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

4831

2011-2012 Regular Sessions

I N S E N A T E

April 27, 2011

Introduced by Sen. O'MARA -- 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 eliminating the residential restriction for heating exemptions

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

Section 1. Subdivision (d) of section 301-b of the tax law, as amended by section 21 of part K of chapter 61 of the laws of 2011, is amended to read as follows:

(d) Sales to consumers for heating purposes. [(1) Total residential heating] HEATING exemption. Non-highway diesel motor fuel sold by a petroleum business registered under article twelve-A of this chapter as a distributor of diesel motor fuel or residual petroleum product sold by a petroleum business registered under this article as a residual petroleum product business to the consumer exclusively for [residential] heating purposes only if such non-highway diesel motor fuel is delivered into a storage tank which is not equipped with a hose or other apparatus by which such fuel can be dispensed into the fuel tank of a motor vehicle and such storage tank is attached to the heating unit burning such fuel.

[(2) Partial non-residential heating exemption. (A) Non-highway diesel motor fuel sold by a petroleum business registered under article twelve-A of this chapter as a distributor of diesel motor fuel or residual petroleum product sold by a petroleum business registered under this article as a residual petroleum product business to the consumer exclusively for heating, other than residential heating purposes only if such non-highway diesel motor fuel is delivered into a storage tank which is not equipped with a hose or other apparatus by which such fuel can be dispensed into the fuel tank of a motor vehicle and such storage tank is attached to the heating unit burning such fuel (B) Calculation

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

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of partial exemption. The partial exemption under this paragraph shall be determined by multiplying the quantity of non-highway diesel motor fuel and residual petroleum product eligible for the exemption times the sum of the then current rate of the supplemental tax imposed by section three hundred one-j of this article and forty-six percent of the then current rate of the tax imposed by section three hundred one-a of this article, with respect to the specific non-highway diesel motor fuel or residual petroleum product rate, as the case may be.]

S 2. Subdivision (a) of section 301-c of the tax law, as amended by section 23 of part K of chapter 61 of the laws of 2011, is amended to read as follows:

(a) Non-highway Diesel motor fuel used for heating purposes. [(1) Total residential heating] HEATING reimbursement. Non-highway Diesel motor fuel purchased in this state and sold by such purchaser to a consumer for use exclusively for [residential] heating purposes but only where (i) such non-highway diesel motor fuel is delivered into a storage tank which is not equipped with a hose or other apparatus by which such non-highway Diesel motor fuel can be dispensed into the fuel tank of a motor vehicle and such storage tank is attached to the heating unit burning such non-highway Diesel motor fuel, (ii) the tax imposed pursuant to this article has been paid with respect to such non-highway diesel motor fuel and the entire amount of such tax has been absorbed by such purchaser, and (iii) such purchaser possesses documentary proof satisfactory to the commissioner evidencing the absorption by it of the entire amount of the tax imposed pursuant to this article. Provided, however, that the commissioner is authorized, in the event that the commissioner determines that it would not threaten the integrity of the administration and enforcement of the tax imposed by this article, to provide a reimbursement with respect to a retail sale to a consumer for residential heating purposes of less than ten gallons of non-highway diesel motor fuel provided such fuel is not dispensed into the tank of a motor vehicle.

[(2) Partial non-residential heating reimbursement. (A) Non-highway Diesel motor fuel purchased in this state and sold by such purchaser to a consumer for use exclusively for heating, other than for residential heating purposes, but only where (i) such non-highway diesel motor fuel is delivered into a storage tank which is not equipped with a hose or other apparatus by which such non-highway Diesel motor fuel can be dispensed into the fuel tank of a motor vehicle and such storage tank is attached to the heating unit burning such non-highway Diesel motor fuel, (ii) the tax imposed pursuant to this article has been paid with respect to such non-highway diesel motor fuel and the entire amount of such tax has been absorbed by such purchaser, and (iii) such purchaser possesses documentary proof satisfactory to the commissioner evidencing the absorption by it of the entire amount of the tax imposed pursuant to this article.

(B) Calculation of partial reimbursement. Notwithstanding any other provision of this article, the amount of the reimbursement under this paragraph shall be determined by multiplying the quantity of non-highway diesel motor fuel eligible for the reimbursement times the sum of the then current rate of the supplemental tax imposed by section three hundred one-j of this article and forty-six percent of the then current rate of the tax imposed by section three hundred one-a of this article, with respect to the non-highway diesel motor fuel rate, as the case may be.]

S 3. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided, however, that if part K of chapter 61 of the laws of 2011 shall not have taken effect on or before such date then sections one and two of this act shall take effect on the same date and in the same manner as such chapter of the laws of 2011 takes effect.