S T A T E O F N E W Y O R K

5487--B

2015-2016 Regular Sessions

I N S E N A T E

May 14, 2015

Introduced by Sens. DeFRANCISCO, VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Investigations and Government Operations in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law, in relation to establishing a shipping cost tax credit

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

Section 1. Section 606 of the tax law is amended by adding a new subsection (ccc) to read as follows:

(CCC) SHIPPING COST TAX CREDIT. (1) ALLOWANCE OF CREDIT. A TAXPAYER THAT IS AN OWNER OF AN ELIGIBLE MANUFACTURER, AND IS SUBJECT TO TAX UNDER THIS ARTICLE, SHALL BE ALLOWED A CREDIT AGAINST SUCH TAX, PURSUANT TO THE PROVISIONS OF THIS SUBSECTION, TO BE COMPUTED AS HEREINAFTER PROVIDED.

(2) GROSS RECEIPTS OR SALE. FOR PURPOSES OF THIS SECTION, GROSS RECEIPTS OR SALES ARE AS REPORTED ON THE ELIGIBLE MANUFACTURER'S FEDERAL INCOME TAX RETURN. FOR A SHORT TAX PERIOD, THE GROSS RECEIPTS OR SALES IS EQUAL TO THE PRODUCT OF (A) THE TOTAL GROSS RECEIPTS OR SALES FOR THE SHORT TAX PERIOD DIVIDED BY THE NUMBER OF MONTHS IN THE SHORT TAX PERIOD, AND (B) TWELVE.

(3) AMOUNT OF CREDIT. THE AMOUNT OF CREDIT SHALL EQUAL THE SUM OF ALL ELIGIBLE SHIPPING COSTS INCURRED WITHIN THE TAX YEAR FOR THE SHIPMENT OF PRODUCT MANUFACTURED IN NEW YORK STATE BY AN ELIGIBLE MANUFACTURER TO LOCATIONS OUTSIDE OF NEW YORK STATE, BUT WITHIN THE CONTINENTAL UNITED STATES.

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

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(4) ELIGIBLE SHIPPING COSTS. THE TERM "ELIGIBLE SHIPPING COSTS" MEANS ALL COSTS OF SHIPPING PRODUCT MANUFACTURED BY A BUSINESS IN NEW YORK STATE AND SHIPPED TO A LOCATION OUTSIDE OF NEW YORK STATE, BUT WITHIN THE CONTINENTAL UNITED STATES, FOR SALE TO AN ENTITY FOR THE PURPOSE OF INCORPORATING SUCH SHIPPED PRODUCT INTO A CONSUMER GOOD. THE PURCHASING ENTITY SHALL NOT BE A "RELATED PERSON" TO THE SELLING ENTITY AS SUCH TERM IS DEFINED IN SUBPARAGRAPH (C) OF PARAGRAPH THREE OF SUBSECTION (B) OF SECTION FOUR HUNDRED SIXTY-FIVE OF THE INTERNAL REVENUE CODE. SUCH COSTS SHALL INCLUDE COSTS OF FUEL, INSURANCE, MAINTENANCE AND SERVICE OF FREIGHT VEHICLES, AND AMOUNTS PAID TO CONTRACT COMPANIES FOR AIR FREIGHT, LESS-THAN TRUCKLOAD AND TRUCKLOAD SHIPPING SERVICES, RAIL SERVICES, INTERMODAL SERVICES AND OTHER SIMILAR CONTRACT SHIPPING COSTS. THE COST OF PURCHASING OR LEASING TRUCKS, TRAILERS OR SIMILAR SHIPPING VEHICLES IS NOT AN "ELIGIBLE SHIPPING COST." AN ELIGIBLE MANUFACTURER'S DIRECT LABOR COSTS TO LOAD, UNLOAD, OR OPERATE VEHICLES IS NOT AN "ELIGIBLE SHIPPING COST."

(5) ELIGIBLE MANUFACTURERS. (A) FOR THE PURPOSES OF THIS SUBSECTION, "ELIGIBLE MANUFACTURERS" INCLUDE ONLY A BUSINESS WHICH: (I) WAS CERTIFIED AS AN EMPIRE ZONE ENTERPRISE AND WILL NOT BE ELIGIBLE TO CLAIM EMPIRE ZONE TAX CREDITS FOR ANY TAX YEAR BEGINNING AFTER DECEMBER THIRTY-FIRST, TWO THOUSAND EIGHTEEN; (II) HAS GROSS RECEIPTS OR SALES AS DEFINED HEREIN OF AT LEAST ONE HUNDRED MILLION DOLLARS FOR THE YEAR FOR WHICH THE SHIPPING COST TAX CREDIT IS CLAIMED; AND (III) IS PRINCIPALLY ENGAGED IN THE PRODUCTION OF GOODS BY MANUFACTURING, PROCESSING, ASSEMBLING, REFINING, MINING, EXTRACTING, FARMING, AGRICULTURE, HORTICULTURE, VITICULTURE, OR COMMERCIAL FISHING DURING THE TAX YEAR, AND EMPLOYS MORE THAN THREE HUNDRED INDIVIDUALS IN NEW YORK STATE AS OF THE LAST DAY OF THE TAX YEAR. A BUSINESS IS PRINCIPALLY ENGAGED IN MANUFACTURING ACTIVITIES IF DURING THE TAX YEAR MORE THAN FIFTY PERCENT OF ITS GROSS RECEIPTS ARE DERIVED FROM RECEIPTS FOR THE SALE OF GOODS PRODUCED BY THESE ACTIVITIES. THE GENERATION AND DISTRIBUTION OF ELECTRICITY, THE DISTRIBUTION OF NATURAL GAS, AND THE PRODUCTION OF STEAM ASSOCIATED WITH THE GENERATION OF ELECTRICITY ARE NOT QUALIFYING ACTIVITIES.

(B) PROVIDED HOWEVER, THE AMOUNT OF THE SHIPPING COST TAX CREDIT FOR AN ELIGIBLE MANUFACTURER MAY NOT EXCEED THREE PERCENT OF GROSS RECEIPTS OR SALES IN ANY GIVEN TAX YEAR.

S 2. This act shall take effect immediately and shall apply to taxable years beginning on and after January 1, 2017.