of 1997, is  
9 amended to read as follows:

10 (2) Motor fuel brought into this state in the fuel tank connecting  
11 with the engine of a vessel propelled by the use of such motor fuel  
12 shall be deemed to constitute a taxable use of motor fuel for the  
13 purposes of this subdivision to the extent that the fuel is consumed in  
14 the operation of the vessel in this state. Provided, however, that this  
15 paragraph shall not apply to (i) a recreational motor boat or (ii)  
16 subsequent to August thirty-first, nineteen hundred ninety-four, a  
17 commercial fishing vessel (as defined in subdivision (j) of section  
18 three hundred of this article) if the motor fuel imported and consumed  
19 in this state is used to operate such vessel while it is engaged in the  
20 harvesting of fish for sale OR (III) A COMMERCIAL SPORT FISHING VESSEL,  
21 IF SUCH VESSEL PROVIDES ITS OWNER WITH AT LEAST FIFTY PERCENT OF HIS OR  
22 HER TOTAL ANNUAL INCOME. Provided, further, that tax liability for  
23 gallonage that a vessel consumes shall be the tax liability with respect  
24 to the positive difference between the gallonage consumed in this state  
25 during the reporting period and the gallonage purchased in this state  
26 (upon which the tax imposed by this section has been paid) during such  
27 period. A credit or refund shall be available for any excess of tax  
28 liability for gallonage purchased in this state during the period over  
29 tax liability on gallonage so consumed in this state during such period,  
30 which excess shall be presumed to have been used outside this state.

31 S 8. Subparagraph (B) of paragraph 1 of subdivision (c) of section  
32 301-a of the tax law, as amended by section 19 of part K of chapter 61  
33 of the laws of 2011, is amended to read as follows:

34 (B) Highway diesel motor fuel brought into this state in the fuel tank  
35 connecting with the engine of a vessel propelled by the use of such  
36 diesel motor fuel shall be deemed to constitute a taxable use of diesel  
37 motor fuel for the purpose of this paragraph to the extent of the fuel  
38 that is consumed in the operation of the vessel in this state. Provided,  
39 however, this paragraph shall not apply to (i) a recreational motor boat  
40 or (ii) a commercial fishing vessel (as defined in subdivision (j) of  
41 section three hundred of this article) if the highway diesel motor fuel  
42 imported into and consumed in this state is used to operate such commer-  
43 cial fishing vessel while it is engaged in the harvesting of fish for  
44 sale OR (III) A COMMERCIAL SPORT FISHING VESSEL, IF SUCH VESSEL PROVIDES  
45 ITS OWNER WITH AT LEAST FIFTY PERCENT OF HIS OR HER TOTAL ANNUAL INCOME.  
46 Provided, further, that tax liability for gallonage that a vessel  
47 consumes in this state shall be the tax liability with respect to the  
48 positive difference between the gallonage consumed in this state during  
49 the reporting period and the gallonage purchased in this state (upon  
50 which the tax imposed by this section has been paid) during such period.  
51 A credit or refund shall be available for any excess of tax liability  
52 for gallonage purchased in this state during the period over tax liabil-  
53 ity on gallonage so consumed in this state during such period, which  
54 excess shall be presumed to have been used outside this state.

1 S 9. The opening paragraph of section 301-c of the tax law, as amended  
2 by section 5 of part W-1 of chapter 109 of the laws of 2006, is amended  
3 to read as follows:

4 A subsequent purchaser shall be eligible for reimbursement of tax with  
5 respect to the following gallonage, subsequently sold by such purchaser  
6 in accordance with subdivision (a), (b), (e), (h), (j), (k), (n) or (o)  
7 of this section or used by such purchaser in accordance with subdivision  
8 (c), (d), (f), (g), (G-1), (i), (l) or (m) of this section, which gallo-  
9 nage has been included in the measure of the tax imposed by this article  
10 on a petroleum business:

11 S 10. The opening paragraph of section 301-c of the tax law, as  
12 amended by chapter 468 of the laws of 2000, is amended to read as  
13 follows:

14 A subsequent purchaser shall be eligible for reimbursement of tax with  
15 respect to the following gallonage, subsequently sold by such purchaser  
16 in accordance with subdivision (a), (b), (e), (h), (j) or (k) of this  
17 section or used by such purchaser in accordance with subdivision (c),  
18 (d), (f), (g), (G-1), (i), (l) or (m) of this section, which gallonage  
19 has been included in the measure of the tax imposed by this article on a  
20 petroleum business:

