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

7406

2011-2012 Regular Sessions

I N A S S E M B L Y

May 4, 2011

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

AN ACT to amend the tax law, in relation to exempting the retail sale of fuel-efficient vehicles, zero-emission vehicles, flexible-fuel vehicles and alternative-fuel vehicles from the tax on sales and the compensating use tax; and to amend the tax law, in relation to providing a credit against the personal income tax and the corporate franchise tax for the purchase of fuel-efficient vehicles

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

Section 1. Subdivision (a) of section 1115 of the tax law is amended by adding a new paragraph 44 to read as follows:

(44) (I) THE RECEIPTS FROM THE RETAIL SALE OF NEW FUEL-EFFICIENT VEHICLES, ZERO-EMISSION VEHICLES, FLEXIBLE-FUEL VEHICLES OR ALTERNATIVE-FUEL VEHICLES.

(II) AS USED IN THIS PARAGRAPH:

(A) "FUEL-EFFICIENT VEHICLE" MEANS A VEHICLE, AS DEFINED IN SECTION ONE HUNDRED FIFTY-NINE OF THE VEHICLE AND TRAFFIC LAW, THAT IS RATED AT ONE HUNDRED TEN PERCENT OR GREATER OF THE AVERAGE FUEL EFFICIENCY FOR VEHICLES IN ITS CLASS BASED ON PASSENGER AND CARGO VOLUME;

(B) "ZERO-EMISSION VEHICLE" MEANS A VEHICLE, AS DEFINED IN SECTION ONE HUNDRED FIFTY-NINE OF THE VEHICLE AND TRAFFIC LAW, WHICH PROVIDES ZERO EMISSIONS UNDER ANY AND ALL POSSIBLE OPERATIONAL NEEDS AND CONDITIONS;

(C) "FLEXIBLE-FUEL VEHICLE" MEANS A VEHICLE, AS DEFINED IN SECTION ONE HUNDRED FIFTY-NINE OF THE VEHICLE AND TRAFFIC LAW, THAT IS ENGINEERED AND DESIGNED TO BE OPERATED USING GASOLINE AND/OR AN ALTERNATIVE-FUEL MIXTURE OR BLEND; AND

(D) "ALTERNATIVE-FUEL VEHICLE" MEANS A VEHICLE, AS DEFINED IN SECTION ONE HUNDRED FIFTY-NINE OF THE VEHICLE AND TRAFFIC LAW, WHICH IS POWERED BY A FUEL SOURCE OTHER THAN GASOLINE OR DIESEL FUEL THAT CAN BE REGISTERED FOR USE UPON THE ROADS OF THE STATE.

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

LBD10673-01-1

S 2. Paragraph 1 of subdivision (a) of section 1210 of the tax law, as amended by section 3 of part GG of chapter 57 of the laws of 2010, is amended to read as follows:

(1) Either, all of the taxes described in article twenty-eight of this chapter, at the same uniform rate, as to which taxes all provisions of the local laws, ordinances or resolutions imposing such taxes shall be identical, except as to rate and except as otherwise provided, with the corresponding provisions in such article twenty-eight, including the definition and exemption provisions of such article, so far as the provisions of such article twenty-eight can be made applicable to the taxes imposed by such city or county and with such limitations and special provisions as are set forth in this article. The taxes authorized under this subdivision may not be imposed by a city or county unless the local law, ordinance or resolution imposes such taxes so as to include all portions and all types of receipts, charges or rents, subject to state tax under sections eleven hundred five and eleven hundred ten of this chapter, except as otherwise provided. [(i)] Any local law, ordinance or resolution enacted by any city of less than one million or by any county or school district, imposing the taxes authorized by this subdivision, shall, notwithstanding any provision of law to the contrary, exclude from the operation of such local taxes all sales of tangible personal property for use or consumption directly and predominantly in the production of tangible personal property, gas, electricity, refrigeration or steam, for sale, by manufacturing, processing, generating, assembly, refining, mining or extracting; and all sales of tangible personal property for use or consumption predominantly either in the production of tangible personal property, for sale, by farming or in a commercial horse boarding operation, or in both; and, unless such city, county or school district elects otherwise, shall omit the provision for credit or refund contained in clause six of subdivision (a) or subdivision (d) of section eleven hundred nineteen of this chapter. [(ii)] Any local law, ordinance or resolution enacted by any city, county or school district, imposing the taxes authorized by this subdivision, shall omit the residential solar energy systems equipment exemption provided for in subdivision (ee) [and], the clothing and footwear exemption provided for in paragraph thirty of subdivision (a) AND THE FUEL-EFFICIENT VEHICLES, ZERO-EMISSION VEHICLES, FLEXIBLE-FUEL VEHICLES OR ALTERNATIVE-FUEL VEHICLES EXEMPTION PROVIDED FOR IN PARAGRAPH FORTY-FOUR OF SUBDIVISION (A) of section eleven hundred fifteen of this chapter, unless such city, county or school district elects otherwise as to either such residential solar energy systems equipment exemption or such clothing and footwear exemption OR SUCH FUEL-EFFICIENT VEHICLES, ZERO-EMISSION VEHICLES, FLEXIBLE-FUEL VEHICLES OR ALTERNATIVE-FUEL VEHICLES EXEMPTION PROVIDED FOR IN PARAGRAPH FORTY-FOUR OF SUBDIVISION (A) OF SECTION ELEVEN HUNDRED FIFTEEN OF THIS CHAPTER.

