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

1647

2011-2012 Regular Sessions

I N S E N A T E

January 11, 2011

Introduced by Sen. CARLUCCI -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the tax law, in relation to providing certain school bus operators with a refund or credit of sales and compensating use taxes on the purchase of school buses and equipment and fuel used in the operation of a school bus

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

Section 1. Section 1119 of the tax law is amended by adding a new subdivision (f) to read as follows:

(F) SUBJECT TO THE CONDITIONS AND LIMITATIONS PROVIDED IN THIS SUBDIVISION, A REFUND OR CREDIT SHALL BE ALLOWED FOR TAX PAID PURSUANT TO SUBDIVISION (A) OF SECTION ELEVEN HUNDRED FIVE, PARAGRAPH THREE OF SUBDIVISION (C) OF SECTION ELEVEN HUNDRED FIVE, OR SECTION ELEVEN HUNDRED TEN OF THIS ARTICLE AND ANY TAX IMPOSED PURSUANT TO THE AUTHORITY OF ARTICLE TWENTY-NINE OF THIS CHAPTER, ON THE SALE TO OR PURCHASE BY A SCHOOL BUS OPERATOR OF (I) A SCHOOL BUS, AS DEFINED IN SECTION ONE HUNDRED FORTY-TWO OF THE VEHICLE AND TRAFFIC LAW, AT LEAST SEVENTY PERCENT OF THE USE OF WHICH IS FOR THE TRANSPORTATION, BY SUCH OPERATOR, OF SCHOOL STUDENTS TO OR FROM SCHOOL OR SCHOOL RELATED EVENTS, PURSUANT TO A CONTRACT MADE UNDER THE PROVISIONS OF THE EDUCATION LAW, (II) PARTS, EQUIPMENT AND LUBRICANTS WHEN SUCH PARTS, EQUIPMENT AND LUBRICANTS ARE INSTALLED IN OR ON SUCH A SCHOOL BUS, AT LEAST SEVENTY PERCENT OF THE USE OF WHICH IS FOR SUCH TRANSPORTATION, BY SUCH OPERATOR, PURSUANT TO SUCH CONTRACT, (III) THE SERVICES DESCRIBED IN PARAGRAPH THREE OF SUBDIVISION (C) OF SECTION ELEVEN HUNDRED FIVE OF THIS ARTICLE WHEN RENDERED WITH RESPECT TO SUCH A SCHOOL BUS SO USED OR WITH RESPECT TO PARTS, EQUIPMENT AND LUBRICANTS INSTALLED IN OR ON SUCH A SCHOOL BUS SO USED, AND (IV) MOTOR FUEL OR DIESEL MOTOR FUEL USED EXCLUSIVELY BY SUCH OPERATOR IN SUCH A SCHOOL BUS FOR SUCH TRANSPORTATION PURSUANT TO SUCH

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

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CONTRACT. NO REFUND OR CREDIT SHALL BE ALLOWED UNDER THIS SUBDIVISION UNLESS ALL OF THE REQUIREMENTS FOR SUCH REFUND OR CREDIT HAVE BEEN MET FOR AT LEAST A TWELVE MONTH PERIOD AFTER THE SCHOOL BUS OPERATOR'S PURCHASE OF SUCH SCHOOL BUS; HOWEVER, SUCH REFUND OR CREDIT SHALL BE ALLOWED FOR A SCHOOL BUS THAT IS PAINTED "NATIONAL SCHOOL BUS CHROME" PURSUANT TO SUBDIVISION TWENTY-ONE OF SECTION THREE HUNDRED SEVENTY-FIVE OF THE VEHICLE AND TRAFFIC LAW AND LABELED AS A "SCHOOL BUS" PURSUANT TO SUBPARAGRAPH ONE OF PARAGRAPH (B) OF SUBDIVISION TWENTY OF SUCH SECTION THREE HUNDRED SEVENTY-FIVE IF ALL OF THE REQUIREMENTS FOR SUCH REFUND OR CREDIT HAVE BEEN MET IN THE PREVIOUS QUARTERLY REPORTING PERIOD AS DESCRIBED IN SUBDIVISION (B) OF SECTION ELEVEN HUNDRED THIRTY-SIX OF THIS ARTICLE. AN APPLICATION FOR A REFUND OR CREDIT PURSUANT TO THIS SUBDIVISION MUST BE FILED WITH THE COMMISSIONER WITHIN THE TIME PROVIDED BY SUBDIVISION (A) OF SECTION ELEVEN HUNDRED THIRTY-NINE OF THIS ARTICLE AND NO MORE FREQUENTLY THAN QUARTERLY. SUCH APPLICATION SHALL BE IN SUCH FORM AS THE COMMISSIONER MAY PRESCRIBE. WHERE AN APPLICATION FOR CREDIT HAS BEEN FILED, THE SCHOOL BUS OPERATOR MAY TAKE SUCH CREDIT ON THE RETURN WHICH IS DUE COINCIDENT WITH OR IMMEDIATELY SUBSEQUENT TO THE TIME THE SCHOOL BUS OPERATOR FILES SUCH APPLICATION FOR CREDIT. HOWEVER, THE TAKING OF THE CREDIT ON THE RETURN SHALL BE DEEMED TO BE PART OF THE APPLICATION FOR CREDIT AND SHALL BE SUBJECT TO THE PROVISIONS IN RESPECT TO APPLICATIONS FOR CREDIT IN SUCH SECTION ELEVEN HUNDRED THIRTY-NINE AS PROVIDED IN SUBDIVISION (E) OF SUCH SECTION. THE ALLOWANCE OF THE CREDIT OR REFUND SHALL ALSO BE SUBJECT TO THE SCHOOL BUS OPERATOR MAINTAINING RECORDS SATISFACTORY TO THE COMMISSIONER DEMONSTRATING COMPLIANCE WITH ALL THE REQUIREMENTS OF THIS SUBDIVISION. THE PERCENTAGE OF SUCH SCHOOL BUS USE MAY BE COMPUTED EITHER ON THE BASIS OF MILEAGE OR HOURS OF USE, AT THE DISCRETION OF THE PURCHASER OR USER. FOR THE PURPOSES OF THIS SUBDIVISION, THE TERM "SCHOOL" SHALL MEAN A PRE-KINDERGARTEN OR KINDERGARTEN PROGRAM, A PRESCHOOL, NURSERY SCHOOL OR ELEMENTARY, INTERMEDIATE OR SECONDARY SCHOOL. THE REFUND OR CREDIT SHALL BE FIFTY PERCENT FOR THE PERIOD COMMENCING SEPTEMBER FIRST, TWO THOUSAND TWELVE TO AUGUST THIRTY-FIRST, TWO THOUSAND THIRTEEN. THE REFUND OR CREDIT SHALL BE ONE HUNDRED PERCENT COMMENCING SEPTEMBER FIRST, TWO THOUSAND THIRTEEN.

S 2. This act shall take effect on the first day of the sales tax quarterly period, as described in subdivision (b) of section 1136 of the tax law, next commencing September 1, 2012 and shall apply in accordance with the applicable transitional provisions in sections 1106 and 1217 of the tax law; provided, further, that the commissioner of taxation and finance shall be authorized on and after the date this act shall have become a law to adopt and amend any rules or regulations and issue any procedure, forms or instructions necessary to implement this act on its effective date.