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I N   S E N A T E

(PREFILED)

January 6, 2016

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Introduced by Sen. KENNEDY -- 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 providing a tax incentive to a taxpayer that grows base ingredients used for the production of beer

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

1     Section 1. The tax law is amended by adding a new section 37-a to read  
2 as follows:

3     S 37-A. SUPPLIER OF BEER PRODUCTION INGREDIENTS TAX CREDIT. (A) GENER-  
4 AL. A TAXPAYER SUBJECT TO TAX UNDER ARTICLE NINE-A OR TWENTY-TWO OF THIS  
5 CHAPTER SHALL BE ALLOWED A CREDIT AGAINST SUCH TAXES IN THE AMOUNT SPEC-  
6 IFIED IN SUBDIVISION (B) OF THIS SECTION AND PURSUANT TO THE PROVISIONS  
7 REFERENCED IN SUBDIVISION (C) OF THIS SECTION.

8     (B)(1) THE AMOUNT OF THE CREDIT PER TAXPAYER PER TAXABLE YEAR (OR PRO  
9 RATA SHARE OF EARNED CREDIT IN THE CASE OF A PARTNERSHIP) SHALL BE EQUAL  
10 TO THE COST BORNE BY SUCH TAXPAYER FOR THE AGRICULTURAL PRODUCTION OF  
11 INGREDIENTS NECESSARY FOR THE PRODUCTION OF BEER. SUCH COSTS SHALL  
12 INCLUDE THE COST OF SEED, FERTILIZER, EQUIPMENT, UTILITIES, AND EMPLOY-  
13 EES' SALARIES.

14     (2) THE CREDIT ALLOWED UNDER THIS SECTION SHALL ONLY BE APPLICABLE TO  
15 THAT PORTION OF A TAXPAYER'S CROP THAT IS SOLD DIRECTLY TO A DISTRIBUTOR  
16 REGISTERED UNDER ARTICLE EIGHTEEN OF THIS CHAPTER.

17     (3) THE CREDIT ALLOWED UNDER THIS SECTION SHALL ONLY APPLY TO THE BASE  
18 INGREDIENTS NECESSARY TO PRODUCE BEER. THIS CREDIT SHALL NOT BE ALLOWED  
19 FOR ANY INGREDIENT OR PRODUCT THAT IS USED FOR THE PURPOSE OF ADDING  
20 FLAVOR, COLOR, OR ALTERING SOME OTHER CHARACTERISTIC OF THE BEER.

21     (C) CROSS-REFERENCES. FOR APPLICATION OF THE CREDIT PROVIDED FOR IN  
22 THIS SECTION, SEE THE FOLLOWING PROVISIONS OF THIS CHAPTER:

23     (1) ARTICLE 9-A: SECTION 210-B, SUBDIVISION 51.

24     (2) ARTICLE 22: SECTION 606, SUBSECTIONS (I) AND (EEE).

25     S 2. Section 210-B of the tax law is amended by adding a new subdivi-  
26 sion 51 to read as follows:

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

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1 51. SUPPLIER OF BEER PRODUCTION INGREDIENTS TAX CREDIT. A TAXPAYER  
2 SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION THIR-  
3 TY-SEVEN-A OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE. IF  
4 THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE  
5 YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, THE EXCESS SHALL BE  
6 TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORD-  
7 ANCE WITH THE PROVISIONS OF SECTION SIX HUNDRED EIGHTY-SIX OF THIS CHAP-  
8 TER, PROVIDED, HOWEVER, THAT NO INTEREST SHALL BE PAID THEREON.

9 S 3. Subparagraph (B) of paragraph 1 of subsection (i) of section 606  
10 of the tax law is amended by adding a new clause (xliii) to read as  
11 follows:

12 (XLIII) SUPPLIER OF BEER	AMOUNT OF CREDIT UNDER
13 PRODUCTION INGREDIENTS TAX	SUBDIVISION FIFTY-ONE
14 CREDIT UNDER SUBSECTION (EEE)	OF SECTION TWO HUNDRED TEN-B

15 S 4. Section 606 of the tax law is amended by adding a new subsection  
16 (eee) to read as follows:

17 (EEE) SUPPLIER OF BEER PRODUCTION INGREDIENTS TAX CREDIT. A TAXPAYER  
18 SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION THIR-  
19 TY-SEVEN-A OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE. IF  
20 THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SUBSECTION FOR ANY TAXABLE  
21 YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, THE EXCESS SHALL BE  
22 TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORD-  
23 ANCE WITH THE PROVISIONS OF SECTION SIX HUNDRED EIGHTY-SIX OF THIS ARTI-  
24 CLE, PROVIDED, HOWEVER, THAT NO INTEREST SHALL BE PAID THEREON.

25 S 5. This act shall take effect immediately and shall apply to taxable  
26 years commencing on or after such effective date.