21 S 11. Section 301-c of the tax law is amended by adding a new subdivi-  
22 sion (g-1) to read as follows:

23 (G-1) DIESEL MOTOR FUEL AND MOTOR FUEL USED IN THE OPERATION OF  
24 COMMERCIAL SPORT FISHING VESSELS. DIESEL MOTOR FUEL OR MOTOR FUEL  
25 PURCHASED IN THIS STATE BY THE OPERATOR OF A COMMERCIAL SPORT FISHING  
26 VESSEL AT RETAIL WHEREIN SUCH DIESEL MOTOR FUEL OR SUCH MOTOR FUEL IS  
27 DELIVERED BY A PUMP EQUIPPED WITH A HOSE DIRECTLY INTO THE FUEL TANK OF  
28 A COMMERCIAL SPORT FISHING VESSEL TO BE USED AS FUEL IN THE OPERATION OF  
29 SUCH VESSEL FOR THE PURPOSE OF PROVIDING SPORT FISHING OPPORTUNITIES FOR  
30 HIRE TO THE GENERAL PUBLIC; BUT ONLY WHERE (1) THE TAX IMPOSED PURSUANT  
31 TO THIS ARTICLE HAS BEEN PAID WITH RESPECT TO SUCH DIESEL MOTOR FUEL OR  
32 SUCH MOTOR FUEL AND THE ENTIRE AMOUNT OF SUCH TAX HAS BEEN ABSORBED BY  
33 SUCH PURCHASER, (2) SUCH PURCHASER POSSESSES DOCUMENTARY PROOF SATISFAC-  
34 TORY TO THE COMMISSIONER EVIDENCING THE ABSORPTION BY IT OF THE ENTIRE  
35 AMOUNT OF THE TAX IMPOSED PURSUANT TO THIS ARTICLE, AND (3) THE VESSEL  
36 PROVIDES ITS OWNER WITH AT LEAST FIFTY PERCENT OF HIS OR HER TOTAL ANNU-  
37 AL INCOME. PROVIDED, HOWEVER, THAT THE COMMISSIONER SHALL REQUIRE SUCH  
38 DOCUMENTARY PROOF TO QUALIFY FOR ANY REIMBURSEMENT OF TAX PROVIDED BY  
39 THIS SECTION AS THE COMMISSIONER DEEMS APPROPRIATE.

40 S 12. Subdivision (a) of section 1115 of the tax law is amended by  
41 adding a new paragraph 24-a to read as follows:

42 (24-A) FUEL USED IN VESSELS USED DIRECTLY AND PREDOMINANTLY IN A BUSI-  
43 NESS PROVIDING SPORT FISHING OPPORTUNITIES FOR HIRE TO THE GENERAL  
44 PUBLIC; PROVIDED THAT SUCH VESSEL PROVIDES ITS OWNER WITH AT LEAST FIFTY  
45 PERCENT OF HIS OR HER TOTAL ANNUAL INCOME.

46 S 13. Subparagraph (i) of paragraph 1 of subdivision (a) of section  
47 1210 of the tax law, as amended by section 3 of part GG of chapter 57 of  
48 the laws of 2010, is amended to read as follows:

49 (i) Any local law, ordinance or resolution enacted by any city of less  
50 than one million or by any county or school district, imposing the taxes  
51 authorized by this subdivision, shall, notwithstanding any provision of  
52 law to the contrary, exclude from the operation of such local taxes all  
53 sales of tangible personal property for use or consumption directly and  
54 predominantly in the production of tangible personal property, gas,  
55 electricity, refrigeration or steam, for sale, by manufacturing, proc-  
56 essing, generating, assembly, refining, mining or extracting; and all

1 sales of tangible personal property for use or consumption predominantly  
 2 either in the production of tangible personal property, for sale, by  
 3 farming or in a commercial horse boarding operation, or in both; and,  
 4 unless such city, county or school district elects otherwise, shall omit  
 5 THE FUEL USED IN COMMERCIAL SPORT FISHING VESSELS EXEMPTION PROVIDED FOR  
 6 IN PARAGRAPH TWENTY-FOUR-A OF SUBDIVISION (A), the provision for credit  
 7 or refund contained in clause six of subdivision (a) or subdivision (d)  
 8 of section eleven hundred nineteen of this chapter.

9 S 14. Section 1210 of the tax law is amended by adding a new subdivi-  
 10 sion (p) to read as follows:

11 (P) NOTWITHSTANDING ANY OTHER PROVISION OF STATE OR LOCAL LAW, ORDI-  
 12 NANCE OR RESOLUTION TO THE CONTRARY:

