

2553

2013-2014 Regular Sessions

I N   S E N A T E

January 22, 2013

---

Introduced by Sens. MARCELLINO, MAZIARZ -- 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 exempting energy star products from sales and compensating use taxes; and granting credit or refund for taxes paid; and providing for reimbursement of such taxes

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

1     Section 1. Section 210 of the tax law is amended by adding a new  
2     subdivision 46 to read as follows:  
3     46. CREDIT FOR THE PURCHASE OR REPAIR OF ENERGY STAR PRODUCTS. (A)  
4     ALLOWANCE OF CREDIT. A TAXPAYER WHO, ON OR AFTER OCTOBER THIRTY-FIRST,  
5     TWO THOUSAND TWELVE AND BEFORE OCTOBER THIRTY-FIRST, TWO THOUSAND THIR-  
6     TEEN, EITHER (I) PURCHASES ENERGY STAR PRODUCTS, OR (II) PAYS FOR  
7     REPAIRS TO ENERGY STAR PRODUCTS OWNED BY THE TAXPAYER SHALL BE ALLOWED A  
8     CREDIT, TO BE COMPUTED AS PROVIDED IN PARAGRAPH (B) OF THIS SUBDIVISION,  
9     AGAINST THE TAXES IMPOSED BY THIS ARTICLE, PROVIDED THAT SUCH TAXPAYER  
10    HAS NOT APPLIED FOR OR RECEIVED A REFUND OF SUCH TAXES PURSUANT TO  
11    SECTION ELEVEN HUNDRED THIRTY-NINE OF THIS CHAPTER. FOR PURPOSES OF THIS  
12    SUBDIVISION, THE TERM "ENERGY STAR PRODUCTS" SHALL HAVE THE SAME MEANING  
13    AS IN PARAGRAPH THIRTY-NINE OF SUBDIVISION (B) OF SECTION ELEVEN HUNDRED  
14    ONE OF THIS CHAPTER.  
15    (B) AMOUNT OF CREDIT. THE AMOUNT OF CREDIT SHALL EQUAL THE AMOUNT OF  
16    TAXES PAID BY THE TAXPAYER PURSUANT TO ARTICLES TWENTY-EIGHT AND TWEN-  
17    TY-NINE OF THIS CHAPTER FOR THE PURCHASE OR REPAIR OF ENERGY STAR  
18    PRODUCTS, AS EVIDENCED BY DATED RECEIPTS LISTING THE VENDOR'S NAME,  
19    VENDOR'S ADDRESS, AND THE AMOUNT OF SUCH TAX PAID, LESS ANY AMOUNT OF  
20    SUCH TAXES THAT THE TAXPAYER DEDUCTED FOR FEDERAL INCOME TAX PURPOSES.  
21    (C) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION  
22    FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS  
23    THAN THE HIGHER OF THE AMOUNTS PRESCRIBED IN PARAGRAPHS (C) AND (D) OF

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

LBD07232-01-3

SUBDIVISION ONE OF THIS SECTION. HOWEVER, IF THE AMOUNT OF CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

(D) ANY AMOUNT OF CREDIT ALLOWED PURSUANT TO THIS SUBDIVISION FOR WHICH THE TAXPAYER SUBSEQUENTLY RECEIVES A REFUND PURSUANT TO SECTION ELEVEN HUNDRED THIRTY-NINE OF THIS CHAPTER SHALL BE RECAPTURED AND ADDED BACK IN THE TAXABLE YEAR THAT SUCH REFUND WAS RECEIVED.

S 2. Subparagraph (B) of paragraph 1 of subsection (i) of section 606 of the tax law is amended by adding a new clause (xxxv) to read as follows:

(XXXV) ENERGY STAR CREDIT	AMOUNT OF CREDIT UNDER
UNDER SUBSECTION (VV)	SUBDIVISION FORTY-SIX OF SECTION
	TWO HUNDRED TEN

S 3. Section 606 of the tax law is amended by adding a new subsection (vv) to read as follows:

