

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:

1 Section 1. Section 606 of the tax law is amended by adding a new
2 subsection (ccc) to read as follows:
3 (CCC) SHIPPING COST TAX CREDIT. (1) ALLOWANCE OF CREDIT. A TAXPAYER
4 THAT IS AN OWNER OF AN ELIGIBLE MANUFACTURER, AND IS SUBJECT TO TAX
5 UNDER THIS ARTICLE, SHALL BE ALLOWED A CREDIT AGAINST SUCH TAX, PURSUANT
6 TO THE PROVISIONS OF THIS SUBSECTION, TO BE COMPUTED AS HEREINAFTER
7 PROVIDED.
8 (2) GROSS RECEIPTS OR SALE. FOR PURPOSES OF THIS SECTION, GROSS
9 RECEIPTS OR SALES ARE AS REPORTED ON THE ELIGIBLE MANUFACTURER'S FEDERAL
10 INCOME TAX RETURN. FOR A SHORT TAX PERIOD, THE GROSS RECEIPTS OR SALES
11 IS EQUAL TO THE PRODUCT OF (A) THE TOTAL GROSS RECEIPTS OR SALES FOR THE
12 SHORT TAX PERIOD DIVIDED BY THE NUMBER OF MONTHS IN THE SHORT TAX PERI-
13 OD, AND (B) TWELVE.
14 (3) AMOUNT OF CREDIT. THE AMOUNT OF CREDIT SHALL EQUAL THE SUM OF ALL
15 ELIGIBLE SHIPPING COSTS INCURRED WITHIN THE TAX YEAR FOR THE SHIPMENT OF
16 PRODUCT MANUFACTURED IN NEW YORK STATE BY AN ELIGIBLE MANUFACTURER TO
17 LOCATIONS OUTSIDE OF NEW YORK STATE, BUT WITHIN THE CONTINENTAL UNITED
18 STATES.

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

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

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

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

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