13 (1) ANY CITY HAVING A POPULATION OF ONE MILLION OR MORE IN WHICH THE  
 14 TAXES IMPOSED BY SECTION ELEVEN HUNDRED SEVEN OF THIS CHAPTER ARE IN  
 15 EFFECT, ACTING THROUGH ITS LOCAL LEGISLATIVE BODY, IS HEREBY AUTHORIZED  
 16 AND EMPOWERED TO ELECT TO PROVIDE THE SAME EXEMPTIONS FROM SUCH TAXES AS  
 17 THE FUEL USED IN COMMERCIAL SPORT FISHING VESSELS EXEMPTION FROM STATE  
 18 SALES AND COMPENSATING USE TAXES DESCRIBED IN PARAGRAPH TWENTY-FOUR-A OF  
 19 SUBDIVISION (A) OF SECTION ELEVEN HUNDRED FIFTEEN OF THIS CHAPTER BY  
 20 ENACTING A RESOLUTION IN THE FORM SET FORTH IN PARAGRAPH TWO OF THIS  
 21 SUBDIVISION; WHEREUPON, UPON COMPLIANCE WITH THE PROVISIONS OF SUBDIVI-  
 22 SIONS (D) AND (E) OF THIS SECTION, SUCH ENACTMENT OF SUCH RESOLUTION  
 23 SHALL BE DEEMED TO BE AN AMENDMENT TO SUCH SECTION ELEVEN HUNDRED SEVEN  
 24 AND SUCH SECTION ELEVEN HUNDRED SEVEN SHALL BE DEEMED TO INCORPORATE  
 25 SUCH EXEMPTIONS AS IF THEY HAD BEEN DULY ENACTED BY THE STATE LEGISLA-  
 26 TURE AND APPROVED BY THE GOVERNOR.

27 (2) FORM OF RESOLUTION: BE IT ENACTED BY THE (INSERT PROPER TITLE OF  
 28 LOCAL LEGISLATIVE BODY) AS FOLLOWS:

29 SECTION ONE. RECEIPTS FROM SALES OF AND CONSIDERATION GIVEN OR  
 30 CONTRACTED TO BE GIVEN FOR, OR FOR THE USE OF, PROPERTY AND SERVICES  
 31 EXEMPT FROM STATE SALES AND COMPENSATING USE TAXES PURSUANT TO PARAGRAPH  
 32 TWENTY-FOUR-A OF SUBDIVISION (A) OF SECTION 1115 OF THE TAX LAW SHALL  
 33 ALSO BE EXEMPT FROM SALES AND COMPENSATING USE TAXES IMPOSED IN THIS  
 34 JURISDICTION.

35 SECTION TWO. THIS RESOLUTION SHALL TAKE EFFECT JUNE 1, (INSERT THE  
 36 YEAR, BUT NOT EARLIER THAN THE YEAR 2010) AND SHALL APPLY TO SALES MADE,  
 37 SERVICES RENDERED AND USES OCCURRING ON AND AFTER THAT DATE IN ACCORD-  
 38 ANCE WITH THE APPLICABLE TRANSITIONAL PROVISIONS IN SECTIONS 1106, 1216  
 39 AND 1217 OF THE NEW YORK TAX LAW.

40 S 15. This act shall take effect on the first day of a sales tax  
 41 quarterly period, as described in subdivision (b) of section 1136 of the  
 42 tax law, next commencing at least ninety days after this act shall have  
 43 become a law, provided, however, that the amendments made to paragraph  
 44 (b) of subdivision 3 and subdivision 4, made by sections one and two of  
 45 this act, respectively, shall take effect on the same date and in the  
 46 same manner as section 5 of part K of chapter 61 of the laws of 2011,  
 47 takes effect; and sections four and five of this act shall apply to  
 48 sales made under and uses occurring on or after the dates such sections  
 49 four and five shall have taken effect, respectively, although made or  
 50 occurring under a prior contract, provided that the amendments to subdivi-  
 51 sion (j) of section 1115 of the tax law made by sections four and five  
 52 of this act, respectively, shall take effect on the same date and in the  
 53 same manner as section 41 of part K of chapter 61 of the laws of 2011,  
 54 takes effect; provided further that such amendments made by section four  
 55 of this act shall be subject to the expiration and reversion of such  
 56 subdivision pursuant to section 19 of part W-1 of chapter 109 of the

1 laws of 2006, as amended, when upon such date the provisions of section  
2 five of this act shall take effect; provided, further, that sections  
3 six, seven, nine, ten and eleven of this act shall take effect June 1,  
4 2011; provided, further, that the amendments made to subparagraph (B) of  
5 paragraph 1 of subdivision (c) of section 301-a of the tax law made by  
6 section eight of this act shall take effect on the same date and in the  
7 same manner as section 19 of part K of chapter 61 of the laws of 2011,  
8 takes effect; provided, further, that the amendments to the opening  
9 paragraph of section 301-c of the tax law, made by section nine of this  
10 act shall not affect the expiration and repeal of such paragraph pursu-  
11 ant to section 19 of part W-1 of chapter 109 of the laws of 2006, as  
12 amended, and shall expire and be deemed repealed therewith, when upon  
13 such date the provisions of section ten of this act shall take effect.