(VV) CREDIT FOR THE PURCHASE OF ENERGY STAR PRODUCTS. (1) ALLOWANCE OF CREDIT. A TAXPAYER WHO, ON OR AFTER THE THIRTY-FIRST DAY OF OCTOBER, TWO THOUSAND TWELVE AND BEFORE OCTOBER THIRTY-FIRST, TWO THOUSAND THIRTEEN, EITHER (A) PURCHASES ENERGY STAR PRODUCTS, OR (B) PAYS FOR REPAIRS TO ENERGY STAR PRODUCTS SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN PARAGRAPH TWO OF THIS SUBSECTION, AGAINST THE TAXES IMPOSED BY THIS ARTICLE, PROVIDED THAT SUCH TAXPAYER HAS NOT APPLIED FOR OR RECEIVED A REFUND OF SUCH TAXES PURSUANT TO SECTION ELEVEN HUNDRED THIRTY-NINE OF THIS CHAPTER. FOR PURPOSES OF THIS SUBSECTION, THE TERM "ENERGY STAR PRODUCTS" SHALL HAVE THE SAME MEANING AS IN PARAGRAPH THIRTY-NINE OF SUBDIVISION (B) OF SECTION ELEVEN HUNDRED ONE OF THIS CHAPTER.

(2) AMOUNT OF CREDIT. THE AMOUNT OF CREDIT SHALL EQUAL THE AMOUNT OF TAXES PAID BY THE TAXPAYER PURSUANT TO ARTICLES TWENTY-EIGHT AND TWENTY-NINE OF THIS CHAPTER FOR THE PURCHASE OR REPAIR OF ENERGY STAR PRODUCTS, AS EVIDENCED BY DATED RECEIPTS LISTING THE VENDOR'S NAME, VENDOR'S ADDRESS, AND THE AMOUNT OF SUCH TAX PAID, LESS ANY AMOUNT OF SUCH TAXES THAT THE TAXPAYER DEDUCTED FOR FEDERAL INCOME TAX PURPOSES.

(3) APPLICATION OF CREDIT. IF THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR EXCEEDS THE TAXPAYER'S TAX FOR SUCH YEAR, THE EXCESS WILL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION SIX HUNDRED EIGHTY-SIX OF THIS ARTICLE, PROVIDED, HOWEVER, THAT NO INTEREST WILL BE PAID THEREON.

(4) RECAPTURE OF CREDIT. ANY AMOUNT OF CREDIT ALLOWED PURSUANT TO THIS SUBSECTION FOR WHICH THE TAXPAYER SUBSEQUENTLY RECEIVES A REFUND PURSUANT TO SECTION ELEVEN HUNDRED THIRTY-NINE OF THIS CHAPTER SHALL BE RECAPTURED AND ADDED BACK IN THE TAXABLE YEAR THAT SUCH REFUND WAS RECEIVED.

S 4. Subdivision (b) of section 1101 of the tax law is amended by adding a new paragraph 39 to read as follows:

(39) ENERGY STAR PRODUCT. ANY TANGIBLE PERSONAL PROPERTY FOR WHICH THE ENERGY STAR LABEL HAS BEEN AWARDED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY PURSUANT TO THE ENERGY STAR PROGRAM (SECTION 6294A OF TITLE 42 OF THE UNITED STATES CODE).

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

3 (44) RETAIL SALES OF ENERGY STAR PRODUCTS PURCHASED ON OR AFTER OCTO-  
4 BER THIRTY-FIRST, TWO THOUSAND TWELVE AND BEFORE OCTOBER THIRTY-FIRST,  
5 TWO THOUSAND THIRTEEN. THE EXEMPTION PROVIDED FOR IN THIS PARAGRAPH  
6 SHALL NOT APPLY TO THE RENTAL OR LEASING OF SUCH ENERGY STAR PRODUCTS.

7 S 6. Section 1115 of the tax law is amended by adding a new subdivi-  
8 sion (ii) to read as follows:

9 (II) SERVICES OTHERWISE TAXABLE UNDER PARAGRAPH THREE OR FIVE OF  
10 SUBDIVISION (C) OF SECTION ELEVEN HUNDRED FIVE OR UNDER SECTION ELEVEN  
11 HUNDRED TEN OF THIS ARTICLE AND ANY TANGIBLE PERSONAL PROPERTY OTHERWISE  
12 TAXABLE UNDER SECTION ELEVEN HUNDRED FIVE OF THIS ARTICLE THAT IS USED  
13 IN THE PERFORMANCE OF SUCH SERVICES SHALL BE EXEMPT FROM ANY TAX IMPOSED  
14 PURSUANT TO SUCH PROVISIONS WHERE SUCH SERVICES ARE RENDERED DIRECTLY TO  
15 ENERGY STAR PRODUCTS AND SUCH SERVICES WERE PROVIDED ON OR AFTER OCTOBER  
16 THIRTY-FIRST, TWO THOUSAND TWELVE AND BEFORE OCTOBER THIRTY-FIRST, TWO  
17 THOUSAND THIRTEEN.

