

3471

2013-2014 Regular Sessions

I N S E N A T E

February 4, 2013

Introduced by Sens. O'MARA, MAZIARZ, SEWARD -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications

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:

1 Section 1. Subdivision (d) of section 301-b of the tax law, as amended
2 by section 21 of part K of chapter 61 of the laws of 2011, is amended to
3 read as follows:
4 (d) Sales to consumers for heating purposes. [(1) Total residential
5 heating] HEATING exemption. Non-highway diesel motor fuel sold by a
6 petroleum business registered under article twelve-A of this chapter as
7 a distributor of diesel motor fuel or residual petroleum product sold by
8 a petroleum business registered under this article as a residual petro-
9 leum product business to the consumer exclusively for [residential]
10 heating purposes only if such non-highway diesel motor fuel is delivered
11 into a storage tank which is not equipped with a hose or other apparatus
12 by which such fuel can be dispensed into the fuel tank of a motor vehi-
13 cle and such storage tank is attached to the heating unit burning such
14 fuel.
15 [(2) Partial non-residential heating exemption. (A) Non-highway diesel
16 motor fuel sold by a petroleum business registered under article
17 twelve-A of this chapter as a distributor of diesel motor fuel or resi-
18 dual petroleum product sold by a petroleum business registered under
19 this article as a residual petroleum product business to the consumer
20 exclusively for heating, other than residential heating purposes only if
21 such non-highway diesel motor fuel is delivered into a storage tank
22 which is not equipped with a hose or other apparatus by which such fuel
23 can be dispensed into the fuel tank of a motor vehicle and such storage
24 tank is attached to the heating unit burning such fuel (B) Calculation
25 of partial exemption. The partial exemption under this paragraph shall
26 be determined by multiplying the quantity of non-highway diesel motor
27 fuel and residual petroleum product eligible for the exemption times the

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

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1 sum of the then current rate of the supplemental tax imposed by section
2 three hundred one-j of this article and forty-six percent of the then
3 current rate of the tax imposed by section three hundred one-a of this
4 article, with respect to the specific non-highway diesel motor fuel or
5 residual petroleum product rate, as the case may be.]

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

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

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

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

53 S 3. This act shall take effect on the one hundred eightieth day after
54 it shall have become a law.