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

800

2011-2012 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 5, 2011

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

AN ACT to amend the tax law, in relation to exempting fuel used by providers of transportation services to the transit disabled from certain taxes

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

Section 1. Paragraph (a) of subdivision 3 of section 282-a of the tax law, as added by chapter 261 of the laws of 1988, is amended to read as follows:

(a) The tax imposed by this section shall not apply to the sale of untaxed Diesel motor fuel to or the use of such fuel by an organization described in paragraph one or two of subdivision (a) of section eleven hundred sixteen of this chapter, OR TO A PROVIDER OF TRANSPORTATION SERVICES FOR USE IN VEHICLES USED IN THE TRANSPORTATION OF THE TRANSIT DISABLED where such Diesel motor fuel is used by such organization for its own use or consumption. FOR PURPOSES OF THIS PARAGRAPH, "TRANSIT DISABLED" SHALL MEAN INDIVIDUALS WHO, BY REASON OF ILLNESS, AGE, INJURY, CONGENITAL MALFUNCTION OR OTHER PERMANENT OR TEMPORARY INCAPACITY OR DISABILITY, ARE UNABLE, WITHOUT SPECIAL FACILITIES, PLANNING OR DESIGN, TO USE MASS TRANSPORTATION FACILITIES EFFECTIVELY.

S 2. Paragraph (g) of subdivision 3 of section 289-c of the tax law, as amended by chapter 276 of the laws of 1986, is amended to read as follows:

(g) An organization described in paragraph one or two of subdivision (a) of section eleven hundred sixteen of this chapter or a hospital included in the organizations described in paragraph four of such subdivision, or a fire company or fire department, as defined in section three of the volunteer firefighters' benefit law, or a volunteer rescue squad supported in whole or in part by tax money, OR A PROVIDER OF

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

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TRANSPORTATION SERVICES FOR THE TRANSIT DISABLED DESCRIBED IN SECTION TWO HUNDRED EIGHTY-TWO-A OF THIS ARTICLE where any such entity is the purchaser, user or consumer of motor fuel or diesel motor fuel in a vehicle owned and operated by it and used exclusively for its purposes, or an airline where it has purchased kero-jet fuel for use in its airplanes shall be reimbursed the amount of the taxes on motor fuel and diesel motor fuel imposed by or pursuant to the authority of this article included in the price paid for such motor fuel or diesel motor fuel.

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

(K) EXEMPTION FOR PROVIDERS OF TRANSPORTATION SERVICES TO THE TRANSIT DISABLED. A USE BY A PROVIDER OF TRANSPORTATION SERVICES TO THE DISABLED AS DESCRIBED IN SECTION TWO HUNDRED EIGHTY-TWO-A OF THIS CHAPTER OF DIESEL MOTOR FUEL OR RESIDUAL PETROLEUM PRODUCT WHERE SUCH DIESEL MOTOR FUEL OR RESIDUAL PETROLEUM PRODUCT WAS USED AND CONSUMED EXCLUSIVELY IN PROVIDING TRANSPORTATION SERVICES TO THE TRANSIT DISABLED.

S 4. Section 301-c of the tax law is amended by adding a new subdivision (p) to read as follows:

(P) REIMBURSEMENT FOR PROVIDERS OF TRANSPORTATION SERVICES TO THE TRANSIT DISABLED. A USE BY A PROVIDER OF TRANSPORTATION SERVICES TO THE DISABLED AS DESCRIBED IN SECTION TWO HUNDRED EIGHTY-TWO-A OF THIS CHAPTER OF DIESEL MOTOR FUEL OR RESIDUAL PETROLEUM PRODUCT WHERE SUCH DIESEL MOTOR FUEL OR RESIDUAL PETROLEUM PRODUCT WAS USED AND CONSUMED EXCLUSIVELY IN PROVIDING TRANSPORTATION SERVICES TO THE TRANSIT DISABLED. THIS REIMBURSEMENT MAY BE CLAIMED ONLY WHERE (1) ANY TAX IMPOSED PURSUANT TO THIS ARTICLE HAS BEEN PAID WITH RESPECT TO SUCH GALLONAGE AND THE ENTIRE AMOUNT OF SUCH TAX HAS BEEN ABSORBED BY SUCH PURCHASER, AND (2) SUCH PURCHASER POSSESSES DOCUMENTARY PROOF SATISFACTORY TO THE COMMISSIONER EVIDENCING THE ABSORPTION BY IT OF THE ENTIRE AMOUNT OF SUCH TAX. PROVIDED, THAT THE COMMISSIONER SHALL REQUIRE SUCH DOCUMENTARY PROOF TO QUALIFY FOR ANY REIMBURSEMENT PROVIDED HEREUNDER AS THE COMMISSIONER MAY DEEM APPROPRIATE.

S 5. Subdivision (a) of section 1115 of the tax law is amended by adding a new paragraph 44 to read as follows:

(44) FUEL SOLD TO A PROVIDER OF TRANSPORTATION SERVICES TO THE TRANSIT DISABLED AS DESCRIBED IN SECTION TWO HUNDRED EIGHTY-TWO-A OF THIS CHAPTER FOR USE IN PROVIDING TRANSPORTATION SERVICES TO THE TRANSIT DISABLED.

S 6. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.