18 S 7. Section 1139 of the tax law is amended by adding a new subdivi-  
19 sion (i) to read as follows:

20 (I) NOTWITHSTANDING ANY PROVISION OF THE LAW TO THE CONTRARY, THE  
21 COMMISSIONER SHALL REFUND ANY TAX PAID PURSUANT TO THIS ARTICLE FOR THE  
22 PURCHASE OR REPAIR OF ENERGY STAR PRODUCTS THAT ARE EXEMPT FROM THE  
23 TAXES PURSUANT TO PARAGRAPH FORTY-FOUR OF SUBDIVISION (A) AND SUBDIVI-  
24 SION (II) OF SECTION ELEVEN HUNDRED FIFTEEN OF THIS ARTICLE, AS  
25 EVIDENCED BY DATED RECEIPTS LISTING THE VENDOR'S NAME, VENDOR'S ADDRESS,  
26 AND THE AMOUNT OF SUCH TAX PAID; PROVIDED THAT THE TAXPAYER HAS NOT  
27 CLAIMED A CREDIT FOR SUCH TAXES PURSUANT TO EITHER SUBDIVISION FORTY-SIX  
28 OF SECTION TWO HUNDRED TEN OR SUBSECTION (VV) OF SECTION SIX HUNDRED SIX  
29 OF THIS CHAPTER. ALL THE PROVISIONS OF THIS SECTION SHALL APPLY TO THE  
30 REFUND AUTHORIZED BY THIS SUBDIVISION, PROVIDED, HOWEVER, THAT INTEREST  
31 ALLOWABLE UNDER SUBDIVISION (D) OF THIS SECTION SHALL BE PAYABLE FROM  
32 THE DATE WHICH IS SIX MONTHS AFTER THE DATE THE APPLICATION FOR REFUND  
33 IN PROCESSIBLE FORM IS RECEIVED.

34 S 8. The tax law is amended by adding a new section 1261-b to read as  
35 follows:

36 S 1261-B. REIMBURSEMENT FOR LOST REVENUE RESULTING FROM EXEMPTIONS  
37 FROM TAXES ADMINISTERED BY THE COMMISSIONER. ALL AMOUNTS THAT WOULD HAVE  
38 BEEN COLLECTED AND DEPOSITED PURSUANT TO SECTION TWELVE HUNDRED  
39 SIXTY-ONE OF THIS PART IF THE EXEMPTIONS PROVIDED BY PARAGRAPH  
40 FORTY-FOUR OF SUBDIVISION (A) AND SUBDIVISION (II) OF SECTION ELEVEN  
41 HUNDRED FIFTEEN OF THIS ARTICLE HAD NOT BEEN ENACTED SHALL BE DEPOSITED  
42 IN ACCORDANCE WITH THE PROVISIONS OF SECTION TWELVE HUNDRED SIXTY-ONE OF  
43 THIS PART, PROVIDED THAT SUCH DEPOSITS SHALL BE MADE NO LATER THAN ONE  
44 DAY AFTER THE COMMISSIONER HAS EITHER (A) ALLOWED CREDIT PURSUANT TO  
45 EITHER SUBDIVISION FORTY-SIX OF SECTION TWO HUNDRED TEN OR SUBSECTION  
46 (VV) OF SECTION SIX HUNDRED SIX OF THIS CHAPTER, OR (B) ISSUED A REFUND  
47 PURSUANT TO SECTION ELEVEN HUNDRED THIRTY-NINE OF THIS CHAPTER, AND  
48 PROVIDED FURTHER THAT, NOTWITHSTANDING ANY PROVISION OF THE LAW TO THE  
49 CONTRARY, ANY AMOUNTS PAID THAT WERE SUBSEQUENTLY RECAPTURED PURSUANT TO  
50 EITHER SUBDIVISION FORTY-SIX OF SECTION TWO HUNDRED TEN OR SUBSECTION  
51 (VV) OF SECTION SIX HUNDRED SIX OF THIS CHAPTER SHALL BE DEDUCTED FROM  
52 THE AMOUNT TO BE DEPOSITED PURSUANT TO SECTION TWELVE HUNDRED SIXTY-ONE  
53 OF THIS PART NO LATER THAN ONE DAY AFTER SUCH AMOUNTS HAVE BEEN RECAP-  
54 TURED.

55 S 9. This act shall take effect immediately.