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

3290

2013-2014 Regular Sessions

I N S E N A T E

January 31, 2013

Introduced by Sen. KRUEGER -- 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 the creation of the federal tax elimination supplemental tax

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

Section 1. The tax law is amended by adding a new section 284-b to read as follows:

S 284-B. FEDERAL TAX ELIMINATION SUPPLEMENTAL TAX. 1. IF THE FEDERAL FUEL TAX IS BELOW THE RATE OF FIVE CENTS PER GALLON, THERE IS HEREBY LEVIED AND IMPOSED AN EXCISE TAX OF NINE CENTS PER GALLON UPON MOTOR FUEL (A) IMPORTED INTO OR CAUSED TO BE IMPORTED INTO THE STATE BY A DISTRIBUTOR FOR USE, DISTRIBUTION, STORAGE OR SALE IN THE STATE OR UPON MOTOR FUEL WHICH IS PRODUCED, REFINED, MANUFACTURED OR COMPOUNDED BY A DISTRIBUTOR IN THE STATE (WHICH ACTS SHALL HEREINAFTER IN THIS SUBDIVISION BE ENCOMPASSED BY THE PHRASE "IMPORTED OR MANUFACTURED") OR (B) IF THE TAX HAS NOT BEEN IMPOSED PRIOR TO ITS SALE IN THIS STATE, WHICH IS SOLD BY A DISTRIBUTOR (WHICH ACT, IN CONJUNCTION WITH THE ACTS DESCRIBED IN PARAGRAPH (A) OF THIS SUBDIVISION, SHALL HEREINAFTER IN THIS ARTICLE BE ENCOMPASSED BY THE PHRASE "IMPORTED, MANUFACTURED OR SOLD"), EXCEPT WHEN IMPORTED, MANUFACTURED OR SOLD UNDER CIRCUMSTANCES WHICH PRECLUDE THE COLLECTION OF SUCH TAX BY REASON OF THE UNITED STATES CONSTITUTION AND OF LAWS OF THE UNITED STATES ENACTED PURSUANT THERETO OR WHEN IMPORTED OR MANUFACTURED BY 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 FOR ITS OWN USE OR CONSUMPTION AND EXCEPT KERO-JET FUEL WHEN IMPORTED OR MANUFACTURED BY AN AIRLINE FOR USE IN ITS AIRPLANES. PROVIDED, FURTHER, NO MOTOR FUEL SHALL BE INCLUDED IN THE MEASURE OF THE TAX UNLESS IT SHALL HAVE PREVIOUSLY COME TO REST WITHIN

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

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THE MEANING OF FEDERAL DECISIONAL LAW INTERPRETING THE UNITED STATES CONSTITUTION. ALL TAX FOR THE PERIOD FOR WHICH A RETURN IS REQUIRED TO BE FILED SHALL BE DUE ON THE DATE LIMITED FOR THE FILING OF THE RETURN FOR SUCH PERIOD, REGARDLESS OF WHETHER A RETURN IS FILED BY SUCH DISTRIBUTOR AS REQUIRED BY THIS ARTICLE OR WHETHER THE RETURN WHICH IS FILED CORRECTLY SHOWS THE AMOUNT OF TAX DUE.

2. ALL TAXES COLLECTED PURSUANT TO THIS SECTION SHALL BE DEPOSITED PROPORTIONATELY INTO THE FOLLOWING ACCOUNTS: THREE-QUARTERS TO THE DEDICATED HIGHWAY AND BRIDGE TRUST FUND ESTABLISHED PURSUANT TO SECTION EIGHTY-NINE-B OF THE STATE FINANCE LAW, AND ONE-QUARTER TO THE DEDICATED MASS TRANSPORTATION TRUST FUND ESTABLISHED PURSUANT TO SECTION EIGHTY-NINE-C OF THE STATE FINANCE LAW.

S 2. This act shall take effect immediately.