S 3. Section 1210 of the tax law is amended by adding a new subdivision (p) to read as follows:

(P) NOTWITHSTANDING ANY OTHER PROVISION OF STATE OR LOCAL LAW, ORDINANCE OR RESOLUTION TO THE CONTRARY:

(1) ANY CITY HAVING A POPULATION OF ONE MILLION OR MORE IN WHICH THE TAXES IMPOSED BY SECTION ELEVEN HUNDRED SEVEN OF THIS CHAPTER ARE IN EFFECT, ACTING THROUGH ITS LOCAL LEGISLATIVE BODY, IS HEREBY AUTHORIZED AND EMPOWERED TO ELECT TO PROVIDE THE SAME EXEMPTIONS FROM SUCH TAXES AS THE FUEL-EFFICIENT VEHICLES, ZERO-EMISSION VEHICLES, FLEXIBLE-FUEL VEHICLES OR ALTERNATIVE-FUEL VEHICLES EXEMPTION FROM STATE SALES AND COMPENSATING USE TAXES DESCRIBED IN PARAGRAPH FORTY-FOUR OF SUBDIVISION (A) OF

SECTION ELEVEN HUNDRED FIFTEEN OF THIS CHAPTER BY ENACTING A RESOLUTION IN THE FORM SET FORTH IN PARAGRAPH TWO OF THIS SUBDIVISION; WHEREUPON, UPON COMPLIANCE WITH THE PROVISIONS OF SUBDIVISIONS (D) AND (E) OF THIS SECTION, SUCH ENACTMENT OF SUCH RESOLUTION SHALL BE DEEMED TO BE AN AMENDMENT TO SUCH SECTION ELEVEN HUNDRED SEVEN AND SUCH SECTION ELEVEN HUNDRED SEVEN SHALL BE DEEMED TO INCORPORATE SUCH EXEMPTIONS AS IF THEY HAD BEEN DULY ENACTED BY THE STATE LEGISLATURE AND APPROVED BY THE GOVERNOR.

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

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

SECTION TWO. THIS RESOLUTION SHALL TAKE EFFECT MARCH 1, (INSERT THE YEAR, BUT NOT EARLIER THAN THE YEAR 2011) AND SHALL APPLY TO SALES MADE, SERVICES RENDERED AND USES OCCURRING ON AND AFTER THAT DATE IN ACCORDANCE WITH THE APPLICABLE TRANSITIONAL PROVISIONS IN SECTIONS 1106, 1216 AND 1217 OF THE NEW YORK TAX LAW.

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

(SS) FUEL-EFFICIENT VEHICLES CREDIT. (1) A TAXPAYER SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE FOR THE PURCHASE OF A FUEL-EFFICIENT VEHICLE, ZERO-EMISSION VEHICLE, FLEXIBLE-FUEL VEHICLE OR ALTERNATIVE-FUEL VEHICLE. SUCH CREDIT SHALL BE EQUAL TO ONE THOUSAND DOLLARS FOR EACH SUCH VEHICLE PURCHASED DURING THE TAXABLE YEAR. FOR PURPOSES OF THIS SUBSECTION, THE TERMS "FUEL-EFFICIENT VEHICLE", "ZERO-EMISSION VEHICLE", "FLEXIBLE-FUEL VEHICLE" AND "ALTERNATIVE-FUEL VEHICLE" SHALL HAVE THE SAME MEANING AS THE MEANING SET FORTH IN PARAGRAPH FORTY-FOUR OF SUBDIVISION (A) OF SECTION ELEVEN HUNDRED FIFTEEN OF THIS CHAPTER.

(2) 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 MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS, AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

S 5. Section 210 of the tax law is amended by adding a new subdivision 29 to read as follows:

29. FUEL-EFFICIENT VEHICLES CREDIT. (A) A TAXPAYER SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE FOR THE PURCHASE OF A FUEL-EFFICIENT VEHICLE, ZERO-EMISSION VEHICLE, FLEXIBLE-FUEL VEHICLE OR ALTERNATIVE-FUEL VEHICLE. SUCH CREDIT SHALL BE EQUAL TO ONE THOUSAND DOLLARS FOR EACH SUCH VEHICLE PURCHASED DURING THE TAXABLE YEAR. FOR PURPOSES OF THIS SUBDIVISION, THE TERMS "FUEL-EFFICIENT VEHICLE", "ZERO-EMISSION VEHICLE", "FLEXIBLE-FUEL VEHICLE" AND "ALTERNATIVE-FUEL VEHICLE" SHALL HAVE THE SAME MEANING AS THE MEANING SET FORTH IN PARAGRAPH FORTY-FOUR OF SUBDIVISION (A) OF SECTION ELEVEN HUNDRED FIFTEEN OF THIS CHAPTER.

(B) IF THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, THE EXCESS MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS, AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

S 6. This act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 2012.