

5146

2015-2016 Regular Sessions

I N S E N A T E

May 5, 2015

Introduced by Sen. VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT in relation to the meaning of the term "equipment" for purposes of department of taxation and finance audit or enforcement proceedings

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

1 Section 1. For the purposes of this act, the term "equipment" shall
2 mean a machine or system, and any part or subassembly thereof.
3 S 2. For the purposes of this act, equipment shall be considered to be
4 "directly and predominantly" used, as such term is used in clause (i) of
5 paragraph 1 of subdivision (z) of section 1115 of the tax law, as
6 repealed by section 30 of part S-1 of chapter 57 of the laws of 2009 and
7 last amended by section 17 of part CC of chapter 85 of the laws of 2002,
8 when such equipment was received, inventoried or organized, and then
9 prepared for distribution at 124 Metropolitan Park drive, Syracuse, New
10 York, or 3606 John Glenn boulevard, Syracuse, New York, by a qualified
11 empire zone enterprise that has operated at both such locations,
12 provided that such equipment, upon distribution, is stocked, repaired,
13 cleaned or otherwise handled for the purpose of maintenance or upkeep by
14 employees of such qualified empire zone enterprise provided such service
15 work or duties originate from, and terminate at, either empire zone
16 location described in this section.
17 S 3. Notwithstanding any law, rule, or regulation, or any determi-
18 nation or decision of the department of taxation and finance or the
19 division of tax appeals to the contrary, the division of tax appeals
20 shall accept and review, pursuant to part three-thousand of the tax
21 appeals tribunal rules of practice and procedure, a petition related to
22 the interpretation of the term "directly and predominantly", as such
23 term is used in section two of this act, provided that such petition is
24 filed by a qualified empire zone enterprise that has operated at both

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

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1 locations described in section two of this action, and provided further
2 that such petition challenges a determination or decision of the depart-
3 ment of taxation and finance or the division of tax appeals that denied
4 or withheld sales and use tax credits as afforded by the provision of
5 the tax law described in section two of this act.
6 S 4. This act shall take effect immediately, and shall apply to taxa-
7 ble years beginning on and after March 1, 2003, and shall apply to any
8 audit or enforcement proceeding of the department of taxation and
9 finance, or any other administrative matter or proceeding of such
10 department, commencing on or after March 1, 2003.