

2015-2016 Regular Sessions

I N A S S E M B L Y

January 8, 2015

Introduced by M. of A. CAHILL -- Multi-Sponsored by -- M. of A. ENGLE-  
BRIGHT, GUNTHER, LUPARDO, MORELLE, ROSENTHAL -- read once and referred  
to the Committee on Ways and Means

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 ASSEM-  
BLY, 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

25 (B) Calculation of partial exemption. The partial exemption under this  
26 paragraph shall be determined by multiplying the quantity of non-highway  
27 diesel motor fuel and residual petroleum product eligible for the

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

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

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

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

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

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

54 S 3. This act shall take effect April 1, 2015; provided, however, if  
55 this act shall become a law after such date it shall be deemed to have  
56 been in full force and effect on and after April 1, 2015.